



## **AGENDA ITEM: 7**

**PLANNING COMMITTEE: 4 SEPTEMBER  
2014**

**STANDARDS COMMITTEE: 18 SEPTEMBER  
2014**

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**Report of: Borough Solicitor**

**Relevant Managing Director: Managing Director (People and Places)**

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**SUBJECT: PLANNING CODE OF GOOD PRACTICE**

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Wards affected: Borough wide

### **1.0 PURPOSE OF THE REPORT**

1.1 To update the Planning Code of Good Practice in light of recent changes to the law and Government guidance.

### **2.0 RECOMMENDATIONS TO PLANNING COMMITTEE**

2.1 That the updated Planning Code of Good Practice, attached at Appendix 1, be recommended for adoption with effect from 16<sup>th</sup> October 2014, subject to any amendments proposed by the Standards Committee.

### **3.0 RECOMMENDATIONS TO STANDARDS COMMITTEE**

3.1 That the updated Planning Code of Good Practice, attached at Appendix 1, be recommended for adoption with effect from 16<sup>th</sup> October 2014.

### **4.0 BACKGROUND**

4.1 The Planning Code of Good Practice forms part of the Council's Constitution and was first issued in 2003. It is derived from a model code promoted by the Association of Council Secretary and Solicitors (now Lawyers in Local Government) and has been regularly updated over the years to reflect changes in legislation and Government guidance.

4.2 In April 2014 Lawyers in Local Government published an updated model code taking into account the revisions made to the law regarding members interests

and predetermination introduced under the Localism Act 2011 together with the guide on “Openness and transparency on personal interests” published by the Department of Communities and Local Government in 2013.

4.3 The Planning Code of Good Practice is a supplementary code to the Members’ Code of Conduct and provides guidance on the special role played by members who are involved in the process of making decisions on planning proposals at Planning Committee. The Code of Good Practice applies equally to those who are standing members and to those who only occasionally attend as substitutes on the Committee. The Code is also relevant to those members who get involved in planning matters in their ward in a representative role, whether they are members of the Planning Committee or not.

4.4 The Code provides a series of helpful advice on things to do, and to avoid doing, in relation to the issues of

- Development Proposals and Members’ interests under the Members’ Code of Conduct
- Fettering Discretion in the Planning Process (natural justice, predisposition and predetermination)
- Contact with Applicants, Developers and Objectors
- Lobbying of Members
- Site Visits
- Decision Making

4.5 The key aim of the Code is to ensure that when members deal with matters through the planning process there are no grounds for suggesting that a decision has been biased, partial, or not well-founded in any way and that decisions are made having taken into account all relevant and material planning considerations.

## **5.0 EXPLANATION OF THE PROPOSED UPDATE TO THE PLANNING CODE OF GOOD PRACTICE**

5.1 The updated Planning Code of Good Practice, attached at appendix 1:

- Reflects the changes to the descriptions of Members’ Interest so that it is consistent with the revised Members’ Code of Conduct (i.e. references to personal and prejudicial interests are replaced by references to disclosable pecuniary interests, pecuniary interests and non-pecuniary interests).
- Includes updated wording following the subtle changes made to the law of predetermination under the Localism Act 2011 which gives greater freedom to members to indicate their views on matters in advance of taking a decision providing that they are prepared to reconsider their initial views and approach decisions without a closed mind.

- Clarifies the approach dual-hatted members (e.g. those members who are both Parish and Borough Council members) should take if they wish to take part in the debate on a proposal when acting as part of a consultee body.
- Advises that whilst members may attend formal planning presentations by applicants or developers and ask relevant questions they must be mindful that a presentation is a form of lobbying and that although they may express views they should take great care not to fetter their discretion and state how they or other members might vote should the application come before Committee.
- Emphasises the need for members to ensure that where they are minded to take a decision contrary to officer recommendation their planning reasons leading to this conclusion are clearly stated, identified and understood together with their reasons for disagreeing with the reasoning in the officer's report which led to the officer recommendation.
- Recommends that members attend the training courses provided by the Council relevant to their role on Planning Committee.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

7.1 There are no significant financial or resource implications arising from this report.

## **8.0 RISK ASSESSMENT**

8.1 The adoption of an updated Planning Code of Good Conduct will assist those members who become involved in the planning process and will help to ensure there are no grounds for suggesting that a decision taken by the Council is biased, partial, or not well-founded in any way.

### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

The adoption of an updated Planning Code of Good Conduct to reflect current law and guidance does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

## **Appendices**

1. Planning Code of Good Practice
2. Minute of Planning Committee – 4 September 2014 (Standards Committee only)