

# Planning Protocol 2017

## 1. PURPOSE OF THE PROTOCOL

- 1.01. This Protocol has been adopted by Haringey Council to ensure the highest standards of probity in the performance of its planning function.
- 1.02. Consistency, fairness and openness are important qualities for any regulatory function in the public eye and they are vital to the conduct of a planning committee. Adherence to the Protocol is intended to build public confidence in the Council's planning system.
- 1.03. The purpose of the Protocol is:
- (a) to state how the Members of the Planning Sub-Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties;
  - (b) to ensure a consistent and proper approach by all Members to the exercise of planning functions;
  - (c) to ensure applicants and their agents, residents and other third parties are dealt with by Members consistently, openly and fairly;
  - (d) to ensure the probity of planning transactions and the high standards expected in public office; and
  - (e) to ensure planning decisions are made openly, fairly and in the public interest, in accordance with legislation and guidance.
- 1.04. This Protocol relating to planning matters is intended to be supplementary to The Members' Code of Conduct (Part Five Section A of the Council's Constitution). The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. The Council adopted a Code of Corporate Governance in July 2008 which was updated in July 2013 and contains 6 key principles based on the Nolan Committee on Standards in Public Life. The provisions of the Code of Conduct continue to have full force and effect. The purpose of this Protocol is to provide more detailed guidance on the application of the guidance in relation to planning matters.
- 1.05. Copies of this Protocol will be made publicly available online and will be kept under review.

## **2. BACKGROUND TO THE COUNCIL'S PLANNING FUNCTIONS**

### **Determination of Applications**

- 2.01. The planning process is governed by legislation, both primary and secondary, and in particular the Town and Country Planning Act 1990 (as amended) (“the 1990 Act”), the Planning and Compulsory Purchase Act 2004 (as amended) (“the 2004 Act”), the Planning Act 2008 and the Localism Act 2011. The National Planning Policy Framework (“NPPF”) together with Government guidance set out in the National Planning Practice Guidance provides a policy context for the preparation of statutory plans and the discharge of a Local Planning Authority’s functions. In addition, the Courts have also provided a large body of “case law” in respect of planning matters.
- 2.02. Planning law requires the Local Planning Authority (“LPA”) to determine all planning applications "in accordance with the development plan unless material planning considerations indicate otherwise" (Section 38(6) 2004 Act). The development plan in Haringey comprises the London Plan together with the Council’s local plan and when adopted further local plan documents (e.g. area action plans) and if applicable neighbourhood development plans (together “the Development Plan”). In cases of development involving works within a conservation area, or where the development is likely to affect the setting of a listed building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 contains a duty on the Council to the desirability of preserving the listed building or its setting and Section 72 of that Act requires LPAs to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In accordance with paragraph 197 of the NPPF, in assessing and determining development proposals, LPAs should apply the presumption in favour of sustainable development.
- 2.03. The responsibilities of the LPA must be performed without undue influence or consideration of a personal interest. When determining planning applications Members must only take into account the Development Plan and any material planning considerations. The Members of the authority are elected to represent the interests of the whole community in planning matters. Views relating to material planning considerations expressed by neighbouring occupiers, local residents and any other third parties must be taken into account but local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission.
- 2.04. The planning system does not exist to protect the private interests of one person against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other impacts as a result of a particular development, but whether the proposal would unacceptably affect

amenities and the existing use of land and buildings which ought to be protected in the public interest.

### **Enforcement**

- 2.05. The purpose of the planning enforcement provisions is to protect the integrity of the planning system and the development control process. Whether to take enforcement action in any particular case and what action to take in the circumstances are matters for the authority's discretion. The existence of a breach of planning control is not in itself grounds for the institution of enforcement action. Paragraph 207 of the NPPF provides that "Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and LPAs should act proportionately in responding to suspected breaches of planning control. LPAs should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so".
- 2.06. Haringey Council has published a guide to planning enforcement (July 2012) which sets out the Council's approach to the enforcement of breaches of planning control. This will be regularly reviewed and used to guide decisions in respect of planning enforcement by officers and, where required, Members.

### **Appeals to the Secretary of State**

- 2.07. An applicant who has not received a determination within the requisite period of time; has been refused planning permission or other approval; or who is unhappy with conditions attached to a permission granted, and those responsible for developments the subject of enforcement action, have a right of appeal to the Secretary of State for Communities and Local Government ("the Secretary of State"). If it is shown that the Council's conduct in dealing with the matter was unreasonable, the appellant's costs may be awarded against the Council. The most frequent example of unreasonable behaviour is a failure to substantiate an authority's decision on the relevant planning grounds in the particular case.

### **Other Powers of the Secretary of State**

- 2.08. The Secretary of State possesses a range of powers which could be exercised where a LPA appears to be making inconsistent decisions or decisions which are seriously in conflict with national and Development Plan policies. This could involve use of the power to "call in" applications, so the application would be determined by the Secretary of State following a public inquiry. A permission granted by the Council can in

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special circumstances be revoked, modified or discontinued. Such decisions may be subject to compensation payable by the Council.

- 2.09. In addition, there is the power in Section 62A 1990 Act (inserted by Section 1 of the Growth and Infrastructure Act 2013) which allows certain applications to be made directly to the Secretary of State, where the LPA for the area has been designated for this purpose. Designation can occur in circumstances where the LPA's performance in terms of its decision making falls short of pre-determined criteria for the timeliness or quality of decisions in respect of major applications. These criteria will be kept under review by the Secretary of State and any changes thereto will be laid before Parliament.

### **Powers of the Mayor of London**

- 2.10. The Mayor of London possesses a range of planning powers with regards to developments taking place in London. For strategic developments<sup>1</sup>, the Mayor has the power to allow the LPA to determine the application itself, direct refusal of the planning application or to take over the application for determination. The London Plan sets out the Mayor's policies and guidance for development taking place within London, in particular major developments or those with London wide significance. The Mayor can in certain circumstances prevent developments going ahead that are inconsistent with the London Plan.

### **Administration of Planning Functions in Haringey**

- 2.11. The performance of the Council's planning function is largely delegated to the Planning Sub-Committee, and to officers of the Council pursuant to arrangements made under Section 101 of the Local Government Act 1972. Approximately 9 out of 10 planning decisions in Haringey are made by officers, through authority delegated to them by the Council. This level of delegated decision making is consistent with other Councils across the Country and allows the majority of planning decisions to be determined promptly, allowing Members of the committee to focus on the most significant and controversial proposals.
- 2.12. Many decisions are made under delegated powers by the Assistant Director, Planning or Head of Development Management in accordance with a scheme of delegation. (See the Terms of Reference of the Planning Sub-Committee in the Constitution).

### **Planning Applications by Councillors or Officers of the Council**

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<sup>1</sup> The Town and Country Planning (Mayor of London) Order 2008 sets out the range of applications on which the Mayor should be consulted. These include development of more than 150 dwellings, development of more than 15,000 square metres and buildings over 30 metres high

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- 2.13. When a planning application is submitted by a serving councillor; or more senior officers (tier 3 or above); or officers within the planning directorate; or by a close relative or a close friend of either an officer or Councillor; or by a councillor acting as agent for the applicant, the councillor or officer concerned will:
- take no part in the processing and determination of the application; and
  - advise the Monitoring Officer and the Assistant Director, Planning/Head of Development Management of the application.
- 2.14. All such applications will be reported to the Planning Sub-Committee and determined by the Sub-Committee and not by an officer under delegated powers.
- 2.15. The report of the Assistant Director, Planning/Head of Development Management will include confirmation from the Monitoring Officer that these requirements have been met.

**Planning Applications by the Council**

- 2.16. Subject to the provisions of the Town and Country Planning General Regulations 1992 planning applications made by or on behalf of the Council will be treated in the same way as those made by or on behalf of private applicants.

**Delegation to Officers**

- 2.17. All Planning applications can be decided under delegated powers save for those reserved in the Constitution for determination by Planning Sub-committee.
- 2.18. Where officers are determining applications under their delegated powers, an officer report will be completed which must record the material planning considerations that have been taken into account in the decision making process.
- 2.19. The Planning Sub-Committee will receive, for its information, a regular report identifying the planning applications which have been determined by officers under the scheme of delegation, and the decisions thereon.

**Referring applications to the Planning Sub-Committee**

- 2.20. All members of the Council receive copies of the weekly list detailing the applications that have been received.
- 2.21. If a Member wishes an application to go before the Planning Sub-Committee rather than be determined through officer delegation, he/she should make this request as soon as possible (and within the 21 day neighbour notification period) and ensure that any such request states

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the planning grounds on which it is based. The Assistant Director, Planning/Head of Development Management in consultation with the Chair of the Sub-Committee will consider such requests and whether the application should be referred to the Sub-Committee. The criteria to be used for determining such requests will include:

- whether the proposal is a significant development which has caused substantial local interest;
- where the officer recommendation is for approval contrary to policy in the Development Plan or other adopted guidance; and
- whether the application is recommended for approval. Applications that are to be refused will not normally be determined at planning committee.

2.22. The Assistant Director, Planning is responsible and accountable to the Council for the Planning and Development Service which deals with the administration of all planning matters. The Head of Development Management is responsible and accountable to the Assistant Director, Planning for the immediate management of the Council's development management function.

### **3. APPLICATION OF THE PROTOCOL**

3.01. The Protocol applies to the conduct of Members in relation to all applications for permission/approval under planning legislation. The Protocol also applies to decisions to take or not to take planning enforcement action. The principles (below) would also apply where consideration was to be given to the inclusion or otherwise of specific proposals within the statutory local plan even when the Sub-Committee was being consulted informally rather than making the final decision.

3.02. The Protocol also applies to any other item before the Sub-Committee. This can include the lists of major applications and delegated decisions. For these, as with all items, Members should ensure that all comments they make are appropriate for the Sub-Committee forum, and relate to a Council wide issue or concern that is not better dealt with by raising directly with officers outside of Sub-Committee.

3.03. In the following sections references to determination of planning applications should be taken as referring also to all these other matters.

### **4. THE MEMBERS' CODE OF CONDUCT**

4.01. The Members' Code of Conduct ("the Code of Conduct") applies to Members of the Planning Sub-Committee as to all Members of the

Council. The parts of the Code of Conduct on personal and prejudicial interests, the register of those interests and receipt of gifts and hospitality are particularly relevant. Members of the Sub-Committee should also have regard to the general principles of conduct when exercising their planning functions.

## **5. CONDUCT OF MEMBERS OF PLANNING SUB-COMMITTEE**

### **Training**

- 5.01. The Council will ensure that all Members of the Planning Sub-Committee have undertaken appropriate training on planning legislation and relevant matters prior to their participation in the work of the Sub-Committee. The Council will make available regular updates/training for Planning Members, and will encourage all other Members of the Council to take part in planning training.
- 5.02. For Planning Sub-Committee Members and substitute Members of the Planning Sub-Committee there is a requirement to undertake training prior to sitting on the Committee. Ongoing training is required and each Member should undertake at least 5 hours of training per annum.

### **General Principles**

- 5.03. This section of the protocol applies solely to Members of the Council's Planning Sub-Committee when determining planning applications or considering the inclusion of local plan proposals or resolving to take planning enforcement action. It is intended to ensure that the integrity of the decision making process is not impaired, either in reality or in perception, through a lack of openness in decision-making, or through the lobbying of those Members who will make decisions.
- 5.04. This part of the protocol is also designed to ensure that, wherever possible, representations made to Members form part of the public information leading to any decision.
- 5.05. The conduct of Members of the Council who are not Members of the Planning Sub-Committee is governed by the next section of the protocol, where greater flexibility is permitted, and where those Members are given greater freedom to discharge their role as representatives of the local community within a clear framework.
- 5.06. The Council (which unless otherwise stated means acting as LPA) has a responsibility to make decisions with knowledge of the relevant Development Plan policies, taking into account all other material considerations and any representations, applying the appropriate weight to each. In addition, it is important that elected Members receive open and impartial professional advice from their Planning Officers. Members should make planning decisions by reference to a written officers' report.

- 5.07. This can only be done at the Sub-Committee. Conclusions reached in advance of the Sub-Committee risk being on partial facts, without the relevant advice, and without the ability to view all the material considerations before applying appropriate weight. They are therefore open to misunderstanding, and possibly, to legal challenge on the grounds that the right things have not been taken into account, or immaterial things have been taken into account, or that the Members concerned have been subject to “bias” or “pre-determination”.
- 5.08. For these reasons Members should not reach or express any firm conclusion on an application prior to the relevant Sub-Committee meeting. If, for any reason a Member decides, in advance of the Sub-Committee meeting, to express a firm and final view on the development, he or she shall not take part in the deliberations of the Sub-Committee but may exercise the rights below.
- 5.09. Where any Member makes representations to the ‘Planning Service’, in writing or orally, in relation to any application, those representations will be recorded for inclusion in the officers’ report. Where these representations constitute a firm and final view on the development, the Member will not take part in the deliberations of the Sub-Committee but may exercise the rights below.

### **Open and fair decisions**

- 5.10 At the London Borough of Haringey decisions on controversial planning applications are taken in public by the Planning Sub-Committee.

For a decision to be open and fair:

- Those taking the decision should not be biased or have pre-determined how they will decide;
- Those taking the decision should not have a disclosable pecuniary interest or prejudicial interest (see below for further information about these) in the outcome;
- The decision should be consistent with others taken previously unless there are good reasons to decide otherwise; and
- The reasons for the decisions should be clearly set out.

### **Bias or predetermination**

- 5.11 It is entirely permissible for Planning Sub-Committee Members, who are democratically accountable decision makers, to be predisposed towards a particular outcome. Nonetheless they must address the planning issues before them fairly and on their merits. That means they can have a view on the application or matter but must not make up their minds on how to vote before formally considering the application and any representations. Planning Sub-Committee Members must have an open mind to the merits of a proposal before it is formally considered at the

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Sub-Committee meeting and they must be prepared to be persuaded by a different view in the light of any detailed arguments or representations concerning the particular matter under consideration.

- 5.12. If the Sub-Committee's decision on a planning application is challenged in the High Court by way of judicial review on the grounds that some of the Sub-Committee Members were biased, or had predetermined the application, the court will assess the case on the basis of what a fair-minded observer, knowing the relevant facts would think.
- 5.13. Section 25 of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or appeared to have had, a closed mind when making the decision just because:
- the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter; and
  - the matter was relevant to the decision.
- 5.14. This provision does not change the law on bias and pre-determination which means that Sub-Committee Members must still take planning decisions with an open mind and having taken into account all relevant material planning considerations. What s.25 does provide is that statements made by Members cannot be used in court as evidence that the Member in question had or appeared to have a closed mind. Other evidence or any evidence that a Member has taken into account irrelevant considerations, however, is not so restricted by s.25.
- 5.15. Notwithstanding the s.25 provisions, the safest course is for Sub-Committee Members to avoid making public statements (including expressing views in emails) as to their support for or opposition to any application which would indicate they had made up their minds before the formal consideration of the application at the meeting. If a Sub-Committee Member has made such a statement they must be satisfied that they can still consider the application with an open mind and are prepared to take into account any new matters or any new arguments in favour of or against the proposed development until the decision is made otherwise they should not take part in any decision on the application in question. In which case it is to be treated the same as any other prejudicial interest, as will cases of perceived bias, and the Member shall declare this interest and leave the room for the item in question as set out below.

**Declaring an interest**

- 5.16. It is important that Sub-Committee Members should not be influenced or perceived to be influenced by any interests that they, their family or close associates may have in a particular application. To this end at the start of every Sub-Committee meeting Sub-Committee Members will be asked to declare any interests they may have in relation to the matters before

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them. As outlined in the Code of Conduct, “disclosable pecuniary interests” are prescribed by law and are entered in the register of interests maintained by the Council’s Monitoring Officer. The Code of Conduct also provides for the disclosure of other interests at meetings in certain circumstances. It is not sufficient for a Member to only state they have ‘an interest’. When declaring an interest, the Member must describe what the interest in question actually entails.

**Disclosable pecuniary interests**

- 5.17. ‘Disclosable pecuniary interests’ are prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are set out in Appendix A to the Code of Conduct. The categories of disclosable pecuniary interests include employment or office, interests in land in the Borough and contracts with the Council.
- 5.18. An interest is a ‘disclosable pecuniary interest’ if it is of a type described above and it is an interest of the Member or of their spouse or civil partner, a person with whom they are living as husband and wife or a person with whom they are living as if they were civil partners and the Member is aware of the interest. Members should note the criminal sanctions for failure to comply with these requirements (as outlined in Appendix B of the Code of Conduct).

**Other interests**

- 5.19. A Sub-Committee Member may have other interests such as ‘Personal’ or ‘Prejudicial’ interests which, whilst not falling within the legal definition of disclosable pecuniary interests should, it is strongly advised, be declared in the public interest. For example, such an interest may arise where the Sub-Committee Member resides near a development which is the subject of the planning application under consideration. While it is for the Sub-Committee Member to judge, a useful rule of thumb is “will my enjoyment of my property be affected either positively or negatively by this application?”. If the answer is in the affirmative, it would be advisable for the Sub-Committee Member to declare such an interest.
- 5.20. A prejudicial interest would also arise, for example, if the affected property were to be owned by a company of which the Sub-Committee Member is a director.
- 5.21. Advice is given below regarding what Sub-Committee Members and non-Sub-Committee Members should do if they have a disclosable pecuniary interest or other interest in an application due to be considered at a Sub-Committee meeting.
- 5.22. It is important to note that the rules relating to declarations of interest apply equally to non-Sub-Committee Members who may from time to time wish to attend a Sub-Committee meeting and speak on a particular matter. Each Member who attends a meeting must make an assessment

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of whether they have an interest in the matters under discussion, whether they intend to participate in proceedings or not.

**Consistency**

5.23. Decisions will not be seen as fair if they are different from those taken on previous similar cases without good reason. The Sub-Committee report will set out the relevant considerations and will draw attention to decisions on any other similar cases where appropriate.

**Reasons**

5.24. Fair and open decision making requires the reasons for the decision to be clear. This is particularly important when the Sub-Committee's decision differs from that recommended in the report.

5.25. Members will want to actively and positively engage with planning decisions. All Members can:

- advise objectors/applicants/others on planning processes and how to get involved;
- give advice about adopted planning policies and local priorities
- direct lobbyists, applicants or objectors to the relevant planning officer so that their opinions can be included in the officer's report;
- lead on local discussions in the preparation of the development plan documents, area action plans and supplementary planning documents;
- provide input into the preparation of planning briefs and guidance;
- receive and pass on information, for example weekly lists and briefings from officers on key proposals;
- attend Development Management Forum meetings, ask questions there; and
- raise issues important to local people and to the developers.

5.26. To ensure that Members and the Council are not open to challenge Members should:

- preface relevant discussions with a disclaimer; the nature of this will depend on their role within the authority in the context of planning;
- clearly indicate that any discussions with them are not binding on the Council;
- be clear about the distinction between giving advice and engaging in negotiation so only engaging in the former;
- involve officers where this will help to safeguard transparency and the appearance of bias;
- be aware of relevant policies included in the Council's adopted plans but give consideration to other matters relevant to planning; and
- seek the advice of the Monitoring Officer when they are unsure of what they are able to do and in relation to any potential "interest".

5.27. Members should not:

- expect to lobby and actively support or resist an application/decision and subsequently vote at committee or Cabinet; or
- seek to put undue pressure on officers or Members of a deciding committee to support a particular course of action in relation to a planning application or other planning decision.

This does not mean that a Councillor may not question robustly or argue forcefully for a particular course of action.

### **Pre-Committee procedures**

Developer's briefings to Planning Sub-Committee

5.28. Enabling a Developer to brief and seek the views of elected Members about planning proposals at an early stage (usually pre-application or where this is not possible, very early in the formal application period) is important in ensuring that new development is responsive to and reflects local interests/concerns where possible. Early member engagement in the planning process is encouraged and supported by the NPPF. Haringey proposes to achieve this objective through formal briefings of the Planning Sub-Committee in accordance with procedures set out in this Protocol. No decision will be taken at such meetings and the final applications will be the subject of a report to a future meeting of the Sub-Committee. These meetings are held in public and are webcast although there are no public speaking rights.

5.29. The purpose of briefings are:

- To enable Members to provide feedback that supports the development of high quality development through the pre-application process, and avoid potential delays at later stages;
- To ensure Members are aware of significant applications prior to them being formally considered by the Planning Sub-Committee;
- To make subsequent Planning Sub-Committee consideration more informed and effective;
- To ensure issues are identified early in the application process, and improve the quality of applications; and
- To ensure Members are aware when applications raise issues of corporate or strategic importance.

5.30. What sort of presentations would be covered in the briefings?

- Presentations on proposed large-scale developments of more than 50 dwellings, or 5,000 sq m of commercial or other floorspace or which includes significant social, community, health or education facilities, or where the Assistant Director, Planning/Head of

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Development Management considers early discussion of the issues would be useful; and

- Presentations on other significant applications, such as those critical to the Council's regeneration programmes, significant Council developments, or those requested by the Chair of the Sub-Committee.

5.31. Frequency and timings of meetings

Once a month or by agreement with the Chair and Assistant Director, Planning/Head of Development for all Members of the Planning Sub-Committee plus Cabinet Members and Ward Members – supported by Assistant Director, Planning/Head of Development Management and other relevant officers.

5.32. Format of the meetings

- The meeting will be chaired by the Chair of the Planning Sub-Committee who will ask Members attending to disclose any relevant interests; and
- The Developer will supply all presentation materials including any models, and these will be displayed in the meeting room;
- Officers to introduce the proposal and advise of issues arising from the Development Management Forum (where this has taken place):
  - The Developer and agents will be invited to make a presentation of up to 15 minutes;
  - Ward Members will have the opportunity to give their views for a maximum of three minutes each.
  - The Cabinet Members will have the opportunity to give their views for three minutes.
  - Members of the Planning Sub-Committee will be able to ask questions to the Developer and officers. These questions will be restricted to points of fact or clarification and must be structured in a way that would not lead to a member being perceived as taking a fixed position on the proposals;
  - Comments of Members of the Planning Sub-Committee; and
  - Summary of the comments raised.

5.33. A short note of the meeting summarising Members' comments would be made.

Other matters

5.34. Developer participation in the Developers' briefings would not normally happen prior to a Development Management Forum or other public meeting or public consultation being held relating to the site or prior to attendance at the Quality Review Panel subject to programming and scheduling pressures.

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5.35. Comments and questions can be raised, and this can also include positive engagement about the proposed development. However, Members should ensure that they are not seen to pre-determine or close their mind to any such proposal as otherwise they may then be precluded from participating in determining the application.

**Development Management Forum**

5.37. The Council has established a Development Management Forum to facilitate the discussion of large-scale or contentious planning proposals. The forum does not reach a decision about a proposal. Its purpose is to allow participants to raise issues of concern and obtain answers to questions about the particular application. The aim is to allow early discussion by Members and members of the public on planning issues related to these planning proposals and to explore the scope for agreement between all parties in a positive and constructive way prior to the later decision being made at the Planning Sub-Committee. Forum meetings will usually take place prior to the submission of an application but can take place at an early stage of the formal process before the Planning Sub-Committee meeting. They do not remove the opportunity for objectors, supporters and applicants to address the Planning Sub-Committee when an application is to be determined or the holding of exhibitions and or public meetings where these are considered appropriate.

What applications does the forum consider?

5.38. Applications that may be considered by the forum include major applications and those of significant local interest. It is not possible to prescribe the exact type of proposals but they may include the following:

- Applications which involve more than 10 residential units or over 1,000 sq m of floor space;
- Those applications that involve a major departure from the Council's planning policy; or
- Those applications that involve high buildings i.e. over 5 storeys.

5.39. Applications that will not generally be considered by the forum include:

- Minor planning applications to alter or extend houses;
- Applications to confirm whether a use of land or buildings needs planning permission (a 'lawful development certificate');
- Applications to put up advertisements;
- Amendments to applications or those which have already been the subject of a forum discussion; or
- Applications where there will be a recommendation for refusal.

5.40. A forum meeting will be held when:

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The Assistant Director, Planning/Head of Development Management, in consultation with the Chair of the Planning Sub-Committee, considers that a forum would be beneficial in resolving issues on a particular planning proposal. For development management forum meetings held at the pre application stage site notices and emails to local groups and councillors will be sent advising them of a proposed meeting. For those meetings held following the submission of a planning application consultees will be advised in accordance with the Council's consultation policy as set out in the Council's SCI in force at the time as part of the consultation on the planning application.

Who can attend?

5.41. Meetings are open to all Members, local businesses and residents. Normally one application or proposal will be considered at each forum to allow for effective discussion. To assist the running of the meeting an agenda is prepared and a short briefing note on the proposal is available.

5.42. The format of the meeting is as follows:

- A senior planning officer chairs the forum. They ensure that all planning issues arising from the proposal are raised but that there is no discussion on the merits of the proposal. The applicant is invited to make a presentation of the proposal for a maximum of 15 minutes.
- Local residents and organisations have an opportunity to present their views either for or against the proposal.
- Planning officers provide information on the progress of the proposal.
- The applicant responds to questions from Members of the Planning Sub-Committee, ward councillors and local business and residents.

5.43. An attendance record is kept, the discussion is recorded and a note of the meeting is made which is reported to the Planning Sub-Committee when any subsequent proposal is submitted for determination.

All Members: Haringey's Development Management Forum

5.44. All Members can attend Development Management Forum meetings which are called to promote early exploration of issues relevant to a particular development. They do not seek to reach any decision about the likely outcome of an application.

5.45. The particular role that Members can play at the meetings is dependent on whether or not they have a formal role within the planning system of the authority, for example are a member of Planning Sub-Committee or the Cabinet, but all Members will need to take account of the generic guidelines for example, publicly clarifying their particular role.

5.46. All Members can:

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- use the meeting to understand the development, the issues important to local people and to the developers, and how the relevant policies are being applied by asking questions;
- give advice about adopted planning policies and local priorities and clarify or seek clarification of policies and priorities;
- give advice about planning processes or direct those present to relevant officers or other sources of advice and information both present or outside the meeting;
- refer local objectors or supporters to ward colleagues who are in a position to take a wider role if theirs is limited and further Member assistance is required; and
- seek advice from officers as to the process to be followed, issues being reviewed and the likely policy position.

5.47. Members should not use the forum to undertake negotiations or appear to put undue pressure on the officers in relation to any future decision on the scheme. Members are however entitled to robustly question developers and officers in order to fully understand issues before the forum.

Ward Members: Development Management Forum

5.48. Ward Members who are not on the Planning Sub-Committee can greatly assist this process by taking an active part in the forum meeting, asking questions, commenting on planning policies and local priorities, and advising on the planning process. They can usefully draw attention to local circumstances and issues, and comment on the appropriate weight to be given to those. It will be important that Ward Members ensure that their remarks and advice are based on adopted Council planning policies as far as possible. This is important to avoid creating any confusion in the minds of developers or local people about who speaks for the Council in negotiations or about the Council's negotiating position.

**Quality Review Panel**

5.49. As part of the pre-application process for major and /or sensitive applications, the Council encourages applicants to present their proposals to the Quality Review Panel. The panel is a group of independent and objective experts, including experienced architects and other built environment professionals, who meet on a regular basis. The Panel's advice is provided for the benefit of the Planning Sub-Committee. The advice will also be used to help officers and the developer to improve upon the quality of the scheme as it evolves.

5.50. The best design outcomes generally occur when schemes are presented to the panel at the pre-application stage, as this allows applicants sufficient time to amend proposals following panel feedback.

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- 5.51. Discussions and negotiations while the application is current but prior to determination:
- 5.52. Once an application has been submitted, officers are working to strict deadlines to ensure that the application can be efficiently and properly determined. They may, during that period, enter into discussions, and sometimes negotiations, with the applicant or their agent in order to clarify aspects of the scheme or to ensure that the applicant is aware of the council's policy requirements. Sometimes such discussions will also convey to an applicant the views of third parties or consultees.
- 5.54. At this stage it is not appropriate for Members, whether or not they are on the Planning Sub-Committee, to enter into direct discussions and /or negotiations with applicants or consultees. Members should recognise the clear distinction between negotiation and listening without prejudice to views which may be expressed to them (see the section on Lobbying below). For Members to enter into negotiations whilst an application is current at best sends a confused message to applicants and consultees about who is officially speaking on behalf of the Council, and at worst will without doubt result in the Member appearing to show bias or pre-disposition. However, this does not prevent Members at this stage asking officers for information about an application, or from passing on the views of constituents or others, indeed this would be a proper area of Member activity. Members should at the same time ensure that any requests for advice or interpretation are passed to officers.

Briefings/interim reports

- 5.55. An effective way of building a degree of certainty into pre-application or post submission discussions is for officers to engage with Members at an appropriate stage in negotiations. Officers may prepare a committee report, briefing note or a site visit in order to identify the key issues that have emerged during discussion, and, where necessary, seek member endorsement to the approach that is being pursued, or simply to present the scheme as an information item to Members. This provides the opportunity for committee Members to raise questions of their own or seek further information regarding the proposed development.

Approaches by applicants

- 5.56. Members of the Planning Sub-Committee will discourage any applicant or agent, or other interested party such as a landowner from approaching them directly in any way in relation to planning proposals. If an approach is received, the Member will take care not to give any commitment, or the impression of a commitment that he or she holds any particular view on the matter.

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5.57. If an approach is received by a Member of the Planning Sub-Committee from an applicant or agent or other interested party in relation to a particular planning application, then the Member will:

- (a) Inform the applicant that such an approach should be made to Officers of the Council;
- (b) Keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
- (c) Disclose the fact and nature of such an approach at any relevant meeting of the Planning Sub-Committee.

In this context an approach should be noted where the discussion extends beyond simple information to the merits or demerits of the particular proposals.

5.58. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the Assistant Director, Planning/Head of Development Management in order that those representations may be taken into account in any report to the Planning Sub-Committee.

### **The Sub-Committee meeting**

5.59. Planning sub-committee meetings generally start at 7.00pm and the Council's standing orders provide that they will end at 10.00pm except that discussion of the specific item or case in hand at 10.00pm may continue thereafter at the discretion of the Chair. There are 11 Members of the Sub-Committee. The quorum for making a decision as set out in the Council's constitution is at least one quarter of the whole number of voting Members are present. Where notified in advance to the Sub-Committee Clerk and subject to them having attended the mandatory training, substitute Members may attend in place of a Planning Sub-Committee member, pursuant to the Committee Procedure Rules. Substitutes will be from the same political party, to maintain the political balance at Sub-Committee and will be subject to clearance from the group's Chief Whip. The substitute will be for the duration of the entire agenda and will not be used for individual items.

### **Lobbying and representations**

5.60. The proper place for objectors to raise their concerns is in writing in response to public consultation on a planning application or by making representations at a Sub-Committee meeting. Sub-Committee Members may nevertheless receive lobbying material through the post or by email from either the applicant or the objectors or be approached personally by interested parties. In dealing with such approaches, it is important for

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Sub-Committee Members not to do or say anything that could be construed as bias or pre-determination.

- 5.61. Where Sub-Committee Members receive lobby material through the post or by email they should forward it to the Assistant Director, Planning/Head of Development Management. If Sub-Committee Members feel it is necessary to acknowledge receipt of or comment on the correspondence, they should consider the advice on bias or predetermination in this Protocol and should send a copy of their response to the Assistant Director, Planning/Head of Development Management.
- 5.62. If a Sub-Committee Member is approached by an individual or an organisation in relation to a particular planning application, they may listen to what is said but they should explain that because they are a member of the Sub-Committee they must keep an open mind until they have seen all the material before the Sub-Committee. A Sub-Committee Member might suggest that the individual or organisation should:
- Where an application is not yet on a Sub-Committee agenda, write to the Planning Officer responsible for the particular case who will take into account any material planning considerations raised in the representations when preparing a report for the Sub-Committee; or
  - If the application is already on a Sub-Committee agenda, contact the Sub-Committee Clerk to make a request to speak at the Sub-Committee meeting.
- 5.63. In either case contact another Member who is not a Sub-Committee Member to seek their support. Generally speaking, this should be the Ward Councillor for the Ward within which the application is made.
- 5.64. If a Sub-Committee Member does decide to become involved in organising support for or opposition to a planning application or has offered an opinion on a planning application, then that Sub-Committee Member must take into account the advice on bias or predetermination in this Protocol. If after considering that advice the Sub-Committee Member comes to the view that on an objective assessment they cannot sit on the Sub-Committee and decide the application with an open mind, they should not be part of the Sub-Committee that decides the application. They can however attend the Sub-Committee meeting and speak on their constituent's behalf and adopt the role of local member rather than decision taker.

**'Decision Maker' role**

- 5.65. A Councillor who is a member of the Planning Sub-Committee or a suitably trained substitute and who takes part (or who intends to take part) at a meeting of the Planning Sub-Committee in the determination of particular Planning Application will for the purposes of this Protocol be a "Decision Maker" in relation to such Planning Application.

5.66. A Councillor who is a Decision Maker shall comply with the provisions of the Code of Conduct generally.

**‘Local Member’ role of a Planning Sub-Committee member**

5.67. Where a Planning Sub-Committee member wishes to make representations on behalf of his/her constituent(s), for the purposes of this Protocol he/she will be a “Local Member” in relation to that planning application. He/she may attend a meeting of the Planning Sub-Committee to make representations about the planning application on behalf of their constituents

5.68. A Councillor who is a Local Member shall comply with the Public Speaking Provisions and the Code of Conduct generally. Further provisions relating to the “Local Members” role are also contained in the next following section.

**Non Planning Sub-Committee /Local Ward Member role**

5.69. Subject to the provisions of the Code of Conduct generally a Councillor who is not a Member of the Planning Sub-Committee (whether or not he/she plays or intends to play the role of “Local Member”) will be free to:

- discuss any planning application with the applicant / agent / objector / lobby group;
- attend any locally organised meeting concerning the application;
- attend any meeting concerning the application and speak about the application (including expressing a view either for or against the application relay relevant information about the application to a planning officer;
- seek information/clarification about the application from a planning officer; and
- should follow the rules on lobbying in accordance with this Protocol.

**Effect of Prejudicial etc Interests**

5.70. Where a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or any other personal interest which an observer knowing the relevant facts would reasonably regard as so significant that it was likely to prejudice the member’s judgement of the public interest, then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct (Part 5 Section A of the Council’s Constitution). The Member must abstain from discussion and voting on the matter and leave the room while that application or other matter is under discussion except as provided below. The Member must also avoid any attempt to influence the decision improperly.

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5.71. A Member declaring a prejudicial or any other interest that precludes their determination of an item may attend during that item but only for the purposes of making representations about the matter, answering questions or giving evidence about it and then only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.

**Social Contacts**

5.72. Members of the Planning Sub-Committee will minimise their social contacts with known developers and agents and refrain altogether from such contacts when developments are known to be contemplated or applications are being proposed, or where controversial decisions are likely to be needed.

**Hospitality**

5.73. Members of the Planning Sub-Committee will reject any offers of gifts, hospitality or future favours made personally or by way of deals for the Council or the community, from lobbyists. Any such improper approach will be reported immediately to the Chief Executive.

**Residents/Local Groups/ Other Occupiers**

5.74. If a Member of the Planning Sub-Committee is approached by local residents, business or other occupiers in relation to an application, which the residents or others wish to object to or support, the Member will listen to the views but will take care not to give any commitment, or the impression of a commitment that they hold any particular final view on the application.

5.75. Members of the Planning Sub-Committee will:

- (a) Encourage the interested party to contact another Ward Member or other elected Member who is not a Member of the Planning Sub-Committee;
- (b) In the case of significant meetings on planning matters keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposals is considered by the Planning Sub-Committee; and
- (c) Disclose the fact and nature of significant discussions at and relevant meeting of the Planning Sub-Committee.

In this context "significant" would include any meetings or discussions which consider the merits or demerits of the particular proposals extended beyond simple information.

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- 5.76. Meetings and discussions with constituents are an important part of a Ward Member's functions, and this Protocol is not intended to harm those contacts unnecessarily. Members of the Planning Sub-Committee should avoid taking an active role in meetings to promote residents' objections to applications. Nothing in this Protocol prevents Members from listening to local concerns, giving factual information about an application or the planning process, or from directing residents to other sources of information or assistance.
- 5.77. Where a Member of the Planning Sub-Committee receives written representations directly in relation to a planning application, the Member will pass the correspondence to the Assistant Director, Planning/Head of Development Management in order that those representations may be taken into account in any report to the Planning Sub-Committee.

**At Committee**

- 5.78. The responsibilities of Members of the Planning Sub-Committee in considering planning matters are set out above. At the Sub-Committee, Members will, in particular, avoid expressing any view on the matters under consideration until the report has been presented, any other relevant advice is given, and all oral representations have been heard. In order to participate and determine an item, Members must be present for the entire duration and not miss any part of that item.

**Decisions contrary to officer recommendation and/or the Plan**

- 5.79. Decisions on planning proposals have to be taken in accordance with the development plan unless material considerations indicate otherwise. In determining planning and other applications the Committee is entitled to decide the weight to be attached to the various planning considerations which are relevant to the application. This can lead to a decision which is contrary to the recommendation of the Officers. The Committee can for example decide:
- to refuse planning permission where officers have recommended approval;
  - agree with officers that permission should be refused but for different reasons; or
  - grant permission subject to different conditions or legal requirements than those recommended.
- 5.80. Where any Members are proposing to put forward a motion contrary to the officer recommendation, the Committee Chair will ensure that the planning reasons are apparent before a vote is taken. In order to do this the Chair will ensure that:

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- The planning officer/legal officer is given an opportunity to explain to the Sub-Committee the implications of their decision; and
- Where the Sub-Committee wish to add or amend conditions the planning officer is given the opportunity to draft the condition(s) and refer to appropriate Members, for approval.

When the Planning Sub-Committee makes a decision which is contrary to the recommendation of the planning officers, whether the decision is one of approval or refusal, a detailed minute of the Sub-Committee's reasons for its decision will be made. A copy of the minute will be kept on the application file.

- 5.81. When a decision is made which is contrary to the Plan the material considerations which led to this decision and the reason(s) why they are considered to override the development plan will be clearly identified and minuted.

### **Council Owned Land**

- 5.82. The Planning Sub-Committee from time to time considers applications involving land owned or recently owned by the Council. Members will consider carefully whether they should take part in the deliberations of the Sub-Committee on an application, involving that land, where they took part in any decision of the Cabinet or other Council body in relation to the land. They will take into account whether an observer with knowledge of all the relevant facts would suppose that there might be any possibility that the involvement in the decision on the land could amount to reaching prior conclusions on the planning issues, or other-wise adversely affect the Member's judgement in any way.
- 5.83. Any Member, whether or not a Member of the Cabinet, will take great care in the consideration of applications, or local plan proposals, affecting land owned or recently owned by the Council to ensure that the planning decision is made and seen to be made solely on planning grounds.

### **Legal Advice**

- 5.84. The Assistant Director of Corporate Governance and Monitoring Officer will ensure that a suitably experienced legal officer is present at all Sub-Committee meetings to give legal, governance and procedural advice.
- 5.85. Members need to be mindful of the rules on declarations of interests and if Sub-Committee Members or other Members require advice about possible disclosable pecuniary interests or other interests or if Sub-Committee Members are in any doubt as to whether they have expressed a view that could give rise to the appearance of bias or that they have pre-determined a matter they may seek advice from the Monitoring Officer in advance of the Sub-Committee meeting. If that has not proved possible they should seek advice from the legal officer to the Sub-

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Committee before the meeting starts. Once advice has been given, it is up to the Member to make their own decision on whether or not they have a declarable interest and whether or not they can participate in the decision.

**6. MEMBERS NOT ON PLANNING SUB-COMMITTEE**

- 6.01. The Code of Conduct applies to all Members of Council. The parts of the Protocol which will be particularly kept in mind as a general context for the exercise of planning functions are set out above.
- 6.02. Where any Member submits representations in writing or orally in relation to any matter before the Sub-Committee those representations will be recorded for inclusion in the officer's report.
- 6.03. Councillors who are not Members of the Planning Sub-Committee may attend meetings of the Sub-Committee, and may address the Sub-Committee, the Committee Procedure Rules (Part 4 Section B of the Council's Constitution) will apply. This requires the Member to give written notice to the Chair of the Sub-Committee of his/her attendance, preferably before the meeting but in any event as soon as the Member arrives at the meeting. In order to promote efficient business of the Sub-Committee, and in order to give certainty to the applicant of the time available for speaking, Members are asked to register their intentions to speak by midday on the working day prior to committee with the Committee Clerk.
- 6.04. Where a Councillor who is not a Member of the Planning Sub-Committee has had any personal involvement with an applicant, agent or interested party, whether or not in connection with a particular application before the Planning Sub-Committee, or has any other personal interest which an observer knowing the relevant facts would reasonably regard as so significant that it was likely to prejudice the Member's judgement of the public interest then the Member will declare a prejudicial interest in accordance with the provisions of the Code of Conduct. The Member may only attend the meeting as provided in paragraph 6.05 below. The Member must also avoid any attempt to influence the decision improperly.
- 6.05. A Member declaring a prejudicial interest may attend the meeting but only for the purposes of making representations for or against the relevant application, answering questions or giving evidence about it and only when the meeting is open to the public. Otherwise the Member must leave the room while that application or other matter is under consideration.
- 6.06. Where an approach has been received by an elected Member (not being a Member of Planning Sub-Committee) from an applicant, agent or other interested party in relation to a planning application, that Member will, in any informal discussions with any Member of the Planning Sub-

Committee, disclose the fact and nature of such an approach and have regard to the matters set out at paragraph 7.01 below.

## **7. OTHER CONDUCT OUTSIDE COMMITTEES**

7.01. In discussions between Members generally and Members of the Planning Sub-Committee (at party group meetings or other informal occasions) Members will have regard to: -

- (a) the principles governing the conduct of Members set out in the Code of Conduct.
- (b) the principles governing the conduct of Members of Planning Sub-Committee set out in this Protocol.
- (c) the obligations placed on Members of the Planning Sub-Committee not to give commitments in relation to any planning application prior to consideration of the full officer report, advice and representations at the Sub-Committee meeting dealing therewith.

## **8. SANCTIONS**

8.01. Please refer to the Complaints Against Members Protocol for the complaint procedure against Members and possible sanctions where there is an alleged breach of this Protocol and the Code of Conduct.

## **9. MEMBERS AND OFFICERS OF THE COUNCIL**

### **The role of elected Members**

9.01. In respect of any planning application Members will:

- declare any pecuniary or non-pecuniary interest and take no part or a restricted part, as appropriate, in the processing and determination of the planning application;
- act impartially and honestly;
- approach each application with an open mind;
- take into account and carefully weigh up all relevant issues;
- determine each application on its own merits and in accordance with the requirements of planning law and the guidance of planning policy;
- avoid inappropriate contact with interested parties (see also the section on lobbying); and
- ensure the reasons for their decision are recorded in writing.

### **The role of officers**

- 9.02. Officers in their role of advising and assisting elected Members in their determination of planning applications will provide:
- impartial and professional advice;
  - consistency of interpretation of the planning policies; and
  - complete written reports which will include:
    - a clear and accurate analysis of the issues in the context of the relevant development plan policies and all other material considerations;
    - the substance of the representations, objections, and views of all those who have been consulted;
    - a clear written recommendation of action and where that recommendation is contrary to the development plan, the material considerations which justify the departure; and
    - all necessary information for the decision to be made.
- 9.03. Members should not put any pressure on officers for a particular recommendation and, as required by the Code of Conduct or the Protocol on Member/ Officer Relations (Part Five Section B of the Council's Constitution), should not do anything which compromises, or is likely to compromise, their impartiality. Members should recognise that officers are part of a management structure and should address any concerns which they may have about the handling of a planning application to a departmental manager at the appropriate level of seniority. In general, however, officers and Members should adopt a team approach to the determination of planning proposals, and should recognise and respect each other's different roles
- 9.04. In common with Members generally, all Members of the Planning Sub-Committee may contact the relevant Planning Officer to seek information in relation to any planning application.
- 9.05. Members of Planning Sub-Committee will not attempt in any way to influence the contents of the Officer's report or the recommendation made on any matter. Representations made by Members whether or not in writing will be recorded by the relevant officer and included in the report.
- 9.06. Any criticism of Planning Officers by Members of the Planning Sub-Committee shall be made in writing, to the Director of Regeneration, Planning and Development or the Assistant Director, Planning and not to the Officer concerned. Members will endeavour to avoid any public criticism of officers but this does not prevent Members asking officers proper questions.

### **Contact between Members and officers**

9.07. Involving Members early and throughout the application and determination process leads to better committee meetings, better decisions and better developments. Pre-committee meetings between officers and the Chair and other senior Members can enable strategic applications to be highlighted and procedural committee issues agreed. Other contact is described elsewhere in this protocol including planning committee briefings.

## **10. PROTOCOL FOR HEARING REPRESENTATIONS AT PLANNING SUB-COMMITTEE**

### **General Principles**

10.1. The Planning Sub-Committee will operate this Protocol with two particular aims regarding representations:

- (a) to allow those who have applied to make representations to be heard by the Sub-Committee on items on the agenda for the meeting; and
- (b) to get through the agenda expeditiously to avoid delay to applications and wasted journeys by the public.

10.2. Objectors or supporters, including Ward or other Members where possible, should advise the Council by noon on the working day immediately prior to the Sub-Committee meeting (for a Monday meeting this would be by noon on the Friday prior to the Sub-Committee) in order to allow appropriate administrative arrangements to be put in place. The number of speakers will usually be limited to two speaking against the proposal with a time limit of 3 minutes each i.e. a maximum of 6 minutes. Members will have a time limit of 3 minutes each. Those supporting a proposal will be given the same time as those speaking against (including time taken by any Members objecting less any time by Members supporting).

10.3. Speaking should take place immediately before the Sub-Committee debates a particular application (see running order for the sub-committee) and after the planning officer has set the scene and updated the meeting on any late matters not dealt with in the published report.

10.4. The circulation of materials will not normally be accepted during the meeting. If new or further material is to be allowed following the publication of the Sub-Committee papers it should be received in advance of the meeting so that it can be circulated to Members of the Sub-Committee.

10.5. Speakers should not be allowed to engage in discussion with Members of the Sub-Committee during public speaking or the Sub-Committee deliberations, to avoid any risk of accusation of bias or personal interest.

### **The procedure for addressing the Sub-Committee**

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- 10.6. Although the Committee Procedure rules allow for Members not on the Planning Sub-Committee, or officers outside the Planning Service who wish to address the Sub-Committee, to give written notice of their attendance to the Chair of the Sub-Committee rather than inform the committee clerk by 12 noon on the working day prior to committee Members and Council Officers are asked to inform the committee clerk by 12 noon on the working day prior to committee where possible.
- 10.7. The Chair will allow those persons outside the Council completing the form to address the Sub-Committee except where there are several people applying to speak, in which case there will be a limit as shown below. The right to speak shall be on a first come first served basis.
- 10.8. For any issue which is within the Sub-Committee's terms of reference, but for which there is not a report on the agenda, members of the public may use the Deputations Procedure in accordance with the Committee Procedure Rules to make their representations to the Sub-Committee.
- 10.9. With respect to Petitions, for this Sub-Committee the requirement in the Council Procedure Rules for 5 days' notice will not apply so that members of the public may submit petitions (without addressing the meeting) on any issue which is within the Sub-Committee's terms of reference at any meeting without giving due notice.

**Running order for planning applications**

- 10.10. Declarations of interest will be taken at the start of the meeting (Members will be invited to *clearly state their interest in an item and whether they believe it to be personal, prejudicial (including bias and predetermination) or pecuniary. To include whether they will leave, stay, refrain from debate and whether they will vote*).

(a)	Announce application and give description.
(b)	Name the public speakers.
(c)	<i>Advise the meeting of the declarations of interest that have been made in relation to the item</i>
(d)	Local Member declaration to represent their constituents or vote ( <i>Where a local Member sits on the Sub-Committee they should state whether they intend to vote on the application or instead to represent their constituents. If representing their constituents they should move to the area reserved for speakers and remain there as applicable e.g. until the end of their contribution subject to then leaving the room</i> ).
(e)	Planning officer presents case including update of any late representations or new issues, with possible supplementary presentation from other officers.
(f)	Speaking arrangements Objectors - up to 2 speakers with a total time of 3 minutes each.

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(g)	Any interested Councillors who have informed the committee clerk or the Chair in advance of the meeting may address the Sub-Committee for up to 3 minutes each.
(h)	The Applicant and any supporters of the proposal will have the right to speak if there are any speakers against the proposal and then will be allowed to speak for an equivalent length of time as given to those objecting to the application i.e. maximum of 6 minutes (subject to any Members' speaking time) the total time to be divided between them. For each speaker clarification questions from Members should be made through the Chair and should be points of fact relating to material planning considerations only. Questions regarding policy or guidance or law and its interpretation should only be dealt with by Council officers. It is expected that most speakers will require no clarification.
(i)	Debate – Members through Chair with support from officers / legal providing clarification. Sub-Committee Members debate the case and consider the recommendation including conditions.
(j)	Summing up – Chair brings discussion to conclusion and seeks a decision on the recommendation/alternative recommendation proposed.
(k)	Vote and explicitly record decision s), taking vote(s) as necessary. Following the vote, there will be no further discussion of the item.
(For certain cases the procedure may be varied to allow for adjournments for confidential legal advice.)	
The Sub-Committee will be aware that some parties listed as "objectors" can be overall in support of a development but be looking, for example, for some amendment or condition to protect their amenity.	

**For applications which are considered but deferred**

10.11 Normally, the Sub-Committee will hear representations on both / all sides before they make a decision to defer for any reason. When the application is re-submitted to the Sub-Committee, further representations will normally only be allowed if some fresh matter has arisen since the first Sub-Committee meeting. If this further submission is exceptionally allowed, the number of people speaking will be limited to one objector for a further 3 minutes. The applicant/supporter will have a right to reply of 3 minutes.

**For larger or more contentious applications**

- 10.12. (a) In relation to larger and/or more controversial applications (as agreed by the Sub-Committee), the Chair may allow double the number of speakers, with double the total length of time to be divided between them).
- (b) For example: in relation to para. 10.2 above this would be four speakers with a total of 12 minutes divided between them.

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- (c) The applicant and any supporters will normally have a right to reply of the same length of time as taken by the objectors.

10.13. The Sub-Committee will aim to deal with all applications, except those of exceptional significance, within one hour, and the Chair will take active steps to keep to these time-scales in the interests of all participants. Members will also act to deal fairly and expeditiously and will therefore commit not to repeat questions. It is expected that there will be a maximum of 30 minutes of questions and comments for any one application.

### **Equal Opportunities**

10.14. The adoption and publication of a Protocol giving clear information about planning procedures and getting involved in decisions would improve access to the system by all communities in the Borough, as well as potential investors. Arrangements will be put in place to make the policy principles within this protocol available in pamphlets in different languages and in larger print.

## **11. CODE OF CONDUCT FOR MEMBER SITE VISITS**

### **Background**

11.01. At the Sub-Committee meeting site maps, scheme drawings and sometimes photographs are on display and available. Officers' reports describe relevant site characteristics, following their own site visits. Officer visits are not routinely made to the homes / premises of objectors, as adequate technical assessments can usually be made from maps, drawings and by visiting the application site.

11.02. This site knowledge and information will usually be sufficient for the Sub-Committee to reach a decision on applications and accompanied Committee site visits will not automatically be required for all items. .

11.03. The Assistant Director, Planning/Head of Development Management, in consultation with the Chair of the Sub-Committee, will decide which cases require a site visit according to the criteria set out below: Examples where a site visit would not normally be appropriate include where:

1. purely policy matters or issues of principle are at issue;
2. the report, together with drawings, photographs and other material is sufficient to provide the context; or
3. where Councillors have already visited the site within the last 12 months.

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11.04. Site visits where required will be normally be scheduled during daylight hours for the week before the Sub-Committee meeting at which the application is to be discussed.

**The purpose of site visits**

11.05. The purpose of such site visits is for the Members of the Sub-Committee to see the site in order to reach an informed decision. It is not intended to provide a separate opportunity for objectors, supporters, applicants or others to lobby the Members, to argue their case or discuss the merits of the application.

11.06. It is essential that fairness and probity are safeguarded in all the proceedings of the Planning Sub-Committee. This means preventing even the appearance of undue or unfair influence, or biased behaviour.

11.07. In accordance with the Protocol, Members must avoid being involved in lobbying for or against an application, or reaching a firm view on an application before final determination at Sub-Committee. The proper place for discussion and presentation of views is therefore at the Sub-Committee meeting itself.

11.08. On site, without some safeguards, there is a serious risk of breaching the principles of fair hearings. Individual Members can hear different arguments from different people, and all sides are not heard equally.

11.09. To ensure fairness and probity, therefore the Sub-Committee will observe the following Protocol for site visits. The on-site procedures are based on those followed by the national Planning Inspectorate.

**Site Visit Protocol**

11.10. Access to the site will be arranged with the site owners or their agent. In some cases arrangements will also have to be made with adjoining properties which have to be entered.

11.11. Procedure on Site: The planning officer(s) will show the Members round the site(s) / area, showing relevant scheme drawings, and pointing out significant features. Some practical assistance from the owner / agent may be necessary. Members may ask officers or others factual questions, but will not otherwise discuss the application. An attendance list of the site visit should be recorded.

11.12. In a few cases the Assistant Director, Planning/Head of Development Management, in consultation with the Chair of the Sub-Committee, may decide to invite particular local residents or objectors / supporters to attend a site visit for the purpose of ensuring access, pointing out specific matters or answering factual questions. Normally, neither objectors nor supporters will be invited to site visits.

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- 11.13. If a site visit becomes the occasion for lobbying by numbers of people or for demonstrations, the visit may have to be adjourned and rearranged as a more private visit.
- 11.14. As a result of the visit, the Members of the Sub-Committee may ask the officers to address some specific issue in the presentation to the Sub-Committee.
- 11.15. Any Member of the Sub-Committee who is unable to attend the official site visit should endeavour to visit the site him / herself before the meeting and will avoid any discussion of the merits of the application while at the site.
- 11.16. Members of the Sub-Committee have to come to an independent view on an application, taking into account all relevant facts and views. If a Member of the Sub-Committee is unable to attend the site visit, this does not disqualify him / her from taking part in the final decision. The Member will, however, listen very carefully to the views of those Members who benefited from the visit. In some cases the Member may decide it would be better not to take part in the decision.

**Site visits by individual Members of the Planning Sub Committee**

- 11.17. Many Members will already be familiar with sites which are subject to applications but not in all cases. It is normal and proper for Members in these circumstances to visit a site themselves before the committee meeting. Where individual Members of the committee wish to undertake their own site inspection, prior to the committee meeting, these should be conducted unannounced and from a public vantage point. Members of the committee should not arrange to meet applicants/agents or third parties for the purpose of a site inspection
- 11.18. If a committee member is approached on site by any applicant/agent, objector or other third party interest they should seek to avoid discussion of the application and should ensure they do not give any indication of their views or the likely decision of committee. Where it is not practical to avoid some discussion the member should note that it took place and pass the information to the officers, so that it can be recorded at Sub-Committee.

**12.0 REVIEW OF THE PROTOCOL**

12.01. The protocol will be regularly reviewed to take account of:

- new planning legislation;
- changes to national codes of conduct; and
- emerging examples of good practice.