

CITY OF PLYMOUTH

Subject: Planning Committee Code of Good Practice for Members and Officers

Committee: Planning

Date: 17 September 2009

Cabinet Member: Councillor Fry

CMT Member: Director of Development and Regeneration

Author: Peter Ford, Head of Development Management

Contact: Tel: (01752 (30)4352
e-mail: peter.ford@plymouth.gov.uk

Ref: PF

Part: I

Executive Summary:

The Planning Committee currently operates under a Code of Good Practice for Members and Officers that was last formally reviewed in March 2004. This Code of Good Practice has now been reviewed following a workshop held with Planning Committee Members on 12th February 2009 and the publication of the Local Government Association (LGA) report *Probity in planning: the role of councillors and officers - revised guidance* in May 2009. This report outlines the changes that are proposed to the Code of Good Practice.

Corporate Plan 2009-2012:

The effective operation of Planning Committee in making open, informed and transparent decisions on planning applications and related matters is a key priority for the Council in achieving its aspirations to be an excellent organisation by 2012. In particular Planning Committee helps to meet the Corporate improvement target of delivering sustainable growth.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The changes to the Code of Good Practice identified in this report will not have any implications on the cost of operating the Planning Committee.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

The Code of Good Practice will help to address a key risk that is outlined in the Council's Strategic Risk Register under risk 16 "Decision making process" by reducing the judicial risk of the Council not operating in an open and honest way to decision making.

Recommendations & Reasons for recommended action:

It is recommended that Planning Committee:

- 1 Notes the amended version of the Code of Good Practice for Members and Officers, as outlined in appendix 1 and approves it in principle.
- 2 Refers the Code of Good Practice to the Portfolio Holder for Planning and Strategic Housing and Economic Development for final ratification and approval

Reason: To enable the changes identified by national guidance and by Members of the Planning Committee to be implemented through the operation of Planning Committee

Alternative options considered and reasons for recommended action:

The alternative would be to continue to operate under the current code of practice. However this would not give Planning Committee the opportunity to implement the changes in good practice that has been identified both through LGA good practice and Members' and officers' own experience with working under the current code of practice.

Background papers:

Local Government Association (LGA) *Probity in planning: the role of councillors and officers - revised guidance* in May 2009.

Review of the City Council's Constitution, Full Council, 6th July 2009

Code of Good Practice for Members and Officers Appendix H Report, Planning Committee, 18th March 2004

Sign off: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of Heads of HR, IT and Strat. Proc.):

Head of Fin	Ref 9100038	Head of Leg	JAR/09/108	Head of HR	N/A			Head of IT	N/A	Head of Strat Proc	N/A
Originating CMF Member Paul Barnard, Assistant Director of Development (Planning Services)											

1.0 BACKGROUND

- 1.1 The Planning Committee currently operates under a Code of Good Practice that was approved on 18th March 2004. The Code of Good Practice (the Code) needs to be reviewed to take on board changes in Government legislation and guidance, comments made by Members and officers who attend the Planning Committee and observations made by users of the Planning Committee
- 1.2 A workshop was held with officers and Members on 12th February 2009 to consider ways in which the operation of Planning Committee could be improved. Some of these suggestions were implemented without the need for a review of the Code. However other more substantive changes were considered as part of the review.
- 1.3 In May 2009 the LGA published *Probity in planning: the role of councillors and officers - revised guidance*. This publication considered probity issues for Members and officers who operate the decision making process in Planning. Its recommendations put forward good practice in relation to the way Members and officers undertake the decision making process in Planning Committee.
- 1.4 On 14th and 25th August 2009 officers held a workshop with Planning Committee Members on suggested changes to the Code and these comments have been addressed in the revised document.

2.0 PROPOSED CHANGES TO THE CODE OF PRACTICE (APPENDIX 1)

- 2.1 It is proposed that the following key changes are made to the Code :

Status of the Code

- 2.2 The amended Code is updated to reflect 6th July 2009 Council constitutional changes. It also gives clarification on approaches that will be taken with breaches of the Code.

General Role and Conduct of Councillors and Officers

- 2.3 The amended Code states that Members are asked not to accept notes during Planning Committee and requires them to ensure that they properly familiarise themselves of reports prior to Committee. The Code also highlights the importance of mutual trust and to ensure open Member / officer relationships.

Declaration and Registration of Members Interest

- 2.4 The amended Code will allow Planning Committee Member to speak for up to five minutes where they have a prejudicial interest and wish to speak in support or objection to a development. Clarification is also given that when a Planning Committee Member with a prejudicial interest has spoken they will then be required to leave the room during the debate and vote.

Predetermination, predisposition or bias

- 2.5 A new Section has been added to reflect the updated LGA guidance covering the importance of avoiding appearance of bias, and the distinction between predetermination and predisposition.

Lobbying

- 2.6 An additional paragraph has been included to highlight the importance of Members taking care when being lobbied. The amended Code also advises Members to generally avoid organising support for or against a planning application and states that the use of political whips would be likely to amount to maladministration.

Order of Planning Committee Considerations

- 2.7 The amended Code updates the details and structure of officer reports and includes reference to the officer presentation and what it will contain to reflect current practice. It also outlines the nature of officer recommendations and when delegated authority may be sought from Planning Committee to reflect current practice.

Order of Planning Committee Considerations

- 2.8 The amended Code gives clarification on the order of proceedings leading to the eventual vote and decision and also the order of speakers.

Ward Member Speaking at Planning Committee

- 2.9 The amended Code will allow Ward Members to speak for up to five minutes. Confirmation is given that Ward Members cannot circulate documents or other material at the Planning Committee meeting and that Planning Committee will explicitly disregard anything that has been circulated. Ward Members are reminded that they should not approach Planning Committee Members during the meeting and clarification is given there is no limit to the number of Ward Councillors who can speak at the Planning Committee.

Public Speaking at Planning Committee

- 2.10 The amended Code will allow public speakers to speak for up to five minutes. Clarification is also given that if more than one speaker puts in a request to speak they will need to agree who will speak at the Planning Committee. It also allows public speakers to speak for a second time in the event of a deferral and confirms that public speakers cannot circulate documents or other material at the Planning Committee meeting and that Planning Committee will explicitly disregard anything that has been circulated.

Decisions Contrary to the Development Plan

- 2.11 The amended Code updates the legislative references and deletes references to departures as these requirements have been revoked.

Decisions contrary to officer recommendation

- 2.12 The amended Code provides references to the need for national guidance and case law being taken into account and emphasises that a Member moving a motion to refuse planning permission contrary to the officer recommendation must cite full reasons for refusal and relevant policies and if they do not the motion is to be regarded as not properly made. In addition the Code now states that where a Member moves a motion to refuse planning permission contrary to the officer recommendation the Chair may allow a short adjournment of the meeting to allow officers to advise the Member on the drafting of the reasons for refusal. Furthermore there is a provision that if the Assistant Director of Development (Planning Services) considers that there is a risk of an award of costs against the authority he/she may request the deferral of the item to a subsequent meeting.

Legal and Other Officer Attendance

- 2.13 The amended Code clarifies that a legal representative will always be present at Planning Committee meetings and that other Council officers may attend the meeting. It also states that exceptionally officers of other statutory agencies may address the meeting to provide specialist technical advice.

Appeals and Inquiries

- 2.14 The amended Code clarifies when a Member may be expected to support a refusal at an Informal Hearing or Public Inquiry.

Monitoring and Review of Decisions

- 2.15 The amended Code outlines that the Annual Monitoring Report for the Local Development Framework will be the monitoring and performance reporting arrangement.

Training

- 2.16 The amended Code clarifies that all Members including substitutes must have had the initial induction training before they can sit on the Planning Committee. It also outlines the Planning Committee training programme and confirms that the Assistant Director of Development will maintain a register of Member training.

3.0 NEXT STEPS

- 3.1 Following the consideration of this report by Planning Committee the revised Code of Good Practice will be referred to the Portfolio Holder for Planning, Strategic Housing and Economic Development for approval. Once the Portfolio Holder has agreed the revised Code of Good Practice, it will be implemented for future Planning Committee meetings.