

Non-Executive Report of the: Council 19 July 2017	 TOWER HAMLETS
Report of: Asmat Hussain, Corporate Director, Governance and Monitoring Officer	Classification: Unrestricted
Proposed Revision to the Constitution - Part 5.2 (Planning Code of Conduct)	

Originating Officer(s)	Paul Greeno, Senior Corporate and Governance Legal Officer
Wards affected	All

Summary

This report advises of a proposed revised Planning Code of Conduct at Part 5.2 of the Tower Hamlets Constitution

Recommendations:

Council is recommended to:

1. Approve the revised Planning Code of Conduct in Appendix 1 of the report.

1. REASONS FOR THE DECISIONS

- 1.1 Pursuant to the Local Government Act 2000 ('the 2000 Act') as the Council is operating Executive arrangements then it must have a Constitution and also ensure that this Constitution is kept up-to-date. Pursuant to Part 2 Article 15 of the Constitution it is a Monitoring Officer role to review the Constitution.
- 1.2 The Planning Code of Conduct is an important Constitutional document as it is part of the Council's ethical framework and is in addition to the Councillors' Code of Conduct adopted under the provisions of the Localism Act 2011.
- 1.3 Planning decisions involve balancing many competing interests and making an informed judgement against a local and national policy framework. In doing this, Councillors need to make decisions having regard to the wider public interest on what can sometimes be controversial proposals. The provisions of this Code are designed to ensure that planning decisions are taken with sound judgement and for justifiable reasons, in a fair consistent and open manner and that Councillors making such decisions are perceived as being accountable for those decisions.

2. ALTERNATIVE OPTIONS

- 2.1 Council can decide not to adopt a revised Policy.

3. DETAILS OF REPORT

- 3.1 This Report is a continuation of papers being presented to the Council to update on the Monitoring Officer's review of the Constitution and is specifically in respect of the review of Part 5.2 (Planning Code of Conduct). This Code is part of the Council's ethical framework and is in addition to the Councillors' Code of Conduct adopted under the provisions of the Localism Act 2011. A number of revisions have been identified and have been discussed at a Governance Review Working Group, Strategic Development Committee, Development Committee, Standards Advisory Committee and General Purposes Committee and the Planning Code of Conduct at Appendix 1 is the product of those discussions. The most recent changes that have been made following the General Purposes Committee on 5th July 2017 are shown as tracked changes.
- 3.2 Planning decisions involve balancing many competing interests and making an informed judgement against a local and national policy framework. In doing this, Councillors need to make decisions having regard to the wider public interest on what can sometimes be controversial proposals. The provisions of this Code are designed to ensure that planning decisions are taken with sound judgement and for justifiable reasons, in a fair consistent and open manner and that Councillors making such decisions are perceived as being accountable for those decisions.

- 3.3 The Code is also designed to assist Councillors in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.
- 3.4 This Code applies to Councillors at all times that they are involved in the planning process. This would include, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 3.5 Appendix 1 contains the revised proposed Code. Reasons for suggesting changes to the current Code of Conduct fall into 4 categories:
- (i) Changes that bring the Code up to date in terms of legislative context, the organisational structure of the Council and/or current terminology;
 - (ii) Improvements to achieve better consistency with other documents in terms of content and style and structure;
 - (iii) The addition of information/explanation to aide understanding;
 - (iv) Material changes to the Code that will require members and/or officers to conduct themselves differently than under the existing Code
- 3.6 Changes relating to (i) and (ii) above have been made to all sections of the document and, as they are not material, have not been singled out.
- 3.7 Changes to sections relating to categories (iii) and (iv) above are identified in Table 1 below as it was felt that these changes in particular should be brought to the attention of Members.

Table 1: Changed sections and reason for change

	Changes to improve quality/clarity of information or explanation (see 3.5 (i) and (ii))		Additional Information/ Material changes to the Code affecting members and / or officers (see 3.5 (iii) and (iv))	
	Current Version	Proposed New Version	Current Version	Proposed New Version
Planning Code	1. Introduction 4. Contact with Applicants, Developers and objectors 7. Pre-application discussions 8. Post-submission application discussions 5. Lobbying of Councillors 6. Lobbying By Councillors 9. Site Visits 11. Relationship between Members and Officers 12. Applications submitted by members, officers and the Council 13. Decision Making	1. Introduction 8. Pre-meetings, presentations and briefing sessions 7. Lobbying 9. Site Visits 10. Relationship between Members and Officers 5. Application by a Member or Officer 6. Application by the Council 13. Decision Making 15. Guidance/ Procedure Notes	2. Development of proposals and interests under the members Code of Conduct 3. Pre-determination in the planning process 14. Training 15. Appendix 1- Council Guidelines for determining planning applications	3. Interests 4. Predisposition, pre-determination or bias 2. Training of Councillors Appendix 1- Council Guidelines for determining planning applications 10. The Role of the Executive 11. Conduct at the committee 14. Record Keeping Appendix B – Development Procedure Rules Appendix C – Do's and Do Not's Appendix D – What If?

- 3.8 The revised Code has been discussed with Planning Officers.
- 3.9 On 23rd March 2017, a report on the Planning Code of Conduct was discussed at the Strategic Development Committee and a result of the discussion at that meeting changes have been made to section 7 Lobbying and Section 9 Site Visits.
- 3.10 The changes to lobbying are to make it clearer that there is no problem with lobbying per se but it is important that Councillors who are lobbied follow the principles laid out within the Code and that where it is Councillors doing the lobbying that they do not seek to attempt to persuade or put pressure on the Councillor that they should vote in a particular way.
- 3.11 The changes to site visits is to recognise that whilst Councillors can make comments and ask appropriate questions during the site visit they should avoid expressing opinions which can cause the perception of bias or predetermination. Further Councillors shall not make a decision whilst on site.
- 3.12 On 10th May 2017, a report on the Planning Code of Conduct was discussed at the Development Committee. At that meeting, it was raised that the code of conduct should cover 'access to information' to enable informed decision making by members. This was on the basis that it was said that planning officers currently restrict the information they provide to members in their officer reports and that there therefore needs to be a section in the Planning Code of Conduct which will enable member to receive full information on the proposals as part of the officers' report. This relates to the provision of a full set of pictures and plans.
- 3.13 This is a matter that is be better addressed in the Development Procedure Rules and these Rules are being revised at this time and are currently with Planning Officers for consideration. This point on further information in reports has also been referred to Planning Officers for consideration.
- 3.14 Generally as to the Development Procedure Rules, these are at Part 4.8 of the Constitution and are therefore separate to the Planning Code of Conduct. When the Licensing Code of Conduct was recently revised, the Rules of Procedure for applications were included as appendices. For consistency, it the Development Procedure Rules will therefore be an appendix to the Planning Code of Conduct and not separate at Part 4.8.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 There are no financial implications arising from the recommendations within this report.

5. LEGAL COMMENTS

- 5.1 Any legal implications are addressed in the body of the report.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The provisions of the revised Planning Code are designed to ensure that planning decisions are taken on proper planning grounds; in a fair consistent and open manner; and that Councillors making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist Councillors in dealing with and recording approaches from applicants, developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved. In implementing the Code, Members will ensure that decisions are taken for planning reasons only and should help to achieve the objectives of equality and personal responsibility inherent in One Tower Hamlets.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The report does not propose any direct expenditure. Rather, it is concerned with ensuring that planning decisions are taken on proper planning grounds; in a fair consistent and open manner; and that Councillors making such decisions are, and are perceived as being, accountable for those decisions. Whilst this might not lead to fewer appeals, the implementation of the Code should result in a much decreased chance of success on such appeals and which should reduce cost implications for the Council on any such appeals.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 It is not considered that there are any environmental implications if this revised Code is ultimately adopted.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The provisions of the revised Planning Code are designed to ensure that planning decisions are taken on proper planning grounds; in a fair consistent and open manner; and that Councillors making such decisions are, and are perceived as being, accountable for those decisions. The overall aim is therefore to reduce risk.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 In considering Planning applications, the Council has to have regard to Crime and Disorder and by ensuring that planning decisions are taken on proper planning grounds this should reduce assist reduce crime and disorder.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- Appendix 1 - Proposed Revised Planning Code of Conduct.

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None.

Officer contact details for documents:

- N/A