

**Subject:** Planning Functions  
**Agenda item:** Public item 7  
**Report No:** 4  
**Meeting date:** 27/09/2012  
**Report to:** Board  
**Report of/by:** Jonathan Dutton, Executive Director of Finance and Corporate Services

**FOR DECISION**

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**This report will be considered in public**

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**1. SUMMARY**

- 1.1. This paper
- Updates the Board on the transfer of planning powers to London Legacy Development Corporation;
  - Proposes the establishment of a Planning Decisions Committee; and
  - Proposes the adoption of a Planning Decisions Code of Practice and a Scheme of Planning Delegations.
- 1.2. A separate item on this agenda will make provisions for changes to Standing Orders, which include changes occasioned by the transfer of planning powers.

**2. RECOMMENDATIONS**

- 2.1 The Board is invited to:
- **NOTE** the making of an Order granting planning powers to London Legacy Development Corporation;
  - **NOTE** associated transfers of property, rights and liabilities, and of staff currently delivering planning services in predecessor bodies;
  - **NOTE** the discussions underway with the Olympic Park boroughs and others to ensure effective joint working;
  - **AGREE** to the establishment of a Planning Decisions Committee with effect from 1 October 2012, with the membership, chairmanship and terms of reference set out in this paper and its appendices;
  - **ADOPT** the Scheme of Planning Delegations appended to this paper with effect from 1 October 2012; and
  - **ADOPT** the Planning Decisions Code of Practice appended to this paper with effect from 1 October 2012

### 3. BACKGROUND

- 3.1. Following his consultation on the establishment of the London Legacy Development Corporation, the Mayor of London asked the Secretary of State to transfer full planning powers to the Corporation, with effect from 1 October 2012.
- 3.2. To effect this, the Secretary of State for Communities and Local Government has made an Order (The London Legacy Development Corporation (Planning Functions) Order 2012) transferring planning powers to the Corporation, and laid it in Parliament on 28 August. The Order will come into force on 1 October, at which point the Corporation will become the Planning Authority within its area.
- 3.3. At the same time, transfer schemes will be used to transfer relevant property rights and liabilities (including contracts, office equipment, funding agreements etc) from London Thames Gateway Development Corporation and the Olympic Delivery Authority, which currently hold relevant planning powers in the area. Corporation officers are reviewing these transfers to ensure that funding is secured for any transferring liabilities.
- 3.4. Staff currently providing planning advice for the predecessor bodies will also transfer to the Corporation on the 1 October, under the terms of the Transfer of Undertakings (Protection of Employment) Regulations 2006, ensuring that seamless continuity of service can be maintained. A total of sixteen staff will transfer.
- 3.5. The national on-line planning portal, through which a large proportion of planning applications are submitted, is being updated to ensure that appropriate applications are directed to the Corporation from 1 October, and a leaflet is being distributed to local households to explain the change. The Corporation's website will also be updated.
- 3.6. The planning teams, under the leadership of Vivienne Ramsey, currently Director of Planning at the Olympic Delivery Authority, are working with the Olympic Park boroughs to ensure effective joint working on handling planning applications and developing planning policy, in light of the 'duty to co-operate' enshrined in the Localism Act 2011.

### 4. ESTABLISHMENT OF A PLANNING COMMITTEE

- 4.1. On 17 July, the Board agreed to appoint a Planning Decisions Committee comprising six members from the Board and five nominated by the Olympic Park boroughs. As Chairman, Daniel Moylan wrote to the boroughs following the Board meeting, seeking their nominations.
- 4.2. Following receipt of these nominations, the following membership is proposed for the Planning Decisions Committee:

	<b>Member</b>	<b>Substitute</b>
LLDC Board	Philip Lewis David Gregson Andrew Mawson Sonita Alleyne Nicolas Bitel Nicky Dunn	Robert John Keith Edelman Jayne McGivern

	<b>Member</b>	<b>Substitute</b>
London Boroughs of Hackney	Cllr Geoff Taylor	Cllr Guy Nicholson
London Borough of Newham	Cllr Conor McAuley Cllr Lester Hudson	Tbc
London Borough of Tower Hamlets	Cllr Rabinah Khan	Cllr Maium Miah
London Borough of Waltham Forest	Cllr Terry Wheeler	Cllr Peter Barnett

- 4.3. It is proposed that a member of the Corporation's Board should be appointed as Chairman of the Committee.
- 4.4. All Corporation Board members and borough-nominated members have been invited to a training session on 11 September, and a follow-up session for those who cannot attend on that date has been scheduled for 26 September.
- 4.5. The draft terms of reference for the Committee are attached as Appendix A to this report.

## **5. SCHEME OF PLANNING DELEGATIONS**

- 5.1. A scheme of delegations has been prepared and is attached as Appendix B. This reflects the proposed scope of decision taking by the Board, the Planning Decisions Committee and planning officers. In summary:
- The Board will take all decisions relating to planning policy, delegating to planning officers the power to prepare policy proposals and to respond to minor consultations on policy matters;
  - The Planning Decisions Committee will have delegated authority to take all decisions on planning applications, and to respond to consultations on applications from neighbouring authorities; and
  - Planning officers shall also have the power to take all decisions on planning applications, and to respond to consultations on applications from neighbouring authorities, with the exception of a range of specified significant or controversial applications.
- 5.2. The same broad powers of taking decisions on planning applications are therefore delegated to the Planning Decisions Committee and planning officers, to enable decisions to be taken at either level as appropriate. Agreeing which decisions need to be taken to the Committee will therefore require some exercise of judgement by the Committee Chairman and the Director of Planning Decisions and Policy within the framework set out by the Scheme, though the Scheme also sets out those cases where a decision must be referred to the Committee.

## **6. PREDETERMINATION AND BIAS**

- 6.1. Like all those taking decisions on planning matters, members of the Planning Decisions Committee need to abide by the law on predetermination (that is, approaching a decision with a closed mind on relative planning issues). The avoidance of predetermination or the perception of pre-determination is particularly important when a planning authority is itself the sole or joint

promoter of a planning application. A background note, attached as [Appendix C](#), gives context to the provisions of the proposed Planning Decisions Code of Practice.

## **7. PLANNING DECISIONS CODE OF PRACTICE**

- 7.1. A Planning Decisions Code of Practice has also been prepared, and is attached as [Appendix D](#). The Code is based on those used by local authorities and the Olympic Delivery Authority, giving guidance on how Planning Decisions Committee members and officers should approach their role in relation to taking planning decisions. The development of planning policy is covered by the Corporation's corporate Code of Conduct.
- 7.2. In particular it addresses the respective role of Committee members and officers, the role of lobbying in the planning system, how pre application discussions, presentations and site visits should be conducted, and what Committee members should do and not do, to avoid being seen a 'pre-determining' a planning application that, is, approaching a planning decisions with a mind that is already made up or a closed mind indicating bias under public law principles) that, is, approaching a planning decisions with a mind that is already made up or a closed mind indicating bias under public law principles), that is, approaching a planning decisions with a mind that is already made up or a closed mind indicating bias under public law principles).

## **8. FINANCIAL IMPLICATIONS**

- 8.1. The annual cost of running the planning service is anticipated to be circa £1.3 million, of which the majority will be staff costs. Planning policy development (including the costs of examination in public and public consultation) is budgeted to cost circa £300,000 this year, circa £1 million in 2013/14, and decreasing sums in subsequent years.
- 8.2. DCMS has agreed to transfer the funding that would have paid for the ODA Planning Decisions Team up till the end of March 2013. Beyond then, the costs of the Planning Policy and Decisions functions are incorporated within the Corporation's budgets, with specific provision for research and enquiry costs required to enable preparation of planning policy documentation. Planning fees – charged to applicants in line with a national scale of charges – can be used to offset costs, and we are currently budgeting for income of £200,000 per annum, which is in line with ODA income levels.
- 8.3. Remuneration for the Committee Chairman will be funded from corporate Board budgets.

## **9. CONSULTATION**

- 9.1. The Localism Act (Schedule 21, Paragraph 6) requires the agreement of the Mayor of London to the inclusion on a mayoral development corporation committee of people who are not members of that corporation. As Chairman, Daniel Moylan wrote to the Mayor of London on 23 August, seeking his agreement to the appointment of borough members to the Planning Decisions Committee. The Mayor wrote back on 11 September to say that he was happy to agree the appointments proposed.
- 9.2. Daniel Moylan also wrote to the Mayor on 29 August, to allow him to comment on the proposed Scheme of Planning Delegations. The Mayor wrote back on 11 September to say that he has noted the proposed scheme and has no additional comments to make.

## 10. LEGAL IMPLICATIONS

- 10.1. The Localism Act 2011 allows the Corporation (subject to any directions from the Mayor), to establish committees and subcommittees, which may include people who are not members of the Corporation with the agreement of the Mayor of London, to delegate any of its functions to any of its members committees or staff, and to decide its own procedure and that of its committees and sub-committees (pursuant to the Localism Act (Schedule 21, Paragraphs 7 and 8)).

## 11. LIST OF APPENDICES

- Appendix A: draft terms of reference for the Planning Decisions Committee
- Appendix B: draft Scheme of Planning Delegations
- Appendix C: background note on pre-determination and bias
- Appendix D: draft Planning Decisions Code of Practice

### List of Background Papers

- Localism Act 2011
- London Legacy Development Corporation (LLDC) (Planning Functions) Order
- Paper to 17 July LLDC Board meeting

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## APPENDIX A

### Planning Decisions Committee terms of reference

- Status:** Taking decisions within its terms of reference. Part VA of the Local Government Act 1972, which deals with access to meetings and documents, applies to this committee.
- Membership:** The Committee shall be appointed by the Board and shall comprise six Board members, and five members co-opted from the Olympic Park boroughs (two from the London Borough of Newham, and one each from the London boroughs of Hackney, Tower Hamlets and Waltham Forest) on their nomination.
- Substitutions will be allowed: the Board will appoint named substitute/s for the Board members and each borough will be asked to nominate a named substitute for each of their nominated member/s.
- Chair:** The Committee Chair shall be appointed from time to time by the Board.
- In attendance:** Other Board members (with the approval of the chair)  
Chief Executive (at his/her discretion)  
Executive Director of Finance and Corporate Services (at his/her discretion)  
Director of Planning Policy and Decisions
- Subject to the rights of the public to attend meetings, attendance of other officers, advisers or other persons shall be at the invitation of the Chair for all or part of the meeting. The Chair may authorise the Director of Planning Policy and Decisions or the Chief Executive to issue invitations generally or in specific cases.
- Secretary:** To be agreed by the Proper Officer
- Quorum:** Five members of the Committee, of whom the majority must be Board members

### Frequency of meetings

1. The Committee will meet as determined by the Committee Chair, in light of the need for advice and decisions. Meetings of the Committee shall be convened by the Chief Executive or the Director of Planning Policy and Decisions at the request of its Chair.

### Purpose of the Committee

2. To enable transparent, efficient and effective discharge of the London Legacy Development Corporation's functions to determine planning applications and to respond to consultation on applications on which the Corporation is a consultee.

### Terms of Reference and Delegated Authority

3. The Planning Decisions Committee will take decisions in accordance with the Planning Scheme of Delegations, which will also set out matters that are delegated to the Director of Planning Decisions and Policy.

### **Procedural and reporting arrangements**

4. The Chief Executive, Executive Director of Finance and Corporate Services, and Director of Planning Policy and Decisions shall be entitled to attend all meetings of the Committee, subject to any limitations in the Planning Code of Practice. Subject to the rights of the public to attend meetings, attendance of other officers, advisers or other persons shall be at the invitation of the Chair for all or part of the meeting. The Chair may authorise the Chief Executive to issue invitations generally or in specific cases, pursuant to Standing Order 5.2.
5. Unless otherwise agreed, notice to each Committee member confirming the venue, time and date, together with an agenda of items to be discussed, shall be forwarded to each Committee member and any other person required to attend no later than five (5) clear days before the date of the meeting..
6. The Chief Executive will nominate a secretary for the Committee (and in the case of absence a deputy) who shall minute the proceedings and resolutions of all Committee meetings, including recording the names of those present and in attendance.
7. The Secretary or a nominated deputy shall promptly circulate the minutes of the meetings to all Committee members and the minutes shall be approved (or amended as appropriate) at the next Committee meeting.
8. Further procedural provisions are set out in Standing Orders, and will be supplemented by procedural arrangements to be agreed by the Committee from time to time.

### **Amendments**

9. Any of these procedures and terms of reference may be altered or amended from time to time by resolution of the Board. Notice shall be given of the proposed alteration(s) in a paper for the meeting of the Board at which they are to be discussed.

## APPENDIX B

### SCHEME OF PLANNING DELEGATIONS

The Board of the London Legacy Development Corporation (the "Corporation") will discharge some of its town and country planning functions and responsibilities through delegation to the Planning Decisions Committee and Planning Officers as follows:

- A. Delegations to the Planning Decisions Committee – relating to town and country planning development management as set out under heading "A" below;
- B. Delegations to Planning Officers – relating to town and country planning development management as set out under heading "B" below; and
- C. Delegations to Planning Officers – relating to town and country planning policy and the Community Infrastructure Levy as set out under heading "C" below.

For the avoidance of doubt, there are no delegations to the Planning Decisions Committee on town and country planning policy and Community Infrastructure Levy charging schedule preparation; all such matters are to be dealt with by the Board or as delegated by the Board to Planning Officers.

#### **A Delegations to the Planning Decisions Committee - relating to town and country planning development management decisions**

- 1. The Board of the London Legacy Development Corporation delegates the following town and country planning development management functions and responsibilities to the Planning Decisions Committee of the Corporation:
  - 1.1 all functions and responsibilities of the Corporation relating to town and country planning development management decisions on any town and country planning matter within the powers of the Corporation as local planning authority that fall within the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (other than powers relating to the declaration of conservation areas), the Electricity Act 1989, the Planning and Compulsory Purchase Act 2004 and all secondary legislation pursuant to the same including, in relation to such planning applications, the power on behalf of the Corporation as local planning authority to negotiate, complete, discharge and vary any agreement under sections 106 and 106A of the Town and Country Planning Act 1990 and/or other appropriate powers (including under relevant highways legislation) and the power to impose conditions to any planning permission granted pursuant to such planning applications;
  - 1.2 all functions and responsibilities of the Corporation relating to town and country planning enforcement action, including the overseeing and monitoring of town and country planning enforcement action taken by the Corporation through the provision of regular reports by planning officers; and
  - 1.3 giving responses concerning or of interest to the Corporation as local planning authority (as statutory or other consultee or otherwise) to any other authority or person on applications, notifications and certificates outside of the development area as defined in The London Legacy Development Corporation (Planning Functions) Order 2012 (and any legislation amending or replacing the same).



## **B Delegations to Planning Officers relating to town and country planning development management decisions**

1. Except in relation to the functions and responsibilities specified in paragraph 2 (Exceptions) of this Section B below, the Board of the Corporation delegates the following town and country planning development management functions and responsibilities of the Corporation to the Director of Planning Policy and Decisions or in her absence the following Planning Officers of the Corporation (together "the Authorised Planning Officers"):

(a) Chief Planner (Development Management); and

(b) Chief Planner (Policy & Relationships),

1.2 town and country planning development management decisions on any town and country planning matter within the powers of the Corporation as local planning authority that fall within the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (other than powers relation to the declaration of conservation areas), the Electricity Act 1989), the Planning and Compulsory Purchase Act 2004 and all secondary legislation pursuant to the same, including the power on behalf of the Corporation as local planning authority to negotiate, complete, discharge and vary any agreement under sections 106 and 106A of the Town and Country Planning Act 1990 and/or section 16 of the Greater London Council (General Powers) Act 1974 and/or other appropriate powers (including under relevant highways legislation) and the power on behalf of the Corporation as local planning authority to impose (as far as lawfully possible) conditions to any planning permission granted pursuant to such planning applications; and

1.3 town and country planning enforcement action; and

1.4 giving responses concerning or of interest to the Corporation as local planning authority (as statutory or other consultee or otherwise) to any other authority or person on applications, notifications and certificates outside of the development area as defined in The London Legacy Development Corporation (Planning Functions) Order 2012 (and any legislation amending or replacing the same).

### **2. Exceptions to Planning Officers' delegations**

The following matters shall be excepted from the delegation of functions and responsibilities to Planning Officers set out in paragraph 1 of this Section B above:

2.1 Planning applications made by Corporation members or planning officers as applicant or agent;

2.2 Planning applications which a Corporation Planning Decisions Committee Member or a Corporation Board Member has requested in writing to the Director of Planning Policy and Decisions within 21 days of the registering of receipt of the application by the Corporation as local planning authority should be determined by the Corporation's Planning Decisions Committee; and

2.3 Planning applications which in the opinion of the Director of Planning Policy and Decisions or in her absence her Authorised Planning Officers which:

2.3.1 are of a significant or potentially contentious nature; or

- 2.3.2 have received significant objections; or
- 2.3.3 may prevent the Corporation from fulfilling its functions or responsibilities; or
- 2.3.4 are zonal or site-wide strategy planning documents or masterplans for the Corporation's area; or
- 2.3.5 propose development which involves a significant departure from planning policy or other planning guidelines or a departure from Development Plan policy (which would be required to be subject to notification to the Secretary of State), but where it is proposed to approve the application; or
- 2.3.6 propose development which complies with adopted planning policies and other planning guidelines but where it is proposed to refuse the application; or
- 2.3.7 are proposals which should be considered by the Planning Decisions Committee or the Board; or
- 2.3.8 any matter, which, in the opinion of the Director of Planning Policy and Decisions and/or the Authorised Planning Officers, is of such a significant nature in terms of its impact on the purposes, functions or responsibilities of the Corporation that the matter should be referred to the Corporation's Planning Decisions Committee or the Board for consideration;

**C Delegations to Planning Officers – relating to town and country planning policy and Community Infrastructure Levy charging schedule preparation**

- 1. Subject to the financial delegations, the Board agrees to delegate the functions specified below to the Director of Planning Policy and Decisions or in her absence the following Authorised Planning Officers of the Corporation:
  - (a) Chief Planner (Development Management); and
  - (b) Chief Planner (Policy & Relationships).
- 1.2 the power to take preparatory steps (but not decisions) in relation to the town and country planning functions of the Corporation under the Planning and Compulsory Purchase Act 2004 which relate to preparing local development plan documents, related guidance (including supplementary planning documents) and other plan-making functions, or functions relating to the community infrastructure levy, including preparatory steps in relation to the charging schedule preparation; and
- 1.3 subject to the exceptions set out in paragraph 2 below, the power to give responses concerning or of interest to the Corporation as local planning authority (as statutory or other consultee or otherwise) to any other authority or person on:
  - 1.3.1 new or amended town and country planning legislation, policies, guidance, plans, frameworks or strategies, and consultations or proposals in respect of the same;

- 1.3.2 local development framework and supplementary planning consultation documents for each of the London Boroughs of Newham, the London Borough of Tower Hamlets, the London Borough of Hackney, and the London Borough of Waltham Forest; and
  - 1.3.3 current and emerging strategic planning guidance for London.
2. The delegation in paragraphs 1.1 to 1.3 above of this Section C above shall not apply in relation to:
  - 2.1 responses to consultations which a Corporation Board Member has requested in writing to the Director of Planning Policy and Decisions within 21 days of the commencement of consultation should be agreed by the Corporation's Board; and
  - 2.2 consultations on matters which in the opinion of the Director of Planning Policy and Decisions or in her absence her Authorised Officers which:
    - 2.2.1 are of a significant or potentially contentious nature; or
    - 2.2.2 have received significant objection; or
    - 2.2.3 may prevent the Corporation from fulfilling its functions or responsibilities; or
    - 2.2.4 should be considered by the Board; or
    - 2.2.5 are of such a significant nature in terms of their impact on the purposes, functions or responsibilities of the Corporation that they should be referred to the Corporation's Board for consideration.

## APPENDIX C

### BACKGROUND NOTE ON PREDETERMINATION AND BIAS

#### 1 General

1.1 Where a member has a conflict of interest<sup>1</sup> in relation to a planning application<sup>2</sup> which:

- (a) is registrable under standing order 9; or
- (b) gives rise to a real danger of bias or is one which a member of the public aware of all the facts will regard as so significant that it is likely to prejudice the member's judgement of how to act in the public interest

then the member must disclose the interest as soon as practicable at the meeting at which it is considered, and not take part in its consideration or discussion, leave the meeting during its consideration and not vote on it.

1.2 Additionally members not covered by para 1.1 must avoid any appearance of having predetermined their views before taking a decision on a planning application. Members do not have to be impartial but they must address the planning issues on the matter before them fairly and on their merits even though they may start with a predisposition in favour of one side of the argument or the other<sup>3</sup>. Predisposition to a point of view however does not amount of itself to predetermination. The proposed Planning Code of Practice<sup>4</sup> summarises the position on predetermination in the following way:

*"5.1 Planning Decision Committee Members or Board Members making planning decisions must avoid any appearance of having predetermined their views before taking a decision on a planning related matter. Predetermination means a mind already closed to the planning issues which are relevant to the decision. Planning Decision Committee Members or Board Members must address the planning issues on the matter before them fairly and on their merits even though they may start with a predisposition in favour of one side of the argument or the other."*

1.3 If a decision is challenged by judicial review on the grounds of predetermination it is for the Court to decide if members made the decision with closed minds or that the circumstances give rise to such a real risk of closed minds that the decision ought not in the public interest to be upheld. The number of members with closed minds must be sufficient to affect the decision. Pre-determination by one member of the Committee is not enough unless the balance of voting in the committee is determined by the way in which that member cast his or her vote<sup>5</sup>.

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<sup>1</sup> Conflicts of interest are those material interests of members which conflict or may conflict with the interests of the Corporation and are either registrable interests under SO9 or situations where a decision in relation to a matter might reasonably be regarded as affecting the member's well-being or the well-being of a connected person to a greater extent than other council tax payers, ratepayers or inhabitants in the Mayoral Development Area. Connected persons are the spouse or civil partner of the member; or a person with whom the member is living as husband and wife; or a person with whom the member is living as if they were civil partners.

<sup>2</sup> including applications for listed building and conservation area consents.

<sup>3</sup> see generally the leading case of *R v Persimmon Homes Teesside Ltd ex p Lewis*<sup>3</sup> in the Court of Appeal.

<sup>4</sup> prepared for adoption by the Board and based largely on a similar Code adopted by the ODA to guide its members in the discharge of the ODA's development management functions

<sup>5</sup> *R v Tendring DC ex p TW Logistics* [2012] EWHC 1209 The adoption of a conservation area management plan by the Council was challenged on the grounds of a real risk of pre-determination and bias by the decision maker, the Cabinet member holding the relevant portfolio. He was also a member for the ward

- 1.4 The Localism Act<sup>6</sup> provides that a decision maker who is a member or co-opted member of a relevant authority is not to be taken to have had or appeared to have had a closed mind just because he had previously done anything directly or indirectly that indicated what view he took or would or might take in relation to that matter. Unfortunately the LLDC is not a relevant authority.
- 1.5 This issue of predetermination is likely to arise in three areas:
- (a) lobbying of members by third parties;
  - (b) views expressed by a Borough in response to consultation by the LLDC; and
  - (c) applications promoted or supported by the LLDC

## **2 Lobbying**

2.1 The proposed Code of Practice has a section about lobbying because this is the area which has given rise to complaints and applications for judicial review of decisions by local planning authorities who are local authorities. Members of the Committee are not elected and do not therefore face the potential for lobbying by residents of their ward except in the case of a Borough member who happens to represent a ward within the Mayoral Development Area affected by a planning application. The draft Code provides the following advice:

“3.1 *Lobbying is a normal and proper part of the political process; those affected by a planning decision will often seek to influence its outcome by approaching decision-makers. It is good practice for Planning Decisions Committee Members or Board Members making planning decisions to have formal contact with the applicants for planning permission for strategic schemes during the pre-application and determination periods. Planning Decisions Committee Members or Board Members making planning decisions may ask questions but should not provide an opinion or express a view that may give the impression that a final view on the application/matter in question has already been reached.*”

2.2 The draft Code goes on to set out the ways in which information should be conveyed to members through briefings, exhibitions, meetings and site visits to which all members are invited. It advises against private correspondence or discussions with applicants and stakeholders who should be encouraged to direct their views to the whole committee. Any lobbying or other material received by a member should be forwarded to the relevant planning officer. Third parties who approach a member should be encouraged to write to the relevant planning officer.

## **3 Responses from the Boroughs to Consultations**

3.1 Representations made by a Borough for or against a planning application do not prevent a member of the Committee who is also a member of the Borough from taking part in the decision making on that application.

3.2 The general principles set out in section 1 apply but being a councillor of the Borough making the representations does not of itself give rise to predetermination.

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in which the conservation area was located and a long standing critic of a fence by the quayside. The challenge failed in part because the decision was affirmed by eight members of the Council's Cabinet.

<sup>6</sup> s25

- 3.3 Borough members may wish to comment on the merits of the application itself at meetings of the Borough Council where the application is discussed. A Borough member is free to do so but in accordance with the general principles about predetermination must avoid becoming so committed to a particular view that s/he is in danger of demonstrating a closed mind.

#### **4 Applications promoted by the LLDC**

- 4.1 Where a public body has both regeneration and planning functions and owns land which can only be sold if it grants planning permission no objection can be taken on the ground that the body is judge in its own cause any more than it can be where a local authority grants planning permissions to itself<sup>7</sup>.
- 4.2 A local planning authority must be “particularly scrupulous” about evaluating a planning application in the correct policy perspective when it has an interest in another capacity especially if functions are not distributed amongst different committees<sup>8</sup>. This evaluation is a one of the responsibilities of the Director of Planning in the writing of her reports. Advice given to members by officers and the consequent declarations of interest and departure from meetings is also evidence of scrupulousness.
- 4.3 The obligation to take a scrupulously objective approach to decision making in the case of urban development corporations and thus by analogy by mayoral development corporations has an added dimension because its members are not accountable to the public through the ballot box<sup>9</sup>.
- 4.4 An interest of a member of the Board which is common to all Board members in their capacity as such does not give rise to bias so as to prevent a member taking part in a decision by the Board in the exercise of its planning functions<sup>10</sup>. The bias test only applies where there is an extraneous personal interest<sup>11</sup>.
- 4.5 Separation of functions is not essential to show proper consideration of the planning issues. The Corporation is entitled to promote the development of its land and it is inevitable there will be some corporate predisposition to a development among the members who support it. The issue is can members consider the development control decision independently?
- 4.6 Examples of what falls short of particular scrupulousness in a case where an application for a local authority leisure development was considered by full Council on a recommendation by its development control sub-committee were the attendance of sub-committee members at meetings of the promoting committee and the failure to record and minute development control officer advice at the leisure development project group meetings<sup>12</sup>. The challenge to the grant of planning permission however failed. The following extract from the judgement is helpful:

*“I start from the premise that a Council is entitled to promote development in pursuit of its leisure function on its own land. This process will inevitably entail*

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<sup>7</sup> R v Teeside Development Corporation ex p William Morrison Supermarkets PLC [1997] EWHC 481 a case where the UDC did not have a planning committee and the report recommending the grant of planning permission for a retail development allowed the regeneration function to dominate the performance of the planning function. It did not present a balanced appraisal of the case for not breaching planning policy and therefore refusing planning permission.

<sup>8</sup> see above that will not be the case with the MDC

<sup>9</sup> see above Sedley J in this case also mentioned the ability of the UDC to meet behind closed doors as also being material. that is not the case with the MDC

<sup>10</sup> R v Camden LBC ex p Cummins [2001] EWHC 116

<sup>11</sup> see para 1.1 above.

<sup>12</sup> see above

consideration of various factors impinging on estate, finance, leisure and planning. The planning prospects will need to be considered by the promoting committee both before any scheme emerges and as it takes on greater definition, before becoming the subject of a planning application. Planning advice is obviously most valuable if the matters which will most concern development control can be highlighted. The finance side, especially if it involves financial commitments from the Council, will need to be considered. The actual grant of planning permission can often be the last or one of the last pieces of the development jigsaw, simply because there is little value and often much that is counter-productive, in incurring the costs of preparing an application for a proposal, which no developer or financier will be found to support. Public participation as here, in setting out the type and size of leisure and sporting facilities required, affecting the brief to the developer or promoter, will generate controversy, as it did here. This will often lead to Councillors taking a view as to the merits or otherwise of a proposal, whether publicly expressed or leading to support in various relevant committees. Officer and member time and effort is required for a Council to promote complex development as this was, whether as Applicant or a closely involved supporter. It is inevitable that there will be some corporate predisposition, at least among the supporting Councillors. I did not find evidence however that Councillors were unable to consider the development control decision independently.”

9 The LGA publication “probity in planning”<sup>13</sup> contains the following advice:

*“4.12 Cabinets and executives have created an interesting situation for cabinet members, portfolio holders and leaders who are also members of the planning application or local development document planning decision body. Authorities will typically have a member responsible for development. If that member is on the authority’s planning committee or other decision-making body for planning matters, there may be occasions when that member will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that executive member be able to vote on any planning application relating to that development?”*

*4.13 The appropriate action is not clear cut, and will depend on the circumstances of a particular case. However, the general advice is that a member in such circumstances may well be so committed to a particular development as the result of their cabinet/executive responsibility that they may not be able to demonstrate that they are able to take account of all material considerations before a final decision on a planning application is reached. The member may be seen as the chief advocate on behalf of the authority for the development in question. In that sense, the member almost represents the ‘internal applicant’. In such circumstances, the appropriate approach is likely to be that the member is able to argue for the development but should not vote on the relevant applications”*

and

*“5.4 Proposals for a council’s own development should be treated with the same transparency and impartiality as those of private developers. A member whose cabinet/executive responsibility effectively makes them an advocate for the development in question almost represents the ‘internal applicant’. In such circumstances, the appropriate approach is likely to be that the member is able to argue for the development but should not vote on the relevant applications.”*

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<sup>13</sup> May 2009

11 The mere fact that a Planning Committee member also sits on other committees where decisions are made about the promotion of development (or, being a Board Member, is present when such decisions are made by the Board), does not mean that such a member has a closed mind. However, in such circumstances, members should nonetheless guard against becoming so committed to a project that they are at risk of showing an inability to consider the merits of the application when it comes before the committee for decision. The draft Code contains the following advice.

*“5.2 Planning Decision Committee Members or Board Members making planning decisions do not have a closed mind just because they sit on committees where decisions are made about the promotion of development or if such decisions are made at the Board when they are present. However, Planning Decision Committee Members or Board Members making planning decisions must avoid becoming so committed to a development the subject of an application in another capacity (including as a member of the Corporation or one of its other Committees) that they may be unable to demonstrate that they can take into account all the considerations material to its determination.”*



## **APPENDIX D**

### **PLANNING DECISIONS CODE OF PRACTICE**

#### **Scope and Overview**

The London Legacy Development Corporation (the "Corporation") will be established as the local planning authority for the purposes of Part 3 of the Town and Country Planning Act 1990 (as amended) and all other town and country planning matters that fall within its jurisdiction pursuant to Part 8, Chapter 2 of the Localism Act 2011, including determining planning applications and preparing development plan documents.

Planning decisions will be taken by the Corporation's Planning Decisions Committee ("the Planning Decisions Committee") unless determined under delegated authority by Corporation Planning Officers ("Planning Officers") or unless authority is retained by the Corporation's Board (the "Board").

The Corporation, its Planning Officers and the Planning Decisions Committee Members are committed to the highest standards in planning decision-making to provide confidence in their decisions as a local planning authority. The Corporation has therefore adopted this Planning Decisions Code of Practice ("this Planning Decisions Code"), which applies to its approach in making all planning decisions. Where "planning decisions", "planning business" or decisions in connection with "planning matters" are referred to in this Planning Decisions Code, they are decisions in connection with the town and country planning functions of the Corporation that fall within the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and the Electricity Act 1989 except that they do not include, and this Planning Decisions Code does not relate to, functions under the Planning and Compulsory Purchase Act 2004 which relate to preparing local development documents, functions relating to the community infrastructure levy or the designation of conservation areas which are separately governed by the Members' Code of Conduct.

This Planning Decisions Code applies to:

- The Board where and to the extent that they are involved in planning decisions;
- Planning Decisions Committee Members (including Board Members who are Planning Decisions Committee Members);
- where and to the extent indicated in this Planning Decisions Code, Board Members who attend Planning Decisions Committee Meetings; and

- where and to the extent indicated in this Planning Decisions Code, Planning Officers.

Where this Planning Decisions Code refers to Planning Decisions Committee Members or Board Members, it shall include any authorised substitutes.

Planning decision-making relies on informed judgements within the context of a range of planning policy and other material considerations. The Corporation considers it to be of particular importance that the Planning Decisions Committee's and Board's planning decision-making is open, objective and fair. This Planning Decisions Code is intended to provide a framework for planning decision-making by the Planning Decisions Committee and the Board so that planning decisions are transparent and accountable.

This Planning Decisions Code should be read in conjunction with the Corporation's Standing Orders and the Planning Decisions Committee's Terms of Reference.

Copies of this Planning Decisions Code will be supplied to all Board Members, Planning Decisions Committee Members and Planning Officers.

# **1. Role and conduct of Planning Officers, Planning Decisions Committee Members and Board Members in planning decisions**

## **1.1. Planning Officers**

1.1.1. Planning Officers should ensure that they conduct themselves in a way that not only maintains their impartiality in advising Planning Decisions Committee Members or Board Members making planning decisions, but ensures that they are seen to behave in a way that maintains impartiality. Planning Officers should record meetings and dialogue with interested parties in the application file.

1.1.2. Planning Officers' reports to the Planning Decisions Committee or Board making planning decisions on applications should be accurate and cover, amongst other things, the applicant's position, the substance of any objections and the views of people and/or organisations that have been consulted. They should also, where appropriate:

1.1.2.1. include a clear exposition of planning policy, including the development plan, site or related planning history, and any other material considerations;

1.1.2.2. include a recommendation of action. Oral reporting, except to update a report, should be avoided where practicable and minuted when it does occur;

1.1.2.3. contain a technical appraisal that justifies the recommendation; and

1.1.2.4. if the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure should be stated.

## **1.2. Planning Decisions Committee Members and Board Members making planning decisions**

1.2.1. Members of the Planning Decisions Committee are the decision-makers in respect of the planning decisions, except where decision making on any planning related matter has been retained by the Board or in the circumstances that the authority to make planning decisions has been delegated to Planning Officers. It is the responsibility of Planning Decisions Committee Members and Board Members when they are the

planning decision markers to ensure that the planning decision-making powers conferred upon them are used appropriately, fairly and consistently.

1.2.2. Planning Decisions Committee Members and Board Members making planning decisions have a responsibility in their role to the community as a whole. They should take account of all relevant views as part of the decision-making process, and no single group or individual can be specially favoured over another.

### **1.3. Decision Making at Planning Decisions Committee or Board meetings making planning decisions**

1.3.1. Members of the Planning Decisions Committee or Board Members in making planning decisions must take planning decisions in accordance with the development plan unless material considerations indicate otherwise. Planning Officers' advice should highlight relevant development plan policies and material considerations and contain clear recommendations.

1.3.2. The Planning Decisions Committee or Board in making planning decisions must (with the support of Planning Officers) give summary reasons for their decision to approve planning applications and reasons for their decision to refuse planning applications and reasons for other matters determined, regardless of whether their determination accords with the Planning Officer's recommendation.

1.3.3. If the Planning Decisions Committee or Board in making planning decisions is minded to decide an application or planning matter contrary to a Planning Officer's recommendation, the Planning Officer should also be given the opportunity to explain the implications of the contrary decision to Planning Decisions Committee Members or Board Members making planning decisions during the Planning Decisions Committee meeting or Board meeting where the application or other matter is being considered and reasons based on planning grounds should be given if they choose to determine such application or other matter contrary to Planning Officer's recommendation.

1.3.4. In all cases, the reason(s) or summary reason(s) (as applicable) for decisions should be minuted and placed on the planning application or matter file.

## **2. Development proposals of, or promoted by, the Corporation, or its Board Members or Planning Decisions Committee Members or Planning Officers**

### **2.1. Development proposals of, or promoted by, the Corporation**

- 2.1.1. The Corporation has the power to grant planning permission for its own proposals and for joint development proposals for development on the Corporation's land. In addition, proposed developments that are supported by the Corporation, or where the Corporation has had such a significant involvement in their development or promotion that it could reasonably be considered that it supports the development, will be considered by the Planning Decisions Committee or Board Members making planning decisions in the same way for the purposes of paragraphs 2.1.2 and 2.1.3 below.
- 2.1.2. Such applications should be considered by the Corporation's Planning Decisions Committee or Board Members making planning decisions or Planning Officers in the same way as any other application, according to the planning merits of the application. To ensure transparency, the nature of the relationship of the Corporation to the proposal and to the parties involved in promoting the application should be set out in the Planning Officer's report on the application. So far as not commercially sensitive or confidential (including by virtue of any appropriate Freedom of Information Act or Environmental Information Regulations exemption), a record should also be maintained of the liaison between the relevant parties and the Corporation and included in the application file.
- 2.1.3. The Corporation's Chief Executive should receive a copy of the Planning Officer's report prior to the Planning Decisions Committee or Board meeting making a planning decision to ensure that the relationship between the applicant or person(s) affected by the matter to be considered by the Planning Decisions Committee or Board meeting making a planning decision and the Corporation is properly recorded.
- 2.1.4. A Planning Committee Member or Board Member making a planning decision must avoid becoming so committed to a development that is the subject of an application in another capacity (including as a member of the Corporation or one of its other Committees) that s/he may be unable to demonstrate that s/he can take into account all the considerations material to its determination.

## **2.2. Development proposals of, or promoted by, Board Members, Planning Decisions Committee Members or its Planning Officers**

2.2.1. A Board Member or Planning Decisions Committee Member should play no part in the planning decision-making process, nor seek to influence in any way, proposals where such a Board Member or Planning Decisions Committee Member is promoting a given planning application, proposal or matter on his/her own account or is an agent in respect of such a planning application, proposal or matter. Such Board Members or Planning Decisions Committee Members should notify both the Chief Executive and the relevant Planning Officer in writing as soon as reasonably possible once any such planning application, proposal or matter has been made or arises and in any event within 21 days. At any relevant meeting of the Planning Decisions Committee or Board meeting making a planning decision, the Board Member or Planning Decisions Committee Member must declare the interest, explain the nature of the relationship with the application, proposal or matter and leave the room in which the meeting where the application, proposal or matter is being discussed is taking place whilst it is under discussion. It is the responsibility of the Board Member or Planning Decisions Committee Member to notify the Planning Officer dealing with the application, proposal or matter prior to the Planning Decisions Committee meeting or Board meeting making a planning decision to ensure that a note is placed on the relevant file and in the Planning Officer's report on the application, proposal or matter. The Board Member or Planning Decisions Committee Member must also notify the Chief Executive in writing of the details of his/her interest in the application.

2.2.2. Planning Officers, where the application, proposal or matter is their own, should have no involvement in the preparation of the Planning Officer's report on the application. The Chief Executive should be notified in writing as soon as reasonably possible of the nature of the Planning Officer's connection with the application.

2.2.3. A system should be devised to identify such proposals by Planning Decisions Committee Members, Board Members or Planning Officers. Proposals should be reported to the Planning Decisions Committee as main items and not dealt with by Planning Officers under delegated powers.

### **3. Lobbying of, and by, Board Members or Planning Decisions Committee Members**

3.1. Lobbying is a normal and proper part of the political process; those affected by a planning decision will often seek to influence its outcome by approaching decision-makers. It is good practice for Planning Decisions Committee Members or Board Members making planning decisions to have formal contact with the applicants for planning permission for strategic schemes during the pre-application and determination periods. Planning Decisions Committee Members or Board Members making planning decisions may ask questions but should not provide an opinion or express a view that may give the impression that a final view on the application/matter in question has already been reached. Involving Planning Decisions Committee Members or Board Members making planning decisions early on and throughout the application and determination process often leads to better planning decisions and better developments. Planning Officers should seek to arrange regular pre-application briefings for the presentation of prospective schemes to Planning Decisions Committee Members or Board Members making planning decisions (either as and when necessary or to a scheduled timetable).

3.2. It is therefore appropriate for Planning Decisions Committee Members or Board Members making planning decisions to accept information from stakeholders that is relevant to planning applications where this information informs the planning decision-making process. However, the Corporation considers that all Planning Decisions Committee Members or Board Members making planning decisions should take an approach to lobbying in relation to planning matters that not only ensures the impartiality of the Corporation's decision-making, but which maintains confidence among stakeholders in the decision-making process.

3.3. Planning Decisions Committee Members or Board Members making planning decisions should make planning decisions based on the development plan giving appropriate and due weight to all material planning considerations. These should be set out and detailed in the Planning Officer's report and its supporting information.

The Corporation considers the following methods of supplying information to Planning Decisions Committee Members or Board Members making planning decisions appropriate:

3.3.1. briefings to all Planning Decisions Committee Members or Board Members making planning decisions early on in the planning process. Applicants can present their application proposals to the Planning Decisions Committee or Board making planning decisions at least twice during pre-application; firstly, when the application or proposal is at the draft stage before it goes out to public consultation and secondly just before the application is submitted. Applicants can be asked questions by Planning Decisions Committee Members or Board Members making planning decisions who will eventually take the decision on their planning application, and Planning Decisions Committee Members or Board Members making planning decisions can find that the process enables them to get a deeper understanding of the application as the proposals develop. Applicants who wish to address the Planning Decisions Committee or Board making planning decisions at the meeting where the application is to be determined may do so in accordance with arrangements adopted by the Planning Decisions Committee and published from time to time on the Corporation's web site;

3.3.2. a short briefing letter to all Planning Decisions Committee Members or Board Members making planning decisions, copied to the relevant Planning Officer, to provide information on key details of the proposal to Planning Decisions Committee Members or Board Members making planning decisions;

3.3.3. an exhibition<sup>14</sup> where all Planning Decisions Committee Members or Board Members making planning decisions and a Planning Officer have been offered the opportunity to attend. Where the entire Planning Decisions Committee or Board making planning decisions cannot attend simultaneously, Planning Decisions Committee Members or Board Members making planning decisions should attend an exhibition with at least one other Planning Decisions Committee Member or Board Member making planning decisions, or a Planning Officer. All Planning Decisions Committee Members or Board Members making planning decisions should be encouraged to attend these to get a good idea of how a proposed development will look. Planning Decisions Committee Members or Board Members making planning decisions may ask questions of the applicants;

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<sup>14</sup> Such exhibitions may be arranged exclusively for Planning Decisions Committee Members and Planning Officers, such as a private viewing of a public exhibition, or may be open to all members of the public, in which case Planning Decisions Committee Members may attend the exhibition as a matter of course.



3.3.4. a meeting with Planning Decisions Committee Members or Board Members making planning decisions when accompanied by a Planning Officer, where all Planning Decisions Committee Members or Board Members making planning decisions have been offered the opportunity to attend; where the entire Planning Decisions Committee or Board making planning decisions cannot attend simultaneously, Planning Decisions Committee Members or Board Members making planning decisions should only attend such a meeting with at least one other Planning Decisions Committee Member or Board Member making planning decisions or a Planning Officer;

3.3.5. a site visit where Planning Decisions Committee Members or Board Members making planning decisions are accompanied by a Planning Officer and where all Planning Decisions Committee Members or Board Members making planning decisions have been offered the opportunity to attend prior to the Planning Decisions Committee meeting or Board meeting making planning decisions where the application or matter is to be determined. Site visits by Planning Decisions Committee Members or Board Members making planning decisions are important in the understanding and consideration of strategic planning applications. After the site visit, the briefing continues at a meeting where the applicant presents the scheme and Planning Officers summarise policy and other issues for consideration.

3.4. Planning Decisions Committee Members or Board Members making planning decisions should avoid private discussions or correspondence with relevant stakeholders, including as applicable the applicant or local residents, about an application or prospective application or other actual or prospective matter to be considered or determined by the Corporation as local planning authority. Planning Decisions Committee Members or Board Members making planning decisions should encourage relevant information, representations and/or correspondence about an application or prospective application or other actual or prospective matter to be considered or determined by the Corporation as local planning authority to be directed towards the whole Planning Decisions Committee or Board making planning decisions or Planning Officers.

3.5. All information in relation to an application or prospective application or other actual or prospective matter to be considered or determined by the Corporation as local planning authority received by Planning Decisions Committee

Members or Board Members making planning decisions should be forwarded to the relevant Planning Officer who will determine whether to circulate the information to Planning Decisions Committee Members or Board Members making planning decisions on the basis that it provides additional, relevant detail that benefits the planning decision-making process.

3.6. Third parties approaching Planning Decisions Committee Members and/or Board Members making planning decisions should be encouraged to write to the relevant Planning Officer.

3.7. The same standards as apply to third parties (in paragraph 3.6 above) should be applied where Planning Decisions Committee Members or Board Members making planning decisions are subject to lobbying by other Board Members or by or on behalf of another local authority.

3.8. Where approached by an applicant or any other interested party in respect of an application or prospective application or other actual or prospective matter to be considered or determined by the Corporation as local planning authority, a Planning Decisions Committee Member or Board Members making planning decisions should make it clear that he/she will maintain an open mind about the merits of the application as a whole and will not be in a position to make a final decision on such application or matter until all the relevant evidence and submissions have been placed before the Planning Decisions Committee meeting or Board meeting making planning decisions when the application or matter is considered.

#### **4. Pre- and post-planning application discussions**

4.1. Pre-application and post-application discussions in relation to planning applications can be of considerable benefit to both the Corporation as local planning authority and applicants. Although the term "pre-application" has been used, the same considerations should apply to any discussion concerning any other planning matter which takes place with the Corporation before a decision has been taken in relation to it. In order to ensure that these discussions do not become, and are not seen to become, part of the lobbying process for the benefit of applicants, the Corporation expects that:

4.1.1. pre-application meetings or discussions (including telephone discussions) in relation to a prospective planning application or other planning matter held with the Corporation in its capacity as local planning authority should be conducted in the presence of a Planning Officer;

- 4.1.2. pre-application meetings or discussions (including telephone discussions) in relation to a prospective planning application or other planning matter held with the Corporation in any other capacity (i.e. not in the Corporation's capacity as local planning authority) should be recorded as such;
- 4.1.3. a written note should be made of all pre-application meetings or discussions (including telephone discussions) in relation to a prospective planning application or other planning matter held with the Corporation in its capacity as local planning authority and be placed on the application file (or pre-application file if appropriate) to show a transparent approach. A Planning Officer would best make the arrangements for such meetings or discussions, attend and write a follow-up letter. Sometimes confidentiality is needed and should be respected. However, confidentiality of advice by representatives of a public body on a planning matter will normally be rare. If there is a legitimate reason for confidentiality, a note of the non-confidential issues raised or advice given should still normally be recorded on the file to reassure others not party to the meeting or discussion;
- 4.1.4. applicants and/or prospective applicants should be informed from the outset of their meeting or discussion that any meeting or discussion will not bind the Corporation as local planning authority to make a particular decision on an application or matter and that any views expressed are personal and provisional. By the very nature of such meetings or discussions not all relevant information may be at hand, nor will formal consultations with interested parties have taken place;
- 4.1.5. consistent advice should be given by Planning Officers based upon the development plan and material considerations. All Planning Officers taking part in such discussions should make it clear whether or not they are the planning decision-maker; and
- 4.1.6. any advice given to applicants or prospective planning applicants is impartial and should be seen to be impartial.

## **5 Avoiding predetermination**

- 5.1 Planning Decision Committee Members or Board Members making planning decisions must avoid any appearance of having predetermined their views before taking a decision on a planning related matter. Predetermination means a mind already closed to the planning issues which are relevant to the decision.

Planning Decision Committee Members or Board Members must address the planning issues on the matter before them fairly and on their merits even though they may start with a predisposition in favour of one side of the argument or the other.

- 5.2 Planning Decision Committee Members or Board Members making planning decisions do not have a closed mind just because they sit on committees where decisions are made about the promotion of development or if such decisions are made at the Board when they are present. However, Planning Decision Committee Members or Board Members making planning decisions must avoid becoming so committed to a development that is the subject of an application in another capacity (including as a member of the Corporation or one of its other Committees) that they may be unable to demonstrate that they can take into account all the considerations material to its determination.

**6 Site visits for Planning Decisions Committee or Board making planning decisions**

The Corporation considers that where a site visit is undertaken in relation to a planning decisions matter, the following requirements should be met:

- 6.1 formal site visits by the Planning Decisions Committee or Board making planning decisions should be triggered by advice from the relevant Planning Officer or by a request from Planning Decisions Committee Members or Board Members making planning decisions. All Planning Decisions Committee Members or Board Members making planning decisions should be given the opportunity to attend. A Planning Officer should also attend;
- 6.2 Planning Decisions Committee Members or Board Members making planning decisions should avoid unofficial visits to sites in the presence of an applicant where a planning application has been submitted or is likely to be submitted or the person who is affected or may be affected by the consideration or determination of the relevant matter. Should a Planning Decisions Committee Member or Board Member making planning decisions have visited a site with an applicant or prospective applicant or relevant affected or prospectively affected person, he/she should notify the relevant Planning Officer and supply the relevant details to be included in a note to be placed in the planning application or matter file;

- 6.3 the attendance of an applicant or prospective applicant or relevant affected or prospectively affected person or their agents at a formal site visit should be to answer questions about the planning application or matter but not to make a presentation about the planning application or matter; and
- 6.4 a record of the site visit, including details of questions raised and information supplied by the applicant or person in response, should be made by the relevant Planning Officer, placed in the planning application or matter file and noted in the relevant Planning Officer's report to the Planning Decisions Committee or Board meeting.

**7 Compliance with this Planning Decisions Code, complaints and record-keeping**

- 7.1 It is important that Board Members and Planning Decisions Committee Members receive training in procedural and probity rules plus the basics of spatial planning and development management before they make any planning decisions. Refresher sessions should also be available.
- 7.2 Where Board Members or Planning Decisions Committee Members are uncertain as to how to apply this Planning Decisions Code in a particular instance, they should seek advice from the Director of Planning Policy and Decisions or the General Counsel.
- 7.3 The Corporation takes responsibility for training Planning Decisions Committee Members and Board Members in the operation of this Planning Decisions Code. All new Planning Decisions Committee Members and Board Members should undertake the Corporation's training on this Planning Decisions Code prior to commencing their role as a voting member of the Planning Decisions Committee or sitting on the Board making a planning decision. Continuing Planning Decisions Committee Members and Board Members should also attend "refresher" training sessions as required. All Planning Decisions Committee Members and Board Members making planning decisions should ensure they are familiar with this Planning Decisions Code and are responsible for ensuring that they behave according to its requirements.
- 7.4 Any complaints about the adherence of the relevant Board Members, Planning Decisions Committee Members and Planning Officers to this

Planning Decisions Code will be handled according to the Corporation's Complaints Procedures and Members' Code of Conduct.