



# **Planning Code of Practice Independent Annual Review**

**June 2008 – May 2009**

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## **Planning Code of Practice: Independent Annual Review June 2008 – May 2009**

### **1.0 Introduction**

- 1.1. The Planning Code of Practice was adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide members and officers of the Council in dealing with planning matters, and to inform potential developers and the general public of the standards adopted by the Council in exercising its planning powers.
- 1.2. The Borough Solicitor is instructed to commission a report each year on the operation of the Code of Practice that is independent of the Planning Service. The report addresses the extent of compliance with the Code by officers and members, contains an analysis of decisions being made against officers' recommendations and sets out any appropriate recommendations for improvement. This report is presented annually to the Standards Committee.
- 1.3. A copy of the Planning Code of Practice that was in place during the period of this review is attached as **Appendix A**.

### **2.0 Recommendations**

- 2.1 The Code should be amended to ensure that two Councillors must request a site visit relating to a particular application in order to ensure consistency. (Please see section 5.5.3 for further details.)
- 2.2 Committee members should be reminded of the required conduct on site visits and officers should ensure compliance in this area. (Please see sections 5.5.8 - 5.5.11 and 7.11-12 for further details.)
- 2.3 In the Register of Approaches, the nature of the approach should be recorded in addition to the details currently required. (Please see section 5.2.24 for further details.)
- 2.4 Officers should ensure members comply with the correct procedures when making declarations of approaches, personal interests and prejudicial interests. Officers could consider creating a summary card of the main points on these matters, which would simplify terms and procedures for members and help to ensure full compliance with the Code. (Please see sections 5.2.7 – 5.2.11, 3.13 and 7.8-10 for further details).
- 2.5 All Councillors should be provided with information on an annual basis on matters relating to the Planning Committee, such as how to register an approach and when they are required to declare a personal/prejudicial interest. (Please see sections 5.2.23 and 7.7 for further details).
- 2.6 Officers should review current training for members. It appears that a significant proportion of members would like or would benefit from further training. (Please see sections 2.7, 3.8-3.10, 3.14, 3.16, 7.4, 7.5 and 8.22 for further details.)
- 2.7 The reasons stated for overturning officers' recommendation that are recorded in the minutes continue to be an area of concern. Due care and attention must be paid to developing adequate planning

reasons. Officers should consider further training in this area for members. (Please see sections 2.6, 3.5 and 3.7 for further details).

- 2.8 Further care must be taken to ensure that all Councillors in a particular Ward are not selected to be members or alternates of the Planning Committee. (Please see sections 5.3.3 – 5.3.4 for further details).
- 2.9 Paragraph 25 should be amended so that there is no longer a requirement to record the number of instances. It is recommended that the last phrase be replaced with a clause that ensures that (i) the minutes record that changes have taken place and (ii) the reasons why changes have occurred are recorded in the supplementary information. (Please see paragraphs 5.7.1 - 5.7.3 for further details).
- 2.10 Members of the public should be encouraged to fill in the questionnaires provided by Democratic Services by the Chair at the beginning of Committee meetings. (Please see section 9.4 for further details).
- 2.11 Officers should consider members' wishes that all votes (including those that go in accordance with officers' recommendation) be recorded either in the minutes or in a separate record and a clear policy should be defined on this matter. (Please see section 9.6 for further details.)
- 2.12 Officers charged with recording the minutes of Committee meetings should be reminded of the provisions of Paragraph 26 of the Code. (Please see sections 5.8.3 and 5.8.7 for further details.)
- 2.13 Members of the Planning Committee should be reminded through training and briefings that party political considerations should play no part in their deliberations on planning matters. (Please see sections 5.7.6 – 5.7.9 for further details.)
- 2.14 Following the Standards Committee's consideration of this report, officers from should work together to create an action plan that will ensure the timely and complete implementation of the above recommendations.

### **3.0 Recommendations from the 2007-2008 review**

- 3.1 This section looks at the review of the period June 2007 – May 2008, focusing on the recommendations reported to the Standards Committee on 21st January 2009. The Borough Solicitor's comments on the recommendations that were made to the Standards Committee at the time, together with any updates from the review, are set out below:
- 3.2 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.
- 3.3 *Borough Solicitor's 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.*

- 3.4 **Comment:** As far as can be ascertained, briefings have been running well and members have understood that attendance at such briefings does not constitute a breach of the Code.
- 3.5 Officers to ensure members' reasons for granting permission against officer advice are recorded sufficiently clearly.
- 3.6 *Borough Solicitor's comment: The Borough Solicitor notes that the review states that this recommendation has already been addressed (Para 8.7).*
- 3.7 **Comment:** Officers believe that the quality of the reasons being recorded in the minutes for granting or refusing permission against their advice has improved. However, despite this, officers continue to regard this as an area of concern. **Please see recommendation 2.7 for further details.**
- 3.8 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.
- 3.9 *Borough Solicitor's 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.*
- 3.10 **Comment:** The Head of Area Planning stated that the last training session for Planning Committee Members took place on 10th July 2008. This was before the 2007-2008 report was presented to the Standards Committee so this training has not yet formally taken place. **Please see recommendation 2.6 for further details.**
- 3.11 That members 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 or prejudicial interest.
- 3.12 *Borough Solicitor's 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.*
- 3.13 **Comment:** It appears that members do regularly seek advice regarding personal or prejudicial interests. However, evidence in the minutes and information gained through questionnaires suggest that confusion remains as to the precise definitions of an approach, a personal interest and a prejudicial interest, and the related procedures as required by the Code. **Please see recommendation 2.4 for further details.**
- 3.14 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.
- 3.15 *Borough Solicitor's 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, eight*

*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.*

- 3.16 **Comment:** The majority of members do feel that they have had adequate training. However, feedback during the 2008-09 implies that a significant proportion (one third of 15 respondents) do not feel this to be the case. **Please see recommendation 2.6 for further details.**
- 3.17 Officers to arrange for any supplementary information to be placed onto the Council's website as soon as possible after each meeting.
- 3.18 *Borough Solicitor's comment: The Head of the Planning Service will ensure that this is carried out.*
- 3.19 **Comment:** Supplementary information is available on the Council's website for all of the meetings in the review period and, as far as can be ascertained, has been uploaded in a timely manner.

## **4.0 The Review**

- 4.1 Management Services (of Finance and Corporate Resources) were commissioned to undertake the review. The review was conducted using documentary records as a prime information source. These documents included minutes of Planning Committee meetings, records from Planning, Legal and Democratic Services, and minutes of a Standards Committee meeting. In addition, information was gathered through interviews, correspondence and conversations with officers and members. The reviewer also attended a Planning Committee meeting on 26th August 2009 and a site visit on 12th September 2009.

## **5.0 Compliance with the Planning Code of Practice**

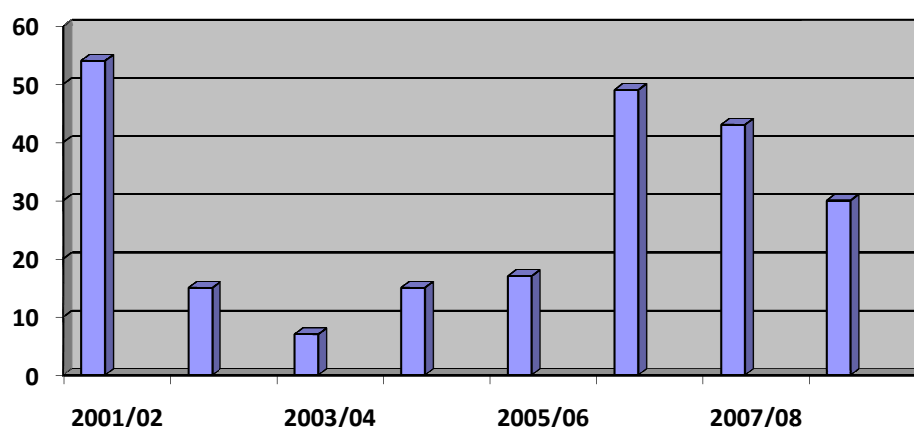
- 5.0.1 The Code is made up of 36 paragraphs, each of which has been analysed as part of this review. Paragraphs reproduced below have often been abridged. The full version (at the time of writing this report) of each paragraph can be found in Appendix A.

### **5.1 General and Review of Code of Practice**

- 5.1.1 **Paragraph 1:** *Members of the Planning Committee shall determine applications in accordance with the Unitary Development Plan unless material considerations indicate otherwise. The Brent Member's Code of Conduct must be complied with throughout the decision making process. Decisions should not be influenced by personal or prejudicial interests of Councillors.*
- 5.1.2 **Paragraph 2:** *The Borough Solicitor is instructed to commission a report independent of the planning service annually on the operation of the Code of Practice.*
- 5.1.3 **Comment:** The purpose of the review is to assess the level of compliance with the Code. The points contained in the above paragraphs are addressed by this review.

## **5.2 Accountability and Interests**

- 5.2.1 **Paragraph 3:** *Members of the Planning Committee should not take part in any discussion of, or vote on, any item if the member of the Planning Committee or his or her relative, friend or associate is the applicant, agent or objector for that matter.*
- 5.2.2 **Comment:** There is no information to suggest that this section of the Code has not been complied with.
- 5.2.3 **Paragraph 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 application or matter in question is considered.*
  - (iii) *Record the approach in the register maintained by the Monitoring Officer under paragraph 14 below.*
- 5.2.4 **Comment:** As far as can be ascertained, the above paragraphs were complied with during the review period.
- 5.2.5 **Paragraph 7:** *If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a member shall disclose the fact he/she has been in contact with the applicant, agent or interested party if this be the case.*
- 5.2.6 **Comment:** There were 30 occasions when non-members spoke at Committee meetings, compared to 43 in the last review period. In all of the cases, the minutes recorded reasons for them wishing to speak and whether they had been in contact with the applicant or other interested party in accordance with the provisions of the Code.

**Figure 1 Number of occasions where non-Planning Committee members spoke at meetings**

- 5.2.7 **Paragraph 8:** *If a member of the Council has a personal interest in any planning application or other matter, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the interest if they address the Committee on that item.*
- 5.2.8 **Comment:** During the review period, there were 24 recorded incidences when personal interests were declared and recorded in the minutes.
- 5.2.9 16 of these were by individual members declaring a personal interest in an application or matter. Of these 16 incidences, eight related to Councillors' membership of public bodies. The other eight were instances when an individual member declared a personal interest, he/she did not take part in the discussion or vote on the application. On five of these occasions members also withdrew from the meeting room.
- 5.2.10 The remaining eight incidences were joint declarations from all members. One of these occasions was because they knew an objector, who was a fellow Councillor. As for the other seven, the joint declarations occurred because all members had received correspondence from an interested party, which actually constitutes an approach rather than a personal interest.
- 5.2.11 In the minutes of the Planning Committee meetings, 19 out of 24 declarations were accompanied with an explanation as to the nature of the interest as required by the Planning Code. This means that in five cases there was non-compliance with the Code. **Please see recommendation 2.4 for further details.**
- 5.2.12 **Paragraph 9:** *If the member has a personal interest in a matter and if that interest is also a prejudicial interest the member shall withdraw from the room and not take part in the discussion save that they may make representations, answer questions or give evidence in respect to the matter in question in so far as the public have the right to do so. A member must then withdraw from the room for the rest of that item and play no further part in it.*
- 5.2.13 **Comment:** There were four explicitly recorded instances of a member declaring a prejudicial interest at a Planning Committee meeting, compared to only one in the 2007-08 review. In the minutes taken at the meetings, all of these declarations were accompanied with an explanation as to the nature of



the interest. In three of the four incidences, the member concerned did not take part in discussions or vote on the item as required by the Planning Code. In the other case, the member declaring the prejudicial interest was also the applicant. Therefore, this section of the Code has been complied with.

- 5.2.14 **Paragraph 10:** *If a member of the Council has a prejudicial interest in a planning application or other matter, he/she shall not exercise his or her discretion to require the application or other matter to be referred from offers to the Planning Committee for consideration and nor shall he/she exercise his/her right to request a site visit.*
- 5.2.15 **Comment:** There is no information to suggest that the provisions of paragraph 10 have not been complied with.
- 5.2.16 **Paragraph 11:** *For the avoidance of doubt, where a member of the Council is a Freemason or a member of a similar secret society and is aware that the applicant, agent or other is also a Freemason or a member of the same secret society, the member shall treat this as a prejudicial interest.*
- 5.2.17 **Comment:** There is no information to suggest that the provisions of paragraph 11 have not been complied with.
- 5.2.18 **Paragraphs 12 (i) and (ii):** *where under the provisions of the Constitution two members of the Council ask for an application or other matter to be decided by Committee rather than by officers, their request shall state:*
- (i) *the reason(s) why they feel the application or other matter should not be dealt with under delegated powers; and*
  - (ii) *whether or not they have been approached by any person concerning the application or other matter and if so, by whom*
- 5.2.19 **Comment:** There were ten cases (compared with 11 in the last review), when members requested that an application be decided by Committee rather than under delegated powers:

Item	Address
09/0249	64 Wrentham Avenue
09/0968	Public Convenience, Victoria Road
09/0664	114 Draycott Avenue, Kenton
09/0158	16 Kings Road, Willesden
08/2098	Asian Centre, 50 Abbey Road
08/0296	Rucklidge Avenue Social Club, Rucklidge Avenue
08/2020	Church of Transfiguration, Kensal Rise
08/1762	105-109 Salusbury Road
08/1112	Park House, Manor Park Road
08/1224	Land rear of 73-83 Draycott Avenue

- 5.2.20 In all ten cases, two members of the Council requested that the application be decided by the Planning Committee, their requests stated the reasons for the member 'call-in' and detailed any representations received. In all ten cases at least one of the members had been approached. The above paragraphs were complied with.

- 5.2.21 **Paragraph 14:** *The Monitoring Officer shall maintain a register of contact made by applicants, agents or interested parties with individual members of the Council on each and every planning application.*
- 5.2.22 **Comment:** There used to be two registers kept by the Director of Planning. The first was for members of the Planning Committee and detailed approaches from interested parties on planning applications or matters. The second was a register of contact for non-Committee members.
- 5.2.23 Since the two registers were transferred to Legal Services, merged and put online, there have been 30 occasions when a member of the Planning Committee disclosed an approach by an interested party, ten more than last year. In contrast to previous years, there is no record of any other Councillors recording approaches. During the 2007-08 review period there were 71 recordings of approaches from non-members of the Planning Committee. It appears that the transfer of the register from Planning to Legal Services was not widely publicised amongst Councillors. **Please see recommendation 2.5 for further details.**
- 5.2.24 Last year's review detailed the nature of approaches in the registers. However, the new format of the register does not contain this detail. **Please see recommendation 2.3 for further details.**

### **5.3 Membership and Jurisdiction of the Planning Committee**

- 5.3.1 **Paragraphs 5 and 6:** *Membership of the Committee, business or other interests and support for the Council's planning policy.*
- 5.3.2 **Comment:** There is no information to suggest that the provisions of paragraphs 5 and 6 have not been complied with.
- 5.3.3 **Paragraph 22:** *When the membership of Planning Committee is determined, care shall be taken to ensure that for each Ward there is always at least one Councillor who is not a member of, or alternates for, the Planning Committee.*
- 5.3.4 **Comment:** Of the 21 Wards in Brent, there are three where all Councillors are members or alternates of the Planning Committee. These are: Kensal Green, Kenton and Kilburn. Further care should be taken to ensure that this does not continue to happen. **Please see recommendation 2.8 for further details.**
- 5.3.5 **Paragraph 24:** *All members of the Planning Committee, in particular the Chair, shall be informed from time to time about the relevant provisions concerning access to information contained in the Local Government Act 1972.*

**Comment:** According to officers, there were no changes relating to the Act that members needed to be informed of during the period in question.

### **5.4 Briefings**

- 5.4.1 **Paragraph 23:** *Any briefings which may be held prior to the Planning Committee meetings shall be open to all members (and alternates) of the Planning Committee. These briefings can help to speed up decision making by giving officers notice of additional information members of the Planning Committee may require at the meeting.*

5.4.2 **Comment:** These briefings occur prior to every Planning Committee meeting. The purpose of the briefing is to deal with administrative matters, to bring members' attention to any new or supplementary information and to determine the order of the applications. There should be no discussion of the merits of any application.

5.4.3 Feedback and observation at a briefing implies that they run well and in accordance with the Code.

## **5.5 Site Visits**

5.5.1 **Paragraph 13:** *...if any member of the Council requests a site visit, prior to a meeting of the Planning Committee at which the application in respect of the request is to be considered, they shall provide the following details at least one week before the date of the meeting at which the application is to be considered and a record shall be kept of those details:*

(i) *their name;*

(ii) *reason for the request; and*

(iii) *Whether or not they have been approached concerning the application or other matter and if so, by whom.*

*If the details are not provided then the site visit shall not proceed. Alternatively, during any meeting of the Planning Committee, any member of the Planning Committee may request a site visit in respect of any application on the agenda of the meeting. The member must give the reason for the request.*

5.5.2 **Comment:** There were ten requests for site visits by members compared with seven for the previous year.

5.5.3 It appears that there is some inconsistency in the Code relating to Paragraph 13, as a request for a site visit usually triggers the matter to be called in to the Planning Committee. As two Councillors are required to request an application go to Committee (as per paragraph 12), it is recommended that two Councillors must request a site visit relating to a particular application to ensure consistency throughout the Code. **Please see recommendation 2.1 for further details.**

5.5.4 **Paragraph 18:** *Members attending the site visit should avoid expressing opinions on site visits to any person present.*

5.5.5 **Comment:** There is no evidence to suggest that this section of the Code has not been complied with.

5.5.6 **Paragraph 19:** *Members of Planning Committee shall not enter any premises which are the subject of a planning application to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit.*

5.5.7 **Comment:** There is no evidence to suggest this section of the Code has not been complied with.

5.5.8 **Paragraph 20:** *On site visits applicants or other interested parties shall only be permitted to point out to members features to look at either on the site or in the vicinity, which are relevant to the application or other matter. No discussion will take place on the merits of the application or other matter.*

- 5.5.9 **Comment:** Feedback and observation during a site visit implied that this section of the Code is not always complied with, as there can be fairly in-depth discussion of the application when members of the public or interested parties are present.
- 5.5.10 **Paragraph 21:** *Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors.*
- 5.5.11 **Comment:** Observation during a site visit and comments in questionnaires highlight that this point of the Code is not always complied with, as members do become separated from the group and engage with members of the public. However, the point has been raised about the likely negative perception the Council would give to members of the public if they were not allowed to speak at Site Visits. **Please see recommendation 2.2 for further details.**

## **5.6 Officer Conduct**

- 5.6.1 **Paragraphs 15:** *If any officer of the Council who is involved in making recommendations or decisions on planning applications has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could leave an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by the Director of Environment & Culture and take no part.*
- 5.6.2 **Comment:** During the review period there were no entries in the minutes or in the register of declarations of prejudicial interest by an officer of the Council.
- 5.6.3 **Paragraphs 16 and 17:**
- 5.6.4 *No officer of the Council shall engage in any paid work for any town planning matter for which Brent is the Local Planning Authority other than on behalf of the Council.*
- 5.6.5 *In relation to all matters not addressed above, all such officers shall comply with the Royal Town Planning Institute Practice Advice Note No.5 relating to Consultancy by Current and Former Employees or any guidance replacing this.*
- 5.6.6 **Comment:** There is no information to suggest that the provisions of Paragraph 16 and 17 were not complied with.

## **5.7 Meetings of the Planning Committee**

- 5.7.1 **Paragraph 25:** *No material revision to any planning application which might lead to a change in the recommendation of officers shall be considered at Planning Committee unless it has been submitted such reasonable period in advance of the relevant Planning Committee meeting as is agreed by the Head of Planning and has been the subject of a full appraisal by officers, and that a record be kept of the number of instances that this provision is used.*
- 5.7.2 The Head of Area Planning believes that a record of the number of instances that this provision is used is of questionable value and recommends that the last phrase of Paragraph 25 be replaced with a clause that ensures that the minutes record that changes have taken place and the reasons why

changes have occurred are recorded in the supplementary information. **Please see recommendation 2.9 for further details.**

- 5.7.3 **Paragraph 28:** *Members of the Planning Committee shall refrain from personal abuse and party political considerations shall play no part in their deliberations.*
- 5.7.4 **Comment:** The Chairman of the Standards Committee commented that he had received no negative feedback regarding any member of the Planning Committee.
- 5.7.5 Analysis of votes when the Committee decides to grant or refuse an application contrary to officers' recommendation does highlight the frequency of incidences when all members of a particular party vote in the same way on a particular application.
- 5.7.6 The table below details the number of incidences when all members of a particular political party voted the same way on an application which went against officers' recommendation. On the Committee, there are two Conservative members, three Labour members and four Liberal Democrat members.
- 5.7.7 **Figure 2:** Of the 12 occurrences when the Committee made a decision contrary to officers' recommendation, the table below lists the number of times that all members of a particular party all voted together on an item.

Party	Number of incidences	Incidences as a % of all decisions against officers' recommendation.
Conservative	6	50.0%
Liberal Democrats	9	75.0%
Labour	4	33.3%

- 5.7.8 **Comment:** It is interesting to compare the incidences when all members of a political party vote together in potentially controversial cases. Members should be reminded that party politics should play no part in their deliberations on planning matters. **Please see recommendation 2.13 for further details.**
- 5.7.9 **Paragraphs 29 and 30:**
- 5.7.10 *Members of the Planning Committee should not speak to members of the public (including applicants and agents) during a meeting of the Planning Committee or immediately prior to or after the meeting concerned, other than where permitted by this Code or Standing Orders.*
- 5.7.11 *When questioning members of the public or the applicant who have spoken at a meeting of the Committee, members of the Planning Committee shall ensure that their questions relate only to planning matters relevant to that particular application.*
- 5.7.12 **Comment:** As far as could be established, these paragraphs were largely complied with during the review period. However, the Chair did feel that members' questions occasionally deviated from the specific planning issues under scrutiny.
- 5.7.13 **Paragraphs 32 and 33:**

- 5.7.14 *A member of the Planning Committee shall not vote in relation to any planning matter unless he or she has been present in the meeting of the Planning Committee throughout the consideration of that particular matter as required by Standing Orders.*
- 5.7.15 *Unless all members of the Planning Committee indicate that they intend to vote in accordance with the officers' recommendation on a particular item, the responsible officer shall be allowed time, at the beginning of the consideration of each application, to summarise his or her advice.*
- 5.7.16 **Comment:** Evidence from the minutes of Planning Committee meetings suggests that paragraphs 32 and 33 were complied with.

## **5.8 Planning decisions made contrary to officers' recommendation**

- 5.8.1 **Paragraph 26:** *If the Planning Committee wishes to grant planning permission contrary to officers' recommendation the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why which shall then be formally recorded in the minutes. Once an application has been deferred, at the subsequent meeting the responsible officer shall have the opportunity to respond. If the Planning Committee is still of the same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which shall then be formally recorded in the minutes.*
- 5.8.2 **Comment:** There were two instances during the review period when the Planning Committee was minded to grant planning permission contrary to officers' recommendation, compared to four in the 2007-08 report.

Item	Address
08/2098	Asian Centre, 50 Abbey Road
08/1847	856 & 858 Harrow Road, Wembley

- 5.8.3 In both instances, the applications were deferred to the subsequent meeting of the Committee for further consideration. In the initial meeting in which the item was discussed, the reasons for which the members were minded to go against officers' recommendation were recorded, as were the members' votes on the matter. In both instances, at the subsequent meeting, the leading officer was given the opportunity to respond to the Committee. However, in none of the cases were the reasons for the decision formally recorded in the minutes at the subsequent meeting. **Please see recommendation 2.12 for further details.**
- 5.8.4 **Paragraph 27:** *When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting the application shall be deferred for further consideration at the next meeting of the Committee.*
- 5.8.5 **Comment:** There were ten instances during the review period when members voted to refuse a planning application contrary to officers' recommendation, compared to nine in the 2007-08 review:



Item	Address
07/3232	19 Brook Avenue, Wembley
08/0668	2A & Warehouse N/T 2A, Wretham Avenue
08/0822	Chequers PH, Managers Flat and Store, 140 Ealing Road
08/0683	Garages R/O 129-145, 145A & Land R/O, 151-157 Melrose Avenue
08/1976	Garages R/O 55 Mount Pleasant Road, Henley Road
08/0952	23 Hoveden Road
08/2464	28C The Avenue
07/3370	New Horizons Development Office, Saxon Road
09/0389	1 The Leadings, Wembley
08/2182	Sainsbury, High Road

5.8.6 **Paragraph 31** *The minutes of the planning Committee shall record the names of those voting in favour, against or abstaining:*

- (i) *on any resolution of "Minded to grant or minded to refuse contrary to Officer's Recommendation";*
- (ii) *on any approval or refusal of an application referred to a subsequent meeting following such a resolution.*

5.8.7 **Comment:** The provisions of Paragraph 31 (i) were complied with. However, there is no evidence in the meetings of votes being recorded in cases when members approved planning permission contrary to officers' recommendation, when an item had been deferred, as required by part (ii). **Please see recommendation 2.12 for further details.**

## 5.9 Member & Planning Officer Relations

5.9.1 **Paragraphs 34, 35 & 36:** *Notification of criticism of officers, or pressure exerted on officers by any member.*

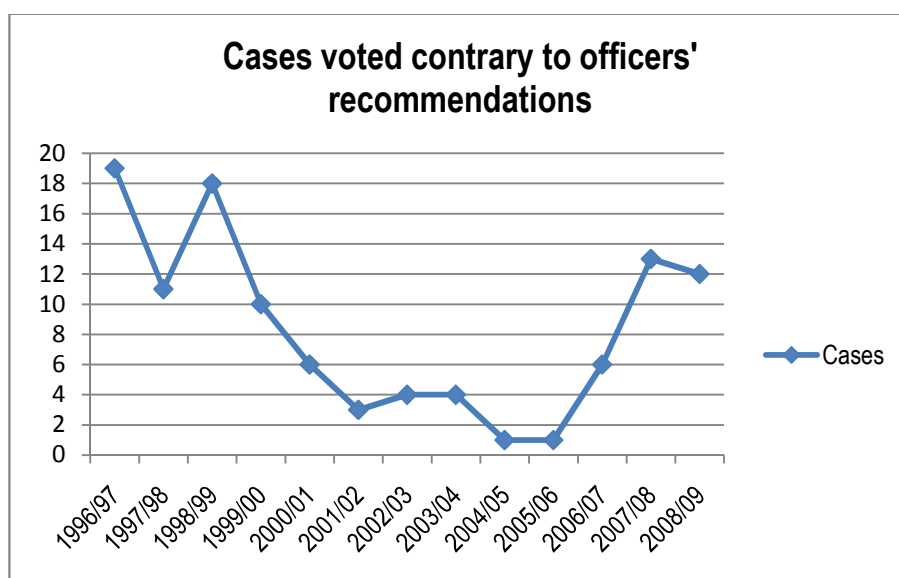
5.9.2 **Comment:** There is no information to suggest these parts of the Code have not been complied with.

## 6.0 Cases to committee

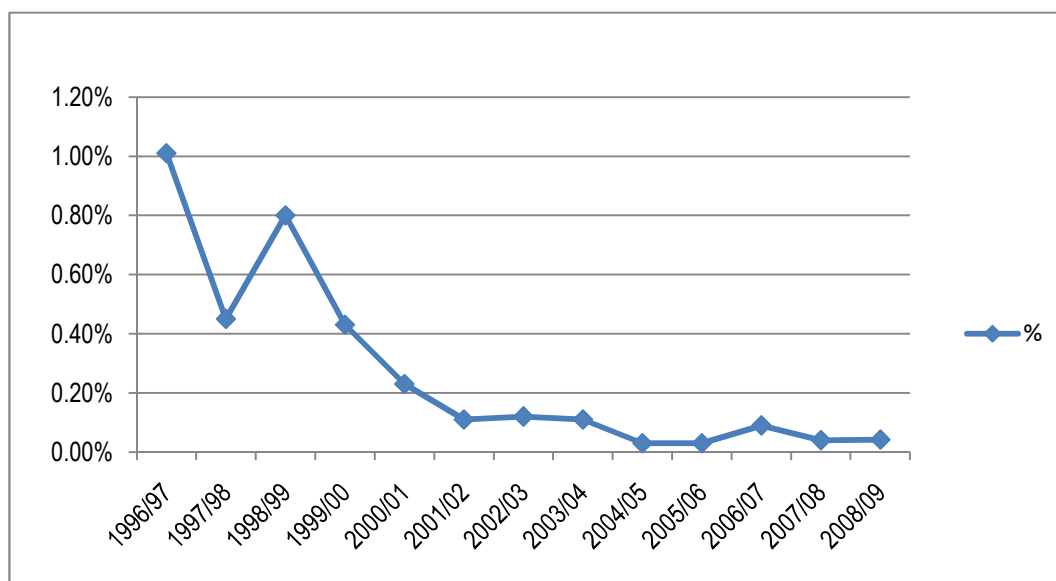
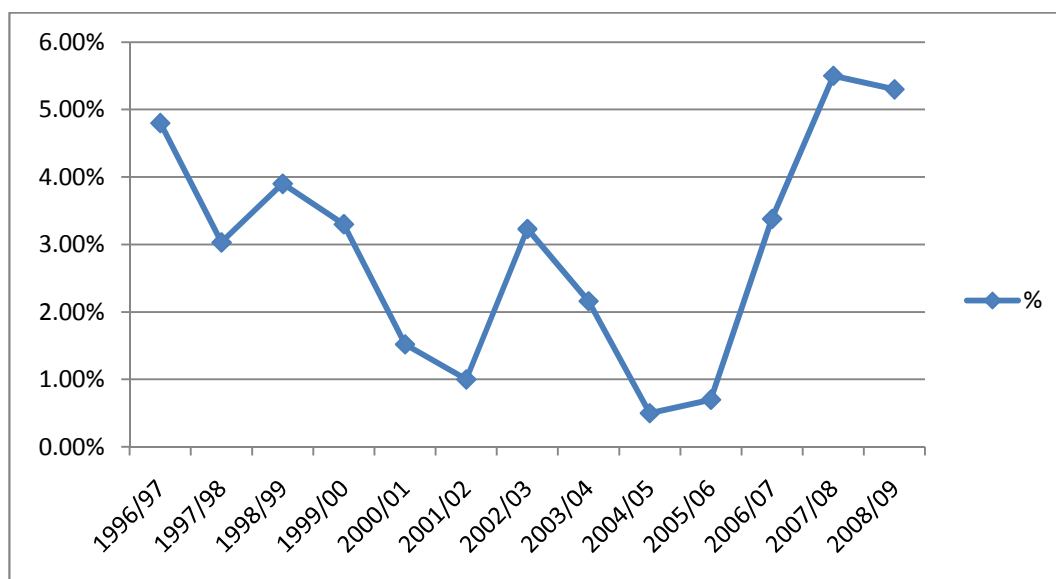
6.1 *During this review period there were 12 cases of members voting contrary to officers' recommendation, the same figure as the previous year.*

**Figure 3: Analysis of applications voted contrary to officers' recommendation**

Year	Cases voted contrary to officer recc.	Cases to Committee	Total applications	% of applications heard by Committee	Contrary vote as % of cases to committee	Contrary vote as % of total applications
2008/09	12	244	3114	7.8%	4.9%	0.39%
2007/08	13	236	3261	7.2%	5.5%	0.40%
2006/07	6	177	3311	5.0%	3.4%	0.09%
2005/06	1	143	3216	4.4%	0.7%	0.03%
2004/05	1	204	3719	5.5%	0.5%	0.03%
2003/04	4	185	3623	5.1%	2.2%	0.11%
2002/03	4	124	3386	3.7%	3.2%	0.12%
2001/02	3	301	2781	10.8%	1.0%	0.11%
2000/01	6	394	2644	14.9%	1.5%	0.23%
1999/00	10	304	2310	13.2%	3.3%	0.43%
1998/99	18	458	2259	20.3%	3.9%	0.80%
1997/98	11	362	2420	15.0%	3.0%	0.45%
1996/97	19	395	1880	21.0%	4.8%	1.01%

**Figure 4: Number of cases voted contrary to officers' recommendation**



**Figure 5: Contrary votes as percentage of total applications****Figure 6: Contrary votes as percentage of applications to Committee**

## 7.0 Feedback from members of the Planning Committee and Planning Officers

- 7.1 Interviews were conducted with the following people: Councillors Kansagra (the Chair), Baker and Green; Dan Fontaine, Robert Vale and Tony Vincett of Legal Services; Joe Kwateng and Peter Goss of Democratic Services; and Chris Walker and Stephen Weeks of Planning Services.
- 7.2 Questionnaires were sent to all members (12) and alternates (20) of the Planning Committee. Ten completed questionnaires were returned by post or email and a further five questionnaires were conducted on the telephone with the reviewer. The respondents included eight full members and seven alternates of the Planning Committee.

- 7.3 Questionnaires were also sent to relevant officers of the Planning Service. Two were completed and returned.

### **Training and access**

- 7.4 Ten respondents considered that they had received adequate training regarding the Code. Five did not. The following comments were made:

I have not had any training – I am a new member
Unhappy with outside training – they have their own agenda and are not cheap.
There could be more. Don't feel up to speed with everything. How does Central Government policy interface with Local Government/London policy?
I have attended some training in the past but probably not adequate and up to date.

- 7.5 The Planning Service organised a training session for members in July 2008 and 14 members attended. It is assumed that all members and alternates were invited to attend so the levels of attendance are disappointing. **Please see recommendation 2.6 for further information.**
- 7.6 Most of the respondents (ten) felt that they were familiar with how/where to access an up-to-date version of the Code. Three did not. The remaining two respondents referred only to a hard copy that they kept.

### **Accountability and interests**

- 7.7 All respondents felt that points 3-17 were complied with. One member commented that he was surprised at a non-Planning Committee member's ignorance of a prejudicial interest in her planning application. **Please see recommendation 2.5 for further details.**
- 7.8 There was a fairly broad range of answers to the question that asked respondents what they understood an approach to be. The main themes throughout the answers were twofold: first focusing on any form of communication received in conjunction with a planning matter and secondly, responses which included an element of the contacting party trying to influence Councillors' decision-making.
- 7.9 Definitions/comments include:

Where an applicant or representative tries to influence my decision
Any written or verbal communication from an applicant, agent or objector
Some sort of bribe, maybe?
Don't know

- 7.10 **Please see recommendation 2.4 for further details.**

### **Site visits**

- 7.11 Nine respondents felt that all the points 18-21 had been adhered to, one did not and four did not answer the question. Comments highlight that, in reality, site visits are not conducted entirely in accordance with the Code:

Some alternates are unaware that they should not discuss the application publicly.
--

Some people wander off and talk to residents. Can be difficult in reality
Flexibility is required in the Code. People do talk.

7.12 **Please see recommendation 2.2 for further details.**

### **Membership and Jurisdiction**

7.13 Most respondents felt that the Code was adhered to on matters of Wards and briefings.

### **Meetings of the Planning Committee**

7.14 No respondents felt that points 25-33 of the Code had been breached. However, comments made include the following:

I think in the past there has been too great a tendency to vary the order of meetings. While this may be occasionally justified....I think two members of the Council in particular have abused it by demanding that whatever items they are interested in get heard first.
Not all members use the microphones properly.
There are more Councillors on one side of the room which means that that side gets more attention. There should be equal numbers on both sides.

7.15 Planning officers felt that the way in which plans are presented could be improved:

I think the presentation of plans could be improved. Plans displayed electronically perhaps.
I have always felt that the way information/plans are presented at meetings could be improved... It might also be better if the briefing meeting was undertaken with the plans to hand so that points of clarification can be raised and dealt with before the meeting rather than in it.

### **The Code itself**

7.16 All respondents stated that they understood the purpose of the Code and most said that they refer to the Code occasionally or rarely.

7.17 Two comments were made that the Code could be more accessible/ simple to understand for Councillors new to the Planning Committee.

## **8.0 Complaints regarding allegations of breaches to the Code**

8.1 During the review period there were three complaints regarding allegations of either significant or minor breaches to the Code. The first complaint was discussed in last year's review and reached its conclusion in August 2008. This is discussed in sections 8.2 – 8.6. The second is discussed in paragraphs 8.7 – 8.18. The third arose from a member of the Planning Committee and was dealt with by Legal Services. This matter is looked at in sections 8.19 – 8.21.

8.2 The first complaint to be discussed was also included in the last review. As it reached its conclusion in August 2008, the details of the case remain relevant.

- 8.3 The complaint was made about the fact that the Chair of the Planning Committee was involved in the planning decision regarding an application from Wembley Primary School at the same time as he was a member of the School's Organisation Committee. The Ombudsman looked into the question of whether the Chair had a disqualifying interest which was relevant to his involvement in the decision making process for the school's application.
- 8.4 The complainant also suggested that the Chair should have registered his membership of the School Organisation Committee in the member's register of interests. Officers considered that it was unclear whether a School Organisation Committee was a body which members were required to register their membership of as it was a Council body. The Ombudsman made no finding on this point.
- 8.5 The Ombudsman considered whether the Chair's interest was a prejudicial one. The Brent Members Code of Conduct defines a prejudicial interest as an interest that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest. The Ombudsman did not consider that the Chair's interest was prejudicial.
- 8.6 This case highlights the need for members to seek advice where there is any doubt about whether to register an interest and if they have a personal and/or prejudicial interest.
- 8.7 The second complaint was lodged in July 2009 on Stage Three of the Council's internal complaints procedure and was not upheld by the Chief Executive. The complainant's dissatisfaction stemmed from a case that was looked at in 2008. The initial complaint was raised in May of that year about alleged irregularities and unreasonable conduct regarding the determination of a planning application. An appeal was won against the refusal of the application and the complainant won costs from the Council. However, in the meantime the applicant had been asked to make a new application for the development. This second application was refused by the Planning Committee in April 2009 and another complaint was lodged in July 2009.
- 8.8 The complaint includes the following issues that relate to the review:
- 8.9 It was alleged that officers were not given an opportunity to respond when it emerged that the Committee was minded to refuse the application contrary to their recommendation.
- 8.10 **Comment:** Investigations found that officers did feel that they engaged with discussions and thus had adequate opportunity to respond.
- 8.11 A contravention of paragraph 27\* which states that a statement of the reasons for refusal, if approved, should be entered into the minutes. The complainant stated that the original reasons discussed at the meeting were revised in private by officers and members.
- 8.12 **Comment:** Investigations into the matter clarified that the Code was adhered to. However, this point highlights the fact that, the procedure currently in place can *appear* untoward to members of the public, even if this is not the case. Members and officers must be mindful to ensure transparency of procedures when dealing with cases of this nature.
- 8.13 A contravention of paragraph 6 which states that members who are consistently unable to support the Council's planning policies should not be considered for the Planning Committee.

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\* Was listed as Paragraph 25 in the complaint letter but due to amendments to the Code, relates to 27

- 8.14 **Comment:** Investigations found no evidence that this section of the Code had not been complied with.
- 8.15 The Chair's alleged remark that he would not be told what to do by the Planning Inspectorate and the accusation that he was "following his own agenda".
- 8.16 **Comment:** Officers' recollect the comment being made by someone but understood it in the context of explaining the Committee's duty to reach an independent decision on the application. Investigations did not uphold the view that such a statement would constitute the Chair "following his own agenda". This point does highlight the need for members of the Committee to be mindful of the comments they make in a public arena which may be open to interpretation.
- 8.17 Members' alleged misconduct at the site visit.
- 8.18 **Comment:** Investigations found that there was no discussion of the merits of the case at the visit in question.
- 8.19 The third complaint relates to a concern raised by a member of the Planning Committee that alleged that some decisions were being made on the basis of religious rather than planning considerations.
- 8.20 Legal Services investigated this matter and in March 2009, stated that they had been unable to find any conclusive evidence that the decision in question was made on any grounds other than planning ones.
- 8.21 However, the Borough Solicitor stated that voting on religious grounds is an issue that is raising concern and which has the potential to reflect poorly on, and undermine confidence in, the Planning Committee's decision making process. Following the investigation, the Borough Solicitor formally reminded members of their duty to only take planning matters into consideration and recommended that training be arranged for members with a specific focus on material and immaterial planning considerations. **Please see recommendation 2.6 for further details.**

## **9.0 Committee Meetings**

- 9.1 It was generally felt that meetings are running well and there has been continued improvement during recent years regarding the conduct of the meetings.
- 9.2 However, planning officers feel that the way in which plans are presented could be improved.
- 9.3 Officers showed concern over the length of time that members of the public frequently have to wait until their case is heard. It was suggested that the running order contain some sort of time estimations. Feedback also implies that the process by which members of the public request to speak could be improved. It was suggested that when members of the public contact the Council to request that they are able to speak at a Committee meeting, they are issued with a receipt because on many occasions their requests are not formally recognised or do not reach the necessary officers in the Council.
- 9.4 Questionnaires are left at each meeting for people attending to complete and return. However, no questionnaires were returned in the review period. It is suggested that the public are encouraged to fill in the questionnaires by the Chair at the beginning of Committee meetings. **Please see recommendation 2.10 for further details.**

- 9.5 It was suggested that members of the Council who attend but who are not members of the Planning Committee should be seated away from the full members in order to ensure clarity for the general public.
- 9.6 There is currently no policy on whether votes should be recorded when decisions are made in accordance with officers' recommendation. The Chair, speaking on behalf of Committee members, felt that all votes should be recorded. **Please see recommendation 2.11 for further details.**

## **10.0 Acknowledgements**

The author would like to record her appreciation for the assistance given by members of staff and Councillors in the compilation of this report.

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Management Services (Finance & Corporate Resources)

September 2009

## **Appendix A**

### **PLANNING CODE OF PRACTICE**

#### **Purpose of this Code**

The Planning Code of Practice has been adopted by Brent Council to regulate the performance of its planning function. Its major objectives are to guide Members and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers. The Planning Code of Practice is, in addition to the Brent Members Code of Conduct, adopted by the Council under the provisions of the Local Government Act 2000. The purpose of the Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters. The provisions of this code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members of the Planning Committee making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist members of the Council in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.

#### **General**

1. Members of the Planning Committee shall determine applications in accordance with the Unitary Development Plan unless material considerations indicate otherwise. The Brent Members Code of Conduct and the law relating to Brent Council members' personal and prejudicial interests must be complied with throughout the decision making process. Decisions should not be influenced by personal or prejudicial interests of Councillors or because of undue pressure exerted by applicants, agents or third parties. This Code sets out further rules applicable to the planning process in Brent.

#### **Review of Code of Practice**

2. The Borough Solicitor is instructed to commission a report independent of the planning service annually on the operation of this Code of Practice. The report should address the extent of compliance with the Code by officers and members, contain an analysis of decisions being made against officers' recommendations and set out any appropriate recommendations for improvement. This report should be presented annually to the Standards Committee.

#### **Accountability and Interests**

3. Except as provided for in paragraph 8 of this Code members of the Council should not take part in any discussion of, or vote on, any item if they or their relative, friend or associate is the applicant, agent or objector for that matter.

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.

5. Members of the Council who have business or other interests which may bring them into contact with the Council's planning system on a regular basis should not be considered for membership of the Planning Committee.

6. Members of the Council who are consistently unable to support the Council's planning policies should not be considered by their political group for membership of the Planning Committee.

7. If the Chair decides to allow a non-member of the Committee to speak, the non-member shall state the reason for wishing to speak. Such a member shall disclose the fact that he/she has been in contact with the applicant, agent or interested party if this be the case.

8. If a member of the Council has a personal interest in any planning application or other matter before the Planning Committee, then the member shall, if present, declare a personal interest at that meeting unless the interest arises because the member is a member of or is in a position of general control or management in a body to which they were appointed or nominated to by the Council or that exercises functions of a public nature. In which case the member only needs to disclose the personal interest if they address the Planning Committee meeting on that item.

9. If a member has a personal interest in a matter and if that interest is also a prejudicial interest the member shall withdraw from the room where the meeting is being held and not take part in the discussion save that they may make representations, answer questions or give evidence in respect of the application or matter in question in so far as the public have the right to do so. A member must then withdraw from the room for the rest of that item and play no further part in it.

10. If a member of the Council has a prejudicial interest in a planning application other matter, he/she shall not exercise his or her discretion to require the application or other matter to be referred from officers to the Planning Committee for consideration and nor shall he/she exercise his/her right to request a site visit.

11. For the avoidance of doubt, where a member of the Council is a Freemason or a member of a similar secret society and is aware that the applicant, agent or other interested party in relation to a particular planning application is also a Freemason or a member of the same secret society, the member shall treat this as a prejudicial interest for the purposes of paragraph 9 above.

12. Where under the provisions of the Constitution two members of the Council ask for an application or other matter to be decided by Committee rather than by officers, their request shall state:

(i) the reason(s) why they feel the application or other matter should not be dealt with under delegated powers; and

- (ii) whether or not they have been approached by any person concerning the application or other matter and if so, by whom.

This information shall then be included in the relevant Planning Committee report.

Unless the request and the necessary supporting information outlined above has been provided by both members at least one week prior to the relevant meeting then the matter shall proceed to be determined by officers in accordance with their delegated powers.

13. Save as provided by paragraph 10 above, if any member of the Council wishes to request a site visit prior to a meeting of the Planning Committee at which the application in respect of the request is to be considered, they shall provide the following details at least one week before the date of the meeting at which the application is to be considered and a record shall be kept of those details:

- (i) their name;
- (ii) the reason for the request; and
- (iii) whether or not they have been approached concerning the application or other matter and if so, by whom.

If the details are not provided then the site visit shall not proceed. Alternatively, during any meeting of the Planning Committee, any member of the Planning Committee may request a site visit in respect of any application on the agenda of the meeting. The member must give the reason for the request.

14. The Monitoring Officer shall maintain a register of contact made by applicants, agents or interested parties with individual members of the Council on each and every planning application, in which members of the Planning Committee must record approaches referred to in paragraph 4 and other members of the Council may record such approaches if they so wish.

15. If any officer of the Council who is involved in making recommendations or decisions on planning applications has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare a prejudicial interest in the public register held by the Director of Environment and Culture and take no part. The declaration of such interest shall also be recorded in the minutes of the meeting. This public register to be available for inspection at Planning Committee meetings.

16. No officer of the Council shall engage in any paid work for any town planning matter for which Brent is the Local Planning Authority other than on behalf of the Council.

17. In relation to all matters not addressed above, all such officers shall comply with the Royal Town Planning Institute Practice Advice Note No.5 relating to Consultancy by Current and Former Employees or any guidance replacing this.

#### **Site Visits by Members of the Planning Committee with Officers**

18. The purpose of a site visit is to gain information relating to the land or buildings which are the subject of the planning application or other matter to be considered by the Planning Committee. A site visit may also assist members of the Planning Committee in matters relating to the context of the application or other matter in

relation to the characteristics of the surrounding area. Members attending the site visit should avoid expressing opinions on site visits to any person present.

19. Members of Planning Committee shall not enter any premises which are the subject of a planning application or other matter or known by them to be likely to become such in order to meet the agent, applicant or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a member of the Planning Committee is unable to attend the official site visit that has been arranged, a site visit by an individual member may be carried out provided that the member is accompanied by a planning officer.

20. On site visits applicants or other interested parties shall only be permitted to point out to those members of the Planning Committee attending the site visit the features to look at either on the site or in the vicinity, which are relevant to the application or other matter. No discussion will take place on the merits of the application or other matter.

21. Whilst on site visits, members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors.

### **Membership and Jurisdiction of the Planning Committee**

22. When the membership of the Planning Committee is determined, care shall be taken to ensure that for each Ward there is always at least one Councillor who is not a member of Planning Committee. This is so that there will always be a Councillor who is not a member of the Planning Committee with whom residents will be able to discuss planning matters.

23. Any briefings which may be held prior to the Planning Committee meetings shall be open to all members (and alternates) of the Planning Committee. These briefings can help to speed up decision making by giving officers notice of additional information members of the Planning Committee may require at the meeting.

24. All members of Planning Committee, and in particular the Chair, shall be informed from time to time about the relevant provisions concerning access to information contained in the Local Government Act 1972 and in the event of any dispute between members of the Planning Committee and officers as to the application of the 1985 Act, the advice of the Borough Solicitor or his or her representative shall be obtained forthwith.

### **Meetings of the Planning Committee**

25. No material revision to any planning application which might lead to a change in the recommendation of officers shall be considered at Planning Committee unless it has been submitted such reasonable period in advance of the relevant Planning Committee meeting as is agreed by the Head of Planning and has been the subject of a full appraisal by officers, and that a record be kept of the number of instances that this provision is used.

26. If the Planning Committee wishes to grant planning permission contrary to officers' recommendations the application shall be deferred to the next meeting of the Committee for further consideration. Following a resolution of "minded to grant contrary to the officers' recommendation", the Chair shall put to the meeting for approval a statement of why the officers recommendation for refusal should be overturned, which, when approved, shall then be formally recorded in the minutes. When a planning application has been deferred, following a resolution of "minded to grant contrary to the officers' recommendation", then at the subsequent meeting the responsible officer shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting permission. If the Planning Committee is still of the

same view, then it shall again consider its reasons for granting permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the minutes of the meeting.

27. When the Planning Committee vote to refuse an application contrary to the recommendation of officers, the Chair shall put to the meeting for approval a statement of the planning reasons for refusal of the application, which if approved shall be entered into the minutes of that meeting. Where the reason for refusal proposed by the Chair is not approved by the meeting, or where in the Chair's view it is not then possible to formulate planning reasons for refusal, the application shall be deferred for further consideration at the next meeting of the Committee. At the next meeting of the Committee the application shall be accompanied by a further written report from officers, in which the officers shall advise on possible planning reasons for refusal and the evidence that would be available to substantiate those reasons. If the Committee is still of the same view then it shall again consider its reasons for refusing permission which shall be recorded in the minutes of the meeting.

28. Members of the Planning Committee shall refrain from personal abuse and party political considerations shall play no part in their deliberations. Members of the Planning Committee shall be respectful to the Chair and to each other and to officers and members of the public including applicants, their agents and objectors and shall not bully any person. Members of the Planning Committee should not make up their mind before hearing and considering all relevant information at the meeting and should not declare in advance of the meeting, how they intend to vote on a particular application or other matter.

29. Members of the Planning Committee should not speak to members of the public (including applicants and agents) during a meeting of the Planning Committee or immediately prior to or after the meeting concerned, other than where permitted by this Code or Standing Orders.

30. When questioning members of the public or the applicant who have spoken at a meeting of the Committee, members of the Planning Committee shall ensure that their questions relate only to planning matters relevant to the particular application.

31. The minutes of the Planning Committee shall record the names of those voting in favour, against or abstaining:

- (i) on any resolution of "Minded to grant or minded to refuse contrary to Officers Recommendation";
- (ii) on any approval or refusal of an application referred to a subsequent meeting following such a resolution.

32. A member of the Planning Committee shall not vote in relation to any planning matter unless he or she has been present in the meeting of the Planning Committee throughout the consideration of that particular matter as required by Standing Orders. Any dispute as to whether the member of the Planning Committee in question should be permitted to vote shall be decided by the Chair having taken appropriate advice from legal or other officers present.

33. Unless all members of the Planning Committee indicate that they intend to vote in accordance with the officers' recommendation on a particular item, the responsible officer shall be allowed time, at the beginning of the consideration of each application, to summarise his or her advice. If after discussion it appears that any member of the Planning Committee is minded to vote contrary to the officers' recommendation, the officer shall be allowed a further opportunity to respond to new points which have been raised, and to address the implications of a contrary decision.

## **Member and Officer Relations**

34. Any criticism by members of Planning Committee of officers in relation to the handling of any planning matter shall be made in writing to the Director of Environment and Culture and not to the officer concerned. No such criticism shall be raised in public.
35. If any officer feels or suspects that pressure is being exerted upon him or her by any member of the Council in relation to any particular planning matter, he or she shall forthwith notify the matter in writing to the Director of Environment and Culture.
36. Members of Planning Committee shall not attempt in any way to influence the terms of the officers' report or recommendation upon any planning matter.