



Standards Committee

21 January 2009

Report from the Borough Solicitor

For Action

Wards Affected:
ALL

Planning Code of Practice Review

1. SUMMARY

- 1.1 This is the annual report from the Borough Solicitor following the Planning Code of Practice: Independent Annual Review for the period June 2007 – May 2008.

2. RECOMMENDATIONS

That members:

- 2.1 Note the findings of the Planning Code of Practice: Independent Annual Review and the Borough Solicitors comments.
- 2.2 Note that the Borough Solicitor has amended paragraph 4 of the Planning Code of Practice set out in paragraph 3.5 of this report.

3. DETAIL

- 3.1 Paragraph 2 of the Planning Code of Practice requires the Borough Solicitor to commission an independent report on the operation of the Planning Code every year and that the report should be presented to this Committee.
- 3.2 The annual review for 2007–8 was carried out by the Council's management services team and a copy of the review is attached to this report as **Appendix 1**.
- 3.3 This year the annual review consisted of a review of the minutes of the Planning Committee and Standards Committee meetings, planning

services records and legal and democratic services records. Members of the review team attended the Planning Committee on 16 July 2008 and a site visit on 9 August 2008. Interviews were also conducted with members of the Planning Committee and relevant officers and

- 3.4 The review makes a number of recommendations which are set out below. Also set out are the comments of the Borough Solicitors on the recommendations arising from the review.

2.1 Legal Services and Planning Officers to see if any amendments are required to the Planning Code in the light of the "Connecting Councillors with Strategic Planning Applications" and the way in which new schemes are evaluated.

Comment: In light of this guidance and other guidance from central government, officers have started to hold briefings on major applications for Planning Committee members. The purpose of the briefings is to inform members of the content of such applications at an early stage so as to aid their understanding of the issues when the application reaches the committee. As the applicants also attend these briefings the Borough Solicitor has amended paragraph 4 of the Planning Code of Practice using her delegated powers. The amendment makes it clear that the attendance of members at such a briefing is not a breach of paragraph 4 or an approach by an applicant that is required to be registered (the amendment is underlined for ease of reference).

"4. If an approach is made to a member of the Planning Committee from an applicant or agent or other interested party in relation to a particular planning application or any matter which may give rise to a planning application, the member of the Planning Committee shall:

- (i) inform the person making such an approach that such matters should be addressed to officers or to members who are not members of the Planning Committee;*
- (ii) disclose the fact and nature of such an approach at any meeting of the Planning Committee where the planning application or matter in question is considered; and*
- (iii) record the approach in the register maintained by the Monitoring Officer under paragraph 14 below.*

For the avoidance of any doubt, if the applicant, agent or other interested party attend and/or speak at a Council organised briefing for members of the Planning Committee then that briefing does not constitute an approach which has to be registered with the Monitoring Officer."

2.2 Officers to ensure members' reasons for granting permission against officer advice are recorded sufficiently clearly.

Comment: The Borough Solicitor notes that the review states that this recommendation has already been addressed (Para 8.7).

2.3 Officers to ensure that annual training for Planning Committee Members includes guidance to be given to the Chair and Deputy Chair on the circumstances when it may be appropriate to express personal support from the Chair for a specific planning proposal.

Comment: The Borough Solicitor has contacted the Director of the Planning Service to ensure that the training being provided this year will cover this particular area.

2.4 That member's continue to be reminded through training and briefings of the need to seek advice from officers if they are in any doubt about what interests have to be registered and/or whether an interest is a personal and prejudicial interest.

Comment: The Borough Solicitor's view is that members of the Planning Committee do regularly seek advice on whether they have personal and prejudicial interests. However, planning applications often give rise to issues relating to personal and prejudicial interests and members will continue to be reminded of the importance of seeking advice through training and Monitoring Officer Advice Notes.

2.5 Officers to take into account the feedback received on training provided for members, and ensure that sufficient training is provided for members to carry out their planning committee duties effectively.

Comment: As described in the review members of the Planning Committee receive training on planning issues and the Planning Code of Practice itself. Although one member of the committee felt that more training was required and another that an update would be beneficial, 8 other members of the committee said that they had received sufficient training on the Planning Code of Practice. The Borough Solicitor considers that the current level of training being provided is sufficient. Particularly as members are able to seek advice from Planning Officers and Legal Services at any time and an experienced planning lawyer attends each committee meeting.

2.6 Officers to arrange for any supplementary information to be placed onto the council's website as soon as possible after each meeting.

Comment: The Head of the Planning Service will ensure that this is carried out.

FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from this report.

4. STAFFING IMPLICATIONS

- 5.1 There are no direct staffing implications arising from this report.

5. DIVERSITY IMPLICATIONS

- 6.1 Officers believe that there are no specific diversity implications in this report.

6. LEGAL IMPLICATIONS

- 7.1 The Planning Code was first adopted by the Council on 22 May 2002 and it has been subsequently amended by the Council from time to time on the recommendations of the Borough Solicitor and this committee.
- 7.2 The terms of reference of this committee include assisting members and co-opted members to observe the Code of Conduct and the Planning Code of Practice, to monitor the operation, effectiveness and compliance with the Planning Code and to advise the Council on the revision of the Planning Code.

Background Information

Brent Planning Code of Practice

Should any person require any further information about the issues addressed in this report, please contact Dan Bonifant on 0208 937 1368.

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