

Annual Meeting of the Council of the London Borough of Barnet

TO BE HELD ON

TUESDAY 24TH MAY, 2016 AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

AGENDA



ASSURANCE GROUP

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Agenda
Tuesday 24th May, 2016

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4.	Apologies for Absence	
5.	Declarations of Interest	
6.	Official announcements	
7.	Noting the appointment of the Deputy Leader	
8.	Noting of the appointment of the Leader of the second largest Political Group as the Leader of the Opposition	
	To consider any other business dealt with in Part 4 at an Ordinary Council meeting as follows:	
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Andrew Charlwood, Head of Governance
Building 4, North London Business Park, Oakleigh Road South, N11 1NP

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Minutes

OF THE MEETING OF THE COUNCIL OF THE LONDON BOROUGH OF BARNET
held at Hendon Town Hall, The Burroughs, London NW4 4BQ, on 4 April 2016

AGENDA ITEM 3

PRESENT:-

The Worshipful the Mayor (Councillor Mark Shooter)
The Deputy Mayor (Alison Cornelius)

Councillors:

Hugh Rayner	Dr Devra Kay	Tim Roberts
Maureen Braun	Sury Khatri	Gabriel Rozenberg
Pauline Coakley Webb	Adam Langleben	Lisa Rutter
Dean Cohen	Kathy Levine	Shimon Ryde
Jack Cohen	David Longstaff	Brian Salinger
Melvin Cohen	Kitty Lyons	Gill Sargeant
Geof Cooke	John Marshall	Joan Scannell
Richard Cornelius	Kath McGuirk	Alan Schneiderman
Tom Davey	Arjun Mittra	Agnes Slocombe
Val Duschinsky	Alison Moore	Stephen Sowerby
Paul Edwards	Ammar Naqvi	Caroline Stock
Claire Farrier	Nagus Narenthira	Daniel Thomas
Anthony Finn	Graham Old	Reuben Thompstone
Brian Gordon	Charlie O-Macauley	Jim Tierney
Eva Greenspan	Alon Or-Bach	Laurie Williams
Helena Hart	Reema Patel	Peter Zinkin
John Hart	Bridget Perry	Zakia Zubairi
Ross Houston	Wendy Prentice	Rohit Grover
Anne Hutton	Sachin Rajput	Barry Rawlings
	Barry Rawlings	

Apologies for Absence

Councillor Rebecca Challice Councillor Andreas Ioannidis
Councillor Philip Cohen

1. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Philip Cohen, Rebecca Challice, and Andreas Ioannidis. It was noted that Amy Trevethan was not present as she had resigned as a Councillor.

2. ELECT A MEMBER TO PRESIDE IF THE MAYOR IS ABSENT

The Worshipful the Mayor was present.

3. PRAYER

The Mayor's chaplain, Dayan Yonason Abraham, offered prayers.

4. DECLARATIONS OF INTEREST

The following members declared an interest:

Member	Subject	Interest declared
Councillor Nagus Narenthira	Item 15.4 Administration Motion in the name of Councillor Reuben Thompstone - Ensuring Continued Education Achievement	Non-pecuniary interest as she is a teacher in Barnet and the local secretary for the Teachers Union in the NASUWP
Councillor Alan Schneiderman	Item 15.4 Administration Motion in the name of Councillor Reuben Thompstone - Ensuring Continued Education Achievement	A personal prejudicial interest due to his work. He noted he would be withdrawing from the Chamber for this item and not voting
Councillor Anne Hutton	Item 15.4 Administration Motion in the name of Councillor Reuben Thompstone - Ensuring Continued Education Achievement	Non-pecuniary interest as she is a Member of Barnet NUT
Councillor Adam Langleben	Item 15.4 Administration Motion in the name of Councillor Reuben Thompstone - Ensuring Continued Education Achievement	A personal prejudicial interest due to his work. He noted he would be withdrawing from the Chamber for this item and not voting
Councillor Brian Salinger	Item 12.4 Referral from Children Education Libraries and Safeguarding Committee – Barnet's Future Library Service	Non-pecuniary interest as his wife is Vice Chairman of the Friern Barnet Community Library

5. MINUTES OF THE LAST MEETING

The minutes of the meeting of 1 March 2016 were agreed as a correct record.

6. OFFICIAL ANNOUNCEMENTS

The Worshipful the Mayor announced that following the recent terror attacks in Brussels, he was sure Council would join him in extending our sympathies to the people of Brussels and the victims of the attacks.

The Worshipful the Mayor noted it was with deep sadness that he announced that Alan Cornelius, the father of Councillor Richard Cornelius, had died today at the age of 88. It was noted that Council sent him their condolences.

The Worshipful the Mayor noted that on 23 March he had attended an unveiling of a memorial stone to the Reverend Edward Noel Mellish, who was born in December 1880 at Oakleigh Park and was attached to the 4th Battalion of the Royal Fusiliers in Ypres Salient in 1916. The ceremony marked the centenary of the award of the Victoria Cross to the Reverend, and was attended by his decedents.

The Worshipful the Mayor noted that he would shortly be writing to Her Majesty the Queen on behalf of Council to convey Council's congratulations on the occasion of her 90th birthday upcoming on 19 April.

Thanks were extended to everyone who participated in and donated to the Barnet Community Challenge Bike Ride on 13 March, which it was noted had raised £5,000 for the Mayors charities.

The Worshipful the Mayor noted that if anyone wished to join the waiting list for the Mayoral Gala dinner that Friday night he would be delighted to speak to them after the meeting.

We also have an announcement that, Mr Demis Hassabis, a Barnet resident educated in Christ's College Finchley has received numerous accolades for the invention of Artificial Intelligence.

The Worshipful the Mayor relayed that Councillor Rebecca Challice has requested to read a statement about the recent resignation of Councillor Amy Trevethan. It was noted that as Councillor Challice was absent another Member would say a few words on her behalf.

Councillor Paul Edwards read out a statement prepared by Councillor Challice. Councillor Richard Cornelius spoke a few words in response.

The Worshipful the Mayor noted he had one final announcement. David Render, a resident of Totteridge ward had been awarded the Légion d'Honneur for his services during World War Two.

7. RESOLUTION OF APPRECIATION

The Deputy Mayor moved the following resolution:

"That we the Members of the Council of the London Borough of Barnet, hereby express to The Worshipful the Mayor, Councillor Mark Shooter, our appreciation of the excellent service he has rendered to the London Borough of Barnet as its Mayor during the period May 2015 to May 2016, and for the friendly and conscientious way in which he has performed the duties of that office.

We offer him our sincere gratitude for the concern that he has shown at all times in promoting the welfare of the Borough and its residents, particularly for his willingness to support the many organisations and individuals who called on his time and services during his Mayoralty.

We congratulate him on the success of his appeals for his four charities: Homeless Action in Barnet; Chai Cancer Care, Duchenne Muscular Dystrophy and Legadel, which

is a charity supporting the developmental and educational needs of children facing difficulties at school.”

The foregoing resolution is to be engrossed over the common seal of the corporation and presented to The Worshipful Mayor at the Annual Meeting.

8. ANY BUSINESS REMAINING FROM LAST MEETING

There was none.

9. QUESTIONS TO THE LEADER (AND COMMITTEE CHAIRMEN IF HE/SHE HAS DELEGATED)

The questions, together with the answers provided and the text of any supplementary questions and answers, are set out in Appendix 1 to the minutes.

10. PETITIONS FOR DEBATE (20 MINUTES). A PETITION ORGANISER (UP TO 5 MINUTES) AND MEMBERS RESPONDING (UP TO 15 MINUTES)

There were none.

11. REPORTS FROM THE LEADER

There were none.

12. REPORTS FROM COMMITTEES

12.1 REPORT OF THE CONSTITUTION ETHICS AND PROBITY COMMITTEE - CONSTITUTION REVIEW AND AMENDMENT TO MEMBERS SCHEME OF ALLOWANCES 2016-17

The Leader moved reception and adoption of the recommendations set out in the report. Debate ensued.

The recommendations as amended were put to the vote. Votes were declared as follows:

For:	32
Against:	27
Abstain:	0
Absent:	3
TOTAL:	62

The recommendations were declared carried.

RESOLVED:

- 1. That Council approve the recommendations contained in the report from the Constitution Ethics & Probity Committee at Annexe 1A, and the track change versions attached at Appendix A to Appendix F.**
- 2. That the Monitoring Officer be authorised to implement these revisions and publish a revised Constitution.**

3. That Council approve the proposed remuneration for the Independent Persons of the Standards Committee and approve the amendments to the Members Allowance Scheme as contained in Appendix G.

12.2 REFERRAL FROM ASSETS, REGENERATION & GROWTH COMMITTEE - WEST HENDON COMPULSORY PURCHASE ORDER 2 & 2A (CPO2 AND CPO2A)

Councillor Daniel Thomas moved reception and adoption of the recommendations in the report. Debate ensued.

The recommendations as set out in the report were put to the vote. Votes were recorded as follows.

For:	32
Against:	27
Abstain:	0
Absent:	3
TOTAL:	62

The recommendations in the report were declared carried.

RESOLVED that Council:

1. Authorises the making of CPO2 and CPO2a;
2. Authorises the appropriate Chief Officer to issue and sign the order, notices and certificates in connection with the making, confirmation and implementation of CPO2 and CPO2a;
3. Authorises the appropriate Chief Officer to make General Vesting Declarations (GVDs) under the Compulsory Purchase (Vesting Declarations) Act 1981 and/or to serve notices to treat and notices of entry (if required) following confirmation of CPO2 and CPO2a;
4. Authorises the appropriate Chief Officer to issue and serve any warrants to obtain possession of property acquired by the Council following the execution of a GVD or service of a notice of entry relating to CPO2 and/or CPO2a if it was considered appropriate to do so;
5. Authorises the appropriate Chief Officer to transfer all properties and proprietary interests acquired pursuant to CPO2 and CPO2a to the relevant development partners in accordance with the terms of the restated Principal Development Agreement dated 5 February 2014;
6. Authorises the appropriate Chief Officer to take any further necessary actions to secure the making, confirmation and implementation of CPO2 and CPO2a;
7. Authorises the appropriate Chief Officer to appropriate to planning purposes any parcel of land within the red line planning application boundary for the scheme and/or the CPO Plan (attached – Appendix 1) which is held by the Council for another purpose subject to obtaining any

necessary statutory consents required and/or compliance with any statutory procedures for such appropriation.

12.3 REFERRAL TO COUNCIL FROM ASSETS REGENERATION AND GROWTH COMMITTEE - COLINDALE OFFICE PROJECT

Councillor Daniel Thomas moved reception and adoption of the recommendations in the report. Debate ensued.

The recommendations as set out in the report were put to the vote. Votes were recorded as follows.

For:	32
Against:	27
Abstain:	0
Absent:	3
TOTAL:	62

The recommendations in the report were declared carried.

RESOLVED that Council:

- 1. Note the progress on the Colindale Office project**
- 2. Note that a Full Business Case (FBC) is being prepared for consideration in June 2016, which will include an Equalities Impact Assessment.**
- 3. Approves the use of up to £2 million of the existing budget allocation for conclusion of the pre-construction activities and technical design and help maintain the current delivery programme ahead of the submission of the Full Business Case. The £2 million allocation constitutes 7.5% of the estimated overall Capital Build Budget.**
- 4. Agrees to delegate the authority to the Chief Operating Officer to settle terms and enter into the required pre-construction stage agreements.**

12.4 REFERRAL FROM CHILDREN, EDUCATION, LIBRARIES & SAFEGUARDING COMMITTEE - BARNET'S FUTURE LIBRARY SERVICE

The Worshipful the Mayor reminded members that they were required to take the consultation responses and the Equality Impact Assessments in the published reports into account in their consideration of this item.

Councillor Reuben Thompstone moved reception and adoption of the recommendations in the report. Councillor Anne Hutton moved her amendment. Debate ensued.

The amendment in name of Councillor Anne Hutton was put to the vote. Votes were declared as follows:

For:	27
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Against: 32
 Abstain: 0
 Absent: 3
 TOTAL: 62

The amendment was declared lost.

The recommendations as set out in the report were put to the vote. Votes were declared as follows:

For: 32
 Against: 27
 Abstain: 0
 Absent: 3
 TOTAL: 62

At least ten members called for a formal division on the voting. Upon the vote being taken, the results of the division were declared as follows:

	For	Against	Not Voting	Absent
Maureen Braun	✓			
Rebecca Challice				✓
Pauline Coakley Webb		✓		
Dean Cohen	✓			
Jack Cohen		✓		
Melvin Cohen	✓			
Philip Cohen				✓
Geof Cooke		✓		
Alison Cornelius	✓			
Richard Cornelius	✓			
Tom Davey	✓			
Val Duschinsky	✓			
Paul Edwards		✓		
Claire Farrier		✓		
Anthony Finn	✓			
Brian Gordon	✓			
Eva Greenspan	✓			
Rohit Grover	✓			
Helena Hart	✓			
John Hart	✓			
Ross Houston		✓		
Anne Hutton		✓		
Andreas Ioannidis				✓
Devra Kay		✓		

	For	Against	Not Voting	Absent
Sury Khatri	✓			
Adam Langleben		✓		
Kathy Levine		✓		
David Longstaff	✓			
Kitty Lyons		✓		
John Marshall	✓			
Kath McGuirk		✓		
Arjun Mittra		✓		
Alison Moore		✓		
Ammar Naqvi		✓		
Nagas Narenthira		✓		
Charlie O'Macauley		✓		
Graham Old	✓			
Alon Or-Bach		✓		
Reema Patel		✓		
Bridget Perry	✓			
Wendy Prentice	✓			
Sachin Rajput	✓			
Barry Rawlings		✓		
Hugh Rayner	✓			
Tim Roberts		✓		
Gabriel Rozenberg	✓			
Lisa Rutter	✓			
Shimon Ryde	✓			
Brian Salinger	✓			
Gill Sargeant		✓		
Joan Scannell	✓			
Alan Schneiderman		✓		
Mark Shooter	✓			
Agnes Slocombe		✓		
Stephen Sowerby	✓			
Caroline Stock	✓			
Daniel Thomas	✓			
Reuben Thompstone	✓			
Jim Tierney		✓		
Laurie Williams		✓		
Peter Zinkin	✓			
Zakia Zubairi		✓		

For: 32
Against: 27
Abstain: 0
Absent: 3

TOTAL: 62

The recommendations in the report were declared carried.

RESOLVED that Council:

- 1. Consider the first consultation (Phase 1) findings on Barnet's Future Library Service that took place between the 10th November 2014 and 22nd February 2015 set out in full in Appendix E and the further (Phase 2) round of consultation that took place between 27th October 2015 and 6th January 2016 set out in full in Appendix I.**

- 2. Consider:**
 - the revised options appraisal and proposal for Barnet's Future Library Service contained in Appendix A and summarised in paragraph's 1.12 to 1.23.2 in the report
 - the needs assessment contained in Appendix B
 - the product catalogue contained in Appendix C
 - the Equalities Impact Assessment in Appendix D
 - the results of the pilot of technology-enabled opening at Edgware Library in Appendix F
 - the proposed arrangements for Partnership Libraries set out in Appendix G
 - proposed changes to fees and charges set out in Appendix H
 - the locality maps and public transport routes between libraries set out in Appendix J
 - the risk assessment for the proposed future library service set out in Appendix K
 - issues arising from the failure of the library management system set out in Appendix L

- 3. Approve the proposal for Barnet's future library service contained in Appendix A and summarised in paragraph's 1.12 to 1.23.2 in the report.**

- 4. Note the funding requirement to support the implementation of these proposals, as set out in paragraph 5.7 in the report.**

13. REPORTS OF OFFICERS

13.1 REPORT OF THE CHIEF OPERATING OFFICER - CORPORATE PLAN 2016-17 ADDENDUM

The Chief Executive moved reception and adoption of the recommendation in the report.

The recommendation as set out in the report was put to the vote. The votes were declared as follows:

For:	32
Against:	26
Abstain:	1
Absent:	3
TOTAL:	62

The recommendation was declared carried.

RESOLVED that Council approve the addendum to the Corporate Plan for 2016/17 (Appendix A).

13.2 REPORT OF THE HEAD OF GOVERNANCE

The Head of Governance introduced the report. He noted that with respect to Appendix A there was an additional change of meeting date to advise; the next Assets, Regeneration and Growth Committee date had moved from 6 June to 11 July 2016.

The recommendations as set out in Appendices A and B were put to the vote, and were declared carried.

RESOLVED that Council:

- 1. Note the changes to the Calendar of Meetings 2015/16 in Appendix A with update as advised by the Head of Governance.**
- 2. Appoint Mrs Brenda Sandford and Mrs Helena Davis as representatives on the Valentine Poole Charity for a four year period.**

14. QUESTIONS TO COUNCIL REPRESENTATIVES ON OUTSIDE BODIES

There were none.

15. MOTIONS (45 MINUTES)

The Labour Group Secretary stated that of the four motions put forward by the Opposition, the Opposition had chosen to debate the motion in the name of Councillor Alon Or-bach.

The Worshipful the Mayor noted that under Council Procedure Rule 23.5 the Opposition Motion in the name of Cllr Anne Hutton (agenda item 15.1) and the Opposition Motion in the name of Cllr Reema Patel (agenda item 15.3) would be referred to the Children

Education Libraries & Safeguarding Committee and the Adults & Safeguarding Committee respectively following the meeting.

15.1 OPPOSITION MOTION IN THE NAME OF CLLR ALON OR-BACH - EU REFERENDUM

Councillor Alon Or-bach moved the Motion in his name. Councillor Richard Cornelius moved his amendment. Councillor Paul Edwards moved his amendment. Debate ensued.

The amendment in name of Councillor Richard Cornelius was put to the vote, and was declared carried.

The amendment in name of Councillor Paul Edwards was put to the vote. Votes were declared as follows:

For: 27
 Against: 32
 Abstain: 0
 Absent: 3
 TOTAL: 62

At least ten members called for a formal division on the voting. Upon the vote being taken, the results of the division were declared as follows:

	For	Against	Not Voting	Absent
Maureen Braun		✓		
Rebecca Challice				✓
Pauline Coakley Webb	✓			
Dean Cohen		✓		
Jack Cohen	✓			
Melvin Cohen		✓		
Philip Cohen				✓
Geof Cooke	✓			
Alison Cornelius		✓		
Richard Cornelius		✓		
Tom Davey		✓		
Val Duschinsky		✓		
Paul Edwards	✓			
Claire Farrier	✓			
Anthony Finn		✓		
Brian Gordon		✓		
Eva Greenspan		✓		
Rohit Grover		✓		
Helena Hart		✓		
John Hart		✓		

	For	Against	Not Voting	Absent
Ross Houston	✓			
Anne Hutton	✓			
Andreas Ioannidis				✓
Devra Kay	✓			
Sury Khatri		✓		
Adam Langleben	✓			
Kathy Levine	✓			
David Longstaff		✓		
Kitty Lyons	✓			
John Marshall		✓		
Kath McGuirk	✓			
Arjun Mittra	✓			
Alison Moore	✓			
Ammar Naqvi	✓			
Nagas Narenthira	✓			
Charlie O'Macauley	✓			
Graham Old		✓		
Alon Or-Bach	✓			
Reema Patel	✓			
Bridget Perry		✓		
Wendy Prentice		✓		
Sachin Rajput		✓		
Barry Rawlings	✓			
Hugh Rayner		✓		
Tim Roberts	✓			
Gabriel Rozenberg		✓		
Lisa Rutter		✓		
Shimon Ryde		✓		
Brian Salinger		✓		
Gill Sargeant	✓			
Joan Scannell		✓		
Alan Schneiderman	✓			
Mark Shooter		✓		
Agnes Slocombe	✓			
Stephen Sowerby		✓		
Caroline Stock		✓		
Daniel Thomas		✓		
Reuben Thompstone		✓		
Jim Tierney	✓			

	For	Against	Not Voting	Absent
Laurie Williams	✓			
Peter Zinkin		✓		
Zakia Zubairi	✓			

For: 27
Against: 32
Abstain: 0
Absent: 3

TOTAL: 62

The amendment was declared lost.

The substantive motion as amended was put to the vote and was declared carried.

RESOLVED –

Council welcomes the forthcoming EU Referendum on 23 June and the opportunity it gives to the residents of Barnet to have their say on whether the UK remains in or leaves the EU.

Council notes that there are many EU citizens, including many communities and families that have lived in Barnet most of their lives, that help make our borough the diverse place it is, and stresses the importance of European co-operation whatever the outcome of the Referendum.

Council asks that Policy & Resources Committee consider the implications of the result of the EU Referendum on Barnet at a meeting following the vote on 23 June.

15.2 ADMINISTRATION MOTION IN THE NAME OF CLLR REUBEN THOMPSTONE - ENSURING CONTINUED EDUCATIONAL ACHIEVEMENT

Councillor Reuben Thompstone moved the Motion in his name. Councillor Anne Hutton moved her amendment. Councillor Brian Salinger moved his amendment. Councillor Nagus Narenthira moved her amendment. Councillor Kath McGuirk moved her amendment. Debate ensued.

The amendment in name of Councillor Anne Hutton was put to the vote. Votes were declared as follows:

For: 25
Against: 32
Abstain: 0
Absent: 5
TOTAL: 62

The amendment was declared lost.

The amendment in name of Councillor Brian Salinger was put to the vote, and was declared carried.

The amendment in name of Councillor Nagus Narenthira was put to the vote, and was declared carried.

The amendment in name of Councillor Kath McGuirk was put to the vote. Votes were declared as follows:

For:	25
Against:	32
Abstain:	0
Absent:	5
TOTAL:	62

The amendment was declared lost.

The substantive motion as amended was put to the vote, and was declared.

RESOLVED -

Council notes the Annual Statement of Educational Standards presented to the Children, Education, Libraries and Safeguarding Committee and welcomes the very positive results it contains. The analysis demonstrates that Barnet's diverse family of schools together deliver some of the very best educational outcomes in the whole of the country.

Council notes that:

- **As of February 2016, 91% of Barnet pupils in Primary and Secondary schools attended a 'Good' or 'Outstanding' school;**
- **At Key Stage 1, Barnet's attainment was in the top 18 authorities nationwide for Reading, Writing and Maths;**
- **At Key Stage 2, progress for Reading and Maths was 3rd and 12th in the country respectively;**
- **At Key Stage 4, Barnet ranked 5th nationally for pupils achieving 5 A*-C grades including English and Maths and was ranked 1st for pupils attaining the English Baccalaureate;**
- **Secondary school progress in English and Maths was the 2nd and 3rd best in the country;**
- **At A-level, Barnet was 5th for pupils achieving AAB grades or better.**

Council wishes to thank all Head Teachers, Teachers and Teaching Assistants for their tireless efforts and the extra hours they have worked to help ensure the pupils achieved over and above their potential.

Council is proud that pupils and schools are achieving such strong results, but is particularly pleased that, within these overall outcomes, Barnet is performing well for those children with SEN (2nd nationally for SEN pupils without a statement at KS4), those who have English as an additional language, and those who come from less advantaged backgrounds (in the top 10%). Council notes that the attainment gap between pupils from disadvantaged and non-disadvantaged backgrounds is half that of the national average.

Council further welcomes the fact that Barnet ranks among the top 10 authorities nationally for social mobility. Council is committed to ensure the best outcomes possible for all children, irrespective of background or circumstances.

Council wishes to ensure that the progress and attainment detailed in the report continues. For example, Council notes the work being undertaken to tackle primary school attendance issues. Council will position itself to support schools in their transition to academy status and will work to ensure that this process protects and even furthers the choice available to parents. Council will further investigate with government how demand for places at faith schools and grammar schools can be met going forward.

Council notes the announcement by the Secretary of State of a new National Funding Formula for Schools, intended to ensure a funding arrangement fair to all pupils and schools. Council notes the principles behind this policy – to ensure that funding is not determined by geographical luck and that it is properly linked to the needs of children.

However, Council calls on the Leader and Chairman of the CELS Committee to respond to the consultation and make further representations to government to communicate the importance of the formula reflecting the needs of all Barnet's schools. Council believes that the formula must, therefore, account for the higher running and staffing costs of schools in London; give proper weight to the challenges of teaching pupils who have English as an additional language (now comprising 48% of primary pupils in the borough); and respect the current pattern of deprivation in London and not rely upon an outdated 'Inner vs Outer London' dichotomy.

Council also calls on them to monitor the details of planned changes to the role of local authorities, with regards to schools, as they emerge and make appropriate representations on the borough's behalf, with the aim of enabling the continuation of the successes noted above.

16. MOTIONS FOR ADJOURNMENT

There were none.

The meeting finished at 9.39 pm

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	<p>Council</p> <p>24 May 2016</p>
<p style="text-align: right;">Title</p>	<p>Report of the Monitoring Officer – 5 May 2016 Underhill By-Election Result</p>
<p style="text-align: right;">Report of</p>	<p>Monitoring Officer</p>
<p style="text-align: right;">Wards</p>	<p>Underhill</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Enclosures</p>	<p>None</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Edward Gilbert, Governance Officer, edward.gilbert@barnet.gov.uk, 020 8359 3469</p>

Summary

This report informs Council of the result of the by-election for Underhill ward.

Recommendations

That Council notes the result of the by-election for the Underhill Ward as set out in the report.

1. WHY THIS REPORT IS NEEDED

- 1.1 A vacancy in Underhill ward arose following the resignation of Councillor Amy Trevethan on 30 March 2016.
- 1.2 A by-election was held on 5 May 2016. The number of votes recorded for each candidate and the name of the person elected is detailed below:

Candidate	Party	Number of votes recorded
BRAYNE, Jess	Labour	2,314 (elected)
EVANS, Lesley	Conservative	1,979
FLETCHER, Phil	Green	387
MACDONALD, Duncan	Liberal Democrats	452
RYAN, Barry	United Kingdom Independence Party (UKIP)	459

2. REASONS FOR RECOMMENDATIONS

- 2.1 N/A

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 N/A

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 N/A

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 N/A

5.3 Legal and Constitutional References

- 5.3.1 Constitution, Full Council Procedure Rules – sets out the functions of Full Council.

5.4 Risk Management

5.4.1 N/A

5.5 Equalities and Diversity

5.5.1 N/A

6. BACKGROUND PAPERS

6.1 N/A

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	<p>Annual Council</p> <p>24 May 2016</p>
<p style="text-align: right;">Title</p>	<p>Interim Chief Executive and Related Appointments</p>
<p style="text-align: right;">Report of</p>	<p>Head of Governance</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>Yes</p>
<p style="text-align: right;">Enclosures</p>	<p>None</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Andrew Charlwood, Head of Governance andrew.charlwood@barnet.gov.uk, 020 8359 2014)</p>

<h2>Summary</h2>
<p>Following the agreement that the Chief Executive will leave the Council’s employment, there is a requirement for the Council to make arrangements for the Chief Executive’s role to be carried out. The current Chief Operating Officer (John Hooton) has a responsibility under his job description to act as Deputy Chief Executive when required and it is proposed that he act up to the role of Chief Executive in an interim capacity.</p>

<h2>Recommendations</h2>
<ol style="list-style-type: none"> 1. That Council approve that John Hooton, in his role as Chief Operating Officer, acts up to the role of Chief Executive with effect from 24 May 2016 until a permanent appointee commences employment. 2. That Council approve an Acting-Up Allowance to be paid to John Hooton during the period in which he acts up to the post of Chief Executive, starting from 24 May 2016. The payment made will be the minimum of the Chief Executive’s pay point (Pay Grade 1, Salary Scale £177,613 to £187,613)

3. That Council revoke the appointment of Andrew Travers to the following roles and appoints John Hooton to these roles during the period in which he acts up to the role of Chief Executive:

- a. Head of Paid Service;**
- b. Returning Officer; and**
- c. Electoral Registration Officer.**

1. WHY THIS REPORT IS NEEDED

Acting up Arrangements for Chief Executive Role

- 1.1 Following the agreement that Mr. Andrew Travers, Chief Executive will leave the Council's employment, there is a need for the Council to make arrangements for the Chief Executive's role to be carried out on interim basis pending the initiation and completion of a process to recruit to that position on a permanent basis. The current Chief Operating Officer (Mr. John Hooton), responsible for the Council's finance, corporate and commercial services, who is also required to act as Deputy Chief Executive when necessary, is proposed to take on the role of Chief Executive in an interim capacity.
- 1.2 Under the Council's policy on acting up allowances, where there is a requirement for an employee to act up to a position, any employee who has a specified deputising responsibility should be invited to act up for the period required. The policy also provides that 'Payment is based on the salary which would apply were the officer to be promoted to the higher level post, which would normally be the bottom point of the higher grade'.
- 1.3 Council are requested to note that the Constitution provides that the Head of Paid Service may also hold the post of Chief Finance Officer if a qualified accountant.

Appointment of Returning Officer, Electoral Registration Officer and Head of Paid Service

- 1.4 Council are requested to approve John Hooton, in his acting up role as Interim Chief Executive, to be the Returning Officer, Electoral Registration Officer and Head of Paid Service pending the appointment of a permanent Chief Executive. Council are also asked to revoke the appointment of Andrew Travers to these roles.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The council engages officers to carry out its functions. A number of the posts are statutory including the Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer), Director of Children's Service and Director of Adult Social Services. As the post of Head of Paid Service is a statutory post the Council is required to make an interim appointment to the

post pending the initiation and conclusion of a permanent recruitment process.

- 2.2 The EU Referendum is scheduled to take place on 23 June 2016. The European Union Referendum Act 2015 states that the counting officer will be the person who is the returning officer for the Council elections. As such, the Council are required as a matter of urgency to make an appointment to the position of Returning Officer. An appointment to the post of Electoral Registration Officer also needs to be made.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None. The Council are legally required to make appointments to the posts of Head of Paid Service and Returning Officer.

4. POST DECISION IMPLEMENTATION

- 4.1 The Interim Chief Executive will be empowered to discharge all of the functions of the Chief Executive / Head of Paid Service and Electoral Registration Officer / Returning Officer.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Head of Paid Service works with Members and the Strategic Commissioning Board to deliver the Council's themes as articulated in the Corporate Plan.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Any resource implications arising from this decision will be contained within the existing budget provision for chief officers.

5.3 Social Value

- 5.3.1 N/A

5.4 Legal and Constitutional References

- 5.4.1 Council Constitution, Article 9 – sections 9.01 (b) and (c) state that the Council will engage persons for the posts of Chief Executive (Head of Paid Service) and Chief Operating Officer (Section 151 Officer) who will be designated as chief officers.

- 5.4.2 Council Constitution, Article 9 – section 9.02 (b) Restrictions of Functions, states that the Head of Paid Service may not be the Monitoring Officer but

may hold the post of Chief Finance Officer if a qualified accountant (Sections 4 and 5, Local Government Act 1989).

- 5.4.3 Council Constitution, Responsibility for Functions, Preface – states that Full Council is the supreme decision-making body and may, with some exceptions, exercise any of the functions vested in the Council by law.
- 5.4.4 Council Constitution, Responsibility for Functions, Annex B – provides that the Chief Executive has responsibility for the “Discharge of the functions of the Electoral Registration Officer and, where required, the Returning Officer.”
- 5.4.5 Under section 8 of the Representation of the People Act 1983 the Council has to appoint an Electoral Registration Officer.
- 5.4.6 Under Schedule 3, paragraph 3 of the European Union Referendum Act 2015 (the 2015 Act), the counting officer is the person who, by virtue of section 35 of the Representation of the People Act 1983, is the returning officer for the Council elections.
- 5.4.7 Under section 35(3) of the Representation of the People Act 1983, the returning officer at an election of London borough councillors shall be the proper officer of the borough.
- 5.4.8 Under section 202(1) the ‘proper officer’ is a proper officer within the meaning of section 270(3) and (4) of the [Local Government Act 1972](#). Section 270(3) states that a proper officer is one who has been appointed for that purpose by the borough

5.5 Risk Management

- 5.5.1 The Chief Executive has responsibility for implementing the Council’s policies within budget and according to statutory requirements. If Full Council fails to make an interim appointment to the post of Chief Executive there is a risk that the council’s priorities will not be delivered and a statutory post will remain unfilled.

5.6 Equalities and Diversity

- 5.6.1 N/A

5.7 Consultation and Engagement

- 5.7.1 The Group Leaders have been consulted on the proposal for Mr. John Hooton to act up to the post of Chief Executive on an interim basis and indicated their support for a recommendation to Full Council.

5.8 Insight

- 5.8.1 N/A

6. BACKGROUND PAPERS


6.1 Barnet Council policy on Acting Up Allowance

6.2 Job Description for Chief Operating Officer

6.3 Local Government Act 1972, Section 270:
<http://www.legislation.gov.uk/ukpga/1972/70/section/270>

6.4 Pay Policy Statement 2016/17:
<http://barnet.moderngov.co.uk/documents/s29981/Annex%20A%20-%20Pay%20Policy%20Statement.pdf>

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	<p>Annual Council</p> <p>24 May 2016</p>
<p style="text-align: center;">Title</p>	<p>Report of Head of Governance – Appointments and Changes to the Calendar of Meetings</p>
<p style="text-align: center;">Report of</p>	<p>Head of Governance</p>
<p style="text-align: center;">Wards</p>	<p>All</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Enclosures</p>	<p>Appendix A – Appointments to Committees and Other Bodies, including calculation of political balance (<i>To Follow</i>)</p> <p>Appendix B – Appointments to Outside Bodies (<i>To Follow</i>)</p> <p>Appendix C – Appointment of Independent Persons to the Standards Committee</p> <p>Appendix D – Changes to the Calendar of Meetings</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk</p>

Summary
<p>This item presents various constitutional and administrative matters for Council's agreement. Full details are as set out in the appended reports.</p>

Recommendations
<p>That Council consider and agree the recommendations as set out in Appendices A, B, C and D.</p>

1. WHY THIS REPORT IS NEEDED

- 1.1 The Head of Governance report seeks Council's approval for various matters of business relating to the Council's statutory and constitutional functions.
- 1.2 When considering the appendices, it should be noted that the proportionality of committees remains unchanged from the last municipal year.

2. REASONS FOR RECOMMENDATIONS

- 2.1 As set out in the attached Appendices.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 Council decisions will be minuted and implemented through the Head of Governance.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 As set out in attached Appendices.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 There are no specific financial implications from the changes in the appendices. All changes will be funded from the Council's budget.

5.3 Legal and Constitutional References

- 5.3.1 Council Constitution, Full Council Procedure Rules, Annual Meetings of the Council – details that Annual Council has responsibility for Appointing the Chairman, Vice Chairman and members of Committees and other regulatory bodies and approving their respective terms of reference”
- 5.3.2 Council Constitution, Full Council Procedure Rules, Annual Meetings of the Council – details that Annual Council has responsibility for “Appointing representatives to Outside Bodies unless the appointment has been delegated by Council”.
- 5.3.3 Council Constitution, Full Council Procedure Rules – requires that the Annual Council meeting “Agree the calendar of meeting including for ordinary

meetings of the Council.”

5.3.4 Council Constitution, Responsibility for Functions, Functions of Full Council – states that only full Council will exercise the following functions: 1.2 “Adopting and changing the Constitution, except where otherwise provided in the Constitution, or by resolution of full Council”

5.4 **Risk Management**

5.4.1 As set out in attached Appendices.

5.5 **Equalities and Diversity**

5.5.1 As set out in attached Appendices.

5.6 **Consultation and Engagement**

5.6.1 None specifically arising from this report.

6. **BACKGROUND PAPERS**

6.1 None.

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Appendix C

APPOINTMENT OF INDEPENDENT PERSONS TO STANDARDS COMMITTEE

Council on 8 December 2015 approved the disestablishment of the Group Leaders Panel and the establishment of a new Standards Committee, with each of the two political Groups on the Council to have two seats on the Committee and an Independent Person as Chairman. On 28 January 2016 Council agreed the following Member appointments to the committee:

Conservative (2)	Labour (2)
Councillor John Marshall	Councillor Andreas Ioannidis
Councillor Brian Salinger	Councillor Jim Tierney

On 17 March 2016 the Constitution, Ethics and Probity Committee considered a report on the Recruitment of Independent Persons to the Standards Committee. It agreed to set up an interview panel and that a pool of up to four potential Independent Persons should be selected by the Panel for recommendation to Council.

A recruitment process has since been undertaken, following which the Panel recommended that a pool of five independent persons be appointed to act as Chairman of the committee, extending the appointments of the existing Independent Persons who had supported the Group Leaders Panel for a period of two years, and appointing an additional three Independent Persons for a period of four years.

This recommendation was noted at Constitution, Ethics and Probity Committee meeting on 9 May 2016. It is now recommended that Council endorse the Panel's recommendations.

RECOMMEND -

That Council approve the following appointments:

2 year appointments (from 24 May 2016 until 24 May 2018):

Tanya Ossack
Stephen Ross

4 year appointments (from 24 May 2016 until 24 May 2020):

Joanna Brown
Michael Schindler
Michael Crozier

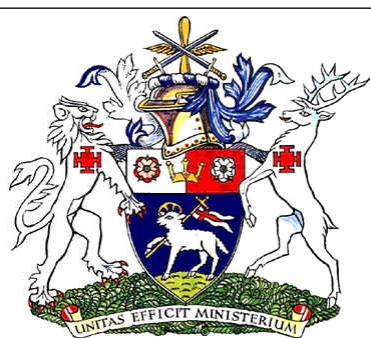
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CHANGES TO THE CALENDAR OF MEETINGS**2016/17 Municipal Year**

Committee	Date(s) of Meeting(s)	New date(s) of Meeting(s)
Welsh Harp Joint Consultative Committee	N/A	19 th July 2016 29 th November 2016 14 th March 2017
General Functions Committee	N/A	9 th June 2016
Community Leadership Committee	22 nd June	Cancelled – N/A

RECOMMEND that Council note the changes to the calendar of meetings contained in the tables above.

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Annual Council
24 May 2016

Title	Report of the Constitution Ethics and Probity Committee – Strategic Planning Pre-Application Process and Amendments to the Council’s Constitution
Report of	Head of Governance
Wards	All
Status	Public
Enclosures	<p>Annex 1 – Report to Constitution Ethics and Probity Committee, 9 May 2016</p> <p>Annex 1A – Addendum Report to Constitution Ethics and Probity Committee, 9 May 2016</p> <p>Annex 1B – Decisions of the Constitution Ethics and Probity Committee, 9 May 2016</p> <p>Appendix A: Responsibility for Functions</p> <p>Appendix B: Responsibility for Functions, Annex A</p> <p>Appendix C: Meetings Procedure Rules</p> <p>Appendix D: Public and Participation and Engagement</p> <p>Appendix E: Members Planning Code of Practice</p> <p>Appendix F: Agenda Format, Meeting Procedure and Report Format</p>
Officer Contact Details	Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk

Summary

The Constitution, Ethics and Probity Committee at its special meeting of 9 May 2016 considered a report on the Constitution, reviewing various sections. Only Full Council may

amend the Constitution and therefore Council are recommended to approve the various recommendations of the Committee that would alter the Constitution.

Recommendations

- 1. That Council approve the recommendations contained in the report from the Constitution Ethics & Probity Committee at Annex 1 and Annex 1A, and the track change versions attached at Appendix A to Appendix E.**
- 2. That the Monitoring Officer be authorised to implement these revisions and publish a revised Constitution.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Constitution, Ethics and Probity Committee considered, at a special meeting held on 9 May 2016, a report on the introduction of a Strategic Pre-Application Process and constitution amendments to improve the operational function of planning committees. The report to the Committee, draft minutes of the meeting and associated appendices are attached at Annex 1, 1E and Appendices A to F. Full Council are requested to consider and agree the recommendations from the Constitution, Ethics and Probity Committee.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Constitution, Ethics and Probity Committee is required under its terms of reference to proactively review and keep under review all aspects of the Constitution. The proposals contained in Appendices A to F were discussed by that Committee and are now recommended to be approved to ensure the smooth running of the Council.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Alternative options were put forward to the Constitution, Ethics and Probity Committee and are as set out in the report attached at Annex 1.

4. POST DECISION IMPLEMENTATION

- 4.1 The Monitoring Officer will make arrangements for any changes agreed to be actioned. The revised Constitution will be published online and for existing hard copies issued to be revised and replaced.
- 4.2 The Constitution Ethics and Probity Committee will continue to proactively keep the Constitution under review and may make further recommendations in the next municipal year.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Barnet London Borough Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. By keeping the Constitution under review it ensures that the framework in which the Council is governed supports the delivery of corporate priorities and performance.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 As set out in the report attached at Annex 1.

5.3 Legal and Constitutional References

5.3.1 Council Constitution, Responsibilities for Functions, Functions of Full Council, Paragraph 1.2: "Only the Council will adopt and change the Constitution, except where otherwise provided in the Constitution or by resolution of the Council".

5.3.2 Council Constitution, Responsibilities for Functions – the Constitution, Ethics and Probity Committee terms of reference includes to: "Proactively to review and keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council".

5.3.3 Council Constitution, Chief Officers "The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, staff and the public".

5.3.4 Constitution, Ethics and Probity Committee Committee's terms of reference includes "To have responsibility for overseeing the Council's governance arrangements".

5.4 Risk Management

5.4.1 The process of managing changes to the Constitution through the Constitution Ethics and Probity Committee ensures that the proposals submitted to Council are developed through Member participation and consideration.

5.5 Equalities and Diversity

5.5.1 The decision making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community.

5.6 Consultation and Engagement

5.6.1 As set out in the report attached at Annex 1.

6. BACKGROUND PAPERS

6.1 None.

	<p>Special Constitution Ethics and Probity Committee</p> <p>9 May 2016</p>
<p>Title</p>	<p>Strategic Planning Pre-Application Process and Amendments to the Council’s Constitution</p>
<p>Report of</p>	<p>Monitoring Officer Head of Strategic Planning</p>
<p>Wards</p>	<p>All</p>
<p>Status</p>	<p>Public</p>
<p>Urgent</p>	<p>No</p>
<p>Key</p>	<p>No</p>
<p>Enclosures</p>	<p>Appendix A – 15. Responsibility for Functions Appendix B – 15A. Responsibility for Functions - Annex A Appendix C – 17. Meetings Procedure Rules Appendix D – 18. Public Participation and Engagement Appendix E – 27. Members Planning Code of Practice Appendix F – Strategic Planning Pre-Application Briefings – Agenda Format, Meeting Procedure and Report Structure</p>
<p>Officer Contact Details</p>	<p>John Allen, Head of Strategic Planning, john.allen@barnet.gov.uk, 020 8359 3878</p> <p>Andrew Charlwood, Head of Governance, andrew.charlwood@barnet.gov.uk, 020 8359 2014</p> <p>Paul Frost, Governance Team Leader, paul.frost@barnet.gov.uk, 020 8359 2205</p>

Summary

This report arises from a review of the Council’s Constitution and the Council’s procedures and practices associated with the determination of strategic planning applications. A key proposed change is the introduction of the presentation of strategic developments which

are still in pre-application stage for the consideration of the Council's Planning Committee.

The Council is proposing to enable a Strategic Planning Pre-Application process whereby developers have the opportunity to present their proposals to Planning Committee meeting before formally submitting a planning application in order to inform Committee Members of what they intend to submit and to allow Members to comment and help shape the direction of the application, where appropriate. The Strategic Planning Pre-Application process would be advisory and no decisions would be taken when these proposals were considered. The Committee are therefore requested to consider the following proposals:

1. The establishment of a Strategic Planning Pre-Application process
2. To consider the operational function of the Planning Committee which includes amendments to the relevant sections of the Council's Constitution
3. To provide suitable recommendations to Full Council in relation to 1 and 2 above

Recommendations

- 1. That the Committee consider the recommended approach to the Strategic Planning Pre-Application Process as detailed in this report and associated appendices.**
- 2. That the Committee consider the proposals to improve the operational function of the Planning Committee and Area Planning Committees as detailed in this report and associated appendices.**
- 3. That the Committee recommend to Council that the Constitution be amended to incorporate the track changes versions attached at Appendices A to E.**

1. WHY THIS REPORT IS NEEDED

Strategic Planning Pre-Application Process

- 1.1 This report arises from a review of necessary constitutional and procedural changes required to assist the involvement of Members of the Council's Planning Committee in the pre-application process in respect of some strategic planning applications. Strategic planning applications are generally handled by the RE Strategic Planning Team while although some are handled by the RE Planning Area Teams within the Development Management service.
- 1.2 The review was carried out in the latter part of 2015 and drew in part on the recommendations set out in the joint publication by the Local Government Association (LGA) and the Royal Town Planning Institute entitled '10 Commitments for Effective Pre-Application Engagement' published in 2014 which built on the previously published 'Connecting Councillors with Strategic Planning Applications' produced by London First and the Planning Officers Society (POS) London Branch in 2011.

- 1.3 Commitment no 8 in the 2014 document states that ‘Local Planning Authorities should ensure that their pre-application offer provides an opportunity for Councillors to be actively involved in pre-application discussions as part of a transparent process.’ Page 16 of the document states that ‘the arrangements for involving Councillors will vary between authorities, but should generally include a range of options (proportionate to the scale and complexity of the proposal) for officers to bring Councillors and developers together for the chance to exchange ideas and develop a scheme that meets the needs of the area’ and that ‘these arrangements should take appropriate account of the need for transparency and inclusion of the community.’
- 1.4 The 2011 guidance document expands on three key messages:
- It is good practice for Councillors to have formal contact with the applicants for planning permission for strategic schemes during the pre-application and determination periods.
 - Planning Committee Members can comment on the details of schemes provided he or she is clear that they will listen to all material considerations presented at Committee before deciding on how to vote.
 - Involving Councillors early and throughout the application and determination process leads to better planning decisions and better developments.
- 1.5 The main reason given in the past for Planning Committee members not being involved in schemes before they consider them at planning Committee was that they need to avoid the appearance of bias or ‘predetermination’. Predetermination involves one or more Planning Committee members approaching a decision with a closed mind, having already decided which way to vote. This is distinct from ‘predisposition’ which is legitimate and involves one or more Planning Committee Members approaching a decision with a predisposition in favour of one side of the argument or another, or with a preliminary view as to a desirable outcome, but with a willingness to reach a different view where the evidence demands it.
- 1.6 As long as a Member of Planning Committee is clear that he or she will listen to all material planning considerations presented at Planning Committee before deciding how to vote, there can be no bias or predetermination, just a legitimate position which may include an initial view on an aspect of the scheme before it has been determined (i.e. a predisposition).
- 1.7 This distinction is particularly important in the context of engaging Members of Planning Committee with applicants during the pre-application process and pre-determination stage for strategically important developments.
- 1.8 Associated with the introduction of pre-application engagement between the Planning Committee and applicants, it would be essential that those Members (including substitutes) receive training in procedural and probity rules plus the basics of spatial planning and development management before they make

any planning decisions. Refresher sessions would be required for existing Planning Committee members. Key topics for training would also include:

- Development economics and viability
- Urban and sustainable design
- Planning conditions, section 106 agreements (planning obligations) and the Community Infrastructure Levy (CIL)
- Planning Appeals – Implications and Costs

- 1.9 There are clear benefits to Barnet from the introduction of these processes. The rate of growth in London's population is not abating and the pressure on the London Boroughs to accommodate growth will remain and probably increase. The integration of the pre-application process into the Council's Planning Committee process will mean that Planning Committee members can play a greater role in the design process and input into a scheme's development before it is submitted as a planning application. As a Borough that wants to encourage high quality developments that enhance Barnet, these changes will enable the Council to do that much more effectively.
- 1.10 Some changes to the Constitution will be needed to support the introduction of a pre-application engagement process by the Planning Committee and these are set out at Appendices A – F. In addition, there are proposals to refine and develop other areas of the Constitution where the drafting or structure could be improved (specifically Meetings Procedure Rules and Public Participation & Engagement Rules) to enable more efficient and effective operation of the Council's Planning Committee and Area Planning Committees.
- 1.11 Consequential changes to the determination stage of those applications which have been through the pre-application Planning Committee process are also set out with respect to the way agendas are constructed, reports are structured and the way they will evolve through the process.
- 1.12 It is recommended that that the pre-application process is introduced as a pilot for a one year period and reviewed at the end of that period. Subject to the constitutional amendments being agreed by Council, it is proposed that Member training will take place in June and July. An initial trial of the process would take place at the Planning Committee meetings in September and October with one pre-application being considered per meeting. After this initial trial, Members can review the success (or otherwise) of the pre-application process and officers will be able to advise Members on the interest from applicants / developers. Subject to there being demand, additional pre-application meetings can be scheduled. In advance of the process being rolled-out after October, Planning will seek agreement from the Policy & Resources Committee to the additional fee / charge required to cover the council's costs of implementing this arrangement.

- 1.13 The proposed Strategic Planning Pre-Application meeting process is set out in Appendix F.
- 1.14 Introduction of the pre-application process is expected to increase the volume of business being considered by the Planning Committee. Although the level of interest from developers is not fully known at this stage, many developers of strategic sites are aware of pre-application Committee engagements processes from their experience elsewhere in London and it is anticipated that additional meetings will be required. In advance of the new arrangements being implemented the Committee are requested to consider whether it wishes to recommend that additional Strategic Planning Pre-Application meetings be added to the calendar of meetings, or whether additional meetings of the Planning Committee should be arranged as and when required. In any considering the scheduling of meetings, the Committee should be mindful of the need to balance the Planning Committee's ordinary business alongside the pre-application process.
- 1.15 Members are requested to note that the Planning Committee will not be taking any decisions when considering Strategic Planning Pre-Application briefings. Comments made and/or issued raised by Members at the pre-application stage will be recorded in the formal minutes of the meeting. When a decision is required by the Planning Committee on a matter which has been subject to pre-application consideration, planning officers will detail the outcome of the pre-application discussion in their report to the Committee on the application, including the steps that the developer has taken to take into account any representations made in the finalisation of their proposals.
- 1.16 The pre-application process provides the opportunity for Members to raise queries and identify any concerns about proposals. In a pre-application meeting it is perfectly acceptable for Members to express their predisposition on aspects of a development, provided they do not express a predetermined view on the development as a whole. Members should be careful to ensure that they are not seen to be pre-determining the application as a whole otherwise there is a risk that they will be precluded from participating in determining the application, or leave any decision in which they have subsequently participated open to legal challenge.
- 1.17 Prior to Planning Committee members considering a pre-application presentation they will be required to complete training covering the matters detail in section 1.8 of this report and in accordance with the requirements detailed in section 11 of Appendix E.
- 1.18 Members should note that they would be unable to 'call-in' a development for consideration at the pre-application stage. Developers would submit requests to the Council's Planning Service for the opportunity to present the proposal to a formal Planning Committee pre-application briefing meeting. However, under the proposed arrangements Members would be able to make representations to the Chairman of the Planning Committee and Chief Planning Officer to request that the application be subject to pre-committee consideration. Agreeing to the request would not be compulsory.

Operational Function of Planning Committees

- 1.19 A review of the current rules relating to the operational function of the Planning Committee and Area Planning Committees has highlighted that there is scope to consolidate the rules into a single section dealing with planning committees. Officers are recommending that Meetings Procedure Rules (Appendix C) be amended to include a new section titled Planning Procedure Rules. This new section identifies all constitutional provisions relating to the Planning Committee and Area Planning Committee in one place and clarifies the rules relating to public and Member engagement during these meetings. The Committee are requested to note the following revisions to Meetings Procedure Rules:
- a) Clarification of the procedure for Members to request that an item be determined by a committee ('call-in') rather than being determined by an officer using delegated powers and confirmation that Members are unable to bring Members Items to the Planning Committee and Area Planning Committees (*revised section 6.1 and new section 7.1 of Meeting Procedure Rules which clarifies the procedure for Member call-in of planning applications and clarifies the requirement for Members to provide planning reasons for the call-in*)
 - b) Clarification of the procedure to be followed at meetings (*new section 7.2 of Meeting Procedure Rules which clarifies for Members, the public and officers the order of procedure to be followed at the meeting*)
 - c) Introduces new rules to clarify the management of the addendum and additional information which may be circulated to committee members and be a material consideration in decision-making (*new section 7.3 of Meeting Procedure Rules which clarifies the responsibilities of the parties involved in the planning process in relation to additional supplementary information introduced after the publication of the agenda*)
 - d) Inclusion of rules relating to public participation at planning committees included in Planning Procedure Rules to improve clarify for members of the public wishing to make representations (*extract from Public Participation and Engagement Rules and insert into a new section 7.4 in Meetings Procedure Rules*)
 - e) Clarification of the procedure for determining planning applications (*new sections 7.18 – 7.21 of Meeting Procedure Rules*)
- 1.20 In addition to improving the operational functions of planning committees, it is recommended that a restriction be placed on allowing members of the public having to ask public questions and make comments at Planning Committee and Area Planning Committee meetings, except when planning policy matters are being considered at the main Planning Committee when public questions and comments will be permitted (on planning policy matters only). If the council allow the practice of public comments and questions on planning applications to continue, there is a risk that the committee chairman or officers

may in their written responses to questions or verbal responses to supplementary questions produce a situation where the committee would be taking into account:

- matters that are not material planning considerations which have been given too much prominence in the question and answer session; or
- perceived inconsistencies between what is in the committee report and the verbal responses to public questions being given by the committee chairman which could give rise to a decision being challenged.

- 1.21 Planning Officers have reviewed the functions of the Planning Committee and Area Planning Committee to ensure that they are clear and concise. Revised wording is recommended in Responsibility for Functions and Responsibility for Functions, Annex A (Terms of Reference of Committees, Sub-Committees and Partnership Boards) (*See Appendices A and B*)
- 1.22 The Members Planning Code of Practice has been amended using advice in the Local Government Association's revised guidance note on good planning practice for Members and officers dealing with planning matters – Probity in Planning for Councillors and Officers (November 2013).
- 1.23 The current Code follows the Local Government Association's (LGA) model code produced in 2009. There have been a number of changes to the legislation (e.g. Localism Act 2011) and the rules that sit behind the Code. The LGA therefore issued a new model code in 2013 and the provisions of the new code have been included in the Code.
- 1.24 The Committee are requested to note that this amended code now includes guidance that relating to the pre-application process while addressing the above.
- 1.25 The amended document is attached at Appendix E.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Constitution, Ethics and Probity Committee are required under their terms of reference to proactively review and keep under review all aspects of the Constitution. These proposals are recommended to improve the operation of planning committees to ensure that process and procedures are clear for Members, officers and the public thereby contributing to the smooth running of the Council.

3. ALTERNATIVE OPTIONS CONSIDERED

- 3.1 Do nothing. The Council could retain current arrangements and not consider strategic developments at the pre-application stage. To encourage high quality developments that enhance Barnet this option is not recommended. In

addition, the current rules relating to the procedure at meetings and public participation could be retained. This is not recommended as the current rules are unclear and can give rise to confusion regarding the procedure to be followed at meetings.

- 3.2 A standalone committee or sub-committee could be established to consider pre-application proposals. Such an approach would ensure a delineation between the Strategic Planning Pre-Application Process (non-decision making) and the discharge of quasi-judicial functions (i.e. determining planning applications and other statutory matters relating to planning as detailed in the Planning Committee's terms of reference). During the trial period the establishment a standalone committee or sub-committee is not recommended as it is currently unclear how many pre-application items may come before the Planning Committee. To ensure that there is separation between the two functions of the Planning Committee, it is proposed that the agenda be divided to ensure a separation between the (pre-application) and formal elements of a meeting.
- 3.3 The Council could opt for a less formal pre-application process. This could involve informal meetings to which Members of the Planning Committee and Ward Members would be invited to give their views on proposals. These would not be linked to formal decision-making committees in any way and could operate as a drop in session that was also open to members of the public. The disadvantage of such a process would be the potential lack of public transparency of such an informal process.

4. POST DECISION IMPLEMENTATION

- 4.1 To facilitate the presentation of pre-application presentations at Planning Committee meetings it is proposed that the agenda format, meeting procedure and report template as set out in Appendix F be agreed.
- 4.2 Subject to this Committee's consideration and approval of the changes, officers will submit the constitutional changes to Full Council for approval.
- 4.3 A proposed timetable for post decision implementation is detailed in section 1.12.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Barnet London Borough Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. By keeping the Constitution under review it ensures that the framework in which the Council is governed supports the delivery of corporate priorities and performance.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Pre-application consideration of strategic / strategic planning applications is not a statutory service and is therefore a discretionary service which the council are able to charge for. Legislation requires that any charges are be limited to cost recovery. Sections 5.4.4 to 5.4.8 below detail the legal position in relation to charging for discretionary services.
- 5.2.2 When the new arrangements are initially implemented, it is recommended that the pre-application consideration of strategic planning applications takes place at existing scheduled meeting of the Planning Committee. To accommodate the pre-application process, it is proposed only one pre-application item per meeting be considered. The start time of the Planning Committee would be amended to start at 6.00pm thereby leaving sufficient time to consider the pre-application alongside other statutory business required to be determined by the committee. As no additional meetings will be required, the pre-application process can be accommodated within existing resources (Planning and Governance) dedicated to supporting planning committees. HB Public Law charge an hourly rate for committee work and it is expected that the number of hours required to support pre-applications will increase the number of hours required. An additional costs associated with the initial trial period will be recovered from Planning.
- 5.2.3 Following the initial implementation period, officers will have an understanding of the anticipated demand from developers for the service. If there is substantial interest there will be a requirement to increase the number of Planning Committee meetings. Based on the experience in other London boroughs, officers estimate that an additional five meetings of the Planning Committee may be required. Outline financial implications, expressed on a per-additional meeting basis, are as detailed below. These are indicative implications for the costs of a whole meeting, to give Members a fell for the costs, and therefore charges, involved:

HB Public Law –

Legal officer support at approximately 8 hours per committee meeting (including pre-work (reading agendas, queries, etc.)), attendance at committee meetings (approximately 2 hours travel time, plus 3 hours attendance at call-overs and committee meetings) and follow-ups (review minutes and letters to developers)), plus travel costs. The 2016/17 hourly rate payable to HB Public Law is £59.50 = £476.00 for each additional meeting. There is currently no budget provision for this.

Governance Service –

Governance Officer support at approximately 8 hours per committee (including pre-work (liaison with Planning, agenda publication, print and despatch), attendance at committee (meeting set-up, attendance at call-overs, liaison with the public, taking minutes and providing advice, etc.) and follow-ups (drafting minutes, etc.) An average hourly rate for a Governance Officer is £36.35 (range from £32.17 per hour to £40.53 per hour) = £290.80 An average Planning Committee agenda costs £337 to print

Total cost = £627.80 for each additional meeting. There is currently no budget provision for this.

Planning –

Planning officer support at case officer and senior officer level at approximately 8 hours each per committee (including preparation and vetting of reports, attendance and provision of advice at Committee) and follow-ups (contributing to minutes, etc). A joint average hourly rate for a planning case officer in the Strategic Planning Team and the rate for the Head of Strategic Planning as senior officer is approximately £120 per hour.

Total cost = £960

If additional meetings are required to accommodate the pre-application process the total cost of officer support is estimated to be £2063.90. Costs associated with providing the service which will be charged to the applicant / developer.

5.2.4 Any additional fees and charges would require approval by the Policy & Resources Committee and would be on cost recovery basis.

5.3 Social Value

5.3.1 Not applicable for this report.

5.4 Legal and Constitutional References

5.4.1 Council's Constitution, Responsibilities for Functions, Annex A – the Constitution, Ethics and Probity Committee terms of reference includes responsibility "proactively to review and keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council".

5.4.2 The current Members Planning Code of Practice follows the Local Government Association's (LGA) model code produced in 2009. There have been a number of changes to the legislation (e.g. Localism Act 2011) and the rules that sit behind the Code. The LGA therefore issued a new model code in 2013 (<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>).

5.4.3 The Town and Country Planning Act 1990 provides the legal framework under which local authorities determine planning applications (<http://www.legislation.gov.uk/ukpga/1990/8/contents>)

5.4.4 Local authorities have a variety of powers to charge for specific statutory services set out in statute. The Local Government Act 2003 also provides a power to trade and a power to charge for discretionary services, the latter on a costs recovery basis. Discretionary services are those that a local authority is permitted to provide under statute, but is not obliged to do so. The power to charge for discretionary services is not available to local authorities if there is a statutory duty to provide the service or if there is a specific power to charge for it or if there is a prohibition on charging.

- 5.4.5 Additionally the Localism Act 2011 provides local authorities with a general power of competence that confers on them the power to charge for services but again subject to conditions/limitations similar to those noted above.
- 5.4.6 Where authorities have a duty to provide a statutory service free of charge to a certain standard, no charge can be made for delivery to that standard. However, delivery beyond that point may constitute a discretionary service for which a charge could be made.
- 5.4.7 There is a variety of legislation permitting charging for different services, some which set prescribed fees and charges (or the range of charges for a given service), and others which allow discretion based on costs of providing the service.
- 5.4.8 The cost of pre-application advice or services are not prescribed by legislation and the council has discretion to charge for this service under the Local Government Act 2003, but this must be limited to cost recovery.
- 5.4.9 The definition of strategic / strategic applications is as follows and is set out in the revised Responsibility for Functions, Annex A appended to this report:
- “To determine Applications for Planning Permission made under the Town and Country Planning Act 1990 where the recommendation is for approval and the development:
- a. is within the categories which must be referred to the Mayor of London under the London Mayor Order;
 - b. does not accord with the provisions of the Development Plan and, in the opinion of the Chief Planning Officer, constitutes a significant departure; or
 - c. is by or on behalf of the Council and, in the opinion of the relevant Senior Planning Officer, it is a significant development.”
 - d. Development affecting a definitive footpath or definitive right of way
 - e. Gypsy /traveller site
- 5.4.10 The legal definition of a strategic application which must be referred to the Mayor of London (as per 5.4.9 a. above) is set out in the Town and Country Planning (Mayor of London) Order 2008 and includes the following:
- development of 150 residential units or more
 - development over 30 metres in height (outside the City of London)
 - major infrastructure such as waste development with a throughput of more than 50,000 tonnes per annum of waste, a railway station, bus or coach station
 - development likely to prejudice the use of a playing field of more than 2 hectares of land
 - development affecting or proposing a building of more than 1000 sq metres in the Green Belt or Metropolitan Open Land
 - Non-residential development providing more than 200 car parking spaces

5.5 Risk Management

- 5.5.1 The process of managing changes to the Constitution through the Constitution, Ethics and Probity Committee ensures that the proposals are developed through Member participation and consideration.
- 5.5.2 As detailed in Section 1.15, there is a risk that Members who participate in pre-application discussions could be considered to have pre-determined a whole application and therefore not be able to participate in the determination of the application or give rise to a risk that a decision could be open to challenge. This risk will be mitigated by amending the Members Planning Code of Conduct to make explicit reference to pre-application discussions and delivering a detailed and comprehensive training programme for Members participating in pre-application meetings. This will be supported by the professional advice of Planning, Legal and Governance officers before, during and after pre-application meetings.
- 5.5.3 Section 1.19 details the risks inherent in the current Public Participation and Engagement Rules and details proposals to mitigate these risks.

5.6 Equalities and Diversity

- 5.5.1 The decision making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community.

Equalities

- 5.5.2 The 2010 Equality Act outlines the provisions of the Public Sector Equality Duty which requires public authorities to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- 5.5.3 The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnership, but to a limited extent.
- 5.5.4 The broad purpose of this duty is to integrate considerations of equality in to day to day business and keep them under review in decision making and the design delivery of services.
- 5.5.5 The outcomes and impact of these changes will be monitored and measured against current information to ensure that different groups are not adversely

affected, as well as being compared against similar arrangements in other boroughs.

- 5.5.6 It is anticipated that pre-application consideration of strategic planning applications will ensure that the council can provide guidance on equalities issues prior to formal submission of planning applications. As such, this will ensure that equalities considerations are more embedded in formal decision-making than would have otherwise been the case.

Human Rights

- 5.5.7 The Human Rights Act 1998 (“the Act”) incorporated into the UK domestic law the European Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”). Section 6 of the Act makes it unlawful for a public authority to act in a manner which is incompatible with a Convention right.
- 5.5.8 Article 6 of the Convention provides that everyone has the right to an impartial public hearing although, in limited circumstances, the press and public may be excluded from all or part of a hearing in the interest of morals, public order or national security. The Courts have recognised that regard must be had to the fair balance which has to be struck between the competing interests of those whose rights are affected and the community as a whole.
- 5.5.9 Engaging the Council Members, developers and other stakeholders in the pre-application planning process by way of a public meeting that is open to anyone to attend is fully compliant with the Human Rights legislation.

5.7 Consultation and Engagement

- 5.7.1 Consultation has taken place with the Chairman of the Planning Committee, Chairman of the Constitution, Ethics & Probity Committee and Leader of the Labour Group on the proposals. The Chairman of the Planning Committee has consulted with the administration group on the approach. Proposals will be circulated to members of the Planning Committee and members of the three Area Planning Committees. Any comments received will be reported to the Constitution, Ethics & Probity Committee for consideration.
- 5.7.2 Re Strategic Planning have held informal discussions regarding the proposals with strategic developers and responses have been positive. Officers consider that this is not surprising given that this practice is becoming increasingly common in London boroughs.

5.8 Insight

- 5.8.1 None.

6 BACKGROUND PAPERS

- 6.1 Local Government Association, 24 January 2014, Ten commitments for effective pre-application engagement: http://www.local.gov.uk/publications/-/journal_content/56/10180/5862911/PUBLICATION#sthash.6Bg1m5NA.dpuf
- 6.2 London First, September 2011, Connecting Councillors with Strategic Planning Applications: http://londonfirst.co.uk/wp-content/uploads/2012/08/DC_Councillor_Guidance_doc_final_Sept_20111.pdf

Special Constitution, Ethics & Probity Committee, 9 May 2016

Agenda Item 7 – Strategic Planning Pre-Application Process and Amendments to the Council’s Constitution – Addendum

Since the publication of the agenda officers have identified that the proposed amendments to Responsibility for Functions, Annex A (Membership and Terms of Reference of Reference of Committees, Sub-Committees and Partnership Boards) do not include a definition of ‘significant local public objection’ to a planning application which would necessitate the application being determined by an Area Planning Committee.

In June 2012 the Planning & Environment Committee approved that the definition of ‘significant public concern’ should be five or more objectors who have objected in writing in response to a planning application:

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=122&MId=6701&Ver=4>

In accordance with the decision of the committee this was reviewed in September 2013 and the committee confirmed that the definition should remain as five or more objectors:

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=122&MId=7537&Ver=4>

On the basis of the decisions above, it is recommended that Responsibility for Functions, Annex A be amended as follows:

Where the recommendation is for approval and:

- a. there is significant local public objection, ~~as defined in the Committee Consideration Criteria in the Planning Committee Procedure Rules~~ (defined as five or more objectors who have objected in writing in response to a planning application)

The Chief Planning Officer referred to in Responsibility for Functions, Annex A is the Service Director – Development Management and Building Control as detailed in the Commissioning Director Growth & Development Scheme of Delegation:

<http://barnet.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD577&ID=577&RPID=542039195&sch=doc&cat=13721&path=13721>

The Committee are requested to note that the Scheme of Delegation will be updated to include reference to the Chief Planning Officer. Reference in the scheme to the Chief Planning Officer will also be updated to include any future changes to the management structure in Re.

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Decisions of the Special Constitution, Ethics and Probity Committee

9 May 2016

Members Present:-

Councillor John Marshall (Chairman)
Councillor Melvin Cohen (Vice-Chairman)

Councillor Richard Cornelius Councillor Barry Rawlings
Councillor Dr Devra Kay Councillor Joan Scannell
Councillor Claire Farrier
(Substituting for Councillor
Alison Moore)

Apologies for Absence:

Councillor Alison Moore

1. MINUTES OF LAST MEETING

RESOLVED that the minutes of the meeting held on 17 March 2016 be approved as a correct record.

2. ABSENCE OF MEMBERS

Apologies for absence had been received from Councillor Alison Moore (who was substituted for by Councillor Claire Farrier).

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

None.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

5. PUBLIC QUESTION AND COMMENTS (IF ANY)

None.

6. MEMBERS ITEMS (IF ANY)

None.

7. STRATEGIC PLANNING PRE-APPLICATION PROCESS AND AMENDMENTS TO THE COUNCIL’S CONSTITUTION

The Monitoring Officer, Davina Fiore, and Head of Strategic Planning, John Allen, presented a report which asked the Committee to agree to the establishment of a strategic pre-application process and approve changes to the constitution to improve the operational function of the Council’s planning committees.

The Committee were advised that the consultation with Planning Committee Members referred to in paragraph 5.7.1 had not taken place yet. Consultation would take place immediately after the meeting and any comments would be reported alongside this committee’s recommendations to Annual Council on 24 May 2016.

Members requested that the Agenda Format, Meeting Procedure and Report Structure detailed in Appendix F be revised to ensure that the section of the meeting on Strategic Pre-Application Briefings was clear that this part of the meeting would be non-decision making.

A Member sought assurance that each strategic pre-application would take no longer than 45 minutes to consider and that there would be no more than two items per committee meeting. Officers advised the Committee that it was proposed that there be only one strategic pre-application at each of the Planning Committee meetings scheduled to take place in September and October. After these meetings, the strategic pre-application process would be reviewed to determine how the arrangements would be delivered during the remainder of the pilot period (up to May 2017).

The Committee received an addendum which clarified the definition of a ‘significant public objection’ as being five or more objectors who have objected in writing to a planning application and sought agreement that Responsibility for Functions, Annex A be amended to include this definition.

RESOLVED that, having considered the recommended approach to the Strategic Planning Pre-Application Process and proposals to improve the operational function of the Planning Committee and Area Planning Committees as detailed in this report and associated appendices, the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in the table below and the track change versions attached at Appendix A to Appendix E, subject to the amendment of Appendix B (Responsibility for Functions, Annex A) to include the definition of a ‘significant public objection’ as being five or more objectors who have objected in writing to a planning application.

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
1	Responsibility for Functions	Page 27	Clarification that Full Council is excluded from determining planning applications that do not accord with the provisions of the development plan.	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
2	Responsibility for Functions, Annex A	Pages 33 – 37	Revisions to improve the clarity of the terms of reference of the Planning Committee and Area Planning Committees, and amendments to facilitate the consideration of Strategic Pre-Application Briefings by the Planning Committee	Agreed as per report, subject to the amendment of a. in the terms of reference of the Area Planning Committees to delete “as defined in the Committee Consideration Criteria in the Planning Committee Procedure Rules” and replace with “(defined as five or more objectors who have objected in writing to a planning application)”
3	Meeting Procedure Rules, Section 6.1	Page 43	Confirmation that Members are unable to bring Members Items to the Planning Committee and Area Planning Committees, except when the Planning Committee is considering planning policy matters	Agreed as per report
4	Meeting Procedure Rules, Section 7.1	Page 44	Clarification of the procedure for Members to request that an item be determined by a committee (‘call-in’) rather than being determined by an officer using delegated powers	Agreed as per report
5	Meeting Procedure Rules, Section 7.2	Page 44	Clarification of the procedure to be followed at meetings	Agreed as per report
6	Meeting Procedure Rules, Section 7.3	Page 44	Introduces new rules to clarify the management of the addendum and additional information which may be	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			circulated to committee members and be a material consideration in decision-making	
7	Meeting Procedure Rules, Sections 7.4 – 7.16	Pages 44 – 46	Inclusion of rules relating to public participation at planning committees included in Planning Procedure Rules to improve clarify for members of the public wishing to make representations	Agreed as per report
8	Meeting Procedure Rules, Sections 7.18 – 7.21	Page 46	Clarification of the procedure for determining planning applications	Agreed as per report
9	Public Participation and Engagement Rules	Pages 56 – 58	Delete section 4 (Requests to speak at Planning Committees and Area Planning Committees) and transfer to new 'Planning Committee Procedure Rules' in Meetings Procedure Rules	Agreed as per report
10	Public Participation and Engagement Rules	Page 58	Amend section 6.1 to include a restriction on public comments and questions are the Planning Committee and Area Planning Committees, except for planning policy matters	Agreed as per report
11	Planning Code of Practice	Pages 63 – 84	Revise Code to accord with the Local Government Association's revised guidance on Good Planning Practice for Members	Agreed as per report

8. ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT – RECRUITMENT OF INDEPENDENT PERSONS TO CHAIR THE STANDARDS COMMITTEE

At the meeting of the Committee held on 17 March 2016, Members agreed the approach to the recruitment of Independent Persons to chair the Standards Committee. Members were informed that the Chairman, Councillor Rawlings and the Monitoring Officer had been conducting interviews for Standards Committee Independent Persons and it was noted that the interview panel had agreed to:

1. Extend the appointments of the existing Independent Persons who had supported the Group Leaders Panel for a period of two years; and
2. Appoint an additional three Independent Persons for a period of four years.

Details of the appointments would be reported to Annual Council on 24 May 2016 for formal approval.

RESOLVED that the Committee notes the update on the recruitment of the Independent Persons to Chair the Standards Committee as detailed in the preamble above.

The meeting finished at 7.25 pm

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Responsibility for Functions

PREFACE

This part of the Constitution explains who is responsible for the various functions of the Council.

The Council is the supreme decision making body and may, with some exceptions, exercise any of the functions vested in the Council by law. It may also delegate many of those functions to a Committee, a Sub-committee or Officer. In this Part, the term “full Council” refers to the Council exercising functions itself, as opposed to acting through Committees, Sub-committees or Officers.

1. FUNCTIONS OF FULL COUNCIL

Only the full Council will exercise the following functions:

- 1.1 Approving the strategic financing of the Council, upon recommendations of the Policy and Resources Committee, including:
 - 1.1.1 Determination of the financial strategy;
 - 1.1.2 Approval of the Budget;
 - 1.1.3 Approval of the capital programme;
 - 1.1.4 Setting the Council Tax;
 - 1.1.5 Determination of fees and charges where authority to set these has not been delegated; and
 - 1.1.6 Determination of borrowing limits.
- 1.2 Adopting and changing the Constitution, except where otherwise provided in the Constitution or by resolution of the Council.
- 1.3 Approving and adopting the Policy Framework (as described in Article 4).
- 1.4 Approving matters which require a decision that represents a significant departure from any existing strategy, policy or budget previously agreed by the Council. [This excludes determining planning applications that do not accord with the provisions of the development plan.](#)
- 1.5 Receiving reports and recommendations from the Health Overview and Scrutiny Committee and any other Committee.
- 1.6 All policy matters and new proposals relating to significant partnerships with external agencies and local authority companies.
- 1.7 Agreeing and amending the terms of reference of Committees, deciding on their composition and making appointments to them.

- 1.8 Appointing representatives to outside bodies (including school governing bodies) where an urgent decision is required before the next scheduled General Functions Committee, unless that appointment has been delegated by the Council.
- 1.9 Delegating significant functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority.
- 1.10 Adopting a Members Allowance Scheme.
- 1.11 Changing the name of the Borough.
- 1.12 Electing Chairmen and Vice-Chairmen of Committees.
- 1.13 Conferring the title of Freeman of the Borough.
- 1.14 Confirming the appointment or dismissal of the Head of Paid Service.
- 1.15 Determining any delegation to Officers which does not fall within the scope or terms of reference of any Committee.
- 1.16 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills.
- 1.17 All other matters which, by law, must be reserved to the Council.
- 1.18 Electing the Leader of the Council; and electing the Mayor.
- 1.19 Appointing the Lead Member for Children's Services, who will have the responsibilities as set out in the Role Profile for the Lead Member for Children's Services published on the Council's website which will reflect relevant Regulations and Government guidance.
- 1.20 Approval of annual pay policy statement.

2. **FUNCTIONS DELEGATED TO COMMITTEES**

Other functions of the Council are delegated to Committees in accordance with the Terms of Reference set out in Annex A.

3. **OFFICER DELEGATIONS**

The functions delegated to Officers are set out in Annex B. Where a function has been delegated to an officer(s) ("delegated officers"), the decision may be taken in the name of (but not necessarily personally by) such delegated officer(s) by another officer(s) in accordance with arrangements made from time to time by such delegated officer(s) for this purpose.

4. **INTERPRETATION**

In this part of the Constitution:

"the 2000 Act" means the Local Government Act, 2000;

“the 2000 Regulations” means the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000;

“the 2007 Act” means the Local Government and Public Involvement in Health Act, 2007;

“the 1972 Act” means the Local Government Act, 1972.

5 LIMITATIONS ON DELEGATION TO COUNCIL COMMITTEES AND SUB-COMMITTEES

5.1 Committees and Sub-Committees of the Council (or the Council acting as Licensing Authority) are authorised to discharge all functions within their terms of reference with the exception of:

- Those matters referred to in the above list
- Decisions reserved to the Council meeting in Article 4 of the Constitution

5.2 The Area Planning Committees can take decisions within their terms of reference provided they are not within the list of matters reserved to the Planning Committee, ~~or contrary to Council policy or outside budget.~~

5.3 Area Committees may take decisions within their terms of reference provided they are not matters which are the responsibility of the Licensing Committee or Licensing Sub-Committee, or contrary to Council policy (or contrary to the Statement of Licensing Policy) or outside budget.

6 MEMBERS’ RIGHTS TO REFER MATTERS TO PARENT BODY

6.1 Any Committee listed in the following schedule may decide to report on any matter to Council and any Sub-Committee may report to its parent committee. In such cases the decision is reached by the usual process, such as a majority vote. The report may make recommendations or seek instructions.

6.2 A Chairman of an Area and/or Area Planning Committee may refer any item that it considers with a recommendation to the relevant committee within whose Terms of reference it falls, by indicating immediately after the decision is taken that they require the decision to be referred up. The report on the referral to Full Council or the relevant Committee to which the Committee or Sub-Committee reports shall set out the reasons given for the referral.

6.3 A Chairman of an Area Committee may refer applications to the Area Committee Budget to the relevant Theme Committee (Environment Committee for environment related schemes or Community Leadership Committee for community related projects). The report to the relevant Committee to which the Area Committee refers the application shall set out the reasons given for the referral.

6.4 Subject to the exceptions set out below, a specified number of Members of a Committee or Sub-Committee (see the table below) may require that any decision of the Committee or Sub-Committee is referred up to the next practicable meeting of Full Council or the relevant Committee to which the Committee or Sub-

Committee reports, by indicating immediately after the decision is taken that they require the decision to be referred up. The report to Full Council or the relevant Committee to which the Committee or Sub-Committee reports on the referral shall set out the reasons given for the referral.

Committee/Sub-Committee	No. of members required to support a referral	Council / reporting committee
Planning	3	Council
Area Planning Committees	2	Planning Committee (if within the Terms of Reference of the Planning Committee)
Area Committees	2	Environment or relevant Committee
General Functions Committee	3	The Council
All Other Committees	3 (where the Membership is less than 9) and 4 (where the Membership 9 or more)	Council

6.4 In such a case:-

6.4.1 for committees, the action the committee had proposed to take will be recommended to the Council;

6.4.2 for sub-committees, the action the sub-committee had proposed to take will be recommended to the committee;

6.4.3 no action shall be taken on the matter in the meantime.

Exceptions

6.5 The first exception is that a report may not be referred up unless it is key. A key decision is one which:

- will result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- is significant in terms of its effects on communities living or working in an area comprising two or more wards

This exception does not apply to referrals from Area Planning Committees to the Planning Committee.

6.6 The second exception is that no matter that has been the subject of a decision by the Council or, in the case of Sub-Committees, the parent Committee in the previous six months may be referred up.

- 6.7 The third exception is Area Planning Committees, where no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning and the control of buildings and new streets may be referred to the Planning Committee unless it falls within the terms of reference of the Planning Committee.
- 6.8 The fourth exception is the Planning Committee, where no matter relating to town and country planning may be referred up to the Council meeting except where required by law. The Planning Committee may only refer up non-planning matters.
- 6.9 The fifth exception is the Pension Fund Committee.
- 6.10 The sixth exception is that a report may not be referred up if it is urgent. An urgent report is one which sets out why a decision is required before the next meeting of the Council, and which the Chairman of the Committee and the Chief Executive have agreed is urgent.
- 6.11 Section 6 shall not apply to the Licensing Committee, the Licensing Sub-Committee, the Appeals Committee and Chief Officer Appointment Panel.

7. URGENCY PROVISIONS

- 7.1 If a decision on an issue is required as a matter of urgency and if time allows under the provisions of the Access to Information Rules then a Committee comprising of the Leader, the Deputy Leader, and the Leader of the Opposition will be called. The decision may be within the terms of reference of another committee, but this will not invalidate the decision as the arrangements to discharge the function in cases of urgency is through a committee comprising the three specified members. The Committee must consult with the Chairman of the relevant Committee.
- 7.2 In cases where a decision on the issue is so urgent that there is insufficient time to call a committee, then arrangements can be made to discharge the function through the Chief Executive in consultation with the Leader or the Chairman of the relevant Committee. The decision must be reported back to the parent committee at its next meeting or if it is a general Council matter then it should be reported to the next meeting of full Council.

8 JOINT ARRANGEMENTS

- 8.1 The following are the joint arrangements for the discharge of functions which are the responsibility of the Council:
- London Boroughs Grants Scheme under Section 48 Local Government Act 1985.
 - London Councils Transport and Environment Committee Agreement dated 13 December 2001.
 - Association of London Government agreement dated 1 April 2000.

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ANNEX A TO RESPONSIBILITY FOR FUNCTIONS - Membership and Terms of Reference of Committees, Sub-Committees and Partnership Boards

Planning Committee	<p><u>To determine Applications for Planning Permission made under the Town and Country Planning Act 1990 where the recommendation is for approval and the development:</u></p> <p>a. <u>is within the categories which must be referred to the Mayor of London under the London Mayor Order;</u></p> <p>b. <u>does not accord with the provisions of the Development Plan and, in the opinion of the Chief Planning Officer, constitutes a significant departure; or</u></p> <p>c. <u>is by or on behalf of the Council and, in the opinion of the relevant Chief Planning Officer], it is a significant development</u></p> <p><u>The confirmation of Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015.</u></p> <p><u>The confirmation of Town and Village Green Registration Applications under the Commons Act 2006, including considering the recommendations of a non-statutory inquiry chaired by an independent person.</u></p> <p><u>Designating neighbourhood areas and neighbourhood forums for the purposes of neighbourhood planning and considering Neighbourhood Development Orders.</u></p> <p><u>Recommending the creation of Conservation Areas to Full Council</u></p> <p><u>Approve Article 4 Directions for consultation</u></p> <p><u>Take action under Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges</u></p> <p><u>Any decision on an application that will result in the Council being liable for the payment of compensation, except where that compensation is as a result of an Article 4 Direction.</u></p>	<p>11</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p>
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Any other planning application or planning matter referred to this Committee by relevant Chief Planning Officer acting in his or her discretion, after consultation with the Chairman.

Reports on all matters reserved to the Committee shall be made direct to the Committee and not through an Area Planning Committee.

To receive and comment on any Strategic Planning Pre-Application Briefing.

Any Planning Area Committee agenda item referred to this Committee for consideration and determination.

~~Take action under Town and Country Planning, and associated legislation including Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges~~

~~The following functions are reserved to the Committee and cannot be discharged by an Area Sub-committee or officer.~~

- ~~• planning applications which involve a significant departure from the statutory development plan;~~
- ~~• planning applications on behalf of the Council or where the Council has a significant interest in the development;~~
- ~~• planning applications within the categories of development which must be referred to the Mayor of London; and~~
- ~~• matters of significance to the entire borough or where major issues extend across boundaries of committees or across local government boundaries.~~

~~(Reports on all the matters reserved to the Committee shall be made direct to the Committee and not through an area-committee).~~

~~Commons registration and town and village greens including powers of protection and enforcement although in practice these specific functions will be discharged by officers.~~

~~(Which may include considering the~~

	<p>recommendations of a non-statutory inquiry chaired by an independent person).</p> <p>To approve building control and land charges fees and charges for those areas under the remit of the Committee</p>	
<p>Area Planning Committees (3)</p>	<p><u>To determine the following application types, except where they are referable under the Constitution to the Planning Committee:</u></p> <p>A. <u>Applications for Planning Permission made under the Town and Country Planning Act 1990;</u></p> <p>B. <u>Applications for Listed Building Consent made under the Planning (Listed Buildings and Conservation Areas) Act 1990;</u></p> <p>C. <u>Applications for Consent to Display an Advertisement made under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007;</u></p> <p><u>Where the recommendation is for approval and:</u></p> <p>a. <u>there is significant local public objection; as defined in the Committee Consideration Criteria in the Planning Committee Procedure Rules; or (defined as five or more objectors who have objected in writing in response to a planning application)</u></p> <p>b. <u>there is a Ward Councillor referral, as defined in the meeting procedural rules</u></p> <p><u>Any decision on an application that will result in the Council being liable for the payment of compensation, except where that compensation is as a result of an Article 4 Direction.</u></p> <p><u>Any other application or planning matter referred to this Committee by the relevant Chief Planning Officer acting in his or her discretion, after consultation with the Chairman.</u></p>	<p>Chipping Barnet Area Planning Committee</p> <p>7 (one councillor representing each of the following Wards:</p> <p>Underhill High Barnet East Barnet Oakleigh Brunswick Park Coppetts Totteridge</p> <p>Finchley and Golders Green Area Planning Committee</p> <p>7 (one councillor representing each of the following Wards:</p> <p>East Finchley West Finchley Woodhouse Childs Hill Finchley Church End, Garden Suburb Golders Green</p> <p>Hendon Area Planning Committee</p> <p>7 (One Councillor representing the following wards:</p> <p>Hale Edgware Burnt Oak</p>

	<p><u>Applications to undertake treatment to trees included within a Tree Preservation Order</u></p> <p><u>Applications for a Hedgerow removal notice made under the Hedgerow Regulations 1997</u></p> <p>Determine planning applications within the boundaries of their areas, in accordance with Council policy and within budget, that relate to town and country planning and development control, including tree and hedgerow protection and excluding matters which fall within the terms of reference of the Planning Committee.</p> <p>[For the purposes of this section a planning application is defined as an application for planning permission as defined by the Town and Country Planning Act 1990, as amended, but also includes applications for approval of reserved matters, Listed Building and Conservation Area Consents and consent under Tree Preservation Orders and Hedgerow legislation.]</p> <p>This excludes the functions reserved to the Planning Committee</p> <p>If in cases where the Council has a minor interest in developments where a decision is required by a Committee, the Strategic Director for Growth and Environment will refer the matter to the appropriate Area Planning Committee.</p> <p><i>Relevant Considerations for Area Planning Committees</i></p> <p>A. consideration of planning applications by Area Planning Committees:</p> <p>The work of the Area Planning Committees consists mostly of determining applications for planning applications. Delays in determining applications will jeopardise the Council's ability to meet national performance criteria and impact adversely on the interests of residents and affected applicants.</p> <p>One potential cause of such delays is the deferral by committees of planning applications for further information or for members to undertake site visits. To minimise this there is a general presumption that:</p> <ul style="list-style-type: none"> Chairmen of Area Planning Committees should arrange for site visits to be made in 	<p>West Hendon</p> <p>Colindale</p> <p>Hendon</p> <p>Mill Hill</p>
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		<p>advance of the Committee meeting, particularly where the proposals appear to be contentious or they are of major importance to the area;</p> <ul style="list-style-type: none"> ● Committee members who have queries on applications will raise them either at the site visit, or, in any event, as soon as possible before the meeting at which they will be considered. <p>B. In so far as developments where the Council has minor interests in the development, these matters will normally be dealt with by the Assistant Director of Planning and Development Management under delegated powers, unless it proves necessary to refer them to Committee. These are:</p> <ul style="list-style-type: none"> ● Minor developments on the public highway or Council owned land—including crossovers, hard standings/ramps, bus shelters, advertisements, satellite dishes, etc. ● Minor extensions or ancillary building proposals less than 1000 sq. m to buildings or property, including minor school extensions, housing estate, ancillary buildings, community services, etc. <p>Any 'other' or 'minor' developments as defined by the DCLG in PS1/PS2 Planning statistical categories of developments, for example 9 or less dwellings, advertisements, Listed Building and Conservation Area consents.)</p>	
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Meetings Procedure Rules

NOTE ON THE CONDUCT OF LICENSING HEARINGS

Notwithstanding the following procedure rules for Council Committees and Sub-Committees, all hearings relating to the Authority's functions under the Licensing Act 2003, will be conducted within the framework and requirements of the Hearings Regulations made by the Secretary of State under that Act.

PROCEDURE RULES FOR COUNCIL COMMITTEES AND SUB-COMMITTEES

1. Membership and Quorum

- 1.1 The following table outlines Committee and Sub-Committee Membership arrangements:

Committee	Membership	Substitute Members	Quorum
Planning Committee	11	6 (3 for each political group)	3
Area Planning Committees:			
Finchley and Golders Green	7	7 (one per ward and one substitute for each ward)	3
Chipping Barnet	7	7 (one per ward and one substitute for each ward)	3
Hendon	7	7 (one per ward and one substitute for each ward)	3
Area Committees			
Finchley and Golders Green	7	7 (one per ward and one substitute for each ward)	3
Chipping Barnet	7	7 (one per ward and one substitute for each ward)	3
Hendon	7	7 (one per ward and one substitute for each ward)	3

Committee	Membership	Substitute Members	Quorum
Licensing Committee	11	Not applicable	3
Constitution, Ethics and Probity Committee	7	6 (3 for each political group)	3
Group Leaders Panel	5	4 (2 for each Political Group)	3
Urgency Committee	3	3 (1 for each Member)	2
Licensing Sub-Committee	3	All other members of the Licensing committee	All three Members must be present for the meeting to proceed
Audit Committee	7	6 (3 for each political group)	3
Chief Officer Appointment Panel	5	2 (1 for each political group)	3
Performance and Contract Management Committee	11	6 (3 for each political group)	3
Children, Education, Libraries and Safeguarding Committee	9		
Adults and Safeguarding Committee	9		
Environment Committee	11		
Assets, Regeneration	9		

and Growth Committee			
Housing Committee	9		
Community Leadership Committee	11		
Health Overview and Scrutiny Committee	9		
Policy and Resources	12	6 (3 for each political group)	3
General Functions Committee	7	6 (3 for each political group)	3
Pension Fund Committee	7	6 (3 for each political group)	3
Health and Well-Being Board	12	3 (1 for each Member)	3 This must include at least one elected Councillor
Community Leadership Committee Sub-Committee	3	3 (1 for each Member)	2

2. Substitute Members – Rules

- 2.1 A substitute Member may only attend, speak or vote at a meeting in place of a member from the same political group who is unable to attend the meeting. In the case of Area Committees and Area Planning Committees, substitutions are made on the basis of ward. If a meeting is adjourned, the substitution will carry forward into any subsequent adjourned meetings to consider the outstanding item(s).
- 2.2 Details of membership substitutions or apologies for absence will be detailed in the formal record of the meeting.

3. Quorum – Rules

- 3.1 If a Committee or Sub-Committee is inquorate, it cannot transact any business. If there is no quorum at the time the meeting is due to begin, the start of the meeting will be delayed for up to 15 minutes. When 15 minutes have elapsed, the Head of Governance or their representative will count the number of Members present and if there is no quorum, s/he will advise the meeting that no business can be transacted and the meeting will be cancelled.
- 3.2 If the Chairman finds that a quorum of Members is not present at any time during the meeting, the Chairman must adjourn the meeting until such time as a quorum is returned.

4. Chairman of Meetings

- 4.1 If the Chairman is absent from a meeting the Vice-Chairman will take the Chair. If both are absent, the Head of Governance (or their representative) will open the meeting and he/she will seek nominations for the position of Chairman. A Chairman must be elected for the business of the meeting to be transacted. Where more than two persons are nominated for any position to be filled by the Committee or Sub-Committee and there is no majority of votes in favour of one person, the name of the person having the least number of votes shall be deleted from the list. Further votes will then be taken on the same basis until a majority of votes is given in favour of one person.
- 4.2 In exceptional circumstances, the Chairman may change the date of any meeting, cancel or postpone any meeting or call any additional meeting by seeking and gaining the agreement of a majority of Members of the Committee, and consulting with the Chairman of General Functions Committee and Group Leaders.
- 4.3 Any procedural issues or challenges to the conduct of the meeting that arise during the course of a meeting shall be determined by the person presiding at the meeting.
- 4.4 The Chairman shall have the power to invite any persons or bodies with a particular expertise on a given agenda item to give evidence to the Committee and answer questions. This power is in addition to the Public Participation Rules elsewhere in the Constitution.

5. Minutes

- 5.1 Apologies for absence, declaration of interests and the confirmation of the minutes of previous meetings are the first items of business at the meeting, except when there is a need to elect a Chairman.

- 5.2 Minutes can only be amended to correct factual inaccuracy in the record, and not to make any retrospective amendment to the decisions made. Any questions upon their accuracy shall be raised by motion and voted on without discussion. The meeting will not proceed further until the minutes are approved, either amended or unamended. Upon approval as a correct record, the Chairman shall sign the minutes.

Members' Rights

6. Members' Items for the Agenda

- 6.1 A Member (including Members appointed as substitutes by Council) will be permitted to have one matter only (with no sub-items) on the agenda for a meeting of a Committee or Sub-Committee on which s/he serves. This rule does not apply to the Urgency Committee, Licensing Sub-Committees, [Planning Committee](#) and [Area Planning Committees, except for the Planning Committee when that committee is considering planning policy matters.](#) A referral from Full Council will not count as a Member's item for the purposes of this rule. The only exceptions to this rule are detailed in 6.4 and 6.5 below.
- 6.2 Members' Items must be relevant to the terms of reference of the body which will consider the item.
- 6.3 The Head of Governance must receive written notice of a Member's item, at least seven clear working days before the meeting. Any item received after 5pm will be recorded as received on the next working day. Items received after that time will only be dealt with at the meeting if the Chairman agrees they are urgent.
- 6.4 The Lead Member for Children's Services is permitted to have one matter only (with no-sub items) on the agenda for a meeting of a Committee, Sub-Committee or Partnership Board on which s/he does not serve when that body is considering an item which relates to children and young people.
- 6.5 Any Member will be permitted to have one matter only (with no sub-items) on the agenda for an Area Committee where the Member is sponsoring an application to an Area Committee Budget. Members' Items sponsoring an application to the Area Committee Budget must be submitted 12 clear working days before the meeting. Items received after that time will only be dealt with at the meeting if the Chairman agrees they are urgent.

7. Planning Committee Procedure Rules

7.1 For Area Planning Committees for any planning application where there **has been a written request** from a single Member of the Council setting out the planning reasons for the matter to be referred to an Area Committee has been made before the expiry of the consultation period, and where the relevant Senior Planning Officer **agrees** the application be referred to the relevant Area Planning Committee for determination. In that event the report will clearly identify that the item has been 'called in' and therefore the planning reasons will be set out.

7.2 The following process should be followed at all Planning Committee **and Area Planning Committee** meetings.

<u>Officers Presentation</u>
<u>Questions to officers if applicable</u>
<u>Speaking Arrangements</u>
<u>Questions to speakers</u>
<u>Questions to Officers</u>
<u>Committee consideration and comments</u>
<u>Planning Officer and Chairman sum up</u>
<u>Decision making process (see section 7.18)</u>

7.3 The relevant senior Planning Officer may circulate an addendum to the application/report. In this event this shall be circulated on the day of the meeting to all Committee Members before the start time of the meeting. **No new information may be submitted by applicants and/or their representatives or objectors. The only information that will be considered is information which helps to explain a point that the person wishes to refer to in order to explain their position to the committee. Any such information must be limited to one side of A4.**

7.4 **Requests to speak at Planning Committees and Area Planning Committees**

7.5 Requests to speak should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting.

7.6 A maximum of three speakers are able to address the committee on each application or item.

7.7 In respect of planning committees only, there can be a maximum of two speakers in favour or against an application. The third speaker slot is reserved for the applicant or their representative irrespective of whether the application is recommended for approval or refusal. The applicant's representation will be taken as the last speaker on an item.

7.8 Where more than three requests to speak have been received, the public shall decide amongst themselves who is to address the Committee. If this does not

- take place, the Chairman shall use their discretion to determine who is able to speak.
- 7.9 When registering to speak, members of the public will be asked by the Council if they consent to having their details passed on to other supporters or objectors, thus enabling them to put forward views of others who have an interest in and wish to make representations on the application or item. If a member of the public is representing the views of others, they must inform the Committee who else they are representing when making their presentation.
- 7.10 At the meeting, each speaker will have a time period of up to 3 minutes to address the Committee. Committee members will then have the opportunity to question the speaker.
- 7.11 Members of the public making comments to Committees are able to send a substitute if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of the substitution prior to the meeting commencing
- 7.57.12 Where an application or item being considered by a Committee is referred to its parent committee for approval, the speaking rights of members of the public who have registered to speak on the application or item will automatically transfer to the parent committee.
- 7.13 Members may only address Area Planning Committees on applications which affect their ward or on an application which that Member has 'called-in'. When a Ward Member wishes to address a Committee they should give notice to the Chairman of the meeting before the start of the meeting. Any Ward Member wishing to address the Committee shall have up to 3 minutes. Ward Members rights to address the Area Planning Committee are in addition to the rights of public speakers.
- 7.14 One Ward Member who is not a member of the Planning Committee will have the right to address that Committee when it considers any planning application relating to the ward in question. Where the ward is represented by Members from more than one party group one Member from each party group may address the Committee. When a Ward Member wishes to address a Committee they should give notice to the Chairman of the meeting before the start of the meeting. Any Ward Member wishing to address the Committee shall have up to 3 minutes. Ward Members rights to address the Planning Committee are in addition to the rights of public speakers.
- 7.15 MPs and GLA Members from the borough and MPs, GLA Members and Members from neighbouring boroughs may request to address a Planning Committee or Area Planning Committee meeting on a matter which affects their constituency or

ward. Any such Member should give notice to the Chairman of the meeting before the start of the meeting. Any such Member would be allowed up to 3 minutes

7.16 Where an Area Planning Committee has referred an item up to a relevant committee, the Chairman of the Committee will have a right to attend and speak at the meeting of the Committee where the referral is being considered

7.17 Determining Planning Applications

7.18 When the Chairman considers that there has been sufficient debate, he/she will call for a decision. A vote may be taken on the recommendations in the report, once proposed and seconded.

7.19 A Member of the Committee may move a motion to alter the wording of the recommendation(s), propose the addition or removal of conditions, defer an application or propose the refusal of an application. Any such motion must be seconded and be supported by planning reasons and those reasons will be set out in the minutes.

7.20 If the Chairman calls for the application to be determined a vote shall be taken on the recommendation(s) of the Planning Officers. If this fails, an alternative motion may be moved by any Member of the Committee. Any such motion must be seconded and be supported by planning reasons and those reasons will be set out in the minutes.

8. Urgent Business

- 8.1 There are occasions when an urgent decision is needed, or the matter cannot wait for the next ordinary meeting of a committee.
- 8.2 When an urgent matter has arisen after the publication and despatch of an appropriate agenda the following procedure applies:-

The Chairman has the authority to agree to take urgent items not on the agenda. By convention, the Chair will consult with the Vice-Chairman and Opposition Spokesperson for the committee. The Chairman (with advice from the Monitoring Officer as appropriate) needs to be satisfied as to the need for urgency under the following criteria:-

- i) the item has arisen between the compilation of the agenda and the date of the meeting.
- ii) the item requires an urgent decision in the public interest which cannot be dealt with by other means

8.3 In all cases the reason for the urgency shall be clearly stated and recorded in the minutes of the meeting and the urgent item will be taken at the end of other items of business.

9. Councillors' rights to attend and speak at Committees or Sub-Committees when they are not a Member

9.1 Councillors may attend any Council Committee or Sub-Committee, even when they are not appointed to them, but they cannot vote.

9.2 Where a Councillor is not a member of the Committee or Sub-Committee, s/he should sit in the public gallery so that it is clear to the public that the Member is not part of the body taking decisions. However if the Committee has excluded the press and public then councillors who are not members of the Committee may in most circumstances remain. There may be occasions when they will be asked to leave by the committee if the exempt item contains personal information which they do not need to know in order to fulfil their role as a councillor.

9.3 Except for the committees detailed in section [8.49.5](#) below [and section 7 above](#), where a Councillor has a right to attend a Committee or Sub-Committee, s/he may speak at a meeting subject to giving notice to the Chairman of the meeting before the start of the meeting and the Chairman giving his or her consent. Any Councillor wishing to address the Committee or Sub-Committee shall have up to 3 minutes.

9.4 The Lead Member for Children's Services has a right to make a speech at a meeting of Committee, Sub-Committee or Partnership Board which is considering matters which relate children and young people, subject to giving notice to the Chairman of the meeting before the start of the meeting and the Chairman giving his or her consent.

9.5 The following arrangements apply in the case of Licensing Committees:

9.5.1 Members may only attend and speak at Licensing Sub-Committees (or the Licensing Committee if it is conducting the hearing or review of determinations under the Licensing Act of 2003 or the Gambling Act of 2005) in accordance with the Members Licensing Code of Good Practice.

~~8.5 The following arrangements applies in the case of Planning Committees~~

~~8.6.1 Members may only address Area Planning Committees on applications which affect their ward. When a Ward Member wishes to address a Committee they should give notice to the Chairman of the meeting before the start of the meeting. Any Ward Member wishing to address the Committee shall have up to 3 minutes.~~

~~8.6.2 One Ward Member who is not a member of the Planning Committee will have the right to address that Committee when it considers any planning application relating to the ward in question. Where the ward is represented by Members from more than one party group one Member from each party group may address the Committee. When a Ward Member wishes to address a Committee they should give notice to the Chairman of the meeting before the start of the meeting. Any Ward Member wishing to address the Committee shall have up to 3 minutes.~~

~~8.6.3 MPs and GLA Members from the borough and MPs, GLA Members and Members from neighbouring boroughs may request to address a Planning or Area Planning meeting on a matter which affects their constituency or ward. Any such Member should give notice to the Chairman of the meeting before the start of the meeting. Any such Member would be allowed up to 3 minutes.~~

~~Where an Area Planning Committee has referred an item up to a relevant committee, the Chairman of the Committee will have a right to attend and speak at the meeting of the Committee where the referral is being considered.~~

10. Disorderly Conduct

- 10.1 If the Chairman considers that a Member is behaving improperly or offensively they reserve the right to prevent the Member from speaking (but not voting) at the meeting. If the disorderly conduct continues the Chairman may require the Member be removed from the meeting. When a Member is removed, they must leave for the entire remaining part of the meeting.
- 10.2 If a member(s) of the public or press interrupts the proceedings at any meeting, the Mayor or Chairman may warn him/her. If s/he continues the interruption and a warning has previously been given, the Mayor or Chairman may order his/her removal from the meeting place. In the event that the meeting is disrupted the Mayor or the Chairman may adjourn the meeting and if required clear the public gallery. The meeting will then reconvene to consider the remaining business without the public.

Motions and Amendments

11. Validity of Motions and Amendments

- 11.1 Every motion, amendment or question shall be relevant to matters within the Committee, Sub-Committee or panel's terms of reference and to the agenda for the meeting. The Chairman of the meeting shall, if need be, give a ruling as to whether the motion is relevant.

- 11.2 An amendment must be relevant to the motion and shall be to either:-
- 10.2.1 refer a subject of debate to another Committee for consideration or re-consideration; or
 - 10.2.2 change the words (including leaving out words or adding words);
- but such changes must not merely have the effect of negating the motion before the Committee.
- 11.3 No Member may personally move more than one amendment to a motion. However, amendments may be discussed together.
- 11.4 If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved. This is known as the substantive motion.
- 11.5 If the amendment is lost further amendments may be proposed on the original motion.
- 11.6 Once all amendments are dealt with in this way, the motion or the motion as amended is then put to the final vote.
- 11.7 All motions which are moved and voted on will be recorded in the decisions of the Committee or Sub-Committee.

12. Motions which may be moved during debate

When a motion is under debate no other motion shall be moved except motions:-

- 12.1 to amend the motion;
- 12.2 to adjourn the meeting;
- 12.3 to adjourn the debate;
- 12.4 that the question be now put;
- 12.5 by the Chairman
 - that a Member be prevented from speaking;
 - that a Member must leave the meeting;
- 12.6 to exclude the press and public under Section 100A (4) of the Local Government Act 1972.

Decisions

13. After each meeting decisions made under the Committee or Sub-Committee's delegated powers will be produced and published on the Council's website and will be made available in paper format on request.
14. **Reports of Committees to Council or parent body**
 - 14.1 There are a number of ways Committees and Sub-Committees may refer reports to their parent bodies, other Committees or Council which are set out in Paragraph 6 of the Responsibility for Functions section of the Constitution. Where a referral is made under that paragraph, the Officer's report to the Committee and any recommendations of the Committee or Sub-Committee will be submitted to the next meeting of the Council or the Committee concerned.
15. **Reports of Sub-Committees and Panels**
 - 15.1 A report of a Sub-Committee or panel will be submitted to the next meeting of the parent committee where:-
 - 15.1.1 the Sub-Committee or panel has made recommendations on a matter within its terms of reference but outside its delegated powers; or
 - 15.1.2 any Sub-Committee or panel by agreement or majority vote has agreed to suspend a decision on a particular item until the parent Committee has considered the matter.
 - 15.1.3 a Chairman of an Area Committee has referred the decision up under paragraph 12.1(2), in which case the Sub-Committee's recommendation will be referred up to the parent committee.
 - 15.1.4 any Area Committee considering a proposal for discharging a function for a location that crosses their boundaries do not approve recommendations submitted to them.
 - 15.2 Any report from a Sub-Committee or panel on its proceedings shall be submitted to the parent Committee and not direct to the Council.

16. Performance and Contract Management Committee / Sub-Committee – Call-in Procedure

16.1 The following procedure applies after a decision has been made by the West London Economic Prosperity Board (a Joint Committee in accordance with section 102 of the Local Government Act 2000).

16.2 Paragraph 24.4 of the Function and Procedure rules of the West London Economic Prosperity Board read as follows

“Any decision called in for scrutiny before it has been implemented shall not be implemented until such time as the call-in procedures of the Participating Borough concerned have been concluded.”

16.3 Where a decision is made by the Board the decision shall be published. Once the decision is published then it may be implemented on the expiry of 7 working days after publication unless 10 members of the Council wish to call it in.

16.4 The notice seeking to invoke the call-in procedure must be communicated to the Head of Governance who will then notify the West London Economic Prosperity Board.

16.5 A notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:

- (a) Inadequate consultation with stakeholders prior to the decision;
- (b) The absence of adequate evidence on which to base the decision;
- (c) The action is not proportionate to the desired outcome;
- (d) A potential human rights challenge;
- (e) Insufficient consideration of legal and financial advice;
- (f) The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework of the Council;

16.6 A meeting of the Performance and Contract Management Committee (or Sub-Committee of the Committee created for this purpose), will be convened within 7 clear working days of the request for call-in.

If such a meeting is called the decision of the West London Economic Prosperity Board may not be implemented until the decisions of the sub-committee meeting are known.

16.7 The Performance and Contract Management Committee or Sub-Committee may:

- (a) Take no action,

- (b) Refer the matter back to the West London Economic Prosperity Board for reconsideration

The Performance and Contract Management Committee or Sub-Committee may not refer the call-in to Council.

- 16.8 The call-in procedure set out above shall not apply where the decision being taken by the West London Economic Prosperity Board is urgent. For the purposes of this call-in procedure a decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the West London Economic Prosperity Board and the interests of Barnet. Reports to the West London Economic Prosperity Board must state that the report is urgent and provide the reasons for urgency.
- 16.9 The Chairman of the Performance and Contract Management Committee must agree that the decision proposed should be treated as a matter of urgency
- 16.10 In the absence of the Chairman of the Performance and Contract Management Committee the consent of the Mayor is required.
- 16.11 The Performance and Contract Management Committee when considering a call-in shall consider the following business:
 - (a) Minutes of the last meeting;
 - (b) Declarations of interest;
 - (c) The call-in request for which the meeting is convened.
- 16.12 Decisions taken as a matter of urgency must be reported by the Monitoring Officer to the next available meeting of the Performance and Contract Management Committee, together with the reasons.

17. Suspension of business at Committee and Sub-Committee meetings

- 17.1 No business at any meeting of a Committee or Sub-Committee shall be transacted after 10 pm and any business transacted after that time shall be null and void. At 10 pm and without further debate the Chairman shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.
- 17.2 At any meeting of the Council, Planning Committee and Area Planning Committees, the Chairman at their sole discretion may extend the period for the transaction of business to 10.30pm. This will be recorded in the Committee's decisions.

- 17.3 Residents Forums will meet at 6.30pm and will conclude their business by 8.30pm at the latest, followed by the Area Committee on the same night and same venue at 7.00pm or on the conclusion of the Residents' Forum, whichever is later.
- 17.4 If any items remain on the agenda to be dealt with, the Committee or Sub-Committee may decide to call a special meeting or refer the remaining items to the next ordinary meeting.

Voting and recording of votes

18. Voting at meetings

- 18.1 The mode of voting at all meetings of the Council, its Committees, Sub-Committees or panels shall be determined by a show of hands except where otherwise provided by law or in these standing orders.
- 18.2 In cases where a vote is taken, the minutes of the meeting should record the number of votes for and against the matter together with the number of abstentions.
- 18.3 The Chairman will always have the right to exercise a casting vote in the event of equality of voting on a motion or amendment, in accordance with the provisions of the Local Government Act 1972, provided s/he has voted when the motion or amendment was first put to the vote.

19. Vote to be recorded

- 19.1 A member of the body can request that his/her vote to be recorded in the minutes.

20. Filming and Recording of Meetings

- 20.1 Discreet, unlit, non-disruptive filming and recording of Council and Committee meetings by members of the public from the public gallery is allowed.

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Public Participation and Engagement

1. Introduction

- 1.1 This section relates to how members of the public can participate in the formal decision making process of the Council. There are other less formal ways that the public can engage with the Council (such as Residents Forums, consultations and other working groups) all of which form part of the governance and accountability framework.
- 1.2 There are three ways in which members of the public can participate in Committee meetings. These are:
 - By asking a public question
 - By making a public comment
 - By submitting a petition
- 1.3 The following sections outline the process by which members of the public can exercise their right to participate in formal committee meetings, as well as giving details of the rules governing the exercise of these powers.

2. Public Questions

- 2.1 Questions must relate to an item being considered on a committee agenda and be addressed to the Committee Chairman. Questions must detail which agenda item they are in connection with. Committee agendas are published on the Council's website five working days prior to the meeting. Members of the Public should state their current/business address or organisation when submitting questions.
- 2.2 Questions should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting (for example for a committee meeting on a Thursday the deadline would be 10am on the preceding Monday; for a committee meeting on a Tuesday the deadline would be 10am on the preceding Thursday). Any questions submitted after this time will not be considered.
- 2.3 At the meeting, a time period of up to 30 minutes, is available for public questions and comments in total.
- 2.4 Written responses to public questions will be circulated to the questioner in advance, or at the meeting. If they wish, members of the public can ask the Committee Chairman one supplementary question at the Committee

meeting, which will be answered without discussion. The supplementary question must be relevant to the original question put to the Chairman.

- 2.5 Members of the public submitting questions are able to send a substitute to ask their supplementary question if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing

3. Public Comments

- 3.1 Comments must relate to an item being considered on a Committee agenda and provide members of the public with an opportunity to address Committee Members. Committee agendas are published on the Council's website five clear working days prior to the meeting.
- 3.2 Requests to speak should be submitted to the relevant Governance Officer named on the front page of the agenda and received by 10am on the third working day prior to the meeting. Any requests to make comments after this time will not be considered.
- 3.3 At the meeting, each speaker will have a time period of up to three minutes to address the Committee. Committee Members will then have the opportunity to question each speaker on the representation that they have made.
- 3.4 Comments may also be made in writing within the same deadlines as paragraph 3.2 and these will be published as an addendum to a report

4. Requests to speak at Planning Committees and Area Planning Committees and Area Committees

[4.1 Details of the procedure for speaking at planning committee meetings is set out in section 7 of Meetings Procedure Rules \(Planning Committee Procedure Rules\)](#)

- ~~4.1 Requests to speak should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting.~~
- ~~4.2 A maximum of three speakers are able to address the committee on each application or item.~~
- ~~4.3 In respect of planning committees only, there can be a maximum of two speakers in favour or against an application. The third speaker slot is reserved for the applicant or their representative irrespective of whether~~

~~the application is recommended for approval or refusal. The applicant's representation will be taken as the last speaker on an item.~~

- ~~4.4 — Where more than three requests to speak have been received, the public shall decide amongst themselves who is to address the Committee. If this does not take place, the Chairman shall use their discretion to determine who is able to speak.~~
- ~~4.5 — When registering to speak, members of the public will be asked by the Council if they consent to having their details passed on to other supporters or objectors, thus enabling them to put forward views of others who have an interest in and wish to make representations on the application or item. If a member of the public is representing the views of others, they must inform the Committee who else they are representing when making their presentation.~~
- ~~4.6 — At the meeting, each speaker will have a time period of up to 3 minutes to address the Committee. Committee members will then have the opportunity to question the speaker.~~
- ~~4.7 — Members of the public making comments to Committees are able to send a substitute if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of the substitution prior to the meeting commencing.~~
- ~~4.8 — Where an application or item being considered by a Committee is referred to its parent committee for approval, the speaking rights of members of the public who have registered to speak on the application or item will automatically transfer to the parent committee.~~

5. Items and Questions to Resident Forums

- 5.1 Items and questions must be received by the Governance Service by 10am on the fifth working day prior to the meeting for the item to be discussed at the Forum. Written responses to local matters will be provided by 5pm the working day before the Residents Forums take place.
- 5.2 The Forum Chairman has the discretion to accept items and questions with less than five days' notice if they deem the matter to be urgent. Responses to urgent matters will be responded to by officers at the Forum meeting.
- 5.3 The Six Month Rule shall apply whereby matters dealt with cannot be raised again within this period.
- 5.4 The Residents Forum may also be a forum for certain consultations from the Council as decided by the Chairman.

The Chairman will determine issues in the following way:

1. Residents will have the opportunity to discuss the issue raised
2. Chairman, Chief Officers or other relevant officers may respond to the issues raised
3. Having considered the issues the Chairman can take the following actions:
 - note the issue and take no action
 - instruct that an appropriate named officer contact the resident within 20 working days to provide an additional response
 - instruct that Ward Members are notified of the issue.
 - decide that the issue be referred to the next meeting of an Area Committee for consideration, subject to the issue being within the terms of reference of an Area Committee

When determining issues in accordance with the options detailed above, the Chairman must give reasons for their decision.

6. **Restrictions and Exceptions for Public Questions and Comments**

6.1 Public questions and comments are not permitted:

- [At the Planning Committee and Area Planning Committees on Town and Country Planning applications \(a separate procedure is detailed in the Planning Committee Procedure Rules in Meetings Procedure Rules\). Public questions and comments are permitted at the Planning Committee on planning policy matters.](#)
- If they are requests from or in connection with the aims and activities of a political party
- If they would result in the release of confidential information, or which may prejudice enforcement
- If they relate to a matter where this is a right of appeal against any decision of the Council
- If they are defamatory, abusive or offensive
- If submitted from Council employees or trade unions on employment matters; there are avenues available for these to be addressed via the Terms of Reference of the General Functions Committee
- If they relate to the making / confirmation of Tree Preservation Orders, as the procedure for making objections or representations is prescribed by the Town and Country Planning Act 1990 and the

Town and Country Planning (Tree Preservation) (England) Regulations 2012.

The Chairman of the relevant Committee or Sub-Committee, in consultation with the Head of Governance shall decide whether any particular comment or questions will be permitted.

7. Petitions

- 7.1 Petitions must have a minimum of 25 signatures and be relevant to the functions of the authority. The petition will be presented to the Governance Service who will forthwith present it to the relevant Director and the relevant Committee Chairman.
- 7.2 Petitions can either be submitted in hard copy to the Head of Governance or by using the authority's e-petitions facility. It is acceptable to combine paper petitions and e-petitions, providing the action the Council is being requested to take in the petitions are the same. An e-petition will only be accepted if it complies with the terms and conditions set out in the Council's e-petitions facility.
- 7.3 Petitions will not be accepted if they are:
 - vexatious or abusive
 - relate to any enactment or statutory provision
- 7.4 Petitions relating to planning or licensing applications, appeals or reviews will be dealt with by the relevant service area and will be taken into consideration in dealing with the relevant application, appeal or review. Petitions that are submitted to the Council that do relate to Planning or Licensing matters will be taken into account by the relevant service during the consideration of an application.
- 7.5 Petitions will be acknowledged within 10 working days. The acknowledgement will include information on possible action to be taken by the Council and detail of how and when the petition will be reported to a Council decision making body.
- 7.6 Petitions will be reported to the following decision making bodies.

25 – 1,999 Signatures	The Relevant Area Committee
2,000 – 6,999 Signatures	The Relevant Theme Committee
7,000 plus Signatures	Full Council

- Petitions that are reported to Area Committees will be considered at the appropriate meeting in one of the following ways. Note the petition
 - Ask officers to present a report to a future meeting of the Area Committee
 - Formally refer to a relevant Committee
 - Formally instruct an officer (within their powers) to take action
 - To bring the matter to the attention of the Ward Councillors (who will consider and respond to the issue individually)
- 7.7 Petitions that are reported to Theme Committees will be considered at the appropriate meeting in one of the following ways:
- Take no action
 - Note the petition
 - Agree a recommended course of action
 - Instruct an officer to prepare a report for a future meeting of the Committee on the issue(s) raised
- 7.8 Petitions are required to be received 15 days before the Committee meeting and only one petition will normally be heard per meeting with the exception of Area Committees. The Chairman of the Committee may request that the relevant Chief Officer to attend the meeting to be called to give account with regard to the issue raised.
- 7.9 Details of the procedure to be followed at the meeting and the actions available to the Committee are set out below:
- i) Lead Petitioner is given five minutes to present the petition;
 - ii) Committee Members have an opportunity to ask questions of the Lead Petitioner;
 - iii) Chief Officer and Chairman of the relevant Committee respond to the issues raised in the petition;
 - iv) Committee Members ask questions of the Chief Officer and Committee Chairman
 - v) Committee will then consider the issues raised and the responses received and take action as outlined in section 7.6;
- 7.10 Petitions reported at Full Council meetings are required to be received 15 days before the Council meeting, and only one petition will be heard per meeting. Details of the procedure to be followed at the meeting are set below:

- i) Lead Petitioner is given five minutes to present the petition;
 - ii) Council Members have an opportunity to ask questions of the Lead Petitioner then debate the item.
 - iii) The relevant Committee Chairman will respond to the issues raised in the petition and outline the decision route (if any) he/she proposes to take
- 7.11 Any received hard copy petition will be published on the Council's website via the Council's e-petition facility and processed by the Council as documented in this section.

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Planning Code of Good Practice

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1 Introduction

- 1.1 This Code has been prepared using advice in the Local Government Association's revised guidance note on good planning practice for Members and officers dealing with planning matters – Probity in Planning for Councillors and Officers (November 2013).

Key purpose of planning

- 1.2 Planning has a positive and proactive role to play at the heart of local government in the London Borough of Barnet. It helps councils-the Council to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs of the residents of Barnet to achieve sustainable development.
- 1.3 The planning system works best when Councillors and officers involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.
- 1.4 Planning decisions are often based on balancing competing interests and making an informed judgement against a local and national planning policy framework. . Decision makers need to make fair and open decisions that are in the wider public interest on what can be controversial proposals regardless of personal or political allegiances..

Aim of this code

- 1.5 In today's place-shaping context, early Councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the places that communities need. This guidance is intended to reinforce Councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.

- 1.6 Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- 1.7 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. ~~It is important, therefore, that~~ Barnet Council recognises the importance of make planning decisions affecting these interests in an openly and, impartially way, with sound judgement and for justifiable reasons.
- 1.8 The aim of this Code is therefore to ensure that Council's processes will make sure that those participating in the decision are unbiased and that the decision itself is lawful, rational and procedurally correct.

When the Code applies

- 1.9 This code applies to Councillors at all times when they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications. If you have any doubts about the application of this Code to your own circumstances you should seek advice early, and preferably well before any meeting takes place, from the Monitoring Officer.
- 1.10 In this Code when the term "Councillor" or "Member" is used it means that the advice is applicable to all Members of the Council. The term "Planning Committee Member" means a Member or a substitute Member of any of the Council's Planning Committees.

Relationship to the Members' Code of Conduct

- 1.11 Councillors are reminded that this Code is designed primarily for Members of the Council's Planning Committees and Councillors who, for whatever reason, find themselves involved in the planning process. Whilst this Code interprets the Members' Code of Conduct with respect to planning matters it is subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between this Code and the Members' Code of Conduct, the Members' Code of Conduct shall prevail.

2 ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

General roles of Councillors and officers

- 2.1 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Members are responsible to the electorate.

2.2 Officers are not appointed to serve any political group and therefore advise all Members and the Council. Officers carry out the daily functions of the Council's business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers Code of Conduct contained in the Constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.

2.3 The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Members Code of Conduct in the Constitution is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council's standing orders set down rules which govern the conduct of Council business.

Relationship between Councillors and officers

2.4 Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.

2.5 Planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

2.6 Members must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views, when received in written form, will be placed on the planning file and considered together with other material planning considerations.

3 INTERESTS: REGISTRATION AND DISCLOSURE

3.1 A Councillor should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. A failure to properly register a Disclosable Pecuniary Interest or to participate in discussion or voting in a meeting on a matter in which a Councillor or co-opted Member has a Disclosable Pecuniary Interest, are criminal offences. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.

3.2 The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.

Registration of interests

3.3 A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.

Disclosure of interests

3.4 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a particular matter to be discussed at a Planning Committee he or she should raise this with the Monitoring Officer as soon as possible.

3.5 If a Councillor has a Non-Disclosable Pecuniary Interest or a Non-Pecuniary Interest, he or she should disclose that interest orally at the committee meeting when it relates to an item under discussion, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.

3.6 Where a Member has a Disclosable Pecuniary interest relating to an item under discussion, the Councillor may not participate (or participate further) in any discussion of the matter at the meeting or participate in any vote (or further vote) on the matter. There is no obligation for that Councillor to withdraw from the Chamber. This means that a Councillor with a Disclosable Pecuniary interest is precluded from making representations orally to the committee or from making representations on behalf of a party to the hearing.

3.7 A Councillor with a Disclosable Pecuniary interest can still present their views to the committee through other means. For example, the Member can:

- make written Representations in their private capacity in accordance with the Committee Consideration Criteria as set out in the Planning Committee Procedure Rules – the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations – such written representations should be addressed to officers rather than other Members of the Authority;
- use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; and
- arrange for another Member of the Authority (eg a fellow ward councillor) to represent the views of the Councillor's constituents on matters in which the Councillor has a Disclosable Pecuniary interest.

3.8 Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances, a dispensation can be sought from the Monitoring Officer to take part in that particular item of business.

4 PREDISPOSITION, PREDETERMINATION AND BIAS

4.1 In addition to being aware and taking appropriate action in relation to interests, Planning Committee Members need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to.

4.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” approach and likely to leave the committee’s decision susceptible to legal challenge by Judicial Review.

4.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such planning decisions.

4.4 Section 25 of the 2011 Act also provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.

4.5 For example, a Councillor who states “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a Councillor who states: “Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area”. The former has a closed mind and is predetermined, whereas the latter is predisposed but still has an open mind.

4.6 This distinction is particularly important in the context of the Council's practice of facilitating presentations to Planning Committee by developers of schemes at the pre-application stage. After these presentations, the Committee Members question details of the development so that they have the opportunity to input into the design of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which will often display predisposition around these elements. What the Members of the Committee should not do at this stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process when all the material considerations are available to the Members of the Committee to consider and weigh up before finalising their view.

4.7 A Planning Committee Member who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application. A Planning Committee Member, could speak at a Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their pre-determined position.

4.8 Participation as a Member in a Planning Committee where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Member considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.

5 APPLICATIONS SUBMITTED BY THE COUNCIL, COUNCILLORS OR OFFICERS

Applications submitted by the Council

5.1 Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.

5.2 Certain Councillors may through their other roles outside of a Planning Committee, have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Committee the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. The most appropriate course of action if that is the case, is that the Councillor concerned may address the Committee in the applicant's speaking slot (see the Planning Committee Procedure Rules) but does not take part in its consideration and determination. It is important that the Councillor should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.

Applications submitted by Councillors or officers

5.3 It is perfectly legitimate for planning applications to be submitted by Councillors and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.

5.4 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing and/or determination. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing and/or its determination.

5.5 The 1APP planning application form requires an applicant to indicate whether they are a member of staff or an elected Member or a partner/spouse of a Member or Officer of the Council. Where decisions relate to applications made by Members of staff or an elected Member these should be reported to Committee where they relate to the following:

- Members of the Council
- Senior officers of the Council (Service Head and above)
- Officers of the Local Planning Authority.

5.6 The term "Officers of the Local Planning Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's planning function and include all external persons such as lawyers, contractors and advisors who work for the Local planning Authority.

5.7 The procedures to be followed in Committee in such circumstances are as follows:

- The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary interest for that Councillor and Councillors need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members' Code of Conduct.
- If such a Councillor does not have a Disclosable Pecuniary interest they may address the Committee as the applicant in accordance with the Council's public speaking procedures. If however, such a Councillor has a Disclosable Pecuniary Interest they may not participate in the consideration

of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.

- The Members of the Committee must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.

5.8 The principle in the final bullet point also applies to applications submitted by officers when they are considered in Committee.

6 LOBBYING OF AND BY COUNCILLORS

6.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Member of the Planning Committee.

6.2 As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

6.3 Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved.

Lobbying of Councillors

6.4 A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

6.5 Planning Committee Members should therefore:

- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
- pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Planning Service as soon as practicably possible so that it can be taken into account and included in the report on the application;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg

refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and

- inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.

6.6 Planning Committee Members should note that, subject to the requirements to ensure that Members comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

6.7 In the interest of openness, it is recommended that Planning Committee Members declare any lobbying to which they have been subject.

6.8 It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual Councillor.

Lobbying by Councillors

6.9 Planning Committee Members should not become a member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Member does, he/she may appear to be biased. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have a Disclosable Pecuniary interest unless they have received a dispensation for this purpose from the Monitoring Officer.

6.10 Planning Committee Members can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest where that organisation has made representations on a particular proposal. A Planning Committee Member should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.

- 6.11 Councillors should not excessively lobby Planning Committee Members regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 6.12 Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.
- 6.13 Call-in procedures, whereby Ward Councillors can require a proposal that would normally be determined under officers' delegated authority, to be determined by a planning committee, require the reasons for call-in to be recorded in writing and to refer solely to material planning considerations. The procedures for this are set out in the Committee Consideration Criteria in the Planning Committee Procedure Rule.
- 6.14 Planning Committee Members should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so.
- 6.15 As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.

7 PRE-APPLICATION DISCUSSIONS

- 7.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. For this reason the Council have developed pre-application processes that enables engagement at the pre-application stage.
- 7.2 For major strategic applications the Council offers a service to potential applicants to present their schemes to the Council's Planning Committee. Details of this are set out in the Planning Committee Procedure Rules. This is the way in which Planning Committee Councillors engage with these schemes and there should therefore be no need to attend any other meeting with potential applicants or their agents/representatives.
- 7.3 In other cases potential applicants may seek to meet Councillors. For minor or household applications these can be treated as a form of lobbying and Councillors, including Planning Committee Members, should follow the advice set out above.
- 7.4 Where the application is more substantial, but not subject to pre-application committee presentations, these meetings will be subject to the following procedures:

- No meeting shall be convened without the presence of a Council planning officer for the entire duration of the meeting.
- Both this Code and the Members' Code of Conduct will apply when attending such meetings.
- Any Planning Committee Member involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.
- Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.
- Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested Councillors up to date) to ensure that the authority's position is co-ordinated.
- A contemporaneous note of the meeting should be prepared by the planning officer attending wherever possible and a copy sent to all parties for their agreement.
- The final version of the note of the meeting will form part of the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.

7.5 Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken.

7.6 Planning Committee Members should not attend pre-application meetings that are not organised through officers.

8 POST-SUBMISSION DISCUSSIONS

8.1 A Planning Committee Member should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.

8.2 In limited circumstances Planning Committee Members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.

8.3 If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Councillor should report to the Chief Planning Officer any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.

8.4 Planning Committee Members should not attend post-submission meetings that are not organised through officers.

9 PLANNING APPEALS

9.1 Appeals into the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.

9.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Chief Planning Officer to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council, brings the Council into disrepute or puts the decision made at risk of challenge.

9.3 A Member of a Planning Committee cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on the Committee that made the decision, unless this is as part of the Council's case as decided by the Chief Planning Officer. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.

9.4 Where the appealed decision was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

10 PLANNING ENFORCEMENT

10.1 It is perfectly legitimate for Councillors to bring to the attention of the Planning Service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the Chief Planning Officer.

10.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service.

11 COUNCILLOR TRAINING

11.1 Councillors may not participate in decision making at meetings of the Council's Planning Committees unless they have attended mandatory training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.

11.2 Whilst all new Members of the Council's Planning Committees and new substitute Members have to attend this training before they can participate in the Council's Planning Committees, all other Planning Committee Members and substitute Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

11.3 All Planning Committee Members should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role properly and effectively.

11.4 Training provided on planning related matters is aimed at Planning Committee Members but is open to any Councillor with an interest to attend.

12 AMENDMENTS/VARIATION

12.1 Where amendments/variation to this Code are necessary due to legislative changes, the Head of Governance may make such consequential changes to this Code as are necessary to comply with the law.

Members' Planning Code of Practice

Introduction

~~1.1—This Code of Practice applies to any meeting of the Authority, or its 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 Committee or an Area Planning 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 Group Leader's Panel for breach of this Code. The Barnet Members 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 Members 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 to 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 of Conduct.~~

~~2.5— This Code of Practice applies equally to 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 non-pecuniary//non-disclosable pecuniary interest **and potentially a disclosable pecuniary interest.**~~

~~A Member being a frequent visitor to the premises in a personal capacity is likely to involve a non-pecuniary/non-disclosable pecuniary interest **and potentially a disclosable pecuniary 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 non-pecuniary/non-disclosable pecuniary interest **and potentially a disclosable pecuniary 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 their representative as early as possible.~~

~~The Council's Member/Officer Protocols must be abided by at all times.~~

~~4.—Members of the Planning Committee and Area Planning Committees~~

~~4.1—The role of members of the committees is to make Planning decisions openly, impartially, with sound judgement and for justifiable reasons. This applies equally to policy decisions before the Planning Committee as it does with applications. Therefore, Members:~~

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

~~Should make themselves familiar with sites and proposals;~~

~~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;~~

~~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);~~

~~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.~~

~~Who receive correspondence about applications should ensure that copies are made available to the Planning Officers as early as possible;~~

~~Must not encourage any member of the public (including but not limited to those speaking at the committee) to communicate with them orally or in writing other than through the committee's procedures;~~

~~Must make their decision only after due consideration of all the information and only after the presentation of the application at the 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;~~

~~Must attend all training relevant to their role as Planning Committee members offered by the Council;~~

~~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 committee;~~

~~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 committee meeting. Noting that:~~

~~The definitions of interests in the context of Planning are the same as for all other areas of the Council's work, and as, contained within the Council's Constitution;~~

~~A non-pecuniary 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;~~

~~A Member should not, if s/he has a disclosable pecuniary interest in an application sit on the committee when it is considering that application.~~

~~A Member may sit on a committee) and consider an application if s/he has a **non-pecuniary or non-disclosable pecuniary interest;**~~

~~As regulatory matters such as Planning are particularly sensitive, it is recommended that Members adopt a particularly cautious approach.~~

~~When declaring an interest at a Planning 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.~~

~~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:~~

~~Established, defined and described at the time;~~

~~Clear and convincing and thus such reasons as “established local need” or “satisfy the personal need” are inadequate;~~

~~Rooted in a clear and convincing statement of reasons for departures from policy or the Officers recommendation;~~

~~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;~~

~~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 pecuniary interest~~

~~5.1—If an application is submitted by or on behalf of a Member then s/he must inform the relevant Director 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:**~~

~~Is personally affected by an application and has a disclosable pecuniary interest.~~

~~S/he may make written representations to the 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.~~

~~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;~~

~~Must conform to the usual deadlines for representations;~~

~~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, 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.~~

~~5.4—A Member of a committee that is to consider a Planning application, who lives in close proximity to the application site, will have a potentially disclosable pecuniary 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 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 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 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 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:~~

~~Explain s/he cannot discuss the matter;~~

~~Refer the person to his/her Ward Member and/or Planning Officer;~~

~~Make and keep a written record of these instances in case the matter proceeds to an appeal;~~

~~Declare the circumstances of the lobbying at the meeting considering the item;~~

~~Pass any correspondence to the Monitoring Officer at the earliest opportunity and encourage the applicant to submit written information to the Planning Officer;~~

~~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;~~

~~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 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:~~

~~Receiving or listening to viewpoints from applicants or objectors;~~

~~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;~~

~~Seeking information through any alternative channel other than the Governance Service;~~

~~Simply being a member of a group or organisation that may make representations on a particular matter before a 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.—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.~~

~~8.2—Site visits should normally be pre-arranged and carried out with fellow 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 agenda, propose deferral for a 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 relevant Planning Officer 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 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, they then have 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 2004
Localism Act 2011~~

~~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
Localism Act 2011~~

Appendix F

Strategic Planning Pre-Application Briefings – Agenda Format, Meeting Procedure and Report Structure

Agenda Format

1.	Minutes
2.	Apologies of absence
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)
4.	Report of the Monitoring Officer
5.	Strategic Planning Pre-Application Briefings (Non-Decision Making)
5.1	List of Briefings
5.1.1	Name of development
5.1.2	Name of development
5.1.3	Name of development
6.	Town and Country Planning Applications
6.1.1	Name of development
6.1.2	Name of development
6.1.3	Name of development
7.	Any items the Chairman decides are urgent

Meeting Procedure

Meetings Process and Format	Suggested Timing
Officers to introduce proposal	5 minutes
Presentation by Developer: - Draft scheme - Community engagement conducted	15 / 20 minutes
Members' questions and discussion	10 minutes

Officer comments (if necessary) <i>Note: Officers would only address the Committee if they had significant areas of concern or wished to provide advice on material planning considerations</i>	5 minutes
Members' comments	5 minutes
Summary of the issues raised by Chairman and Chief Officer	5 minutes

The process detailed above is likely to take approximately 45 minutes for each item. Where the Planning Committee is considering pre-application briefings only, it is recommended that there should be no more than three items per committee. Where the Planning Committee is also determining planning applications, it is recommended that there should be only one pre-application briefing.

Planning Officers in attendance should sum up the main issues discussed so that they can be agreed by the Committee for inclusion in the minutes. The Governance Officer in attendance will minute the meeting accordingly with input from the attending Planning Officer and Legal Officer. Although there are no decisions to be made during this process, the debate and discussion of the Committee will be recorded. When presenting the planning application to the Planning Committee for determination, the planning officer must refer to the outcome of the pre-application discussion and steps that the developer has taken to address any matters raised by the Committee at the pre-application stage.

Report Structure

The recommended committee report structure for pre-application development presentations is as follows:

- Development Details
- Background
- Proposal and Location Details
 - Proposal
 - Site and Surroundings
 - Planning History
- Consultation Response (if any)
- Community Engagement (if any)
- Material Planning Considerations
 - Main issues
 - Other Planning Issues
 - Planning Obligations
 - Conclusions