

Meeting of the Council of the London Borough of Barnet

TO BE HELD ON

TUESDAY, 3 NOVEMBER 2009 AT 7.00PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, HENDON, NW4 4BG

A G E N D A

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Tuesday 3 November 2009 Agenda and Timetable

Item	Subject	Timing/Details	Page Nos.
Part 1	Statutory formalities / Announcements (15 minutes)	7.00pm – 7.15pm	
1.1	Prayer – the Mayor’s Chaplain	Reverend Smith	-
1.2	Apologies for absence	To receive members’ apologies for absence	-
1.3	Minutes of last meeting held on 8 September 2009	To sign as a true record	1 - 9
1.4	Official announcements		
1.5	Declarations of interest	To receive members’ declarations of interest	-
1.6	Any business remaining from last meeting		-
Part 2	Question Time (30 minutes or until 7.45pm, whichever is the longer)	7.15pm – 7.45pm	
2.1	Questions to the Leader and Cabinet		To be circulated separately
Part 3	Members’ Motions (60 minutes) Motions in the order in which notice has been given	7.45pm – 8.45pm	
3.1	Councillor Geof Cooke - Great Northern Line		10
3.2	Councillor Jack Cohen – Borough Boundaries		11
3.3	Councillor Kathy McGuirk - Stop the fares increases		12
3.4	Councillor Alison Moore – Stanley Road Playing Fields		13
3.5	Councillor Fiona Bulmer – First Class Education		14
3.6	Councillor Lynne Hillan – Business Rates		15
3.7	Councillor John Hart – School Uniforms		16
3.8	Councillor Matthew Offord – Territorial Army Training		17
	Break	8.45pm – 9.00pm	
Part 4	Policy Development (60 minutes)	9.00pm – 10.00pm	
4.1	Administration Policy Item (30 minutes) Transparent Expenditure		18

Item	Subject	Timing/Details	Page Nos.
4.2	Opposition Policy Item (30 minutes) Public Services in Barnet		19
Part 5	Statutory Council Business (40 minutes)	10.00pm – 10:40pm	
5.1	Report from Cabinet		
5.1.1	Safeguarding in Barnet		To Follow
5.2	Reports from other Committees		
5.2.1	Report of the Standards Committee – 9 September 2009		20 - 46
5.2.2	Report of the Special Committee (Constitution Review) – 12 October 2009		To Follow
	Reports of Officers		
5.3	Democratic Services Manager		
5.3.1	Planning and Environment Committee – Suspension of Standing Orders.		47
5.3.2	Response from Lord Coe, Chairman of the London Organising Committee of the Olympic Games (LOCOG)		49 – 50
5.4	Report of the Monitoring Officer		
5.4.1	Recommendations of the Standards Sub-Committee		51
Part 6	Accountability (20 minutes)	10.40pm – 11.00pm	
6.1	Comments on the work of the Cabinet: (10 minutes)		
6.2	Questions to representatives on outside bodies: 10 minutes)		

Aysen Giritli, Acting Democratic Services Manager
Building 4, North London Business Park, Oakleigh Road South, N11 1NP

Minutes

OF THE MEETING OF THE COUNCIL OF THE LONDON BOROUGH OF BARNET held at Hendon Town Hall, NW4 4BG on Tuesday, 8 September 2009.

PRESENT:

*The Worshipful the Mayor (Councillor Brian Coleman, AM FRSA)

*The Deputy Mayor (Councillor Hugh Rayner)

Councillors:

* Fiona Bulmer	*Andrew Harper	*Wendy Prentice
* Maureen Braun	Christopher Harris BA BSc	*Sachin Rajput BA (Hons)
*Terry Burton	MPhil	PgD Law
*Anita Campbell	*Helena Hart	*Robert Rams
*Wayne Casey BA (Hons)	*John Hart BA MA	*Barry Rawlings
MIIA	*Lynne Hillan	*Colin Rogers
*Danish Chopra	*Ross Houston	*Lisa Rutter
*Dean Cohen BSc (Hons)	*Anne Hutton	*Brian Salinger
*Jack Cohen	*Julie Johnson	*Kate Salinger BEd (Hons)
*Melvin Cohen LLB	*Duncan Macdonald	Gill Sargeant
*Geof Cooke	* John Marshall	*Joan Scannell
*Alison Cornelius	Linda McFadyen	*Alan Schneiderman
Richard Cornelius	*Kath McGuirk	*Agnes Slocombe SRN RM
Jeremy Davies BA (Hons),	Andrew McNeil	*Ansuya Sodha MBA (Middx)
CPFA	*Alison Moore	Cert Ed, DipM (CIM), AMBA
*Tom Davey	*Jazmin Naghar	*Andreas Tambourides
*Mukesh Depala	*Matthew Offord	*Joanna Tambourides
*Claire Farrier	*Charlie O-Macauley	*Daniel Thomas BA (Hons)
*Anthony Finn BSc (Econ)	*Monroe Palmer OBE, BA,	*Jim Tierney
FCA	FCA	*Daniel Webb
*Mike Freer	*Susette Palmer MA	Marina Yannakoudakis BSc
*Brian Gordon, LL.B	*Bridget Perry	(Hons) MA, MEP
* Eva Greenspan		*Darrel Yawitch
		*Zakia Zubairi

*denotes Member present

52. PRAYER (Agenda Item 1.1):

The Mayor's Chaplin offered prayer.

53. APOLOGIES FOR ABSENCE (Agenda Item 1.2):

Apologies for absence were received from Councillors Richard Cornelius, Jeremy Davies, Gill Sargeant, Christopher Harris and Marina Yannakoudakis.

54. MINUTES OF MEETING HELD ON 14 JULY 2009 (Agenda Item 1.3)

RESOLVED –

That the minutes of the meeting held on 14 July 2009 be approved as a correct record.

55. OFFICIAL ANNOUNCEMENTS (Agenda Item 1.4)

The Worshipful Mayor congratulated Councillor Matthew Offord on his recent engagement and Councillor Jazmin Naghar on her recent engagement.

56. DECLARATIONS OF PERSONAL AND PREJUDICIAL INTERESTS (Agenda Item 1.5)

Member:	Subject:	Interest Declared:
Councillor Melvin Cohen	Agenda Item 5.3.3, Report of the Democratic Services Manager – Proposed Special Responsibility Allowance for the Chairman of the Special Committee (Constitution Review)	Personal but non-prejudicial interest as Councillor Melvin Cohen, is the Chairman of the Special Committee (Constitution Review). Councillor Melvin Cohen did not participate in the discussion nor the vote.

57. BUSINESS REMAINING FROM LAST MEETING (Item 1.6)

None.

58. QUESTION TIME FOR MEMBERS (Agenda Item 2.1)

Questions were put to the Leader and Members of the Cabinet. These questions, together with the answers provided and the text of any supplementary questions and answers are set out in Appendix 1 to these minutes.

59. VARIATION OF ORDER OF BUSINESS

Councillor Joan Scannell, duly seconded, moved under Council Procedure Rule, Section 1, paragraph 10.2.2, that the order of business relating to Agenda Item 3 be varied so that Motions 3.1, 3.3 and 3.4 be heard first.

Upon being put to the vote, the motion was declared carried.

RESOLVED – That the order of business be varied to allow Motions 3.1, 3.3 and 3.4 to be debated and voted upon in advance of votes being taken on the other Motions on the Agenda.

60. MOTION IN THE NAME OF COUNCILLOR KATH McGUIRK AS AMENDED BY COUNCILLOR MONROE PALMER AND COUNCILLOR ANDREW HARPER (Agenda Item 3.1)

Motion 3.1 in the name of Councillor Kath McGuirk was moved. Amendments in the name of Councillors Monroe Palmer, Andrew Harper and Andrew McNeil were moved. Debate ensued. Councillor McGuirk accepted Councillor McNeil's amendment. Upon being put to the vote, the amendment in the name of Councillor Monroe Palmer was declared carried. Upon being put to the vote, the amendment in the name of Councillor Andrew Harper was declared carried.

Upon being put to the vote, the substantive motion as amended was declared carried.

RESOLVED –

That Council believes the local bus services in Barnet are vital to our local community.

That local bus services support the success of the local economy, and London, in a sustainable way by ensuring that people can get to work, businesses can operate and that residents and visitors can shop locally.

That local bus services are crucial orbital transport links, in a borough with no orbital rail links.

That local bus services should be part of an integrated transport system and in that regard deplores the removal of route 102 from Golders Green Station forecourt.

That Council welcomes the two additional afternoon peak journeys on Route 82, long pressed for by local campaigners.

That Council welcomes the extended route C2. Although this does not start in Barnet, many Barnet residents use it from Camden Town.

That Council regrets the failure of TfL to establish a through route between Golders Green and Stamford Hill, linking two of the largest Jewish communities in London.

That Council believes that there is a need for a night bus from Central London to Mill Hill.

That Council believes that there is a need for a bus connection to and from Cophall Stadium.

That Council asks the Cabinet Member for Environment and Transport to write to the Mayor of London expressing pleasure in the above improvements and drawing attention to the above suggested needs.

Council notes that the subsidy to London buses rose by 1493% between 1999/2000 and 2007/8 to £653m per annum. In the same period the cost of fares has fallen by 16% in real terms.

Council further notes that cost of running the bus network in the capital is anticipated to considerably outstrip combined income and subsidy over the next nine years.

Council believes that a responsible Mayor would not allow the cost of the bus network to become unsustainable.

Council notes that TfL are studying the report by KPMG and Steer Davies Gleave which looks at a range of options to control expenditure including vehicle procurement costs, for TfL to acquire more bus depots, reducing overheads, raising fares and reducing the scope and/or volume of the network.

Council believes that Ken Livingstone, like his colleagues in the Labour government, for years outspent the resources available to him, therefore leaving a financial mess that Conservatives will be forced to clean up.

Council asks that the Cabinet Member for Environment and Transport work with the Mayor of London to ensure that our Borough has the best public transport that the finite resources allow.

- 61. MOTION IN THE NAME OF COUNCILLOR DANIEL WEBB (Agenda Item 3.3)**
Motion 3.3 in the name of Councillor Daniel Webb was moved. An amendment in the name of Councillor Ansuya Sodha was moved. Debate ensued.
Upon being put to the vote, the amendment in the name of Councillor Sodha was declared lost. Upon being put to the vote, the substantive motion was declared carried.
RESOLVED - Council notes that excellent progress has been made on the Primary School Capital Investment Programme (PSCIP).
Council congratulates the Major Projects Team on their management of the programme which has ensured that the new Whittings Hill School is delivered on time and on budget. The new school has the latest environmentally friendly design, a swimming pool, outstanding educational facilities and has already become a local landmark.
Council welcomes the government's acknowledgment that Barnet has the skills and expertise to deliver major education projects, demonstrated by the recent, if belated, award of some funding for the redevelopment of six secondary schools.
Council calls on Cabinet to continue to develop the PSCIP programme and to continue to explore innovative ways of redeveloping Barnet's primary schools.
Council further asks Cabinet to work with the DCSF (Department for Children, Schools and Families) to ensure that Barnet has the freedom to apply its proven and successful approach to school building to the redevelopment of local secondary schools.
- 62. MOTION IN THE NAME OF COUNCILLOR MATTHEW OFFORD (Agenda Items 3.4)**
Motion 3.4 in the name of Councillor Matthew Offord was moved. Debate ensued.
Upon being put to the vote, the motion was declared carried.
RESOLVED - Council notes that the original 2012 London Olympics Road Cycling event route was from Regents Park to Hampstead Heath, including a section in the Borough of Barnet. Council further notes that this route is now under threat after the International Cycling Union asked the London Organising Committee of the Olympic and Paralympic Games (LOCOG) to re-examine it.
Council believes that the original route is an essential part of bringing the 2012 Olympics to North London. Barnet's taxpayers are contributing an estimated £20 million to fund the Olympics and, if the International Cycling Union's request is met, will not have a single Olympic sport taking place in their Borough.
Council notes that the route was successfully used during the 2006 Tour of Britain and has been upgraded, ready for the 2012 Road Cycling event.
Council calls upon the Chief Executive to write to Lord Coe, Chairman of LOCOG, to demand that they retain the Olympic road cycling event route, including the portion in the Borough of Barnet.
- 63. MOTION IN THE NAME OF COUNCILLOR MIKE FREER (Agenda Item 3.2)**
Motion 3.2 in the name of Councillor Mike Freer was moved. An amendment in the name of Councillor Ross Houston was moved. Upon being put to the vote, the amendment in the name of Councillor Houston was declared lost. Upon being put to the vote, the substantive motion was declared carried.
RESOLVED - Council notes the government's decision to cut the level of Growth Area Funding for Barnet in 2010/11 by 43% was made in order to reallocate funds to affordable housing provision.

Council notes that in Barnet, these funds were allocated for use in regeneration schemes that would have provided thousands of affordable homes. The decision to cut Growth Area Funding has caused these plans to be reviewed or delayed.

Council notes significant investment has already been made planning for the use of these resources and believes that the last minute decision to drastically cut them will cause unnecessary waste.

Council believes that this last minute decision will cause a delay in the provision of affordable homes in the Borough of Barnet and is an unnecessary shuffling of resources.

Council believes this is another example of the Labour government's obsession with the failed model of central control and that local authorities are better placed to make decisions concerning local infrastructure and growth.

Council calls upon the Chief Executive to write to the Housing Minister requesting that the level of Growth Area Funding be reinstated in order that much needed new affordable housing is not subject to unnecessary delay.

64. ADJOURNMENT OF MEETING.

In accordance with the Agenda, the Mayor adjourned the meeting. The meeting reconvened at 8.39pm.

65. ADMINISTRATION POLICY ITEM: PUBLIC DEBT (Agenda Item 4.1)

Councillor Lynne Hillan proposed the item and moved that it be adopted. Debate ensued on the Policy Item.

Upon being put to the vote, the Policy Item was declared carried.

RESOLVED - Council notes that the British economy faces an unprecedented level of debt which is continuing to grow rapidly as income from taxes fall and public spending rises. The UK government has, in the first seven months of 2009, borrowed an additional £50 billion, with an additional £8 billion borrowed in July alone. Public debt is at its highest rate since 1974 and rising £5,000 every second.

Council further notes that the Labour government ran a deficit in years of economic growth leaving the United Kingdom exposed to the economic downturn with one of the biggest budget deficits in the advanced world.

Council believes that the priority for the incoming government will be to restore responsibility to the public finances and that this will require the reduction of the unsustainable level of public debt, and consequently public expenditure will have to be restrained.

Council notes that Barnet Council has moved ahead faster than most other local authorities in cutting out waste, reducing expenditure and developing the comprehensive future shape programme to address the expected reduction in the government grant.

Council believes the magnitude of the debt crisis facing the United Kingdom requires local authorities to act in order to prevent front-line services being affected. Accordingly, Council requests that Cabinet:

- Commission in-depth reviews into high expenditure areas
- Assess the best way to make use of powers to be devolved from the centre under a Conservative government
- Reviews revenue streams

66. OPPOSITION POLICY ITEM: VIDEOING (WEBCAST) OF COUNCIL MEETINGS AS AMENDED BY COUNCILLOR DANIEL THOMAS (Agenda Item 4.2)

Councillor Jack Cohen proposed the item and moved that it be adopted. Amendments in the names of Councillors Alan Schneiderman and Daniel Thomas were moved. Debate ensued on the Policy Item.

Upon being put to the vote, the amendment in the name of Councillor Alan Schneiderman was declared lost.

Upon being put to the vote, the amendment in the name of Councillor Daniel Thomas was declared carried. Upon being put to the vote, the substantive policy item as amended was declared carried.

RESOLVED – Council notes that other local authorities have begun webcasting meetings at considerable cost. In way of comparison, for the neighbouring Borough of Camden, the cost is £38,000 per annum with number of live audience viewings ranging from just 15 to 40 per meeting.

Council believes that the democratic process should be as open as possible, but that methods of communication must be justifiable in terms of reach in relation to cost.

Council therefore asks Cabinet to ensure that public attendance at, and participation in, meetings is encouraged through cost effective means.

67. REPORT OF CABINET (Agenda Item 5.1)

None.

68. REPORT FROM OTHER COMMITTEES (Agenda Item 5.2)

None.

69. REPORTS EXEMPTED FROM THE CALL-IN PROCESS BECAUSE THEY ARE URGENT (Report of the Democratic Services Manager – Agenda Item 5.3.1 (1) & (9))

These matters are reported to the Council to meet Constitutional requirements. No action is required by the Council and the decision has been implemented.

RESOLVED – Council notes in the case listed below, the Chairman of the Business Management Overview and Scrutiny Sub-Committee agreed that the decisions proposed were reasonable in all the circumstances, were urgent and therefore had consented to the proposed decisions being exempted from call-in:

- (i) Due to the recession and Government funding delays, the West Hendon Regeneration Scheme required an extension of time to the existing commercial agreement between the Council and its development partners. The report of the Deputy Leader and Cabinet Member for Resources authorised a Deed of Variation which extended;**
 - a) the Principal Development Agreement (PDA) for a further six months up to 15 February 2010.**
 - b) the deadline date for finalising the TUPE agreement and the period for the development partners to provide information relating to the above expiry date.**

The PDA is the legal contract between the Council and the development framework for the development and regeneration of the West Hendon Estate and associated areas.

The PDA expired on Monday 10 August 2009 and the next meeting of the Business Management Overview and Scrutiny Sub-Committee was not until the 7 September 2009. Delay in sealing the Deed of Variation could cause the agreement to fall and seriously prejudice the Council's or the public's interest.

- (ii) The Deputy Leader and Cabinet Member for Resources authorised the applications to the Department of Culture Media and Sport for revenue funding to implement free swimming for under 16s and for capital funding to rebuild and refurbish suitable pools.
The capital bids recommend has to be submitted by Friday 4 September 2009 and the next meeting of the Business Management Overview and Scrutiny Committee was not until Monday 7 September 2009. The delay involved would clearly have precluded successful bidding for the funds in question.

70. EXECUTIVE DECISIONS AND THE OPERATION OF THE CALL-IN AND URGENCY PROCESS – REVIEW (Report of the Democratic Services Manager – Agenda Item 5.3.1 (2))

RESOLVED – That the report of the Democratic Services Manager relating to Executive Decisions and the operation of the Call-In and Urgency Process - Review be noted.

71. PROPOSED SPECIAL RESPONSIBILITY ALLOWANCE FOR THE CHAIRMAN OF THE SPECIAL COMMITTEE (CONSTITUTION REVIEW) (Report of the Democratic Services Manager – Agenda Item 5.3.1 (3))

RESOLVED - That the 2009/10 Scheme of Members' Allowances be amended by the addition of a Special Responsibility Allowance at Scale 3 to the Chairman of the Special Committee (Constitutional Review).

72. CHIEF OFFICER APPOINTMENT PANELS – Report of the Democratic Services Manager – Agenda Item 5.3.1 (4)

1. COMMERCIAL DIRECTOR AND DIRECTOR FOR ENVIRONMENT AND OPERATION

Nominations in the names of Councillors Joan Scannell, Barry Rawlings and Susette Palmer were moved.

RESOLVED – The Council appointed the following Chief Officers Appointment Panel to carry out the appointments of the Commercial Director and the Director for Environment and Operation.

Chairman: Councillor Mike Freer

Vice-Chairman Councillor Lynne Hillan

Councillors: Wendy Prentice, Andrew Harper, Alan Schneiderman, Kath McGuirk and Susette Palmer.

Substitute Councillors: Richard Cornelius, Joan Scannell, Geof Cooke, Julie Johnson, Jack Cohen and Monroe Palmer.

2. DEPUTY CHIEF EXECUTIVE AND DIRECTOR OF CORPORATE SERVICES

Nominations in the names of Councillors Joan Scannell, Barry Rawlings and Susette Palmer were moved.

RESOLVED – The Council appointed the following Chief Officers Appointment Panel to carry out the appointments of the Deputy Chief Executive and the Director of Corporate Services.

Chairman: Councillor Mike Freer

Vice-Chairman: Councillor Lynne Hillan

Councillors: Wendy Prentice, Joan Scannell, Alison Moore, Barry Rawlings, Jack Cohen.

Substitutes Councillors: Richard Cornelius, Andrew Harper, Claire Farrier, Andrew McNeil, Monroe Palmer, Susette Palmer.

73. COMMENTS RELATING TO THE WORK OF THE CABINET (Agenda Item 6.1)

Comment: Councillor Alison Moore

I thank Councillor Cornelius for the briefing he provided previously and raised in this issue last time at Council and I do appreciate the seriousness with which he took the issue. I pursue it further because I did have further questions in response to that briefing so I would be grateful if Councillor Freer could tell me how long it takes to complete a fire assessment, how much that costs, and what the schedule of those assessments for Council housing and other buildings was before and after the Southwark fire and how long that would take to complete. With the recent fire at Stonegrove that has accelerated the programme and weather that has changed the Council's Policy in terms of installation of fire alarms, further I believe there has been advice from the fire brigade and that has been upgraded. I would be grateful if you could tell me what the changes were and what Barnet response is to that. This is very much in terms of concern about fire safety.

Response: Councillor Mike Freer

If Councillor Moore has very detailed questions can of course write direct and get very detailed answers but I will try and give a very broad response. In terms of the change in advice from LFEPA - that has gone from where there was some confusion perhaps on the guidance – but the fundamental change is that Local Authorities have to move away from generic risk assessments to individual risk assessments for every single block. In terms of those 'At Risk' blocks, Barnet Homes has already completed its risk assessments for the 'Most At Risk' blocks and those blocks where people are most vulnerable. In terms of the wider risk assessments and the updating of them, I understand that they will be completed by March 2010 at a cost of £50 000, but if Councillor Moore would like to repeat her detailed question to the Officer, I am sure she will get a very detailed answer.

Comment: Councillor Jazmin Naghar

Can Councillor Harper confirm that the plan improvements encouraged by this Council can be welcomed by the Stakeholders which includes many residents of our ward to much relief as this project has been going on for quite some time and can he say when the work will begin at Henly's Corner? Many Thanks.

Response: Councillor Andrew Harper

Yes. I can confirm that the public engagement process has produced a very positive result. People have been in favour of action being taking at Henly's Corner, perhaps not surprisingly, and indeed have confirmed the position that this Council has adopted since 2002: that there is a need to improve the junction - the greatest need being improvements for vehicle movements to reduce congestion and also to improve things for right turning traffic, as well as to address the difficulties being experienced by pedestrians. TfL have

confirmed that they intend to press ahead with these proposals and the work is due to begin in 2011 and to be completed by the end of that year.

Comment: Councillor Andrew McNeil

At the meeting last week, the Cabinet decided to close the Welfare Rights Unit. This follows years of management neglect which has in turn contributed to the negation of the unit's proven worth and benefit to the vulnerable in the borough. What is particularly shameful about this decision is that it was taken before the Scrutiny Task and Finish Group, examining welfare advice provision in the borough has finished its work. This decision shows contempt for the new Scrutiny process as well as tearing up the pledge of this Council to support the vulnerable.

Response: Councillor Lynne Hillan

Well I wouldn't agree with you at all, I think it shows respect for the budget decision that was taken some time ago. The Scrutiny committee is perfectly at liberty to carry on scrutinising the implementation of all the commissioning and all of the advice centres that we are using but not to reverse the decision that was made in this Council which was a budget decision.

74. QUESTION TO REPRESENTATIVE ON OUTSIDE BODIES (Agenda Item 6.2)

None.

The meeting finished at 9.45pm

Council, Tuesday 3 November 2009

Motion 3.1: Councillor Geof Cooke

Great Northern Line

This Council recognises the importance of effective and efficient public transport to the success of London's suburbs. It notes that all London Underground stations and most London Overground and National Rail stations in London receive a Metro-style 'Turn Up and Go' service, e.g. at least 4 trains per hour on weekdays between 09:30 and 16:00, but this is not the case on the Great Northern line serving New Southgate, Oakleigh Park and New Barnet stations in the London Borough of Barnet. This part of the borough is densely populated without easy access to alternatives in most areas and it deserves as good a service for its residents as other parts of London. The present frequency is never more than 3 trains per hour outside of peak times and at weekends it is only 2 trains per hour at best. Network Rail's East Coast Main Line Route Utilisation Strategy (February 2008) considers that frequency improvements to local services in London by 2016 are desirable but there is no plan of action.

Council notes the greatly improved service on other lines in London as a result of London Overground taking over.

Therefore the Council Leader is requested to seek support from the London Borough of Enfield (in respect of New Southgate) and to write to the Mayor of London and Transport for London to

1. Urge negotiation with interested parties, including Network Rail, the Department for Transport and First Capital Connect, to improve service levels on the Great Northern line through Barnet to Metro frequency including consideration of the possibility of
 - Some services running from New Barnet supplementing through trains from Hertfordshire.
 - London Overground (Transport for London) operating trains to/from New Barnet sharing track with National Rail services (as is happening elsewhere in London).
 - Great Northern line services that stop in Barnet terminating at one or more of Moorgate and Kings Cross (as now) and from 2015, when the Thameslink Programme completes, of using any spare space (e.g. at weekends) on the 24-trains-per-hour capacity of the central London section of the Thameslink line in order to run through to south London.
2. Request confirmation that Oyster Pay-as-You-Go will be implemented from January 2010 at New Southgate, Oakleigh Park, New Barnet, Cricklewood, Hendon and Mill Hill Broadway stations.
3. Urge complete harmonisation of National Rail ticketing in London with London Underground ticketing including the starting time from which Freedom Passes may be used and free travel for children.

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Motion 3.2: Councillor Jack Cohen

Borough Boundaries

Council notes that the area around Cricklewood Broadway comes under the auspices of Brent, Barnet and Camden. Cricklewood is an important metropolitan diverse local community which deserves a vibrant, sustainable and environmentally strong neighbourhood. Council notes that the people of Cricklewood often have difficulties understanding, appreciating and recognising where each of the three Borough's responsibilities begin and end. Council also believes that all three Boroughs should work together to ensure their local policies complement and support each other.

Council request cabinet to consider drawing up protocols (in consultation with Ward Councillors and other interested parties), which clearly set out responsibilities for maintenance and cleaning of roads and footways, parking, licensing and encouraging enterprise in and around Cricklewood and for that matter in other parts of the Borough where Borough Boundaries meet.

Council also requests Cabinet to collaborate with neighbouring Boroughs to ensure and encourage more holistic thinking and joint working across Borough Boundaries”

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Motion 3.3: Councillor Kathy McGuirk

Stop the fares increases

Council condemns the Conservative Mayor of London's plans to raise public transport fares by up to 20% and believes it will hit hard-pressed residents in outer-London the most – including Barnet.

Council asks the relevant Cabinet Member to write to Boris Johnson making clear this Council's opposition to these fare increases.

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Motion 3.4: Councillor Alison Moore

Stanley Road Playing Fields

This council believes that community sports provision is important in promoting healthy lifestyles and fighting obesity amongst young people, particularly where there are significant levels of deprivation.

Council calls on the Cabinet to work with local people in East Finchley fighting to bring Stanley Road Playing Field back into full-time use as a community sports provision.

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Motion 3.5: Councillor Fiona Bulmer

First Class Education

Council welcomes the excellent GCSE and A-Level results across the Borough, and congratulates Barnet children on their achievements.

60% of Barnet students gained 5 or more GCSEs, including English and mathematics. These results rank Barnet 10th out of 150 local authorities in England.

Barnet's students were placed even higher up the 'A level' league table, achieving an average 'points score' of 219, the sixth best result in the country.

Council believes these achievements are testament to the hard work of pupils and teachers across the Borough, working in partnership with the Council, and supported by parents, to drive up standards.

Council resolves to call on Cabinet to support the ongoing hard work of schools, staff and students across this Borough, and to work to raise standards in Barnet still further.

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Motion 3.6: Councillor Lynne Hillan

Business Rates

Council notes that business rates in London are set to rise by 10% before inflation over the next five years in order to pay for reductions elsewhere in the country. For the average Barnet business this will mean an additional £12,000 and follows a rise last April of 5%.

Council believes that to significantly raise taxes on small businesses as the economy is beginning to come out of recession is deplorable and makes a mockery of the Prime Minister's mantra that his government is 'doing everything we can to help people through the recession'.

Council notes that the Department for Communities and Local Government's plans are based on property valuations as at 1st April 2008, when rental values in London were at their peak, and before the recession took hold. Since that date commercial rents in London have plummeted by up to 40 per cent.

Council notes that business rates in many regions of the United Kingdom are to fall, subsidised by increases in London.

Council believes that there should be an immediate review of rental values to reflect the significant fall since April 2008. In the longer term the business rate tax system should be overhauled so that councils keep the money they raise, thereby creating an incentive to keep taxes low and encourage enterprise.

Council calls upon the Chief Executive to write to the Secretary of State to stating that;

- The Council objects to Barnet's businesses being forced to subsidise other parts of the United Kingdom
- There should be a review so that rates are not based on valuations at the height of the property bubble
- The Local Authority Business Growth Incentives scheme should be reformed and simplified in order for councils to keep more of the money they raise

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Motion 3.7: Councillor John Hart

School Uniforms

Council firmly believes that uniforms should be worn by pupils in Barnet Schools.

Council notes and appreciates the work of the supermarkets in significantly bringing down the costs of uniforms and sports kit. Council notes that supermarket prices are in sharp contrast to some suppliers that may charge up to £300 for a full set of uniforms for the school year.

Council believes that in these difficult economic times schools should be flexible in their choice of suppliers in order to minimise the cost of uniforms and particularly sports kit for parents.

Council believes that there should be an open market for school uniforms and that forcing parents to purchase clothing from a single supplier places an unacceptable and unnecessary financial burden upon them.

Council instructs the Director for Children's Services to write to all Headteachers and Chairmen of Governors in the Borough, asking them to ensure that they have as many generic items in their school uniform rules as possible, do not force parents to purchase specialist clothing from a single supplier and are flexible with their sport kit policies in order to minimise the cost to parents.

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Motion 3.8: Councillor Matthew Offord

Territorial Army Training

Council believes that every possible support should be given to our Territorial Army, particularly at a time when British armed forces are fighting a difficult and bloody war on our behalf.

Council sends its utmost support to the soldiers from the London Regiment who will be deployed in Afghanistan at the beginning of next year.

Council notes that the government has cut the training budget for the Territorial Army by £20 million. As a consequence members of the London Regiment may have fewer training days or have to train without pay. Although those reservists who will shortly be sent on active service in Afghanistan will still go on Pre-Deployment Training, the lack of training at other times will inevitably leave less time for reservists to reach battle readiness.

Council believes that the government's action sends a terrible message to our serving reservists and that it will damage the ability of the London Regiment to recruit volunteers in the future.

Consequently Council requests that the Chief Executive write to the Secretary of State for Defence to demand that the cuts to the London Regiment's training be reversed in this time of war.

Under Standing Order Part 4, Section 1, 31.5: if my item is not dealt with by the end of the meeting I ask that it be voted upon at the Council meeting.

Council, Tuesday 3 November 2009

Administration Policy Item: Councillor Lynne Hillan

Transparent Expenditure

Council notes that technological change has meant information that was previously held by the few can now be moved into the hands of the many at minimum cost.

Council believes that information on how public money is being spent should be freely available to taxpayers, providing that the cost of publication is proportionate.

Council notes that the successful measures taken on opening up the authority to date, such as the Leader Listens programme, have won praise from across the political spectrum, including from the former Secretary of State for Communities and Local Government.

Council requests that Cabinet ensure spending over £500 is publicised online quarterly in arrears, where it is not legally prohibited, beginning from the new financial year.

Council, Tuesday 3 November 2009

Opposition Policy Item: Councillor Alison Moore

Public Services in Barnet

Council believes that public services are vital to the wellbeing of Barnet's diverse community, and must be protected and developed to serve the needs of that community.

Council asks Cabinet to work with Barnet's local community to ensure that the essential services that residents want and need are not cut as a result of the recession.

REPORT OF THE STANDARDS COMMITTEE

9 SEPTEMBER 2009

Members:

Independent Members:

*Reverend Bernd Koschland (Chairman)

* Stephen Ross	* Michael Barber	* Rabbi Dr Jeremy Collick
* Ron Rosenhead	* Deborah Sanders	David Sparrow

Councillors:

* Joan Scannell	* Agnes Slocombe	Jack Cohen
Andreas Tambourides	* Claire Farrier	* Monroe Palmer

*denotes Member present

\$denotes Member absent on Council Business

**MEMBERS' PLANNING AND MEMBERS' LICENSING CODES OF PRACTICE
(Report of the Director of Corporate Governance and Monitoring Officer –
Agenda item 6):**

The Committee heard oral representations by Mr Howard (Chairman of the Federation of Residents' Associations in Barnet (FORAB)), Mr Robert Newton and Mr Daniel Hope, raising concerns about certain aspects of the proposed revision of the Members' Planning Code of Practice especially in relation to paragraph 4.1(e).

The Committee agreed an amendment to the recommendations as reflected in (1) below.

RESOLVED

(1) That the Committee agree to recommend to Council adoption of the proposed revisions to the Members' Licensing and Planning Codes of Practice as set out in the appendices to the report, subject to the amendment of the following paragraphs of the Members' Planning Code of Practice to read as follows:

- (i) 4.1(e) – “Should determine applications in accordance with good Planning reasons, in knowledge of all 'material considerations' and taking account of the advice of their professional Officers”.**
- (ii) 8. Site Visits – “(The references to Members in this section are to Members who are likely to be involved in taking the decision upon a planning application to which the site visit relates)”.**

- (2) That subject to adoption by the Council, Officers be instructed to promote awareness of the revised Codes of Practice with Members, relevant Officers and with applicants and objectors.**

AGENDA ITEM: 6

Page nos. 22 - 46

Meeting	Standards Committee
Date	9 September 2009
Subject	Members' Planning and Members' Licensing Codes of Practice
Report of Summary	Director of Corporate Governance This report presents the proposed new Licensing Code of Practice and Planning Code of Practice for the Council.

Officer Contributors	Donna Knight-Olds, Governance Manager Jeff Lustig, Director of Corporate Governance (Monitoring Officer)
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix A – Members' Planning Code of Practice Appendix B – Members' Licensing Code of Practice
For decision by	Council
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	Not Applicable
Contact for further information:	Donna Knight-Olds, Governance Manager 020 8359 7156, donna.knight-olds@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That the Standards Committee agree to recommend to Council adoption of the attached revisions to the Members' Licensing and Planning Codes of Practice.**
- 1.2 That, subject to adoption by the Council, Officers be instructed to promote awareness of the revised Codes of Practice with Members, relevant Officers and with applicants and objectors.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 11 April 2006 – Council agreed a Planning and a Licensing Code of Practice
- 2.2 6 November 2007 – Council agreed revisions to the Members' Licensing Code of Practice
- 2.3 1 July 2009 – Licensing Committee agreed the proposed revisions to the Members' Licensing Code of Practice.
- 2.4 29 July 2009 – Planning and Environment Committee agreed the proposed revisions to the Members' Planning Code of Practice.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Under the Council's Corporate Plan for 2009/10 to 2013/14, one of the corporate priorities is 'More Choice, Better Value' and a key objective within this priority is 'enhancing and further developing corporate governance'. Having revised Members' Planning and Licensing Codes of Practice that fully reflect current statutory requirements, guidance and best practice is in accordance with this priority.

4. RISK MANAGEMENT ISSUES

- 4.1 Revised Codes of Practice will increase the likelihood that Planning and Licensing decisions continue to be taken appropriately and that Members are fully aware of their responsibilities.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 In accordance with the Council's equalities and diversity policies, the Members' Planning and Licensing Codes of Practice will apply to all Members equally.
- 5.2 The Codes of Practice require all Members to abide by the Members' Code of Conduct, which includes the general obligation: "You must not do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006).

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 There are no resource implications from revising the Codes of Practice.

7. LEGAL ISSUES

7.1 The legislation, guidance and Council policies that are relevant to the Codes of Practice are detailed in section 10 of each Code.

8. CONSTITUTIONAL POWERS

8.1 This Committee is empowered with promoting and maintaining the high standards of conduct by Members and co-opted Members, assisting Members to observe the Code of Conduct, advising the Council on the Code and monitoring its operation. It also has powers to grant dispensations relating to registrable interests and to grant exemptions from political restriction. It will appoint sub-committees to carry out its roles and functions related to the assessment, review and referral of allegations regarding breach of conduct and those related to determination and application of sanction in such cases. It is empowered to consider and make recommendations to the Council, as necessary, on ethical issues affecting the Council as a whole.

9. BACKGROUND INFORMATION

9.1 A key purpose of the revised Codes of Practice is to clarify the relationship between applicants, objectors or interested parties, Councillors and Officers in the Planning and Licensing processes; and also to manage and control risks relating to probity.

9.2 There have been recent amendments to the model Planning and Licensing Codes of Practice. Having considered the revised model codes, Officers have re-drafted both the Members' Licensing and Members' Planning Codes of Practice with the following aims:

- To ensure that they are fully in line with the Members' Code of Conduct as adopted by the Council in June 2007;
- To ensure that they are up to date with current best practice and guidance;
- To incorporate any changes identified as beneficial by Members and Officers involved in the processes;
- To bring the Members' Planning and Licensing Codes of Practice into line with each other as far as possible, both in content and format, in order to facilitate ease of use, limit confusion and share best practice between the regimes;
- To improve clarity, wherever possible, including trying to find a balance where there has been an indication that overall brevity provides greater clarity and providing greater detail on those aspects where it has been identified that this would be beneficial

9.3 As an early part of the process of revision, key Officers and Members were surveyed and asked the following questions about the Licensing or Planning Code of Practice as appropriate:

- Do you think the Code of Practice has been helpful?
 - If not, what would make it more helpful?
- In practice, has the Code of Practice covered the required areas of behaviour?
 - If not, what areas of behaviour should it also cover?
- Do you find the Code of Practice easy to follow?
 - If not, what would improve its clarity?
- Do you think any other changes should be made to the Code of Practice?
 - If so, what would you suggest?
- Is there any aspect of the <other> Code of Practice that you think should be adopted for <this> Code of Practice?
 - In terms of a) layout and b) content
- How well do you think the Codes are understood?
 - By a) Members, b) Officers, c) the public?
- What do you think would improve understanding of the Code of Practice?
- Do you have any other comments to contribute to this review of the Code of Practice?

9.4 There were few responses to this consultation exercise but, nonetheless, the comments received were generally positive with some suggestions for improvements and were considered in preparing the revised Codes presented at Appendices A and B. Members may like to reflect on their personal answers to these questions in considering the revised drafts before the Committee.

9.5 The Codes of Practice were each presented to the respective parent committees for their approval prior to being presented to the Standards Committee. The Licensing Committee approved the Members' Licensing Code of Practice on 1 July 2009 and the Planning and Environment Committee approved the Members' Planning Code of Practice on 29 July 2009.

9.6 Subsequent to that approval, both Codes of Practice have had some typographical and grammatical errors corrected. In addition, at the suggestion of a Member who serves on this committee and on the Planning and Environment Committee, an annex will be added to each Code of Practice in the form of a draft letter that provides a suggested form of words for Members, considering Planning or Licensing matters, to use when contacted by applicants or objectors (in the case of Planning) or interested parties (in the case of Licensing).

9.7 Both the Members' Licensing and Members' Planning Codes of Practice are public documents forming part of the Council's Constitution. They will be reviewed periodically to ensure compliance with legislation and Government guidance. They may also be subject to annual review as part of the Constitution review process.

9.8 Further to the adoption of the revised Codes of Practice and their incorporation, in place of the current Codes in the Council's Constitution, they will be included with the general awareness raising proposals arising from the Ethical Governance Assessment 2008 action plan. This will include copies being sent to all Members.

10. LIST OF BACKGROUND PAPERS

- 10.1 See sources listed in the draft Codes of Practice.
- 10.2 Responses to survey

APPENDIX A

Members' Planning Code of Practice

(July 2009)

1. Introduction

- 1.1 This Code of Practice applies to any meeting of the Authority, or, its Executive, committees, sub-committees, joint committees or area committees when considering any Planning matters, including applications or enforcement. All references to 'committee' or 'sub-committee' within this Code will be construed to refer to such meetings.
- 1.2 This Code of Practice has been prepared for all Members who may attend Planning meetings, whether as members of the Planning and Environment Committee or an Area Planning Sub-Committee, or in any other capacity, including making representations to such a committee as a Ward Member, or as an applicant, or an interested party. However, the Code of Practice applies at all times when members are involving themselves in the Planning process and not just at the committee meetings.
- 1.3 The aim of this Code of Practice is to ensure that in the Planning process there are no grounds to suggest that a decision has been in any way biased, partial or ill-founded. It should be applied in accordance with the Member Code of Conduct and, if there is any apparent conflict, the requirements of the Code of Conduct take priority.
- 1.4 If a Member were to behave in a way not compliant with this Code of Practice there could be the possibility of:
- Putting the Council at risk of proceedings on the legality or maladministration of the related decision; and/or
 - The Member being at risk of an allegation of breach of the Member Code of Conduct.

2. Planning Decisions

- 2.1 Decisions that the Council makes about Planning applications can be quite controversial. Any development is likely to have significant impact on the neighbourhoods where people live and therefore may be subject to close public scrutiny.
- 2.2 Planning decisions can be appealed to the Secretary of State, they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. There is also a risk that Members can be named in a report made to the Standards Committee for breach of this Code. The Barnet Code of Conduct requires Members to avoid any possibility of being influenced by their own personal interests. However, for certain types of decision like Planning and Licensing, the requirements of the Code go further than this. Members are required to act in a quasi judicial role, without

reference to their political considerations and taking into account the issues that the law says are relevant to the decision.

2.3 When Members are making Planning decisions, they must be:-

- **Open-minded:** a Member must not make up his/her mind until s/he has heard all the relevant evidence, which will not happen until the meeting itself. If Members indicate which way they intend to vote before that, they are disbarring themselves from taking part in the decision.
- **Open and Transparent:** The rules about interests in the Barnet Code of Conduct apply with particular relevance to Members who are making Planning decisions. It is very important that, in relation to each matter, Members consider whether they have an interest which should be explained to the public, or which might prevent them from participating in the committee's deliberations and the decision. A Member must seek advice as soon as s/he thinks that there may be any doubt about this.
- **Reasonable:** Another aspect of the requirement for openness is the requirement on the Council to give clear and accurate reasons for any decision that has been taken. This applies to all decisions, but the need is greatest where permission is refused, or, where an application is approved but either the application appears to be contrary to the Council's policies or an application which appears similar has recently been refused.
- **Impartial:** Most Planning decisions involve applying policies to particular situations. The policies have to be applied impartially without reference to the identity of the individuals concerned. Planning decisions are decisions about the use of land, not the people who own it. The circumstances of the individuals will only be relevant in very exceptional cases. Members should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Members, who do not feel that they can be impartial in this way, should consider whether they are best suited to serve on Planning Committees.
- **Consider only the Planning issues:** The law requires Planning decisions to be made on the basis of what the legislation calls 'material considerations'. General issues that are not material Planning considerations and should not be considered may include matters such as:
 - the ownership of the application site;
 - private property rights e.g. rights of way and boundary disputes (such considerations are legal matters on which objectors should consult their solicitors or other advisers since it is not possible for Officers of the Council to advise on such rights);
 - the fact that an applicant has carried out unauthorised development in the past moral objections (such as activities that have the potential become addictive for instance betting shops, amusement arcades etc);

- effects on property and land values; the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value.

2.4 This Code of Practice is supplementary to the Barnet Members' Code of Conduct. It is intended to show how the general principles in the Code should be applied to Planning decisions. A breach of this Code may be a breach of the Members' Code

2.5 This Code of Practice applies equally to independent members of the Standards Committee and co-opted members of Council committees as it does to elected members.

2.6 The Planning system can be challenged in a variety of ways, both formal and informal, and before, during and after committee. This includes in Planning appeals or in courts of law. Therefore Members must bear the contents of this Code in mind through all the stages of the Planning process.

3. General Advice

3.1 The following general advice must be considered by all Members likely to become involved in the Planning process in any way:

- An application relating to a premises in the vicinity where a Member, (or their close associate) lives so that s/he is affected more than the majority of inhabitants of the Ward is likely to involve a **personal and potentially prejudicial interest**.
- A Member being a frequent visitor to the premises in a personal capacity is likely to involve a **personal and a potentially prejudicial interest**.
- A Member belonging to a lobby or campaign group that may be directly impacted by the outcome of an application is likely to have a **personal and potentially prejudicial interest**. (see also section 7 on fettering discretion below)
- A Member having any doubts as to how the Planning Code of Practice applies should seek advice from the Monitoring Officer or his representative as early as possible.
- The Council's Member/Officer Protocols must be abided by at all times.

4. Members of the Planning and Environment Committee and Area Planning Sub-committees

4.1 The role of members of the committee and sub-committee(s) is to make Planning decisions openly, impartially, with sound judgement and for justifiable reasons. This applies equally to policy decisions before the Planning and Environment Committee as it does with applications. Therefore, Members:

- a) Must not make a decision for party political reasons and should avoid any action that may give the perception that this is the case;

- b) Should make themselves familiar with sites and proposals;
- c) May listen to points of view expressed to them but must not, if they wish to be free to debate and vote on an application at committee, commit themselves to support or object to any proposal; since to do so is to prejudge the application in the absence of all the relevant information and advice;
- d) Should listen to the Ward Member if s/he is a member of the Committee, but should not defer to him/her nor give him/her preferential status. (see paragraph 6, below);
- e) Should determine applications in accordance with the advice given to them by their professional Officers unless they have good Planning reasons, in knowledge of all material considerations, to take a different decision.
- f) Who receive correspondence about applications should ensure that copies are made available to the Planning Officers as early as possible;
- g) Must not encourage any member of the public (including but not limited to those speaking at the sub-committee) to communicate with them orally or in writing other than through the sub-committee's procedures;
- h) Must make their decision only after due consideration of all the information and only after the presentation of the application at the sub-committee (or committee) and thus must be present for the duration of the presentation, any oral representations, debate and other deliberations upon an item in order to be able to vote on that item;
- i) Must attend all training relevant to their role as Planning Committee members offered by the Council;
- j) Should not meet with applicants or objectors other than at meetings arranged through the Council. A written record should be kept of any such discussions that take place prior to the meeting of the sub-committee (or committee)
- k) Should, if in any doubt about whether s/he needs to declare an interest, seek the Monitoring Officer's advice as soon as possible and, in any event, prior to the commencement of the sub-committee (or committee) meeting. Noting that:
 - i) The definitions of 'personal' and 'prejudicial' interests in the context of Planning are the same as for all other areas of the Council's work, and, as provided at paragraphs 8 and 10 of the Members' Code of Conduct, contained within the Council's Constitution;
 - ii) A personal interest does not need to be declared at a meeting where the interest arises solely from a body to which the Member was appointed by the Council or another public body, unless and until the Member speaks on the item;
 - iii) A Member should not, if s/he has a personal and prejudicial

- iv) A Member may sit on a sub-committee (or committee) and consider an application if s/he has a **personal interest** which is **not prejudicial**;
- v) As regulatory matters such as Planning are particularly sensitive, it is recommended that Members adopt a particularly cautious approach.

4.2 When declaring an interest at a Planning committee or sub-committee meeting, taking the recommended cautious approach could include considering that:

- a) It is often not enough for a Member to be unbiased, s/he must also be seen to be unbiased;
- b) Connections through any organisation, whether political, charitable, social or otherwise, can create an illusion of bias, even where it does not exist; thus Members who have connections with applicants need to be transparent and quick to reveal them;
- c) It may be prudent to be on one's guard against accusations of bias particularly in the case of applicants and/or agents who might previously have made mischievous or inappropriate applications;
- d) Ultimately, the decision as to whether or not to declare an interest must be the Member's own.

4.3 Equally, other Members should not automatically impute bias merely because an applicant and a Member know one another.

4.4 Decisions on Planning applications can only be made following a full explanation of the material Planning considerations and information on the relevance, e.g. the development plan, national guidance and consultations, at Committee. It follows from this statement of principle that it would not be appropriate for a Member to debate or vote on a matter if s/he has not been present to hear the full presentation and debate on the matter including the Officer update report. If a Member has missed part of the consideration of an item, the Member should abstain when the vote is taken. To avoid Members breaching this guidance inadvertently, the Chairman should be prepared to consider adjourning briefly to allow one or more comfort breaks during meetings.

4.5 There is a duty to give reasons for Planning application determinations at the time the decision is made where the determination is contrary to the Officers recommendation, or, to an objective policy approved for development control purposes, or, that in the opinion of the legal officer is likely to give rise to a liability to pay compensation or an award of costs on appeal. These reasons should be:

- a) Established, defined and described at the time;
- b) Clear and convincing and thus such reasons as "established local need" or "satisfy the personal need" are inadequate;
- c) Rooted in a clear and convincing statement of reasons for departures from policy or the Officers recommendation;

- d) Given with an awareness of the difficulties which will be faced in the future by Officers who will have to explain why they must continue to recommend refusal in circumstances where a similar application has been approved against policy;
- e) Given with an awareness that Members may be asked to appear as a witness for the Local Planning Authority, should an appeal be lodged against the decision and that appeal be heard by way of a Planning Inquiry.

5. Members with a personal (and prejudicial) interest

5.1 If an application is submitted by or on behalf of a Member then s/he must inform the Head of Planning and Development in writing.

5.2 **A Member may exercise a right to speak on his/her own behalf or on behalf of a close associate. Such a Member:**

- a) Is personally affected by an application and has a personal and prejudicial interest. S/he may make written representations to the sub-committee (or committee) and may attend the meeting to make representations, answer questions and give evidence in the same way that the public are allowed to attend the meeting for the same purpose. Unlike the public, such Members must withdraw from the committee room immediately afterwards.
- b) May appoint someone to represent him/her if s/he prefers and are advised that this is often the simplest and therefore the preferable way to proceed;
- c) Must conform to the usual deadlines for representations;
- d) Must not seek or accept, or appear to seek, preferential treatment;

5.3 Any Member who has written formally in respect of a Planning application, either as objector or supporter, is likely to have committed him/herself to refusing or approving the application. Consequently, if a member of the relevant committee or sub-committee, s/he is probably no longer in a position to take the decision because s/he is not seen to be open-minded as the law requires. S/he should leave the room whilst the item in question is before the committee or sub-committee.

5.4 A Member of a committee or sub-committee that is to consider a Planning application, who lives in close proximity to the application site, will have a personal and potentially prejudicial interest to declare. This means that if s/he has such an interest, with or without exercising a right to speak, s/he can not take part in the decision and must declare the interest and leave the meeting room whilst the application is discussed and decided.

6. Ward Members

6.1 Ward Members are inevitably in a difficult position where development is proposed in the locality that they represent. Ward Members are particularly likely to be subject to lobbying by local residents, and to single issue pressure groups. On the other hand, they have been elected to speak for the people in that Ward and they have often canvassed on particular issues which are

relevant to a Planning application. Their opinions therefore are valuable and influential.

- 6.2 Ward Members have a special duty to their constituents, including those who did not vote for them. It is clearly appropriate for Ward Members to listen to a constituent and it is perfectly proper to be influenced by what a constituent has to say but it is not appropriate to “advocate” on behalf of a constituent. That may make a Member seem to be unfair or prejudiced.
- 6.3 Committees and sub-committees should respect the views of the Ward Member but those views should not necessarily prevail; they have to be weighed in the balance with all the other issues.
- 6.4 No form of words could cover every nuance of these situations. Each local Member has to observe an appropriate balance between being an active Ward Member and his/her overriding duty to the whole local community.
- 6.5 Maintaining that balance means that, while a Ward Member may be influenced by the views of the others, it is his/her responsibility alone to decide what view to take on any Planning determination which committee and sub-committee members have to decide on the basis of the statutory Development Plans and other material Planning considerations.
- 6.6 It is those Planning considerations, interpreted in the interest of the whole locality which must be the overriding consideration in debating and determining a Planning application
- 6.7 It is up to the Chairman to decide when any Member (including a Ward Member) should speak but it is not appropriate for a Ward Member to speak both first and last.
- 6.8 A Ward Member not sitting on the committee or sub-committee and members of the public enjoy speaking rights in accordance with the Council’s constitution.

7. Avoiding fettering discretion and dealing with lobbying

- 7.1 Members are frequently approached by applicants and objectors who wish either to ‘lobby’ Members or to ask advice. It is very important that no Member fetters his/her discretion and therefore his/her ability to participate in decision-making by making up his/her mind, or appearing to have done so, prior to the matter’s formal consideration and the hearing of the Officer’s presentation and the evidence and arguments from applicants and interested parties at the meeting.
- 7.2 If a member of a committee or sub-committee is approached by any means by persons wanting to lobby them regarding a Planning application to be heard by that committee then the Member is strongly advised to:
 - a) Explain s/he cannot discuss the matter;
 - b) Refer the person to his/her Ward Member and/or Planning Officer;
 - c) Make and keep a written record of these instances in case the matter

- d) Declare the circumstances of the lobbying at the meeting considering the item;
- e) Pass any correspondence to the Monitoring Officer at the earliest opportunity and encourage the applicant to submit written information to the Planning Officer;
- f) Avoid giving any commitment or impression of a commitment; that s/he holds any particular view about the matter or how s/he will vote;
- g) Where possible, provide information on the Council's general Planning policies and procedures only.

7.3 Members, if they wish to be free to debate and vote on an application, should avoid organising support for or opposition to a Planning matter to be determined by the committee or sub-committee and should not lobby other Members as such actions can easily be misunderstood by parties to the application and by the general public.

7.4 If a Member realises that s/he has fettered his/her discretion by some comment or action then this must be declared and the Member should not take part in the discussion on that item or vote, s/he should withdraw after making their comments. This withdrawal will avoid any suggestion that other members of the committee may have been influenced by his/her continuing presence.

7.5 An important element of the Members' Code of Conduct is the general obligation not to "use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage." In terms of the Planning process, lobbying of Members can lead to the impartiality and integrity of a Member being called into question. The acceptance of lobbying can cause public mistrust of Local Planning Authorities. Therefore, the actions and conduct of Members should be seen to be appropriate and above suspicion to an impartial outside observer.

7.6 Decisions should be taken in the interests of the Borough as a whole and should not be improperly influenced by, or, in favour of any person, company, group or locality. The key is to demonstrate that each Member's decision was taken on relevant considerations alone.

7.7 No Member should accept any gifts or hospitality from an applicant or objector in a Planning matter. If a degree of hospitality is entirely unavoidable then the Member should ensure it is of a minimum, its acceptance is declared as soon as possible and it must be recorded within 28 days of its receipt in the Member's register of interests if its value is over £25.

7.8 Members and substitute members of Planning committees should discourage applicants or agents from approaching them, should aim to minimise social contacts with known developers or agents, and refrain from such contacts when an application has been submitted.

7.9 A Member will not have fettered his/her discretion by:

- a) Receiving or listening to viewpoints from applicants or objectors;
- b) Making comments to applicants, interested parties, other Members, or

- c) Seeking information through any alternative channel other than Democratic Services;
- d) Simply being a member of a group or organisation that may make representations on a particular matter before a Sub-committee where there is no direct impact on the Member and s/he is not otherwise fettered by any actions or comments made in relation to the group's representations. However the Member should make it clear to both the group or organisation and the committee that s/he has reserved judgement on the matter prior to its consideration at committee or sub-committee.

8. Site Visits

- 8.1 As a general principle, Members are encouraged to familiarise themselves with the site and surroundings of Planning applications under consideration by a committee or sub-committee.
- 8.2 **Site visits should normally be pre-arranged and carried out with fellow committee or sub-committee members at an organised date and time. The purpose of the visit is for Members to view the site accompanied by an Officer who will ensure that the issues raised by the application are drawn to the Member's attention**
- 8.3 If site visits are made by individual Members then they should be conducted from the public highway or public open space. If a Member believes that s/he cannot make a site visit without entering into private land and the expected benefit is substantial then s/he should contact the case officer and request a pre-committee site visit or, if the application is already on a committee or sub-committee agenda, propose deferral for a committee or sub-committee site visit at the meeting.
- 8.4 Invitations to Members from applicants/agents or objectors or other groups to visit the sites or surroundings of Planning applications or attend private meetings or briefings should generally be declined unless it is arranged by Officers as an official committee visit/presentation. If a Member does decide to accept such an invitation s/he should advise the Head of Planning and Development well before the visit takes place and take particular care about expressing an opinion that may be taken as indicating that s/he has already made up his/her mind on the issue before s/he has been exposed to all the evidence and arguments. In such situations, s/he should restrict him/herself to giving procedural advice, including advising those who are lobbying that they should write to the case officer, in order that their opinions can be included in the Officer's report to the committee. The public's expectation is that Members taking the decision will take account of all the evidence presented before arriving at a decision and to commit oneself one way or the other before hearing all the arguments makes one vulnerable to an accusation of partiality.

9. The Ombudsman

- 9.1 The Local Government Ombudsman (more properly known as the Commissioner for Local Administration in England) has a variety of powers.
- 9.2 In essence, however, the Ombudsman cannot challenge the decision made by any Planning committee but can challenge the way in which that decision was made. If a committee or sub-committee fails to address a number of issues properly, then the Ombudsman might decide that this amounted to “maladministration.” If the Ombudsman also considers that injustice has been done, he then has a variety of powers to call for a remedy.
- 9.3 However, that does not mean that the Ombudsman has the power to overturn Planning decisions; only the courts of law and Planning Inspectors can do that and only in strictly defined circumstances.
- 9.4 The potential for maladministration, however, concerns the Council's Monitoring Officer as, amongst other things, this could result in an award of compensation.

10. Sources:

This Code follows the following statutory requirements:

- The Local Authorities (Model Code of Conduct) Order 2007
- LGA (2002) Probity in Planning (Update)
- The Relevant Authorities (General Principles) Order 2001

and draws on the following guidance:

- LGA – Probity in Planning – May 2009
- The Code of Conduct: Guide for Members – May 2007
- DCLG Report: Councillor Involvement in Planning Decisions – January 2007
- AcSES Press Release: Flawed DCLG Report on Councillor Involvement in Planning Decisions – February 2007
- Cleaner, Greener, Transport and Development Overview and Scrutiny Committee Report: The Quality of Planning Decisions made at Planning Committees Review
- LGA(2005) Member Engagement in Planning Matters
- AcSES Guidance model
- Positive Engagement: A guide for Planning Councillors (2005)
- Connecting Councillors with Strategic Planning Applications

APPENDIX B

Members' Licensing Code of Practice

(July 2009)

1. Introduction

- 1.1 This Code of Practice applies only to hearings held by the Licensing Committee or the Licensing Sub-committee(s) to consider licence applications under the Licensing Act 2003 or the Gambling Act 2005.
- 1.2 This Code of Practice has been prepared for all Members who may attend Licensing Sub-committee meetings whether as Members of a Licensing Sub-committee, or in any other capacity, including making representations to such a Sub-committee as a Ward Member, or as an Applicant or an Interested Party. It applies at all time when Members are involving themselves in the Licensing and Gambling process and not just at meetings.
- 1.3 The aim of this Code of Practice is to ensure that in the Licensing process there are no grounds to suggest that a decision has been in any way biased, partial or ill-founded. It should be applied in accordance with the Member Code of Conduct and, should there be any apparent conflict, the requirements of the Member Code of Conduct take priority.
- 1.4 If a Member were to behave in a way not compliant with this Licensing Code of Practice this can result in:
 - Putting the Council at risk of the legality and/or maladministration of the related decision; and/or
 - The Member at risk of an allegation of breach of the Member Code of Conduct.

2. Licensing Decisions

- 2.1 Decisions that the Council makes about Licensing matters can be quite controversial. Any application is likely to have significant impact on the neighbourhoods where people live and therefore they are subject to close public scrutiny.
- 2.2 Licensing decisions can be appealed to the Magistrates Court, they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. There is also a risk that Members can be named in a report made to the Standards Committee for breach of this Code. The Barnet Code of Conduct requires Members to avoid any possibility of being influenced by their own personal interests. However, for certain types of decision like Planning and Licensing, the requirements of the Code go further than this. Members are required to act in a quasi judicial role, without reference to their political considerations and taking into account the

issues which the law says are relevant to the decision.

2.3 When Members are making Licensing decisions, they must be:-

- a) Open-minded: a Member must not make up his/her mind until s/he has heard all the relevant evidence, which will not happen until the meeting itself. If Members indicate which way they intend to vote before that, they are disbarring themselves from taking part in the decision.
- b) Open and Transparent: The rules about interests in the Barnet Code of Conduct apply with particular relevance to Members who are making Licensing decisions. It is very important that in relation to each matter, Members consider whether they have an interest which should be explained to the public, or which might prevent them from participating in the committee's deliberations and the decision. A Member must seek advice as soon as s/he thinks that there may be any doubt about this.
- c) Reasonable: Another aspect of the requirement for openness is the requirement on the Council to give clear and accurate reasons for any decision that has been taken. This applies to all decisions, but the need is greatest where permission is refused, or, where an application is approved but either the application appears to be contrary to the Council's policies or an application which appears similar has recently been refused.
- d) Impartial: Most Licensing decisions involve applying policies to particular situations. The policies have to be applied impartially without reference to the identity of the individuals concerned. Members should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Members, who do not feel that they can be impartial in this way, should consider whether they are best suited to serve on the Licensing Committee.

2.4 This Code of Practice is supplementary to the Barnet Members' Code of Conduct. It is intended to show how the general principles in the Code should be applied to Licensing decisions. A breach of this Code may be a breach of the Members' Code

2.5 This Code of Practice applies equally to independent members of the Standards Committee and co-opted members of Council committees as it does to elected members.

3 General Advice

3.1 The following general advice must be considered by all Members likely to become involved in the Licensing process in any way:-

- An application relating to a premises in the vicinity where a

- A Member being a frequent visitor to the premises in a personal capacity is likely to involve a **personal and a potentially prejudicial interest**.
- A Member belonging to a lobby or campaign group that may be directly impacted by the outcome of an application is likely to have a **personal and potentially prejudicial interest**. (see also section 7 on fettering discretion below)
- A Member having any doubts as to how the Licensing Code of Practice applies should seek advice from the Monitoring Officer or his representative as early as possible.
- The Council's Member/Officer Protocols must be abided by at all times.

4. Members of the committee and sub-committees:

4.1 The role of members of the committee and sub-committee(s) is to make decisions under the Licensing Act 2003 and Gambling Act 2005 openly, impartially, with sound judgement and for justifiable reasons. This applies equally to policy decisions before the full Licensing Committee as it does with applications. Therefore, Members:

- a) Must not make a decision for party political reasons and should avoid any action that may give the perception that this is the case;
- b) Must not encourage any member of the public (including but not limited to those speaking at the sub-committee) to communicate with them orally or in writing other than through the sub-committee's procedures;
- c) Must make their decision only after due consideration of all the information and only after the presentation of the application at the sub-committee (or committee) and thus must be present for the duration of the presentation, any oral representations, debate and other deliberations upon an item in order to be able to vote on that item.
- d) Must attend all training relevant to their role as Licensing Committee members offered by the Council;
- e) Should not meet with applicants or interested parties other than at meetings arranged through the Council. A written record should be kept of any such discussions that take place prior to the meeting of the sub-committee
- f) Should, Members have any doubt about whether they need to declare an interest, they should seek the Monitoring Officer's advice as soon as possible and in any event, prior to the commencement of the sub-committee meeting. Noting that:

- i. The definitions of 'personal' and 'prejudicial' interests in the context of Licensing are the same as for all other areas of the Council's work, and, as provided at paragraphs 8 and 10 of the Members' Code of Conduct, contained within the Council's Constitution;
- ii. A personal interest does not need to be declared at a meeting where the interest arises solely from a body to which the Member was appointed by the Council or another public body, unless and until the Member speaks on the item;
- iii. A member should not if s/he has a personal and prejudicial interest in an application sit on the sub-committee considering that application.
- iv. A Member may sit on a sub-committee and consider an application if they have a **personal interest** which is **not prejudicial**, but are advised to decline to sit on the sub-committee.
- v. Are advised not to sit on a sub-committee when that sub-committee is considering an application in the Member's Ward, to avoid accusations of pre-determination and to reduce the risk of legal challenge and/or to reduce the possibility of decisions being taken on the basis of political judgement. This will enable Ward Members to represent their constituents at committee hearings.
- vi. Members may sit on a sub-committee if an application is for premises in a neighbouring or other ward **only** if the premises are not in the vicinity of where the Member lives.
- vii. As regulatory matters such as Licensing and Gambling are particularly sensitive, it is recommended that Members adopt a particularly cautious approach.

4.2 When declaring an interest at a Licensing Committee or Sub-committee meeting, taking the recommended cautious approach could include considering that:

- a) It is often not enough for a Member to be unbiased, s/he must also be seen to be unbiased;
- b) Connections through any organisation, whether political, charitable, social or otherwise, can create an illusion of bias, even where it does not exist; thus Members who have connections with applicants, need to be transparent and quick to reveal them;
- c) It may be prudent to be on one's guard against accusations of bias, particularly in the case of applicants and/or agents who might previously have made mischievous or inappropriate applications;
- d) Ultimately, the decision as to whether or not to declare an interest must be the Member's own.

4.3 Equally, other members should not automatically impute bias merely because an applicant and a Member know one another.

5. Members with a personal (and prejudicial) interest

5.1 A Member may wish to exercise a right to speak on his/her own behalf or on behalf of a close associate. Such a Member:

- a) Is personally affected by an application and has a personal and prejudicial interest. S/he may make written representations to the sub-committee and may attend the meeting to make representations, answer questions and give evidence, in the same way that the public are allowed to attend the meeting for the same purpose. Unlike the public, such Members must withdraw from the committee room immediately afterwards.
- b) May appoint someone to represent him/her if s/he prefers and are advised that this is often the simplest and therefore the preferable way to proceed;
- c) Must conform to the usual deadlines for interested parties;
- d) Must not seek or accept, or appear to seek, preferential treatment;

5.2 A Member considering becoming involved in any way with a Licensing or a Gambling Act matter relating to a close associate should always consider whether, given the potential for perception of bias, whether their involvement is necessary.

6. Ward Members

6.1 A Member may wish to exercise a right to speak on behalf of another party, most likely in the role of Ward representative.

6.2 Where Ward Members are representing a constituent in respect of Licensing Act matters it is advisable, to reduce the risk of legal challenge, for the Member to:

- a) Identify the person(s) whom they represent in the form of e.g. Mr X of Smith Street or Mrs Z of Jones Lane
- b) Have a written record of their constituent's concerns. This may be in the form of an email or letter from the constituent, or the Member's note of a telephone conversation or personal meeting. Should the sub-committee hearing result in an appeal it may be necessary for the Member to substantiate the representations they have made, and documentary evidence will be necessary.
- c) Use their judgement and, as far as possible, adhere to the concerns of the interested parties and refrain from self-expression.

6.3 Members representing constituents in respect of Licensing Act matters must also:

- a) Comply with the deadlines for interested parties; OR

- b) Advise the Chairman, Democratic Services Manager or officer appointed to the sub-committee of their wish to speak as a representative of an interested party as soon as possible and at least 15 minutes before the commencement of the meeting of the sub-committee.
 - c) Not seek, or accept, or appear to seek or accept, preferential treatment.
- 6.4 For Gambling Act matters related to a premises license, Members may make representations without being asked by a resident specifically to do so although Members are reminded of the wider issues of bias, and personal and prejudicial interests.
- 6.5 Members may wish to represent constituents in respect of Licensing Act matters where they have an interest in the matter also. However:
- a) Those Members who have a personal and prejudicial interest may attend the meeting to make representations, answer questions and give evidence on that other party's behalf - including in their capacity as a Ward Councillor representing their constituents - but must withdraw from the committee room completely immediately afterwards and must not take part in the discussion part of the application . However, Members in such a position are advised that it may be simplest, and therefore preferable, to instead ask someone else, for example one of his/her fellow ward Councillors, to make the representations on behalf of the other party instead.
 - b) Those who have a personal interest that is NOT prejudicial may appear on behalf of another party, including in their capacity as a Ward Councillor representing their constituents. They may remain in the committee room for the entire hearing. However, Members in such a position are advised that it will usually be simplest and therefore preferable to instead ask someone else, for example one of his/her fellow ward Councillors, to make the representations on behalf of the other party instead.

7. Avoiding fettering discretion and dealing with Lobbying

- 7.1 Members are frequently approached by applicants and interested parties who wish either to 'lobby' Members or to ask advice. It is very important that no Member fetters his/or her discretion and therefore his/her ability to participate in decision-making by making up his/her mind, or appearing to have done so, prior to the matter's formal consideration and the hearing of the officer's presentation and the evidence and arguments from applicants and interested parties at the sub-committee.
- 7.2 If a sub-committee member is approached by any means by persons wanting to lobby them regarding a Licensing matter to be heard by that sub-committee then the Member is strongly advised to:

- a) Explain they cannot discuss the matter;
 - b) To refer the person to their Ward Member (not being on the sub-committee) and/or Licensing Officer;
 - c) Make and keep a written record of these instances in case the matter proceeds to an appeal;
 - d) Declare the circumstances of the lobbying at the meeting considering the item;
 - e) Pass any correspondence to the Monitoring Officer at the earliest opportunity and encourage the applicant to submit written information to the Licensing Officer;
 - f) Avoid giving any commitment or impression of a commitment; that they hold any particular view about the matter or how they will vote;
 - g) Where possible, provide information on the Council's general Licensing policies and procedures only.
- 7.3 Members, if they wish to be free to debate and vote on an application, should avoid organising support for or opposition to a Licensing matter to be determined by Committee and should not lobby other Members as such actions can easily be misunderstood by parties to the application and by the general public.
- 7.4 If a Member realises that s/he has fettered his/her discretion by some comment or action then this must be declared and the Member should not take part in the discussion on that item or vote. S/he may remain in the room but may prefer to withdraw.
- 7.5 An important element of the Members' Code of Conduct is the general obligation not to "use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage." In terms of the Licensing process, lobbying of Members can lead to the impartiality and integrity of a Member being called into question. The acceptance of lobbying can cause public mistrust of Local Licensing Authorities. Therefore, the actions and conduct of Members should be seen to be appropriate and above suspicion to an impartial outside observer.
- 7.6 Decisions should be taken in the interests of the Borough as a whole and should not be improperly influenced by or in favour of any person, company, group or locality. The key is to demonstrate that each Member's decision was taken on relevant considerations alone.
- 7.7 No Member should accept any gifts or hospitality from an applicant or interested party in a Licensing matter. If a degree of hospitality is entirely unavoidable then the Member should ensure it is of a minimum, its acceptance is declared as soon as possible and it must be recorded in the Member's register of interests if its value is over £25.
- 7.8 Members of the Licensing Committee should discourage applicants or agents from approaching them, should aim to minimise social contacts

with known Licensees or agents, and refrain from such contacts when an application has been submitted.

- 7.9 A Member will not have fettered his/her discretion by:
- a) Receiving or listening to viewpoints from interested parties
 - b) Making comments to applicants, interested parties, other Members, or Officers provided the comments do not amount to pre-judging and the Member makes it clear that s/he is keeping an open mind.
 - c) Seeking information through any alternative channel other than Democratic Services.
 - d) Simply being a member of a group or organisation that may make representations on a particular matter before a Sub-committee where there is no direct impact on the Member and s/he is not otherwise fettered by any actions or comments made in relation to the group's representations. However the Member should make it clear to both the group or organisation and the committee that s/he has reserved judgement on the matter prior to its consideration at committee.

8. Guidance on Site Visits

- 8.1 Site visits by Licensing Sub-Committee Members are extremely rare and generally unnecessary and can put individual Members and the Licensing Authority at risk of accusations of bias.
- 8.2 Site visits are only likely to be appropriate where one would assist the sub-committee in making a more informed decision in a shorter time such as:
- Where the application to be considered by the sub-committee is factually complicated; or
 - Where a hearing is expected to last a full day or more; and
 - Where a site visit would materially reduce the time required by the sub-committee to clarify factual matters such as details of premises layout.
- 8.3 There are restrictions on the organisation and attendance at site visits, which would be organised by Licensing Officers. These include that:
- a) Licensing Officers would accompany the sub-committee members
 - b) Democratic Services Officers would not be present
 - c) All Sub-committee Members must visit at the same time
 - d) The applicant would be requested to consent to allowing all interested parties to attend at the same time and if permission was not granted the visit could not proceed
 - e) No refreshments or the like should be provided although the use of lavatories is permitted
 - f) There should be no discussion as to the application, save as was strictly necessary to clarify factual queries eg re. layouts.
 - g) The site visit should only be an opportunity to seek information and

h) Applicants may be invited to make a factual presentation and respond to questions

8.4 A report of the visit would be prepared by the Licensing Officer and would form part of the full report presented to the sub-committee.

Sub-committee Members should not visit a site that is subject to an application (or one subject to any enforcement) other than as part of an official site visit.

9. The Ombudsman

9.1 The Local Government Ombudsman (more properly known as the Commissioner for Local Administration in England) has a variety of powers.

9.2 In essence, however, the Ombudsman cannot challenge the decision made by any Licensing Sub-committee but can challenge the way in which that decision was made. If a committee fails to address a number of issues properly, then the Ombudsman might decide that this amounted to “maladministration.” If the Ombudsman also considers that injustice has been done, he then has a variety of powers to call for a remedy.

9.3 However, that does not mean that the Ombudsman has the power to overturn Licensing decisions; only the courts of law and can do that and only in strictly defined circumstances.

9.4 The potential for maladministration, however, concerns the Council’s Monitoring Officer as, amongst other things, this could result in an award of compensation.

10. Sources

This Code follows the following statutory requirements:

- The Licensing Act 2003
- The Gambling Act 2005
- The Member Code of Conduct

and draws on the following guidance

- Standards Board for England guidance
- LACORS (Local Authorities Co-ordinators of Regulatory Services) guidance
- AcSES (Association of Council Secretaries and Solicitors) guidance
- DCMS Guidance New Gambling Act (Councillors) Explained

- Gambling Commission's Guidance/Codes of Practice
- London Borough of Barnet's Statement of Gambling Licensing Policy (2007)
- London Borough of Barnet's Statement of Licensing Policy (2009)

Council Meeting
3 November 2009

REPORT OF THE ACTING DEMOCRATIC SERVICES MANAGER
AGENDA ITEM 5.3

5.3.1 PLANNING AND ENVIRONMENT COMMITTEE – SUSPENSION OF STANDING ORDERS

On Tuesday 20th October 2009, the Planning and Environment Committee deferred consideration of the Brent Cross/Cricklewood planning application to seek Council's approval on the suspension of the relevant Standing Orders, Constitution Part 4 - Council Procedure Rules, Section 4, Public Participation (5.2, 5.3 and 5.14). Currently, these Standing Orders allow a maximum of four speakers, including the applicant, to address the committee. It is proposed that these Council Procedure Rules be suspended to allow members of the public requesting to speak an opportunity to do so at the Planning and Environment Committee meeting proposed to be held on Wednesday 18th and Thursday 19th November 2009.

The views of the Director of Planning Housing & Regeneration are set out as follows:-

The Brent Cross Cricklewood planning application is one of the largest and most complex in London and its scale is unprecedented in Barnet. It has involved a multi-disciplinary approach and extensive and detailed technical analysis over the course of the past 18 months prior to officers presenting their recommendations. Significant engagement has also taken place with a wide range of statutory and non-statutory bodies and more than 20,000 residential and business addresses have been notified in relation to the original and revised applications during two five week consultation periods. Over 600 formal representations have been submitted to the planning department.

The officer's report to committee is substantial, covering a significant range of issues and outlining all representations received.

A significant number of individuals, in addition to 5 elected representatives, have formally requested to address the Planning and Environment Committee. The applicants have also confirmed that they wish to exercise their right to reply. Part 4 of the Council's Constitution - Council Procedure Rules Section 4 – Public Participation - currently permit only 3 persons and the applicant to speak for a maximum of 3 minutes each.

Given the exceptional nature of the application, the significance of the issues concerned and the interest these have generated, it is considered appropriate, in this specific instance, to allow all those who, at the time of publishing this report, have asked to speak to do so. This will enable all supporting and objecting views to be heard by members and allow for a full and proper debate of the matters arising.

However, given the very significant proposed extension in the numbers permitted to address the Committee and the need to still have the efficient and expeditious disposal of the business of the committee, no further requests to address the committee will be acceded to.

Each speaker would have a maximum of 3 minutes to address the committee and be subject to members questions as normally permitted. As similar issues are likely to be raised, speakers will be encouraged by the Chairman to avoid repetition in the interest of timeliness.

The 3 minutes limitation is, however, considered insufficient for the applicant to be able to properly respond, given the number of speaking objectors and, therefore, it is recommended that this be extended to a maximum of 20 minutes in the interest of fairness and to enable the committee to hear responses from the applicant to all of the objections.

It is intended that the public speaking arrangements will be dealt in the first committee session on 18 November 2009, leaving the rest of that session and a further session (if needed) on the following evening of 19 November 2009 to focus on a discussion of the application and the recommendations within the report. Based on a suggested earlier start time of 6.30pm and having regard to an indicative committee programme it is considered that the committee will be able to conclude its business within the planned period.

The suspension of this Standing Order is only applicable to the proposed meeting of the Planning and Environment Committee on 18th and 19th November 2009 considering the Brent Cross/Cricklewood planning application.

Aside from the extension in the permitted number of speakers and the maximum length of time allowed for the applicant to respond, all other Public Participation Rules in Section 4 of the Council Procedure Rules remain the same.

RECOMMENDATIONS

- 1. That the Council Procedure Rules (Section 4, Public Participation, Paragraphs 5.2; 5.5 and 5.14) relating to the maximum number of members of the public permitted to speak on a planning application being considered by the Planning & Environment Committee be suspended for the purpose of consideration of the planning application for Brent Cross/Cricklewood at the proposed meeting of the Planning & Environment Committee on 18th and 19th November 2009. The extent of the suspension shall operate to permit individual members of the public who, at the time of the publication of this report, have signified to the Acting Democratic Services Manager their wish to address the Committee, to do so. The suspension shall not operate to permit any further members of the public to address the Committee.**
- 2. That the provisions relating to the deadline for submitting requests to speak and ask questions at the said Planning & Environment Committee as set out in the Council Procedure Rules - Section 4, Public Participation, Paragraph 6.1 and 6.4 be suspended and that no requests additional to**

those received at the time of publication of this report shall be accepted by the relevant Area Planning Officer or by the Democratic Services Manager.

3. That Council Procedure Rules - Section 4, Public Participation, Paragraph 5.13 be varied at the said Planning & Environment Committee so that a maximum time of 20 minutes be permitted for the applicant to address the Committee in responding to points made by members of the public when addressing the Committee upon the planning application relating to Brent Cross/Cricklewood.

5.3. 2 RESPONSE FROM LORD COE, CHAIRMAN OF THE LONDON ORGANISING COMMITTEE OF THE OLYMPIC GAMES (LOCOG)

Council are asked to note Lord Coe's response (Appendix 1) to Motion 3.4 (Council, 8th September 2009) in the name of Councillor Matthew Offord on the 2012 Olympics Road Cycling Route.

Aysen Giritli
Acting Democratic Services Manager

Mr Nick Walkley
Chief Executive
Barnet Council
North London Business Park
Oakleigh Road South
London
N11 1NP



14th October 2009

Dear Mr Walkley,

Thank you for your letter.

I was sorry to hear your concerns regarding the Road Cycling route for the London 2012 Games and I appreciate you writing to me personally.

As your councillors have correctly identified, we are currently exploring routes for the London 2012 Road Cycling events following the feedback that we received from the UCI (International Cycling Union). As we continue to explore alternative routes, no final decision has been made for Games in 2012.

I have passed your letter on to the relevant teams here at London 2012 and I have asked my team to keep your office informed as we develop and progress the matter.

Thank you for writing.

With best wishes,

A handwritten signature in black ink, which appears to read 'Sebastian Coe'. The signature is written in a cursive style with a horizontal line underneath.

Sebastian Coe KBE
Chairman

Council Meeting
3 November 2009

REPORT OF THE ACTING MONITORING OFFICER
AGENDA ITEM 5.4

5.4.1 RECOMMENDATIONS OF THE STANDARDS SUB-COMMITTEE

On 10 September 2009, Standards Sub-Committee (B) conduct a formal hearing into a complaint of a breach of the Council's Members Code of Conduct. When issuing their decision they made the following recommendation to the Council.

"The Sub-Committee's advice to the Council and to Members of the Council is that the London Borough of Barnet Members' Code of Conduct rightly sets high standards of behaviour on the part of Councillors when dealing with others. That requirement extends to the sending of e-mails and other communications. Particular care needs to be taken with e-mails because of the speed with which they can be prepared, sent and distributed widely. If a Member is intending to send an e-mail which may contain material that could be construed as personally offensive and/or containing intemperate language, we would counsel the Member against sending that e-mail. Should the Member still be intent on sending the e-mail, we would advise that s/he first consult a senior colleague, or, the Monitoring Officer, or, other appropriate professional officers and allow a period of time, of probably not less than 24 hours, to fully consider, amongst other matters, the consequences of sending that e-mail. This advice applies generally, but particularly in circumstances where the Member believes that they are being subjected to what they consider to be unreasonable and personally directed comment of an abusive nature, whether conducted over a period of time, or, as an isolated incident."

RECOMMENDATION

Council is asked to:

- 1. note and accept the recommendation of Standards Sub-Committee (B); and**
- 2. instruct the Democratic Services Manager to publish the recommendation as an advisory note with the Members Code of Conduct in the Council's Constitution.**

Jeff Lustig
Monitoring Officer