



**Haringey Council**

<b>Report for:</b>	<b>Regulatory Committee 12 June 2014</b>	<b>Item Number:</b>	
<b>Title:</b>	<b>Revised Planning Protocol</b>		
<b>Report Authorised by:</b>	<b>Stephen Kelly</b>		
<b>Lead Officer:</b>	<b>Emma Williamson</b>		
<b>Ward(s) affected: All</b>	<b>Report for Key/Non Key Decisions:</b>		

## **1. Describe the issue under consideration**

- 1.1 Under the Localism Act 2011 the Council is required to adopt a local code of conduct for members. A Members' Code of Conduct is set out within the Council's constitution and deals with, among other things, the declaration of interests both personal and pecuniary. The purpose of the planning protocol is to provide more detailed guidance on the standards to be followed in relation to planning matters which supplements the Members' Code of Conduct. This report seeks approval to adopt a revised and updated protocol reflecting changes to the Planning Process and lessons learnt since 2007.

## **2. Cabinet Member introduction**

### **Purpose of the Planning Protocol**

- 2.1 The Council has produced this updated protocol to accompany the ongoing improvement project in the Development Management service and to set out the commitments being made during the planning process. Quality decision making is a three way process involving a partnership between the Council, the local community and the business/development industry. All parties need to recognise and acknowledge the others' responsibilities. The aim of the protocol is to ensure that in the performance of its statutory planning function, the Council gives no grounds for suggesting that a decision has been biased or partial.



2.2 The Council wants to ensure that everyone participating in the planning process in Haringey can understand and navigate their way successfully through the process and understand the role that they play. For members and officers of the Council especially, the protocol aims to provide a clear statement of their role and responsibilities – including for the first time provision for Members participation in pre application advice. For others wishing to participate, the protocol sets out new arrangements for public speaking at meetings, and explains more clearly the process the Council will follow in such circumstances. The objectives of the protocol are to complement the improvements elsewhere within the service to support high quality development in the borough through an inclusive, open and fair process. To succeed all parties must play a part. If the protocol is followed it will help the Council to deliver a high quality service and to make decisions in a timely manner.

### **3. Recommendations**

- 3.1 (i) That the Regulatory Committee adopt the revised planning protocol;
- (ii) That the Regulatory Committee requires that the Planning Sub-Committee implement the provisions of the revised planning protocol; and
- (iii) That the Regulatory Committee authorises the Assistant Director Corporate Governance in consultation with the Assistant Director Planning to make any consequential amendments to the protocol arising out of any changes made to the Council's constitution or scheme of delegation

### **4. Other options considered**

- 4.1 The revised procedures and recommendations developed within the proposed protocol have been reached after consideration of best practice in other local authorities and advice from national organisations.

### **5. Background information**

- 5.1 On 4 December 2007 the Planning Committee adopted a Members' Code of Conduct for Planning Committee, a Code of Conduct for member site visits and a protocol for hearing representations at Planning Committee. These have formed the basis of the operation of the Planning Sub-Committee since that time. Members will be aware that the proceedings of the Planning Sub Committee are also subject to the Committee Procedure Rules (Part Four Section B of the Constitution) and the Miscellaneous Standing Orders (Part Four Section C of the Constitution). These are being reviewed separately as part of the Constitution review. The Regulatory Committee now has control of the planning protocol and does not require confirmation of any changes to the protocol from full Council.
- 5.2 As part of the Development Management Improvement Plan, all aspects of the development management service have been reviewed with the aim of ensuring that the service reflects best practice. In putting forward the proposals in the



proposed protocol account has been taken of national guidance from the Local Government Association and the Planning Advisory Service in 2013 which clarifies how members can get involved in planning discussions on plan making and on applications on behalf of their communities in a fair, impartial and transparent way taking into account the provisions in the Localism Act 2011. The advice suggests that the planning system works best when officers and members involved in planning understand their roles and responsibilities, and the context and constraints in which they operate. It recommends that members should receive regular training on code of conduct issues, interests and predetermination as well as on planning matters. Officers have also visited other London authorities to observe the way in which their planning committees operate and have used this to inform the protocol.

## **6. The Planning Protocol**

- 6.1 The proposed planning protocol for adoption is set out in Appendix 1 to the report. References to paragraph numbers below are to paragraphs in the appended document. The main changes to the protocol from the one previously adopted in 2007 are as follows:
- i. **Localism Act** - A general update to take account of the provisions of the Localism Act 2011, the National Planning Policy Framework March 2012 and National Planning Practice Guidance March 2014. The Localism Act sought in particular to clarify predetermination or bias on the one hand and predisposition on the other so that Section 25 provides that a member should not be regarded as having a closed mind simply because they previously did or said something that directly or indirectly indicated what view they might take in relation to a particular matter. The intention was to give members more freedom to engage in pre-application discussions subject to doing so within clear published guidelines. Paragraphs 5.10-5.16 reflect this.
  - ii. **Enforcement** - Paragraph 2.05 in relation to enforcement takes account of the NPPF (paragraph 207) which states that local planning authorities should consider publishing a local enforcement plan to manage proactively in a way that is appropriate to the area. It is intended that there should be a updated enforcement policy published and we will be having a workshop with members to look at priorities as the first stage in taking this forward during June 2014.
  - iii. **Delegation** Changes to the matters to be determined by the Planning Sub Committee are being considered under a new scheme of delegation as part of an overall review of the Council's constitution and delegation arrangements. Two changes that have been incorporated into the Protocol are the way in which planning applications determined by councillors or senior officers of the Council will be handled (see paragraphs 2.13 and 2.14). In future delegated decisions will be reported to the Planning Sub Committee on a monthly basis rather than Regulatory Committee.



- iv. **Referrals to Committee** - Paragraph 2.21. sets out a new process for members requesting applications to go to the Planning Sub Committee for determination. The aim is to ensure that these are identified at as early a stage as possible in order that the Council's targets for dealing with applications can be met.
- v. **Training** – Mandatory training for members and substitute members of the Planning Sub Committee prior to sitting on the Committee and a requirement for ongoing CPD of 5 hours per annum (paragraph 5.02)
- vi. **Pre-application briefings** – paragraphs 5.28-5.36 sets out the new proposal to set up developer's briefings to Planning Sub Committee at the pre-application stage. This may be by way of developer presentation to the Planning Sub Committee or by officers preparing a short report or briefing note.
- vii. **Development Management Forum** - the protocol (paragraph 5.37 onwards) now incorporates the procedures for the running of development management forums. It is proposed that these should generally take place at the pre-application stage and prior to the briefing to the planning sub committee. The section contains advice to members of the planning sub committee and other members as to how they can attend such meetings and the role that they can play.
- viii. **Design Review Panel** – incorporates a section on the role of councillors who attend design review meetings at paragraph 5.52.
- ix. **Role of members at Planning Sub-Committee** – new sections (paragraph 5.59 onwards) on the decision maker role at Planning Sub-Committee and where a member wants to make representations the local member role of a Committee member
- x. **Taking decisions contrary to the officer recommendation or the Local Plan** – section 5.79 provides advice on how to put forward a motion and ensure that the implications of the decision are understood prior to moving to a vote.
- xi. **Arrangements for hearing representations at Planning Sub-Committee** – Section 10 sets these out. The main change is that those wishing to speak are to be required to advise the Council by noon on the working day immediately prior to the Sub-Committee meetings and that the number of speakers will usually be limited to two for and two against the proposal with a time limit of a total of 12 minutes for small applications.
- xii. **Running order for hearing planning applications** – Paragraph 10.10 sets out a clear running order so that the procedure is clear and can be uniformly applied.
- xiii. **Member site visits** – Paragraph 11.03 sets out criteria for determining where a members' site visit would normally be appropriate.

## **7. Comments of the Chief Finance Officer and financial implications**

- 7.1 The Head of Finance has been consulted and has commented that the costs of implementing the revised planning protocol can be met within the existing approved budget.



## **8. Comments of the Assistant Director of Corporate Governance and legal implications**

8.1 The Assistant Director of Corporate Governance has been consulted on the preparation of this report, and makes the following comments:

8.2 The adoption of the updated and revised planning protocol will undoubtedly assist the Council deliver an improved, effective, transparent and inclusive development management service for the benefit of all stakeholders.

8.3 Adherence to and compliance with the updated and revised planning protocol will greatly assist the Council to resist unmeritorious legal challenges to its planning decision making process.

## **9. Equalities and Community Cohesion Comments**

9.1 There are no specific equalities implications

## **10. Head of Procurement Comments**

10.1 Not applicable

## **11. Policy Implications**

11.1 It is intended that the revised Planning Protocol will contribute and add value to the work of the Council and its partners in meeting locally agreed priorities. It is expected that the Protocol will contribute to the cost effective enactment of policy and practice in the following corporate priorities:

- Drive Economic Growth in which everyone can participate
- Deliver regeneration at priority locations across the borough
- Ensure the whole council works in a customer focussed way
- Get the basics right for everyone

## **12. Use of Appendices**

12.1 Appendix 1 – Planning Protocol 2014

## **13. Local Government (Access to Information) Act 1985**

13.1 The background papers set out below:

1. Haringey Members Code of Conduct adopted in May 2007
2. Report to Planning Committee on 4 December 2007