

APPENDIX TWO: PLANNING CODE OF PRACTICE (TRACK CHANGE)

London Borough of Waltham Forest

(updated July 2017)

Planning Code of Practice

FOREWORD

This Code applies to all members when they are involved in the planning process.

Planning decisions affect the homes and livelihoods of residents, businesses and other stakeholders, as well as impacting on the environment itself. They can be important and controversial and those affected by a planning decision can and should expect high standards of probity from the Council and a fair and accountable decision-making process.

This Code provides guidance to assist Members and officers on how to ensure these standards are met. In doing so, it supplements the Members' Code of Conduct. The Code is divided into 2 parts:

- Guidance on conduct and decision-making issues in planning matters; and
- Guidance on Planning Committee procedure.

The Council adopted this Code on ~~###/###/###~~ 13 July 2017. Advice on this Code is always available from the Council's Monitoring Officer or his/her nominee and the officer responsible for development management and their representatives.

This Code will be subject to regular review by the Audit and Governance Committee.

~~Lucy Shomali~~
~~Director, Regeneration and Growth~~

~~Mark Hynes~~
~~Director of Governance and Law~~

Conduct and Decision Making

1 The Code of Conduct For Members

1.1 The Code of Conduct for Members in Part 9 of the Council's Constitution imposes standards of conduct upon all Councillors. A failure to follow the Code of Conduct can result in a sanction, including possible prosecution, fine of up to £5,000 and disqualification for up to five years. Members are strongly advised to familiarise themselves with the whole of the Code of Conduct.

1.2 The key provisions that arise in the planning field are:

- To act solely in the public interest and never improperly to confer an advantage or disadvantage on any person or improperly act to gain financial or other material benefits for themselves, their family, friends or close associates (paragraph 3.1);
- Declaring and registering interests (paragraphs 4 and 5);
- Making decisions free from bias and where the outcome is not pre-determined (Appendix 1);
- Declaring gifts and hospitality.

1.3 Brief guidance on each of these provisions is set out below and examples are provided in the case studies.

Declaring Interests

1.4 Members must declare any interests in a planning decision to ensure the Member's private interests do not interfere, and are not perceived as interfering, with their public duties. The nature of the interest must also be declared save where it is a 'sensitive interest' as defined in section 32 of the Localism Act 2011.

Pecuniary Interests

What is a pecuniary interest?

1.5 A disclosable pecuniary interest is any interest prescribed as such by regulations issued by the Secretary of State (currently the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, the "Regulations"): **and**

a) it is either the interest of the Member;

or

b) is the interest of their spouse or civil partner; a person with whom the Member lives as husband or wife; or a person with whom the Member lives with as if they were a civil partner

and

c) the Member is aware that the other person in (b) has the interest .

Other Pecuniary Interests

- 1.6 The Council has power to agree that other pecuniary interests not prescribed in the Regulations must be registered by Members in accordance with this Code. Where the Council agrees other pecuniary interests must be registered, the provisions of paragraph 1.7 regarding the declaration of interests and participation and voting in meetings apply.

Some interests which are likely to arise in planning include:

- A Member's home or other property that they or their spouse / partner own, lease or licence;
- A Member's job or employer's interests, or those of his/her spouse/partner.

When must pecuniary interests be declared?

- 1.7 Where a planning application affects one or more of the interests at 1.5, the affected Member should:

- **Disclose** the interest at the start of the meeting when asked by the Chair or, at the latest, when the Member becomes aware that an item relates to the interest; **and**
- **Withdraw** from the meeting room for the relevant item, **and**
- Not participate or participate further in any discussion and / or vote on the matter at the meeting.

Non-pecuniary Interests

What is a non-pecuniary interest?

- 1.8 The Council has power to agree that non-pecuniary interests must be registered by Members in accordance with this Code. Details of non-pecuniary interests agreed by the Council are set out in the Code of Conduct and are:
- Appointments made by the authority to any outside bodies (excluding joint committees with other local authorities);
 - Membership of charities;
 - Membership of trade unions recognised by the authority;
 - Membership of lobbying or campaign groups;
 - Governorships at any educational institution in the borough; and
 - Membership of voluntary organisations operating in the borough.

Note to Members: don't forget that you must declare the interests of your spouse or civil partner, or person with whom you are living as if a spouse or civil partner. However, if you are unaware of another person's interest or it is reasonable for you not to be aware of the interest, you will not be in breach of the Code by failing to declare it.

When must non-pecuniary interests be declared?

- 1.9 A member with a non-pecuniary interest must declare the interest at the start of the meeting or when it becomes apparent.
- 1.10 The non-pecuniary interests set out in paragraph 1.8 must be registered and the provisions of paragraph 1.7 regarding the declaration of interests and participation

and voting in meetings apply, otherwise the member may remain in the meeting and may participate in the matter and vote upon it.

- 1.11 However, the member should take into account the guidance note at Appendix 1 ~~of this Planning to the~~ Code of Conduct on bias and pre-determination with regard to participation in meetings and seek advice from the Monitoring Officer or his/her nominee where appropriate.

Abuse of Position

- 1.12 Paragraph 3.1(a) of the Code of Conduct prohibits Members from using their position to benefit or harm any person: When carrying out official duties, a Member **must** “*act solely in the public interest and never ~~improperly~~ confer an advantage or disadvantage on any person or ~~improperly~~ act to gain financial or material benefits for themselves, their family, or their friends ~~or close associates~~.*”
- 1.13 Planning decisions often have a significant effect on residents and other stakeholders. Members must serve the whole community when making planning decisions; they must consciously not use their vote to advantage or disadvantage an individual or business. This includes using a vote to favour themselves, a relative, friend or constituent; or to be overly influenced by a lobbying group. It also includes doing something that adversely affects somebody or a group that a Member dislikes or opposes.

Examples:

- Advancing your own or a friend's or relative's planning application.
- Requesting that planning committee consider an application that you, a relative or friend opposes.
- Using visiting speaking rights to advance your interests or those of a friend or relative or oppose the interests of an adversary.

Note to members: There is considerable crossover with the duty to declare interests and seeking to obtain an improper advantage – in each of the cases above the Member risks apparent bias, which could leave the decision open to challenge.

- 1.14 This rule only affects improper actions. It is perfectly proper for Members to consider legitimate constituency and lobbying interests, so long as the final decision in a meeting is based on an open consideration of all issues and proper planning reasons. There is more guidance on these issues below.

Declaring Gifts and Hospitality

- 1.15 Members should also be very cautious about accepting gifts and hospitality, particularly from developers. Members should bear in mind the public perception of the receipt of any gifts, although at times some limited hospitality is unavoidable.
- 1.16 Members are required to register the receipt of gifts and hospitality over the value of £25 and the identity of the donor, and to declare these details at the meeting where they relate to the business to be conducted. This relates only to gifts/hospitality received by Members in their capacity as councillors within the three years prior to the meeting. The gifts and hospitality must be registered with the Council's Monitoring Officer within 28 days and are published online.
- 1.17 Members will find a form on the Members' Portal on the Intranet site. Members may, of course, refuse gifts or donate them to charity. The latter would still require a declaration that the gift was received.

2 Decision Making

- 2.1 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 2.2 As at July 2026 The Development Plan is the Local Plan Part One Core Strategy (February March 202412), Development Management Policies (Oct 2013) and The London Plan (2021) ~~(as amended)~~, and in some locations the Lee Valley Park Development Framework. The Higham Park Neighbourhood Plan (updated 2025) is also part of the development plan in the relevant area. Where there is a Neighbourhood Plan in place, this is also part of the Development Plan. Local Plan Part Two will form part of the Development Plan once adopted.
- 2.3 Any issue relating to the use and development of land is capable of being a material consideration. Specific issues which are always material considerations are
- 2.3.1 The National Planning Policy Framework (December 2024 March 2012)
- 2.3.2 Local Finance Considerations
- 2.4 When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 2.5 Planning applications that accord with the policies in the Development Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.
- 2.6 Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:
- 2.6.1 Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination; or
- 2.6.2 Specific policies in that Framework indicate that development should be restricted.
- 2.7 Reasons must be given for ~~either the grant or a~~ refusal of a planning permission (Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI 2015/595), art.35).
- 2.8 The reasons to be given, where permission is refused or conditions imposed must: (1) be stated clearly and precisely; (2) be full; (3) specify all policies and proposals in the development plan which are relevant to the decision; and (4) give details of any direction given, or opposing view expressed, by the Secretary of State or a Government Department.
- 2.9 If Members intend to make a decision contrary to the officer's recommendation, it is particularly important to ensure that Members are clear about the reasons for their decision before voting. Members are strongly advised to seek officers' advice in these cases.

Predetermination and Bias

- 2.10 Those applying for planning permission, or objecting to a development, can expect that Planning Committee members will be unbiased and will not pre-determine the application. The appearance of predetermination or bias on behalf of any Member who takes part in the discussion and/or votes may result in the validity of any decision taken on the matter being challenged through the courts.
- 2.11 The declaration of interests under the Code of Conduct addresses pecuniary and other interests but not the state of mind and/or prejudices of Members. The courts, however, have repeatedly quashed planning decisions where Members are held to have pre-determined the decision, irrespective of the fact they did not stand to gain financially or otherwise from the decision.
- 2.12 Pre-determination is a form of bias. Put simply, it means that a Member has made up their mind on a planning application before hearing the evidence. It is common and perfectly lawful for a Member to have strong views on an application; this is known as predisposition. Predisposition is lawful. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.
- 2.13 Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a Member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a Member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.
- 2.14 Members who also sit on other Council bodies, such as conservation panels or scrutiny committees that have discussed and formed a view on a planning matter should also seek advice on whether they may have pre-determined the matter.
- 2.15 Members who consider they may have predetermined an application should seek advice from the Monitoring Officer or his/her nominee before participating in the meeting. They should declare any predetermination in the meeting and not take part in the relevant item(s).
- 2.16 Members who are lobbied are at risk of pre-determining a planning application and are referred to section 3 of this guidance. If a court finds that a Member of a committee pre-determined an issue, they can quash the Council’s decision. The Member is also at risk of a complaint under the Code of Conduct by allowing themselves to be placed under a financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- 2.17 Bias is also unlawful and can arise from a member’s relationships or interests, as well as their state of mind. The legal test is: *“whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased”*. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek legal advice. Members should declare such an interest in the meeting and not take part in the relevant item(s).

- 2.18 Members must listen to the advice of the Monitoring Officer or his/her nominee if they may be perceived as having made up their minds in advance or having closed their minds to opposing viewpoints.
- 2.19 Members must be minded of the above advice at all times which includes when attending briefings by Developers pursuant to section 5 below. When attending such presentations it is vital that Members restrict themselves to factual questions and do not indicate a view on the development.

3 Lobbying

- 3.1 Those who may be affected by a decision on a planning application – applicants, developers, objectors, other councillors and pressure groups - will often seek to influence its outcome through the lobbying of their elected ward councillors or Planning Committee members. Lobbying is a normal and legitimate part of the political process but, unless all the parties concerned exercise care and common sense, it can lead to Members' impartiality and integrity being called into question.

How to Deal with Lobbying

- 3.2 Members must keep their minds open when considering a planning application. The intention of lobbying is to try to make a Member vote in a particular way on a decision. In dealing with lobbying, Members can listen to the views of their constituents and other stakeholders but must retain their independent judgement and serve the community as a whole when sitting on the Planning Committee.
- 3.3 This is not an easy task but the following guidance will assist:
- Members should tell lobbyists politely that, as they sit on the Planning Committee, they cannot express any views on an application's merits before the meeting or agree to vote in a particular way.
 - Members can listen to what lobbyists have to say but then should direct them to the relevant planning officers and provide advice on how to contact officers.
 - Written representations and petitions should be directed to, or forwarded to, the relevant planning officers.
 - Members should not enter into a debate on the merits of the application, as this may lead to comments being misinterpreted.
 - Lobbied Members should seek advice if they consider it may affect their ability to determine an application fairly.
 - Members should declare any lobbying at the relevant planning meeting.

These requirements also apply to Ward Forums, when the merits of specific developments are discussed. Planning Committee members should explain that they cannot participate in the discussion if they intend to sit on the Planning Committee when any subsequent application is to be determined.

Membership of Lobby Groups

- 3.4 Members involved in planning decisions should take care when joining and being active in lobby groups. When considering whether membership of a lobby group could create the perception of bias or pre-determination of the matter, Members should consider the following factors:
- The nature of the matter being discussed;

- The nature of your involvement in the group;
 - The publicly expressed views of the lobbying group;
 - What the Member has said or done in relation to the particular issue.
- 3.5 Membership and involvement in a lobby group – particularly a leading role in a campaign – can give rise to the risk of predetermination. Members are encouraged to seek the advice of the Monitoring Officer or his/her nominee before participating in planning decisions where membership of a lobby group is relevant.

The Party Whip & Lobbying by Councillors

- 3.6 Political party whipping can be seen as a form of lobbying and is inappropriate in Planning Committee meetings. Lobbying by councillors should be dealt with in the same way as other lobbying.

Lobbying of Officers

- 3.63.7 Members are able to make representations on planning applications on their on behalf or on behalf of constituents. These will be taken into consideration by the planning officer as part of their assessment of the application. However, Members should not pressurise Officers to determine an application under delegated authority in a particular way, or to agree that an application should be determined by Planning Committee.

Pre-application Discussions

- 3.73.8 Pre-application discussions are a normal part of the planning process and can be of considerable benefit to both parties.

- 3.83.9 However, if Members are involved, such discussions can become, or be seen (especially by objectors) to become, part of a lobbying process. Pre-application discussions should normally be left to officers. If Planning Committee members are involved in pre-application discussions, the following principles should apply:

- Involvement must only be in meetings arranged by officers and an officer must be present at all times;
- Officers will inform the developer in writing that the purpose of the meeting and the principles set out in this section and will confirm the outcome of the meeting in writing afterwards;
- Members should avoid any contact, whether in person or not, with the applicants or the agents outside these meetings;
- Members must not express an opinion on the application or involve themselves in any negotiations on the development that could suggest they have pre-determined the application;
- Members must not attend meetings after an application is lodged, save as provided for in section 5;
- Members must declare their attendance at any such pre-application meeting at the subsequent consideration of the application.

4 Planning Applications by The Council, Councillors & Officers

- 4.1 It is perfectly legitimate and inevitable that the Council will have to determine its own planning applications, and those of Members and officers. The Council needs to take additional care with such applications and the public perception of how such

applications are handled is crucial to the Planning Committee's credibility as an impartial decision-making body. The following principles will be followed:

- ~~Proposals for the Council's own development that include the erection of any building or a material change of use will be determined by the Planning Committee;~~
- "Own Interest Applications" as defined by the Town and Country Planning (Discharge of Local Authority Function) (England) Regulations 2026 ("the 2026 Regulations") will be determined in accordance with the Planning Committee Terms of Reference
- Members or officers who submit an application in respect of a planning matter will take no part in its processing or determination and shall not seek to influence it improperly;
- Members or officers who act as agents for people pursuing a planning matter will take no part in its processing or the decision-making process and shall not seek to influence it improperly;
- ~~All applications made by Members and officers or on their behalf (including Lawful Development Certificate applications) will be determined at Planning Committee as will applications that are submitted by Members or officers acting as agents for people pursuing a planning matter;~~
- Cabinet members should take care when participating in decisions relating to their portfolio as they may be viewed as having pre-determined the application in their Cabinet role;
- Members who are friends or relatives of other councillors making planning applications are likely to have the potential for apparent bias and/or pre-determination and should seek advice before participating in the decision-making process;
- There is no bar on Members determining applications of councillors who are in the same political group so long as they are not friends, business associates and/or relatives, or have not pre-determined the application.

5 Member Briefings

- 5.1 For large applications it might be appropriate to hold a briefing for Members either before the application is submitted or before it is determined by the Planning Committee. Members' briefings will be open to all Members (not just those on the Planning Committee) and the public and will be used by the applicant to provide information.
- 5.2 Any discussion at a Members' briefing has no more standing than any other pre-decision discussion. Such briefings are not part of and do not substitute for any part of the decision making exercise to be undertaken by the Planning Committee.
- 5.3 At a briefing Members must not express an opinion on the merits of a proposal or involve themselves in any negotiations on the development and can ask factual questions only.

6 Site Visits

6.1 Site visits are a useful means of putting an application into its physical and environmental context. There are two main circumstances where Members may undertake site visits:

- A formal visit of the Committee organised by officers;
- Informal visits before a Committee meeting by individual Members who cannot attend the formal visit.

6.2 The Members' Code of Conduct applies to all site visits.

Formal Site Visits

6.3 Officers may recommend, or the Committee may request, a formal site visit. Any recommendations for site visits put forward by officers will be sent to the Chair for approval. The Chair may also put forward recommendations for site visits. Site visits to larger, complex or controversial sites will be arranged for Members shortly before the Committee meeting. At these site visits, officers will accompany Members to selected sites, explain the nature of the development proposed and point out any features that Members should consider when determining the application.

6.4 The purpose of the site visit is to enable Members to inspect the site and to better understand the impact of the development. The following procedure should be followed:

- Visits will not be publicised save to obtain permission to enter private land;
- The applicants, objectors or any other parties interested in the application will not be allowed to accompany Members and officers, except where attendance is necessary to allow entry, or for health and safety or other necessary purposes;
- No representations should be heard and no decision should be made;
- Photographs and videos may be taken only with consent of the owner.

Informal Site Visits

6.5 If a Member cannot attend the formal site visit and wishes to view the site, s/he may undertake an informal site visit. The Member should follow the principles below:

- Visits should be discreet and unaccompanied;
- If approached, Members should explain who they are but politely refuse to engage in any discussion of the application;
- Members should not go onto the application site itself if private land, to avoid risks of lobbying or trespass;
- Visits should be declared at the meeting;
- Photographs and videos may be taken only with consent of the owner.

6.6 Attendance is not compulsory, but Members who did not attend a formal or informal site visit should consider whether they have sufficient knowledge of the proposals to take part in the subsequent debate and vote.

7 Member Development

7.1 The planning system is complex and subject to frequent change. It is recommended as a matter of good practice that Members deciding planning applications and

Members acting as substitutes on Planning Committee have an accurate and up-to-date understanding of planning law and procedure. To facilitate this, the officer responsible for development management arranges an on-going Members' planning training programme, which covers issues such as:

- Determining planning applications
- New Planning law and policy;
- Probity and committee Procedure;
- Section 106 and other legal agreements, and Community Infrastructure Levy; and
- Planning enforcement.

Members are expected to attend as many sessions as possible and especially those covering the key issues or held after a major change in planning policy or law.

7.2 The Group Whips should maintain a list of Members who have received training and only put forward substitutes from this list. A Member cannot sit on Planning Committee unless they have received such training. In addition, officers are always willing to provide informal advice and assistance to Members on planning and legal matters.

7.27.3 Section 53 of the Planning and Infrastructure Act 2025 inserted a new section 319ZZa into the Town and Country Planning Act 1990 which empowers the Secretary of State to make regulations requiring Members to undertake prescribed training and achieve a certificate of completion before being able to sit on Planning Committee. If such training is mandated, then a Member cannot sit/continue to sit on Planning Committee until it has been completed.

8. Members Acting in Their Private Capacity

8.1 Members acting in their private capacity are not entitled to request that Schedule 2 applications (as defined by the 2026 Regulations) are determined by Planning Committee ~~call planning applications in~~ and have only the same rights as any other member of the public or planning professional in terms of meeting with Council officers and being able to access information about planning applications.

Guidance on Committee Procedure

1 Introduction

- 1.1 This guidance supplements the Council Procedure Rules that apply to Planning Committee (with the exceptions in Rule 25), providing advice on specific issues that arise before and in Planning Committee meetings.

2 Reports

- 2.1 Reports on planning applications form the key evidence base for Committee decisions and must therefore be accurate, comprehensive and fair. Reports must include
- all relevant development plan policies and material considerations;
 - a clear recommendation with a supporting technical appraisal;
 - A summary of the reasons in support of the recommendation; and
 - Details of the conditions and obligations required to be imposed.
- 2.2 There is a risk that when significant material is submitted at a late stage, insufficient time is allowed for the Committee to read or digest it, and the public are not sufficiently informed.
- 2.3 Update reports should be submitted only in exceptional circumstances and may include only information that was not available to officers before the publication deadline for the main report and which the Committee requires to make a fair decision, information requested by Members during a Committee site visit, or additional conditions or informatives.
- 2.4 At the Committee meeting, the Committee Chair must accept that there are “special circumstances” that allow for the admission of an update report for a particular agenda item as a matter of urgency, otherwise a decision on the item should be deferred to the next meeting in order that the additional information be made available to the press and public for inspection at least five clear working days before the meeting. These reasons must be recorded in the minutes.

3 Applications of Community Interest

- 3.1 Upon receipt of an application, the officer responsible for development management must consider whether it is of such community interest that changes need to be made to the usual meeting arrangements. If so, s/he must arrange a pre-meeting with planning officers, Legal Services, Democratic Services, Facilities Management and the Chair to consider:
- The meeting venue;
 - Modifications to the usual rules on public speaking;
 - The provision of additional staff to support visitors, members and officers;
 - Audio or video recording of proceedings;
 - Risk assessment.

- 3.2 Any variations agreed to the Committee procedure must be included in the Agenda front sheet and reasonable steps must be taken by the report writer to inform the public and members.

4 Chair's Briefing

- 4.1 The Chair may hold a briefing session with planning officers to review the agenda and go through the procedures for the meeting, to ensure effective management of the meeting.

5 Order of Business

- 5.1 Meetings will have the following order of business:

- Apologies for absence;
- Declarations of interests under the Code of Conduct – (those with pecuniary interests will leave the room at the start of the appropriate item);
- Minutes of the previous meeting;
- Chair's consideration of whether to accept update reports (see 2.2-2.4) and any other additional material submitted;
- Items where prior notice of public speakers has been given (see section 8 below);
- All other items in the order on which they appear on the agenda.

- 5.2 The following order will be used for each agenda item. Individual items may not need to follow all these stages, e.g. if there are no public speakers:

- Introduction by planning officer;
- Up to three registered objectors may speak (see section 8 below);
- Registered supporters may speak (including applicants or their agents) (see section 8 below);
- Visiting Members' comments (see 8.4). Visiting Members must also consider if they have an interest to declare under the Code of Conduct before participating;
- Members' questions and debate;
- The Chair may ask planning Officers to respond to points made and questions.
- Voting.

6 Meetings Guidance

- 6.1 To ensure probity and transparency, the following guidance should be followed when considering an application:

- There must be no informal communication between Committee members and any other person (including other Members). This includes during any adjournments. Any questions or comments should be made openly and through the Chair;
- Members must be present for the whole of an item in order to be able to vote on that item. If a Member arrives late, s/he must not vote on any item already in progress at the time of his/her arrival. If a Member requires a comfort break, the Chair should grant a short adjournment;

- Where an application is part heard, i.e., it is determined over more than one Committee hearing, the only Members who may vote on the application are those Members who are present at all meetings when the application is considered;
- Reasons must be given if an application is to be refused for any decision reached – this is a legal requirement and should be clear before any vote.

7 Voting

7.1 The Committee's voting procedure must be clear, transparent and easy to follow. It is important that the public, the applicants and all other persons present understand what the Committee is voting upon. This can be difficult where the Committee has to vote more than once on an application to deal, for example, with motions to include planning conditions and obligations.

7.2 All applications will usually be voted upon as follows:

- No motions will be proposed during the debate of the matter, without the Chair's permission, to ensure a full debate of all applications;
- The Chair will determine when the debate is finished, clarify any changes made to the officer recommendation and the details of what is being moved, including any additional planning conditions, informatives or obligations proposed;
- If Members wish the item to be deferred for any reason (e.g. further negotiations or a site visit), this should be considered first and before any other formal decision making takes place;
- The Chair will invite any Committee member to move the adoption of the officer's recommendation either to grant or refuse planning permission (as set out in the report). At this point, any changes to the officer's recommendation must be moved by Members and determined by the Committee;
- Any such motion proposed will be voted upon;
- If a motion to grant planning permission is not carried, or no Member proposes the officer's recommendation, the Chair will invite Members to move any other motion, which will then be voted upon.
- A motion to go against the recommendation must always be considered after a vote on the recommendation (or an amendment to the recommendation) has taken place and not passed or a motion to grant planning permission has not carried, or no Member has proposed the officer's recommendation, so that officers are clear that the Committee may be minded to go against their recommendation and can prepare their advice accordingly.
- However, before a new motion is proposed, the Committee must first receive advice from the planning officer as to what form a new motion should take. That advice will be based upon the development plan, the material planning considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge.
- Once the Committee has received the advice of the planning officers they can proceed to a vote. A detailed minute of the Committee's reasons for going against the officer's recommendation shall be made.

- Reasons must be given for ~~either the grant or a~~ refusal of a planning permission (Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI 2015/595), art.35).
- The reasons to be given, where permission is refused or conditions imposed must: (1) be stated clearly and precisely; (2) be full; (3) specify all policies and proposals in the development plan which are relevant to the decision; and (4) give details of any direction given, or opposing view expressed, by the Secretary of state or a government department.

8 Public Speaking

- 8.1 Although members of the public have no legal right to speak at Planning Committee meetings, the Council recognises the value of representations made at the meeting and has adopted a protocol which governs public participation. No other speaking rights apply.

Interested Residents & Objectors

8.2 Up to three speakers may make oral representations, with 3 minutes allowed per speaker. The following procedure will apply:

- Planning officersThe council will give, to the applicant and those that have lodged a consultation response, at least 5 clear working days' notice in writing of the date of the Committee meeting;
- The agenda and reports for the meeting and relevant plans are published on the Council's website at least five clear working days before the meeting:

<http://walthamforest.moderngov.co.uk/ieListMeetings.aspx?Committeeld=297>

- Speakers must register their wish to speak with Democratic Services by noon on the day of Committee and provide any additional documentary evidence by this time (the details of how to do this will be in the notification letter); contact details are:

Tel: 020 8496 4537

democratic.services@walthamforest.gov.uk

These also appear on the agenda frontsheet

- Only one speaker per household or organisation will be allowed;
- The three speaking slots will be filled on a first come, first serve basis (large groups may be required to nominate a lead speaker or need to be represented by a visiting Member to ensure a fair balance of speakers – see 8.4 below);
- If no advance notice has been ~~is~~ given, there is no right to address the Committee;
- The Chair has discretion to allow additional documentary evidence to be submitted by interested residents and objectors where he/she considers there are special circumstances to do so. Such evidence must be provided to the Democratic Services by noon the day before the meeting. Written representations on the committee report will be published on the Council's website and must not contain offensive or defamatory material.
- The Chair has discretion to extend public speaking time on any item where s/he considers that there are special circumstances to do so and provided that equal time is given to both sides;
- Public speakers have no right of reply, save to answer questions from the Committee.
- If a registered speaker is unable to attend the meeting they can request to have their representation read out.

The Applicant or Agent

8.3 The applicant or agent (as stated on the application form) will have three minutes to speak. The rules at 8.2 apply, except they need not register in advance but should make themselves known before the start of the meeting.

Visiting Members

8.4 Visiting members will be allowed to speak for three minutes only. They have no right of reply or to ask questions.

Part Heard Applications & Speaking Rights

- 8.5 In exceptional circumstances where an application is part-heard (i.e. determined over more than one Committee hearing), the Chair may consider whether to allow any or all parties additional speaking rights in the following circumstances:
- A party has requested a further right to speak and the Chair is satisfied:
 - There is a significant gap or delay between the first and second Committee hearings; and/or
 - There has been material amendment in the nature of the application (but not requiring a fresh planning application).
- 8.6 The Chair will seek advice from officers before exercising his discretion to allow further speaking rights under this section.

9 Meeting Etiquette

9.1 ~~9.1~~ All representations should be heard in silence and without interruption. The Chair will not permit disruptive behaviour. Members of the public are reminded that if the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee. The Committee is a meeting held in public, not a public meeting.

10 Technical Briefings

- 10.1 ~~Technical briefings may be arranged for large or complex applications where the Asisstant Director Development Management & Building Control considers that the Members of the Committee will be assisted by a briefing. The briefing may deal with the application as a whole or with specific issues only.~~
- 10.2 ~~The purpose of technical briefings is to provide information to Members. Technical briefings are not an opportunity to consider the merits of the application. Members should not treat the technical briefing as an opportunity to debate the application ahead of the relevant Planning Committee meeting, although Members can ask questions for information and clarification.~~
- 10.3 ~~The briefing will be led by officers. External consultants engaged by the Council to advise officers may also attend.~~
- 10.4 ~~Officers will generally invite the applicant and/or their advisors to attend the technical briefing, however, Technical briefings are not open to the applicant, members of the public or to objectors, unless they are invited by officers.~~
- 10.5 ~~Minutes will be kept of technical briefings.~~

10.11 Variation

- 10.1 ~~The Chair may, in exceptional circumstances, vary the procedure set out above where it is appropriate to do so to ensure a fair hearing and on the advice of officers.~~

Appendix 1 - Monitoring Officer's guidance on bias and pre-determination

The Council often has to make controversial decisions that affect people adversely and this can place individual councillors in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that councillors who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in "quasi-judicial" decisions in planning and licensing committees.

This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. The law is very clear that members may have strong views on a proposed decision, and indeed may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an "open mind".

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination "just because" a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a "closed mind". In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence.

Bias can also arise from a member's relationships or interests, as well as their state of mind. The Code of Conduct's requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a "non-pecuniary interest" under the Code also gives rise to a risk of what is called apparent bias. The legal test is: "whether the fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased".

A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek legal advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer and / or the legal advisor for their committee.

Interpreting and Translation Assistance

The Council has prepared this document to assist users of its Development Control Service. If you have any difficulty reading or understanding it because English is not your first language, we will try to help you. Please tick the box, which shows which language you speak, write your name, address and telephone number and return this form, together with the document, to the address given below.

Kansilli e ka pregaditur këtë dokument për tiu ndihmuar përdorësve të Shërbimeve të Kontrollit të Zhvillimit. Po patët vështirësi për ta lexuar apo kuptuar sepse Anglishtja nuk është gjuha juaj e parë, ne do të mundohemi t'ju ndihmojmë. Ju lusim shenoni katrorin që tregon se cilën gjuhë e folni, shkruani emrin, adresën dhe numrin e telefonit dhe ktheni këtë formë, së bashku me dokumentin, në adresën e dhënë më poshtë. Albanian ☐	A Junta de Freguesia preparou este documento para assistir os utentes do seu Serviço de Controlo de Desenvolvimento. Se tiver dificuldades em ler ou compreender este documento devido ao inglês não ser o seu idioma principal, nós tentaremos ajudá-lo(a). Assinale o quadrado junto ao idioma que fala, escreva o seu nome, morada e número de telefone e devolva esta folha, juntamente com o documento, para a morada em baixo. Portuguese ☐
لقد أعد المجلس هذه الوثيقة لمساعدة مستخدمي خدمة سيطرة التنمية. وإذا واجهت صعوبة في قراءتها أو فهمها لأن الإنجليزية ليست لغتك الأولى فسنحاول أن نساعدك. الرجاء وضع علامة بالصندوق الذي يبين لغتك وأكمل اسمك وعنوانك ورقم الهاتف وأرسل كامل النموذج مع هذه الوثيقة للعنوان أدناه. Arabic ☐	Dagmada ayaa diyaarisay dukumantigaan si ay ugu caawiso dadka ubbaahan Adeegga Koontaroolka Qorshaynta Dhismaha Magaalada. Haddii aad wax dhib ah kala kulanto in aad fahamto qoraalkaan waayo Ingiriisku maahan luuqaddaada koowaad, waxaan isku dayaynaa in an ku fahamno. Fadlan calaamadi sanduuqa muujinaya luuqadda aad ku hadasho, qor magacaaga, ciwaankaaga, taleefoonkaaga, dabadeedna ku soo celi foomka, oo uu lasocdo qoraalkan, ciwaanka hoos ku qoran. Somali ☐
কাউন্সিল এ ডকুমেন্টটি তৈরী করেছে এর ডেভেলপমেন্ট কন্ট্রোল সার্ভিসের ব্যবহারকারীদেরকে সহায়তা করার জন্য। ইংরেজী আপনার প্রধান ভাষা না হওয়ায় এটি পড়তে অথবা বুঝতে যদি আপনার কোন অসুবিধা হয়, তাহলে আমরা আপনাকে সাহায্য করতে চেষ্টা করবো। দয়াকরে আপনি যে ভাষায় কথা বলেন সেই বাস্তব টিক চিহ্ন দিন, আপনার নাম, ঠিকানা ও টেলিফোন নাম্বার লিখুন এবং এ ফর্মটি ডকুমেন্টটির সাথে নীচের ঠিকানায় ফেরৎ পাঠান। Bengali ☐	El Ayuntamiento ha redactado este documento para ayudar a los usuarios del "Development Control Service [Servicio de Control del Desarrollo]. Si le resulta difícil leer o entenderlo porque el inglés no es su idioma materno, intentaremos ayudarle. Marque la casilla que indica el idioma que habla, rellene el formulario con su nombre, dirección y número de teléfono y devuélvalo, junto con el documento, a la dirección abajo reseñada. Spanish ☐
区议会政府准备了这份文件来介绍我们的发展控制服务。如果因为英文不是您的母语，您不能读懂这篇文章，我们可以帮您忙。请选择中文，填写您的姓名及地址以及电话号码，并将此文件寄回以下给出的地址。 Chinese ☐	Belediyemiz bu belgeyi lîmar Kontrol Hizmetlerinden yararlananan kimselere yardımçı olmak amacıyla hazırlamış, tîr. Asıl diliniz lîngilizce olmadıyğđ ý için bunu okumakta veya anlamakta güçlük çekiyorsanız, size yardımçı olmak isteriz. Lütfen hangi dili konuş, tugđ unuzu belirten kutuyu is, aretleyip adýnýzý-soyadýnýzý, adresinizi ve telefon numaranýzý yazdıktan sonra, bu formu belgeyle birlikte as, agđ ýdaki adrese gönderin. Turkish ☐
La Municipalité a publié ce document afin d'aider les utilisateurs de son service de contrôle de développement. Si vous avez des difficultés à le lire ou à le comprendre parce que l'anglais n'est pas votre langue maternelle, nous nous efforcerons de vous aider. Veuillez cocher la case correspondant à la langue que vous parlez, indiquer votre nom, votre adresse et votre numéro de téléphone et renvoyer ce formulaire ainsi que le document à l'adresse figurant ci-après. French ☐	کونسل نے یہ دستاویز اپنی ڈویلپمنٹ کنٹرول سروس استعمال کرنے والوں کی مدد کے لئے تیار کیا ہے۔ اگر آپ کو اسے پڑھنے یا سمجھنے میں کوئی مشکل درپیش ہے کیونکہ انگریزی آپ کی پہلی زبان نہیں ہے تو ہم آپ کی مدد کرنے کی کوشش کریں گے۔ براہ کرم اس خانے پر نشان لگائیے جو آپ کی زبان کی نشاندہی کرتا ہے اور اپنا نام پتہ اور ٹیلیفون نمبر لکھیں اور اس فارم اور دستاویز کو نیچے دئے گئے ایڈریس پر واپس بھیج دیجئے۔ Urdu ☐
Name _____ Address _____ _____ _____ Telephone number _____	Return to: Development Control Planning Team London Borough of Waltham Forest Sycamore House Waltham Forest Town Hall , Forest Road

|

	Complex London E17 4JF
--	----------------------------------

Translated by the London Borough of Waltham Forest Interpreting and Translation Service T34902