



# **London Borough of Brent**

## **Review of Brent Planning Committee Code of Practice**

**June 2022**

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# 1. Introduction

- 1.1 London Borough of Brent includes as part of its Council Constitution a Planning Code of Practice. The final paragraph of the Planning Code states:  
“14.1 The Director of Legal, HR and Audit & Investigation will commission a report independent of the planning service in early 2018, and once every four years thereafter on the operation of this Code of Practice. The report should address the extent of compliance with this Code by officers and members, contain an analysis of decisions being made against officers’ recommendations and set out any appropriate recommendations for improvement.”
- 1.2 The Council has requested that the 2022 review is undertaken by the Planning Advisory Service (PAS). PAS is part of the Local Government Association (LGA). PAS provides high quality help, advice, support and training on planning and service delivery to councils. Its work follows a ‘sector led’ improvement approach, whereby local authorities help each other to continuously improve.
- 1.3 The person undertaking this review is Peter Ford. Peter is a Principal Consultant at the Planning Advisory Service (PAS) and heads up the Development Management programme at PAS. Prior to joining PAS Peter was the Head of Development Management at Plymouth City Council and held that post for 12 years up until April 2021.

# 2. Scope of the Review

The scope of the review incorporated the following research.

1. A desktop review of the current Code of Practice against current legislative requirements, standards and good practice, identifying any obvious deficiencies.
2. An assessment of how Brent council compares with other local planning authorities, in particular other London Boroughs.
3. A discussion of the Code of Practice and it’s operation with key officers and councillors who are involved in the Planning Committee process (see appendix 1). These discussions took place in part in person and in part through MS Teams on 18<sup>th</sup>, 23<sup>rd</sup> and 24<sup>th</sup> May 2022.
4. An assessment identifying if there are any issues regarding the Code’s application and usefulness.
5. The viewing of the Planning Committee meeting on 20<sup>th</sup> April 2022 to assess how the current Planning Code was being implemented in practice. The meetings was viewed via a web cast.

# KEY RECOMMENDATIONS

- R1 Review the wording of the Code of Practice so that it applies to both members and officers.
- R2 Include a section within the Code of Practice that outlines the roles of the key officer and member participants in the Planning Committee meeting.
- R3 Include a reference within the Code of Practice on the use of substitutes. This could include a reference to the need for training, the need for them to familiarise themselves with the report contents in an equivalent way to a permanent Planning Committee member and a deadline for the identification of a substitute prior to a Planning Committee meeting.
- R4 Reword paragraphs 4.1, 4.3, 6.1 and 7.2 for clarity for the reasons given in section 4 of this report.
- R5 Review the section on councillor training to be more explicit about the minimum training expected of councillors to sit on Planning Committee and clarification on the mandatory requirements.
- R6 Cross reference procedures for speaking at Planning Committee with the constitutional requirements. This will enable greater transparency and avoid any confusion for both the Planning Committee and the speakers.
- R7 Provide a new section in the Code of Practice to provide guidance to Members of Planning Committee and other councillors on their engagement in the pre application process.
- R8 Include additional items on the Planning Committee agenda periodically to report on appeal decisions and report on Planning performance.
- R9 Clarify the preference for site visits to be held prior to a Planning Committee meeting rather than deferring a decision for a site visit.
- R10 Consider additional sections in the Code of Practice to include councillor responsibilities in reviewing live planning applications and how they should be engaged in post decision matters.

# Findings

## 3. Overall effectiveness of the Code of Practice

- 3.1 The feedback received from virtually all the interviewees was that the Code of Practice is fit for purpose and works well in meeting the requirements for Planning Committee to deliver sound, open and transparent decision making. This was backed up by PAS's own reflections on the day-to-day operation of Brent's Planning Committee. The Planning Committee appears to run very smoothly and the officer and councillor roles are clear and respectful. Councillors and officers clearly abide by the Code of Practice and this undoubtedly has led to Brent's good reputation for making sound decisions. The Chair is clearly in control of the Committee, has the respect of all Members of the Committee and understands the procedures well. I was advised that conduct at Planning Committee has previously been less respectful and organised and that previous Planning Committees have been "chaotic".
- 3.2 In many ways Brent's Code of Practice should be considered as national best practice and used as a benchmark for other Councils to use to help them review their own codes of practice. There are some areas that should be considered by Brent to fine tune the Code of Practice but none of these are urgent or likely to put Brent at risk of legal challenge if not implemented immediately. However, as outlined below, some of the areas of consideration could become more urgent if the political makeup of Brent was to change and these are highlighted in the report where relevant.

## 4. Member and Officer conduct and attendance

- 4.1 Feedback from interviewees on the conduct of councillors and officers at Planning Committee was in the main excellent with councillors and officers clearly understanding their roles and understanding both the planning issues and the Planning Committee process. This was backed up by my own observations of the Planning Committee meeting where I observed a very well run Committee with a high level of professionalism and mutual respect from councillors and officers. In many ways the Planning Committee was run in an exemplary manner.
- 4.2 The Code of Practice states that it is a *Member* code and reference is made to a separate Council officer code. However in paras 4.11 and 4.12 specific mention is made to officer conduct. This could cause confusion and was raised by some of the interviewees. It may be helpful if the Code of Practice clearly states that it is relevant to both officers and councillors. A good example of how this can be set out can be seen at [Kensington and](#)

[Chelsea](#). Many issues related to Planning Committee are equally as relevant to officers as they are to councillors – such as personal interests, pecuniary interests and conduct – and these should be declared as part of the Planning Committee process.

- 4.3 Many codes of practice will outline the roles of the participants at the Planning Committee. This would include key councillor roles such as the Chair and vice Chair as well as key officers such as the lead officer, presenting officer, Legal officer and Democratic Support officer. These roles are not detailed in Brent's Code of Practice. In practice this was not raised as a problem for any of the interviewees and when I viewed the Planning Committee there was no evidence that any of the roles were unclear. However it may be helpful if these roles were clarified in the Code of Practice. This is for two reasons:
1. Brent appears to have a very settled and knowledgeable group of members and officers. However potentially this could change with new councillor and officer appointments who may not have the level of experience and competence in Planning Committee matters.
  2. There are a number of officers attending who could potentially take a very similar role in supporting members e.g. which officer answers which question? It currently appears to work very smoothly with officers being very professional and coordinated in the way they respond, but changes in personnel could change this position.
- 4.4 Comments were made by a number of interviewees that officers sometimes showed bias towards the applicant in the way that they presented reports and answered councillor questions. Also a comment was made that some councillors appeared to be 'rubber stamping' an officer recommendation without properly scrutinising the issues. I found no evidence of either of these assertions when viewing the Planning Committee. However as this has been raised as an issue it would be helpful if these matters were specifically addressed in councillor and officer training – see also the section on training.
- 4.5 Interviewees mentioned the issue of substitutes on Planning Committee. I was told that at times substitutes were identified at a very late stage prior to Planning Committee and this made it difficult for those substitutes to properly familiarise themselves with the agenda items. It therefore may be helpful if the Code of Practice made specific reference to the appointment of substitutes. For example there could be a specific reference to the need for those substitutes to be sufficiently trained and a deadline for substitutes to be identified prior to the Planning Committee meeting.
- 4.6 I was told that feedback to officers on Planning Committee matters was inconsistent and very much relied on the initiative of individual team leaders rather than any structured feedback mechanism. Whilst this issue is not strictly speaking a Code of Practice matter it is a helpful observation and a matter that Planning managers may wish to address for future Planning Committee meetings.
- 4.7 Para. 4.1 of the Code of Practice appears to indicate that at Brent you can be a councillor and planning agent / consultant working in Brent which would indicate a potential conflict of interest. Also in para. 4.3 matters related to personal interests are a

bit convoluted and 'wordy'. It may be simpler for the Code of Practice to advise councillors to discuss a personal interest with the Legal officer prior to the meeting so that they can decide whether it is appropriate to sit on the Planning Committee for a particular item.

- 4.8 The last sentence in para.6.1 of the Code of Practice is a bit vague and open to interpretation when it refers to "councillors assisting an interested party". A clearer form of wording would be beneficial for interpretation purposes.
- 4.9 In para. 7.2 of the Code of Practice there is a reference to members avoiding any contact with applicant, objector etc. This could be confusing to councillors and result in them being unnecessarily cautious in their dealings with interested parties. The key points to refer to in the Code of Practice should be to avoid either being actually pre determined or there being a perception of pre-determination. Therefore this paragraph could be rephrased to emphasise the point that councillors who sit on Planning Committee should not approach an interested party without first speaking to a relevant officer and should never meet an applicant without an officer being present.

## 5. Training

- 5.1 The training provided for Members of the Planning Committee and substitutes appears to be very comprehensive and well attended. Members clearly understand the importance of training and I identified no resistance to the quantity or quality of the training that was delivered. For example I heard about recent training carried out by Simon Bird QC that was well received. The involvement of a Planning barrister is good practice and should be applauded.
- 5.2 However there is some confusion from the wording of the Code of Practice whether the annual training is mandatory, whether it is required before a councillor sits on the Planning Committee, or whether refresher training is required if a Member has a long gap between sitting on the Planning Committee. Whilst this does not seem to have caused a problem recently, the Council could be in weak position if this was challenged by a councillor who was reluctant to undergo training.
- 5.3 Even though it is not strictly a Code of Practice issue I found no evidence of guidance for officers on the Planning Committee process. It might be helpful, perhaps as part of the Development Management Manual and through the annual staff review process, to identify both guidance for officers new to the Planning Committee and an opportunity for training. The Council could book staff on to external courses, source such as through the RTPi or through bespoke internal training session. PAS can provide guidance on how this training could be facilitated.

## 6. Speakers at Planning Committee

- 6.1 The practice of asking points of clarity to speakers appears to work very well from my observations. Many Councils are reluctant to open up questions in this way as it requires discipline from councillors, strong Chairing and can elongate the length of a Committee item. The way it is carried out in Brent shows best practice and other Councils could learn from Brent's example.
- 6.2 The Code of Practice is unusual in not having procedures for speaking at Planning Committee and a set down process for warning speakers or stopping a speaker if they breach certain protocols. I heard that the reason for this is because it is adequately covered elsewhere in Brent's Constitution and this has previously been adequate for any issues that have arisen.
- 6.3 Whilst this cross over with other parts of the Constitution is reasonable, it would be difficult for a speaker new to Planning Committee to understand the cross references and therefore it might be helpful to have a more visible link between the requirements in the two documents. This could be through a simple duplication of information or a web link. The latter may be easier to ensure that the documents always say the same thing.

## 7. Pre applications

- 7.1 The Code of Practice makes no reference to councillor involvement in the pre application process. Some of the interviewees considered that this would be helpful as it is an area that councillors sometime find confusing. They may feel under pressure from an applicant to express an opinion or be challenged by a resident who might expect a councillor to be more aware of a pre application process. It may therefore be helpful if specific guidance was provided in the Code of Practice for both Members of the Planning Committee and other councillors. A good example of a Council that includes a section on pre applications is [Plymouth City Council](#).

## 8. Agenda information

- 8.1 The agenda items sent to the Planning Committee are very comprehensive and informative. In particular I heard that the information additional to the officer report was particularly appreciated by councillors and this included plans, a pack of photographs and a link to Google Maps. The information provided before the meeting enabled officers to focus on short presentations where they simply highlighted key areas that they felt were important for the Committee to note. This enabled the agenda to move forward quickly and put the emphasis on the Committee to read the reports and prepare before the meeting. I heard that in the past officers gave longer, more detailed presentations officers and were sometimes accused of "selling" schemes on behalf of applicant.

- 8.2 A notable absence from the agenda was any information on current performance information or appeal decisions. Councils often use the Planning Committee to make councillors aware of performance and the success of recent appeals as part of an ongoing monitoring and learning process. This could be used as much about celebrating success as identifying problems and without these items as a regular agenda item Brent is potentially losing the opportunity for continued learning. [Westminster](#) is a good example of a Council that regularly updates the Planning Committee in this way.

## 9. Member briefings

- 9.1 There are a number of Planning related Member meetings outside of the formal Planning Committee meetings including Chair / vice Chair briefings, and meetings between the Portfolio Holder and officers. All these meetings are best practice and an indication of an engaged and collaborative Council. I did not hear from any of the participants in this review that any of these meetings were a concern, however outlined below are some improvements that could be considered as part of this review.

### **Chair / vice Chair meetings**

- 9.2 These meetings are currently held after the agenda has been set and reports distributed. Consideration could be given to holding these meetings prior to the agenda being sent so that the Chair and vice Chair can have a greater role in managing the business of the Committee. In particular a briefing prior to the agenda being sent could enable the Chair and vice Chair:
- Agree the order of business based on the likely level of interest for each item.
  - Help officers ensure that the right expertise is available at the meeting to deal with likely questions from the Committee.
  - Help officers ensure that the reports include all the information that the Committee might find helpful to make a decision.

### **Portfolio Holder meetings**

- 9.3 It is good practice for officers and the Portfolio Holder to meet on a regular basis to discuss planning application issues. However it might also be helpful to include the Chair of the Planning Committee in some of these discussions to reflect on the running of the Planning Committee and the items that have been considered / will be considered at the Committee. This would enable the Portfolio Holder to be fully engaged in Development Management matters and help a process of continuous learning for the Committee.

## 10. Site visits

- 10.1 I heard that site visits take place infrequently partly as a consequence of Covid restrictions and partly due to the general ease of access to most development sites in the borough

due to Brent's geography. Site visits can be an excellent way for councillors and officers to learn from each other to understand the issues on site and therefore are a useful part of the decision making process.

- 10.2 It appears that councillors do not generally defer decisions to allow a site visit, however this is an issue for many Councils and is sometimes perceived as being a tactic to delay decision making. To avoid deferrals being a problem in the future the Code of Practice could include a simple phrase such as "Members should make officers aware of requests for site visits prior to the meeting and Planning Committee will exercise a strong presumption against agreeing to defer the planning application for a site visit"

## 11. Other potential additions to the Code of Practice

- 11.1 Outlined below are two other areas of guidance that other Councils include as part of their Code of Practice that Brent may want to consider as part of their review.

### **Councillor responsibilities**

- 11.2 Some Councils will set out a clear responsibility for councillors to contact officers if they wish to comment on a planning application, putting the onus on the councillor to look at the weekly list and engage. A good example of this is from [Havering Borough Council](#)

### **Post decision matters**

- 11.3 Many Councils will include a section outlining how councillors can engage in matters that may follow from a Planning Committee decision such as enforcement matters, appeals and complaints. This will help councillors understand when they are required to be involved and how they should engage. A good example can be seen at [Croydon](#).

## 12. Conclusions

- 12.1 The operation of Planning Committee at Brent runs very smoothly and this is backed up by sound decision making. I heard from officers and councillors who are involved with the Planning Committee process and there was almost universal support for the current arrangements. My observations of a Planning Committee also indicate that there is robust and sound decision making at Brent. The Council should be applauded for providing national best practice in many areas of the operation of its Planning Committee.
- 12.2 There are some improvements that can be made and these have been highlighted in the report. None of the recommendations are critical or urgent. However the improvements

highlighted will bring Brent in line with other best practice in the London boroughs and elsewhere across England. The Council also needs to be mindful that the current arrangements work well because it has a stable and experienced group of officers and councillors. The improvements proposed will help the Council be more robust if any changes were to take place in the future.

# APPENDIX 1 – Councillors and Officers from Brent interviewed as part of the review

## **Councillors**

Cllr Muhammed Butt – Leader of the Council  
Cllr Shama Tatler - Lead Member, Regeneration, Property & Planning  
Cllr Suresh Kasangra – Leader of the Opposition  
Cllr Matt Kelcher - Chair of the Planning Committee  
Cllr Saqib Butt – Vice Chair of Planning Committee  
Cllr Robert Johnson – Planning Committee Member  
Cllr Liz Dixon – Planning Committee Member  
Cllr Michael Maurice – Planning Committee Member

## **Officers**

Gerry Ansell - Head of Planning & Development Service  
David Glover - Development Management Manager  
Marsha Henry - Chief Lawyer  
James Kinsella - Governance Manager  
Solomon Simbanane - Senior Planning Lawyer  
Nicola Blake - Principal Planning Officer