VOLUME B
ESSENTIAL DOCUMENTS SUPPORTING THE CONSTITUTION

PLEASE NOTE THIS DOCUMENT IS CURRENTLY UNDER REVIEW

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J. PLANNING CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS

1. PURPOSE OF THIS CODE

1.1 This Planning Code of Practice ('the Planning Code') has been prepared to guide members and officers in the discharge of the City Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its planning powers.

1.2 The Planning Code is in addition to Birmingham's Code of Conduct for Members, which was adopted by the City Council on 8th January 2002 and the Local Government Association's Code of Conduct on Planning matters – Probity in planning the role of Councillors and Members. For the avoidance of doubt, when an Executive Member attends and participates in the decision-making of the Planning Committee, s/he does so as a Member of the Committee and not as a Member of the Executive. Accordingly, s/he must, along with other Members of the Committee, exercise an independent mind on issues before the Committee.

1.3 The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and officers making such decisions are held accountable for those decisions. The Planning Code is also designed to assist Members and officers in dealing with approaches from property owners.

1.4 If you have any doubts about the application of this Planning Code, you should seek early advice, preferably well before any meeting takes place from the Director of Planning and Regeneration and/or the Corporate Director of Governance.

2. CONTEXT

2.1. Planning is not an exact science. Rather it relies on informed judgement within a firm policy context. It is often highly contentious because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions) This is reinforced by the legal status of development plans and decision notices. It is essential, therefore, that the planning process is characterised by open and transparent decision-making.

2.2 One of the key purposes of the planning system is to ensure development takes place through a framework whereby the public interest is well represented at every point from the preparation of Development Plans and policies, the determination of planning applications and in undertaking enforcement action. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings.

It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable planning reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.

2.3 This Planning Code applies to both Councillors and planning officers who become involved in operating the planning system – it is not therefore restricted to professional town planners and Planning Committee members. The successful operation of the planning system relies on mutual trust and understanding of each other's role. It also relies on both Members and Officers ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

2.4 The introduction of the Human Rights Act 1998 has led to comment about its implications for the planning system, and in particular, compliance with Article 6 of the European Convention on Human Rights. Article 6 is concerned with guaranteeing a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations. The Local Government Association, with JUSTICE, has provided a guide 'Deciding rights – applying the Human Rights Act to good practice in local authority decision-making'. The guidance comments that:-

> *"The implementation of Article 6 should not be considered a particularly burdensome or onerous obligation. In many instances, current good practice coupled with the availability of an appeal procedure will meet the requirements of the Article. Ensuring that decisions are properly recorded and supported by adequate reasons are examples of good practice which will be encouraged by the introduction of Article 6".*

2.5 The Human Rights Act, therefore, provides additional safeguards for citizens, encourages the application of best practice and local authorities have nothing to fear from its application.

3. GENERAL PLANNING CONSIDERATIONS

3.1 The Council's Executive is responsible for preparing and adopting the Statutory Unitary Development Plan, Local Action Plans, Development Briefs and other forms of Supplementary Planning Guidance. Members of the Planning Committee, when determining planning applications, must have regard to the Council's policies contained in the Unitary Development Plan Government Guidance and Supplementary Planning Guidance adopted by the City Council together with other material considerations. Where this is relevant, applications must be determined in accordance with the Plan unless material considerations indicate otherwise.

3.2 Birmingham City Council's Code of Conduct for Members (adopted on 8th January 2002 and revised October 2007) must be complied with throughout the decision making process, which includes mandatory requirements with regard to personal and prejudicial interests. Further General Guidance on Birmingham's Code of Conduct, along with the Member / Officer relations Protocol and the Monitoring

Officer Protocol, was adopted by the City Council on 10th September 2002. These documents are available on the website.
In brief, planning decisions should not be influenced by personal or prejudicial interests of Councillors (including the interests of his/her relative(s) or friend(s)) or because of undue pressure exerted by applicants, agents or third parties.

3.3 The responsibility for declaring a personal or prejudicial interest rests with individual Members and officers of the Council. This Planning Code outlines further rules applicable to the planning process in Birmingham.

3.4 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. This applies equally to traditional forms of political management based on committees and to models based on forms of executives or elected mayors. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may only be given to officers through a decision of the Council, the executive or a committee. A successful relationship between Councillors and officers can only be based upon mutual trust, respect, courtesy and understanding of each others positions. This relationship, and the trust which underpins it, should never be abused or compromised.

3.5 Both Councillors and officers are guided by codes of conduct. Birmingham's Code of Conduct for Members, supplemented by guidance from the Standards Board and Birmingham's Standards Committee, provides standards and guidance for Councillors. Employees will be subject, in due course, to a statutory Employees' Code of Conduct. In the meantime, employees are subject to a voluntary Code of Conduct produced by the former Local Government Management Board. In addition, staff who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. However, not all planning officers are members of the RTPI and it has, therefore, been recommended to the Director of Planning and Regeneration that the Code of Professional Conduct (or those parts of it which are relevant) should be adopted as a basis of conduct for all planning and enforcement officers involved in the planning process. In addition to these codes, a Council's standing orders set down rules which govern the conduct of Council business.

3.6 Birmingham's Code of Conduct for Members sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Councillors participate in the planning process. Of particular relevance to Councillors serving on the Planning Committee or Executive, or who become involved in making a planning decision is the requirement that a Member:

At Paragraph 6(a) of the current Code of Conduct for Members:-

"must not use or attempt to use their position as a Member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage."

3.7 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved.

3.8 From time to time applicants may submit confidential information for example a financial appraisal in support of an application. Such appraisals will be taken into account in relation to determination of the application but such information due to its confidential nature should not be disclosed to third parties and members of the public.

3.9 Public Speaking

During public speaking at Planning Committee, the following should not occur:-

- Members should not cross-examine members of the public at any time;
- Members should not ask leading questions of officers or members of the public as by way of introducing new facts to the debate;
- Members should only ask relevant planning-related questions; and
- late evidence should not be introduced by speakers at Committee.

3.10 Conflicts of Interest

Quite often, varied professions are represented at Planning Committee, which have a greater probity risk for planning, i.e. Estate Agents, Property Developers, or local landowners. It should be noted that these members in general are more likely than others to be uncomfortable in the role of planning committee member by the combined pressures of their local business interests, the ward member advocate role, and the constraints of the planning system. The potential property-related background may also give rise to a perception by the public that they are more likely to be in favour of the development, even where they are determining cases completely impartially. In order to minimise the risk for the Council and the Member concerned, the member in question should discuss their position carefully with the Director of Planning and Regeneration and Monitoring Officer for the Council, to see whether it would be suitable for him/her to become a member of Planning Committee.

4. LOBBYING AND ATTENDANCE AT PUBLIC MEETINGS

General

4.1 Given the requirement that Members of the Planning Committee should exercise an independent mind to planning applications in accordance with the relevant planning considerations, Members must not favour any person, company, group or locality. Members can, of course, form a personal opinion on planning applications but they are strongly advised not to publicly commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's Planning Committee, as to do so could be perceived by others as the Member having closed his/her mind to hearing all the relevant planning considerations and/or other relevant considerations. If that were to happen, s/he should be asked by the Chairman of the Committee, the Director of Planning and Regeneration and/or the Monitoring Officer (or their representatives) not to:-

(a) take any further part in the consideration of the application; and

(b) vote on the application.

This can only be transparently demonstrated by the relevant Member not attending the meeting or leaving the Committee Room in order to ensure the integrity of the whole planning and decision-making processes. If the relevant Member wishes to speak at Planning Committee then they should declare their pre-determined position and withdraw once any public speaking opportunities have been completed. This is to ensure Members of the Planning Committee do not, by their presence, influence or seek to influence the remainder of the decision-making body. Members should always notify Committee of any approach by any group, person or company prior to the discussion of the relevant matter.

4.2 Members of the Committee who may be involved in the determination of a planning application are, of course, free to listen to a point of view about a planning proposal, give procedural advice and agree to forward any comments, but should then refer the person to officers. Members in this situation must not indicate (or give the impression of) supporting or opposing a proposal or declare their voting intention before the matter has been fully reported by the Director of Planning and Regeneration to the Committee. To do so without all relevant information and views would be held to be unfair and will prevent any further involvement by the Member in consideration of the planning application**.**

4.3 Whilst Members involved in making decisions on planning applications may begin to form a view as more information and opinions become available, a decision can only be taken by the Planning Committee after all available information is to hand and has been duly considered. In this regard, any political group meetings prior to the Committee meeting should not be used to determine how Councillors should vote. Decisions can only be taken after full consideration of the Director of Planning and Regeneration's report and information and consideration at the Planning Committee.

4.4 The Chairman of the Planning Committee should attend a briefing with officers prior to a Committee, to help give an effective lead in the Committee. Such a briefing with officers will be available to other party spokespersons on the Committee if requested.

4.5 Councillors involved in decision making on planning applications should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation. However, other Councillors (who are not part of the development control decision making process) within that Committee Member's Ward, can make written representations to the Planning Committee.

4.6 If a Member involved in determining planning applications has responded to lobbying by openly advocating a particular course of action prior to the full report of the Director of Planning and Regeneration to a Committee meeting (and there may be particular local circumstances where this is considered appropriate) that Councillor should declare their pre-determined position in that particular application, and leave the Committee meeting whilst any discussion is taking place and not take any further part in the decision making process on that application. Such a pre-determined Member may speak at Planning Committee on behalf of their constituents after declaring their pre-determined position. The pre-determined Member should however withdraw once any public speaking opportunities have been completed. This is to counter any suggestion that Members of Planning Committee may have influenced by their continuing presence.

4.7 Members involved in determining planning applications who find themselves in a lobbying situation may wish to take steps to prevent this happening, and explain to relevant members of the public or applicants that whilst they can listen to what is being said, they are constrained by law and the relevant Codes of Conduct from expressing a firm point of view or an intention to vote one way or another.

4.8 Where Members involved in the determination of planning applications are in attendance at public meetings or Ward meetings they may listen to the debate on current planning applications and may provide advice about procedures involved in determining an application. Where Members find it appropriate to express a view on an application in such meetings, they should then declare their pre-determined position when the matter is discussed at a future Planning Committee. Members should then respond as in 4.1 and 4.6.

4.9 A Planning Committee Member who represents a Ward affected by an application may be faced by considerable lobbying from people living in the area or applicants. If the Member responds to lobbying by deciding to go public in support of a particular outcome – or even campaigning actively for it – it will be very difficult for that Member to argue convincingly, when the Committee comes to take a decision on the application, that he or she has carefully weighed the arguments presented – perhaps in some respects for the first time – at the meeting. Whilst in most circumstances this would not amount to a prejudicial interest in terms of

Birmingham's Code of Conduct for Members, the proper course of action for such a member would be to respond as in 4.1 and 4.6.

4.10 Members Predetermination of Planning Applications

Central to the determination of planning applications at Planning Committee is the principle that members who determine planning applications should come to Committee with an open mind, and be ready to hear and consider all sides relating to the application. It is important that no member comes to committee with a pre-determined decision on any application. To do so otherwise increases the risk of the Council decision being successfully challenged in the Courts. If a member has pre-determined the application then they should respond as in 4.1 and 4.6. If a member is not sure of this requirement on any applications, s/he should discuss the matter with the Monitoring Officer (or his representative) well before the Committee Meetings.

Dealing with Correspondence

4.12 Members of the Planning Committee and Executive often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. Members should forward a copy of the correspondence to the Director of Planning and Regeneration or inform him at the Planning Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application. However, condoning a point of view in advance of all the planning considerations of a proposal being fully reported to the Committee by the Director of Planning and Regeneration will prevent a Member taking part in the determination of an application. If this is the case, Members should respond as in 4.9

Pre-Application Discussions

4.13 Officers when involved in pre-application discussions should always act fairly to all and completely impartially by providing accurate advice and assistance when required or requested by the general public, developers or Members. A written record of all such discussions must be retained on the planning file. Officers should take careful note of Section 4.16 of this Code .

4.14 Members should be prepared to engage with officers in appropriate pre-application discussions. Where Members are involved in such discussions, they should be advised by the appropriate officers of the Council, which should always include a senior planning officer. The involvement of Members in such discussions will be recorded as a written file record of the meeting. Members should take careful note of Section 4.16 of the Code. If a Member fails to act impartially in any way i.e. by expressing support for such an application, Members should respond as in 4.1 and 4.6.

4.15 Where Members have chosen to accept an invitation to attend pre-application discussions, any discussion will be on a without prejudice basis accompanied by an

officer and a written note taken. If any gifts and hospitality in excess of £25 is offered, given or refused by a Member, then within 28 days of such event happening the Member must submit the relevant form for the statutory register maintained for such purposes by the Monitoring Officer (i.e. the Corporate Director of Governance).
A copy of the form is available from the Council's website (as an Annex to the "General Guidance on the Code of Conduct for Members"). Declarations of gifts and hospitality received over the last three years rolling period must also now be declared at the relevant Committee meeting.

4.16 In order to avoid giving any wrong perceptions, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations should apply to any discussions which take place before a decision is taken or an application is submitted to the City Council:

- it should always be made clear at the outset that the discussions will not bind a Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place;

- advice should be consistent and based upon the development plan and material planning considerations including relevant PPG and SPG. There should be no significant difference of interpretation of planning policies amongst planning officers. It is the Officer's role to ensure consistency of advice and Officers should therefore be present with Members in pre-applications discussions. In addition, all officers taking part in such discussions should make clear whether or not they are the decision-maker. Members should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into negotiations. They should ask their Officers to deal with any necessary negotiations to ensure that the Council's position is co-ordinated;

- an Officer would best make the arrangements for such meetings and a written note should be made of all meetings. At least one officer should attend such meetings and a follow-up letter is advisable at least when documentary material has been left with the Council. A note should also be taken of potentially contentious telephone discussions.

<u>Site Visits by Members with Officers</u>

4.17 The deferral of an application for a site visit should not be on the basis of exposing members of the Planning Committee to local opinion, but should be on sound and proper planning reasons, which shall be recorded in the minutes of the meeting.

4.18 Under the Chairman's guidance the role of the Planning Officer attending the site visit will be:

(a) to brief Members on the planning applications(s) the subject of the visit and explain the reasons why the application was deferred for a visit;

(b) to ensure that the views of all interested parties are heard by all Members on the site visit and accurately recorded. Officers will prepare a written report of the site visit which will be taken back to Planning Committee to form the basis of a further discussion at a subsequent meeting.

4.19 The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.

4.20 Officers shall ensure, where practical, that applicants, Members and interested parties are invited to attend the visit and that they are able to view all key parts within or adjoining the site.

4.21 The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the planning application and which would not be apparent from the planning application to be considered by the Planning Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Members should not express an opinion on the planning application or on its merits (or otherwise) at the site visit. Discussions on site visits shall be confined to the application as currently submitted.

4.22 Whilst on site visits, Members of Planning Committee shall keep together as a group and shall not engage individually in discussion with applicants or objectors. To ensure transparency of public dealing by Members, any question of the applicant(s) / objector(s) by the Planning Officer and/or Members must be made in the presence of the other parties (or their representatives if there is a large scale public interest).

4.23 Members and Officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance); or

- there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.

4.24 Where there is substantial public interest in a proposal, the Council may invite representatives of the local community to visit the site so that they may point out all the areas of contention to Members of the Planning Committee and give their

views. A separate public meeting may then be convened at a nearby venue so that the views of local residents and others affected by the proposal can be aired . A note of proceedings will be taken at these meetings and minutes kept as part of the official record .

Results of the site visit will be reported to the next available meeting of the Planning Committee and should any new material considerations have been identified the application will be deferred for a further report.

Once the results of a site visit have been reported back to Planning Committee, Members of the Planning Committee who were not present at the site visit can ask questions, offer opinions, take part in discussions and vote in relation to that planning application.

The Role of Ward Councillors and MPs on Site Visits

4.25 Ward Councillors and MPs may attend and participate in site visits putting forward their point of view. However, the determination of planning applications rests solely with the Planning Committee and no indication should be given by Members of the Committee of the likely decision during the course of the site visit.

4.26 Prospective election candidates who are not already Members of the Council are welcome to attend a site visit on the same basis as members of the public.

5. MEETINGS OF THE PLANNING COMMITTEE

5.1 A clear distinction has to be drawn between a Member and an Officer attending a Public Meeting and their roles when they attend meetings of the Planning Committee.

5.2 No material revision to any planning application which might lead to a change in the recommendation of the Director of Planning and Regeneration shall be considered at Planning Committee unless it has been submitted at least 14 clear days before the relevant Planning Committee meeting, and has been the subject of a written report prepared by the Director of Planning and Regeneration.

5.3 When a planning application has been deferred following a resolution of "minded to approve" or "minded to refuse", contrary to the officer's recommendation, the Chairman shall put to the meeting a proposed statement of why the Director of Planning and Regeneration's recommendation for refusal or approval not considered acceptable to the Committee, which, when agreed by the Committee, will be formally recorded in the Minutes.

5.4 When a planning application has been deferred following a resolution of "minded to approve" "or minded to refuse", contrary to the officer's recommendation, then at the subsequent meeting the Director of Planning and Regeneration shall have the opportunity to respond both in a further written report and orally to the reasons formulated by the Committee for granting or refusing permission. If the Planning

Committee is still of the same view, then it shall again consider its reasons for granting or refusing permission, and a summary of the planning reasons for that decision shall be given, which reasons shall then be formally recorded in the Minutes of the meeting.

5.5 A Member shall not vote in relation to any planning application unless he or she has been present in the meeting of the Planning Committee for the whole of the deliberations on that particular application.

5.6 Discussions between a potential applicant and a Planning Officer prior to the submission of an application can be of considerable benefit to both parties and is encouraged. However, it would be easy for such discussions to become, or to be seen, particularly by objectors, to become, part of a lobbying process on the part of the applicant.
It is important, therefore, that decisions in planning matters are seen to be taken in accordance with the provisions of the development plan and the Council's statutory duty under S54.A of the Town and Country Planning Act 1990. In that regard:-

- Reports should be accurate and cover, amongst other things, the substance of any objections and the views of those consulted, as recommended by the Local Government Ombudsman;
- Relevant information should include a clear exposition of the development plan, site or related history and any other material considerations;
- Reports should have a written recommendation of action. Oral reporting (except to update a report) should be avoided and carefully minuted when it does occur;
- Reports should contain technical appraisals which clearly justify a recommendation; and
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.

5.7 Applications which are considered to be a material departure to the development plan must be identified as soon as possible. They must then be advertised as such, as required by Article 8 of the Town and Country Planning (General Development Procedure) Order 1995. Second, if it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan clearly demonstrated. The application may then have to be referred to the Secretary of State depending upon the type and scale of the development proposed. If the Director of Planning and Regeneration's report recommends approval of such a departure, the justification for this should be included, in full, in that report.

5.8 If the Planning Committee makes a decision contrary to the Director of Planning and Regeneration's recommendation, the officer should be given an opportunity to explain the implications of the contrary decision. The Courts have expressed the view that reasons for the contrary decision should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, the provision of a dwelling for an agricultural worker.

5.9 A senior legal officer should always attend meetings of the Planning Committee to ensure the probity and propriety of the planning and decision-making processes. Whilst authorities make extensive use of standard wordings for conditions, in the case of any conditions which Members may wish to add or amend, an officer should be asked to draft any such conditions and bring them back for approval at the subsequent meeting of the Planning Committee.

Conflict : Ward Member v Planning Committee Roles, Chairmanship.

5.10 Councillors may be members of both the Conservation and Heritage Panel (CHP) and the Planning Committee. Their considerations at CHP are confined strictly to conservation matters. When a matter is to be considered by both bodies, these members may ask questions, offer opinions and participate in discussion at CHP but not take part in any vote on the issues. Furthermore, these members should expressly dissociate themselves from any conclusion reached by CHP as to whether to approve or refuse a planning application, even if reached without a formal vote. This statement should be minuted. This is because when the item reaches the Planning Committee, members must be seen to consider impartially all the material considerations. If a member expresses a view – for or against – in respect of an application at the CHP or does not comply with the requirements of this paragraph, the member should respond as in paragraph 4.6. The same principle also applies to members of the Planning Committee who, although not members of CHP, might attend CHP and participate in discussion.

5.11 Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item, by requesting from each member as to how they have voted, noting this and the member's name.

5.12 There can often be tensions between the Ward Member or local representative and the Planning Committee role; in this situation, the Member must separate the two roles. Members of Committee are free to act in the manner as indicated in paragraph 4.2, but any form of indication of a Member as to predetermination of an application will result in the Member responding as in 4.1 and 4.6. On occasions, Members may feel it necessary to act in their Ward role, and support a particular way in relation to an application. In adopting such a position, they no longer have an independent mind in relation to the application and must respond as in 4.1 and 4.6.

5.13 Chairmanship – The chairman should ensure

5.13.1 Members' comments at Committee only relate to the planning merits of the application before them;

5.13.2 reference at Committee to non-planning issues by the public / Members are discouraged;

5.13.3 the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined; and

5.13.4 late evidence from public speakers – Members and the public should be made aware that the late submission of evidence will not be permitted at Committee as late submission can lead to allegations of unfairness.

6. TRAINING

6.1 Members dealing with planning issues will be required to attend a training session each year to receive guidance in relation to planning regulations and procedures and on declaration of personal or prejudicial interests. Training will be conducted in accordance with the Training for Councillors standard. Members who fail to attend such training will be excluded from meetings of Planning Committee. This training should include a balance of the following :-

- Organised visits to review permissions granted, with evaluation and lessons learned presented as a paper;
- Short (half day) sessions on special topics of interest or where overturns have indicated problems with planning policy;
- Special topic groups to consider thorny issues in depth;
- Formal training by internal and external speakers;
- Visits to other authorities who have received good inspection / audit feedback;
- Quick presentations by officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session;
- Attendance at inquiries where officers have identified there is something specific to learn which will benefit members.

6.2 The report of the Audit Commission 'Building in Quality' recommend that Councillors should revisit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public, confidence in the planning system, and can help with reviews of planning policies.

6.3 Such reviews are best undertaken at least annually. They should include examples from a broad range of categories such as major and minor development; permitted departures; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices. The Director of Planning and Regeneration will take responsibility for organising the training and the reviews.

6.4 Whatever procedures the City Council operates, it is likely that complaints will be made. However, the adoption of the advice in this guidance should greatly reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.

6.5 A logical consequence of adopting this Planning Code is that the Council should also have in place a robust complaints system. There is city-wide procedure for dealing with complaints, as well as customer comments and compliments. It should be remembered that complainants alleging a breach of the Birmingham's Code of Conduct for Members must be reported to the Standards Board for England. A serious breach of the Code of Conduct for Members may lead to the disqualification of the relevant Member.

6.6 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule is that every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, why and how it had been reached. Particular care needs to be taken with applications determined under the powers delegated to the Director of Planning and Regeneration, where there is no report to a Committee. Such decisions should be well documented and form part of the case file.

7. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS AND DEVELOPMENT PROPOSALS BY THE COUNCIL

7.1 Serving Councillors or their relatives who act as agents for people pursuing a planning matter will not be permitted to play any part in the decision making process for that proposal. Similarly, should they or their relatives submit their own proposal to the Council, they will take no part in its processing, as in both cases they will have a personal and prejudicial interest in the matters.

7.2 Proposals of this nature will be identified and reported to the Planning Committee as main items and not dealt with by officers under delegated powers. Proposals for the Council's own development will be determined by Planning Committee in exactly the same way as those by private developers.

7.3 Officers within the Planning and Regeneration Department should not submit applications on behalf of third parties except as part of their duties as Council employees. In cases where officers of this Department or members of their family submit applications for planning permission, they should inform the Director of Planning and Regeneration accordingly.

8. REGISTRATION AND DECLARATION OF INTERESTS

The Local Government Act 2000 and the Birmingham Code of Conduct for Members place requirements on Members on the Registration and Declaration of their interests and the consequence for the Members participation in consideration of an issue in the light of those interests. These requirements must be followed scrupulously and Members should review their situation regularly. Guidance on the registration and declaration of interests is dealt with by the Birmingham Code of Conduct for Members (at Volume B, Part 3 of the Constitution).

9. COMPLAINTS ABOUT THE DETERMINATION OF PLANNING APPLICATIONS

The Council has a formal complaints procedure for handling complaints from applicants, agents and members of the public about the administration of planning matters. It is preferable to use the complaints procedure prior to any recourse to Local Government Ombudsman.

10. CONCLUDING REMARKS

10.1 Maintaining high ethical standards enhances the general reputation of the City Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. A common understanding of the various roles, responsibilities and accountabilities should also enhance citizen participation. This Planning Code, along with Birmingham City Council's Code of Conduct for Members, therefore, serve an essential part in the local and corporate governance of Birmingham.

10.2 The City Council's Head of Paid Service, the Monitoring Officer and the Section 151 Officer have been consulted over this Planning Code. The Monitoring Officer has also kept the District Auditor aware of the development of this Planning Code and been given full opportunity to comment upon it.

10.3 If any person believes that a Member or Officer has breached any aspect of this Planning Code, s/he should refer the matter to the City Council's Monitoring Office (i.e. Corporate Director of Governance) for consideration. A breach by an Officer could be a relevant consideration in any disciplinary matter and a breach by a Member could be referred to the City Council's Standards Committee and/or the Standards Board for England.

Prepared by the Corporate Director of Governance and the

Director of Planning and Regeneration

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