

**LONDON THAMES GATEWAY DEVELOPMENT CORPORATION  
PLANNING CODE OF PRACTICE**

- A. London Thames Gateway Development Corporation (the Corporation) will determine planning applications that fall within its jurisdiction pursuant to the London Thames Gateway Development Corporation (Planning Functions) Order 2005 (Statutory Instrument 2005 No. 2721). It will do so as a local planning authority. Decisions as such will be taken by the Corporation's Planning Committee (the Planning Committee) unless determined by planning officers under the Corporation's scheme of delegation.
- B. The Corporation and the Planning Committee Members are committed to the highest standards in decision-making to provide confidence in their decisions as a planning authority. The Corporation has therefore adopted this Code of Practice (the Code), which applies to its approach in making all planning decisions.
- C. While the Code applies principally to members of the Corporation's Planning Committee, all Board Members of the Corporation are required to know and understand the Code so that the Planning Committee is able to discharge its functions in accordance with its terms. In the Code, Board Members of the Corporation are referred to as "Board Members" which includes Planning Committee Members. References are also made specifically to Planning Committee Members where a matter is specific to them.
- D. Planning decision-making relies on informed judgements within the context of a range of policy and other material considerations - it is not an exact science. The Corporation considers it to be of the utmost importance that the Planning Committee's decision-making is open, objective and fair. This Code is intended to provide a framework for decision-making by the Planning Committee so that decisions are transparent and accountable.
- E. Failure to comply with this Code may lead to criticism of the Corporation, legal challenge in relation to an impugned decision and/or a referral of the Corporation to the Ombudsman.
- F. The Code is adapted from the best practice advice provided by the Local Government Association in "Probity in Planning (Update); The Role of Councillors and Officers". Its content also draws upon Statutory Instrument 2001 No. 3575, which provides a model code of conduct for local authorities.
- G. This Code should be read in conjunction with the Corporation's Code of Practice for Board Members and the Planning Committee's Terms of Reference. This Code was considered, approved and adopted by the Corporation, including the members of the Planning Committee on 9 March 2006. Copies of the Code are supplied to all Corporation members and the document can also be downloaded at [www.ltgdc.org.uk](http://www.ltgdc.org.uk).
- H. This Code applies to Board Members and Planning Committee Members whenever they:
  - (a) conduct the business of the Corporation;
  - (b) conduct the business of any office of the Corporation to which they have been appointed; or

(c) act as a representative of the Corporation,

and references to such a Board Member's or a Planning Committee Member's official capacity shall be construed accordingly.

- I. Where any Board Member or Planning Committee Member participates in any other body, he/she shall :
  - (a) where that body is a local authority, comply with that other authority's code of conduct when acting for that authority; or
  - (b) in any other body, comply with the Corporation's Code, except and insofar as it conflicts with any other lawful obligations to which that body may be subject.
- J. This Code takes precedence over any other code adopted by the Corporation which applies to Board Members.

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## 1. Registration and declaration of interests and notification of hospitality

### 1.1 Personal interests

A personal interest, for the purpose of this Code, is an interest in a decision to be taken by the Corporation and/or the Planning Committee, which might reasonably be regarded as affecting, to a greater extent than other members of the community and/or stakeholders, the well-being or financial position of a Planning Committee Member, either to his/her benefit or detriment. The interest may alternatively, or in addition, affect:

- 1.1.1 any employment or business carried out by the Planning Committee Member;
- 1.1.2 any person who employs or has appointed the Planning Committee Member, any firm in which he/she is a partner, or any company of which he/she is a director;
- 1.1.3 any corporate body in which the Planning Committee Member has a beneficial interest in a class of securities exceeding the nominal value of £5,000;
- 1.1.4 any of the following bodies in which the Planning Committee Member holds a position of general control or management:
  - 1.1.4.1 a body to which he/she has been appointed or nominated by the Corporation as its representative;
  - 1.1.4.2 a public authority or body exercising functions of a public nature;
  - 1.1.4.3 a company, industrial and provident society, charity, or body directed towards charitable purposes;
  - 1.1.4.4 a body whose principal purposes include the influence of public opinion or policy; and
  - 1.1.4.5 a trade union or professional association.

A personal interest will also arise if a decision of the Corporation and/or Planning Committee would affect a relative<sup>1</sup> or a friend of the Planning Committee Member, and any of their employees, where the Planning Committee Member might reasonably be considered to have knowledge of their interests. Planning Committee Members are required to act responsibly and to use their discretion as to whether to make inquiries into the interests of their relatives or friends.

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<sup>1</sup> A "relative" is defined as spouse, partner, parent, parent-in-law, son or daughter, step-son or daughter, child of partner, sibling, grandparent, grandchild, uncle, aunt, nephew, niece or the spouse or partner or member of the same household as any of the preceding persons.

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## **1.2 Financial interests**

Financial interests are a specific type of personal interest. They include:

- 1.2.1 any employment or business carried on by the Planning Committee Member;
- 1.2.2 the name of the person who employs or has appointed the Planning Committee Member, the name of any firm in which he/she is a partner, and the name of any company for which he/she is a remunerated director;
- 1.2.3 the name of any person, other than a relevant local authority, who has made a payment to the Planning Committee Member in respect of any expenses incurred by the Planning Committee Member in carrying out his/her duties;
- 1.2.4 the name of any corporate body which has a place of business or land in the Corporation's area, and in which the Planning Committee Member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- 1.2.5 a description of any contract for goods, services or works made between the Corporation and the Planning Committee Member or a firm in which the Planning Committee Member is a partner, a company of which he/she is a remunerated director, or a body of the description specified in Point 1.2.4 above;
- 1.2.6 the address or other description (sufficient to identify the location) of any land in which the Planning Committee Member has a beneficial interest and which is in the area of the Corporation;
- 1.2.7 the address or other description (sufficient to identify the location) of any land where the landlord is the Corporation and the tenant is a firm in which the Planning Committee Member is a partner, a company of which he/she is a remunerated director, or a body of the description specified in Point 1.2.4 above;
- 1.2.8 the address or other description (sufficient to identify the location) of any land in the Corporation's area in which the Planning Committee Member has a licence (alone or jointly with others) to occupy for 28 days or longer.

## **1.3 Registering and declaring personal and financial interests**

- 1.3.1 Planning Committee Members must register their own personal interests with the Chief Executive within 28 days of the Code being adopted or, if this is later, within 28 days of their appointment to the Corporation.
- 1.3.2 New personal interests of a Planning Committee Member, arising following their appointment to the Corporation and/or following the adoption of the Code, should also be registered with the Chief

Executive within 28 days of the Planning Committee Member becoming aware of the interest, or prior to any Planning Committee meeting where this interest is relevant, whichever is sooner.

- 1.3.3 Any personal interests relating to a matter to be discussed at a meeting of the Planning Committee, whether of a Planning Committee Member or one of their relatives or friends, must be declared at the start of the meeting by the affected Planning Committee Member. Other Planning Committee Members in attendance at a meeting of the Planning Committee are subject to the same obligation.
- 1.3.4 Planning Committee Members who vote to determine a planning application in which they have an interest must ensure that any written statement made by the Corporation in relation to that decision records the existence and nature of that interest.
- 1.3.5 Planning Committee Members must, in addition to other personal interests, register and declare financial interests, and register them with the Chief Executive.

#### **1.4 Prejudicial interests**

- 1.4.1 A prejudicial interest exists where a member of the public with knowledge of the relevant facts would reasonably regard a Planning Committee Member's personal interest as so significant that it is likely to prejudice that Planning Committee Member's judgement in relation to a planning application. This applies to Board Members who are not Planning Committee Members as well as Planning Committee Members who attend meetings where planning applications in which they have an interest are discussed. A prejudicial interest is likely to exist where significant financial gain or disbenefit to the Board Member, or their relative or friend (as set out under Point 1.1), would arise as a result of a planning decision. However, a prejudicial interest is not necessarily financial in nature.
- 1.4.2 A Board Member may regard himself/herself as **not** having a prejudicial interest in a matter if merely because that matter relates to:
  - 1.4.2.1 another public authority of which he/she is a member;
  - 1.4.2.2 another public authority in which he/she holds a position of general control or management; or
  - 1.4.2.3 a body to which he/she has been appointed or nominated by the Corporation as its representative.

However, it remains possible that individual matters considered by the Corporation may give rise to a prejudicial interest.

- 1.4.3 A Board Member, including a Planning Committee Member, with a prejudicial interest must declare it at the outset of the Planning Committee meeting where the matter is to be discussed, explain why it is prejudicial and leave the room in which the Planning Committee meeting is taking while that item is discussed. A Board Member must

not seek to influence a decision in relation to a matter in which he/she has a prejudicial interest. Planning Committee Members with a prejudicial interest can neither vote on an application nor influence its determination.

## **1.5 Hospitality**

- 1.5.1 Board Members are required to declare any hospitality in excess of the value of £25 that they receive in their capacity as Board Members within 28 days of its receipt.
- 1.5.2 Board Members will also make available to the Chief Executive details of any meetings held in their private capacity with parties who have submitted, or who might in the future be reasonably anticipated to submit an application for consideration by the Planning Committee.
- 1.5.3 In addition, planning officers should also avoid accepting gifts or hospitality from people with an interest in a planning proposal. If this is unavoidable, planning officers should ensure that it is kept to a minimum and is declared to the Chief Executive.

## **2. Role and conduct of planning officers and Planning Committee Members**

Planning Committee Members and planning officers have different but complementary roles in relation to the consideration of planning applications.

### **2.1 Planning officers**

- 2.1.1 Officers advise Board Members on applications according to planning policy. Members of the Planning Committee remain the decision-makers except where and in the circumstances that the authority to make decisions has been delegated to officers by Board Members. It is the responsibility of Planning Committee Members to ensure that the decision-making powers conferred upon them are used appropriately, fairly and consistently.
- 2.1.2 Planning officers should also ensure that they conduct themselves in a way that not only maintains their impartiality in advising Planning Committee Members, but ensure that they are seen to behave in a way that maintains impartiality. Planning officers should record all meetings and dialogue with interested parties in the application file.
- 2.1.3 Planning officers' reports to the Planning Committee on applications should be accurate and cover, among 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:
  - 2.1.3.1 include a clear exposition of planning policy, including the development plan, site or related planning history, and any other material considerations;
  - 2.1.3.2 include a recommendation of action;

2.1.3.3 contain a technical appraisal that clearly justifies the recommendation; and

2.1.3.4 if the report's recommendation is contrary to the provisions of the development plan, provide sufficient justifications that account for this recommendation.

## **2.2 Planning Committee Members**

2.2.1 Planning Committee Members have a responsibility in their role first, to the community as a whole. They should not show special favour to any single group or individual, regardless of any other influence upon them (see Points 1.1.1 - 1.1.4 above). This responsibility extends to Board Members of the Corporation as a whole.

2.2.2 While Planning Committee Members must take account of all relevant views as part of the decision-making process, no single group can be favoured over another. The Planning Committee's decisions should not only be impartial but they should be seen to be impartial.

## **2.3 Decisions contrary to the planning officer's recommendation**

2.3.1 Planning Committee Members should make decisions on the basis of a planning officer's written report and should identify reasons, based on planning grounds, if they choose to resist such advice.

2.3.2 Planning Committee Members must give reasons for their decision to approve or refuse planning consent, regardless of whether their determination accords with the planning officer's recommendation.

2.3.3 If the Planning Committee determines an application contrary to the planning officer's recommendation (whether for approval or refusal), a detailed minute of the Planning Committee's reasons will be made and a copy placed on the application file. The planning officer should also be given the opportunity to explain the implications of the contrary decision to Planning Committee Members during the Planning Committee meeting where the application is being considered.

## **3. Development proposals of, or promoted by, the Corporation, or the Corporation's Board Members or officers**

### **3.1 Development proposals of, or promoted by, the Corporation**

3.1.1 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 that it could reasonably be considered that it supports the scheme, will be considered by the Planning Committee in the same way.

3.1.2 Such applications will be considered by the Corporation in the same way as any other application, according to the merits of the scheme as presented to Planning Committee in the Planning officer's report. 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, a record shall also be maintained of the liaison between the relevant parties and the Corporation and included in the application file.

- 3.1.3 The Chief Executive should receive a copy of the Planning officer's report prior to the Planning Committee meeting to ensure that the relationship between the developer(s) and the Corporation is properly recorded.

### **3.2 Development proposals of, or promoted by, Board Members or officers**

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

- 3.2.2 Planning officers acting as an agent for an application or where the application is their own proposal should have no involvement in the preparation of the planning officer's report on the application. The Chief Executive should be notified in writing of the nature of the planning officer's connection with the application.

## **4. Lobbying of, and by, Board Members**

- 4.1 Lobbying is a normal and perfectly 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 therefore appropriate for Planning Committee Members to accept information from stakeholders that is relevant to planning applications where this information informs the decision-making process. However, the Corporation considers that all Board Members, and in particular Planning Committee Members, should take an approach to lobbying that not only ensures the impartiality of their decision-making, but which maintains confidence among stakeholders in the decision-making process and ultimately in the decisions of the Planning Committee.

- 4.2 The primary source of information about an application must be the planning officer's report on the scheme and its supporting information. Planning Committee Members should make planning decisions on the basis of a planning officer's written report. Additional information should be considered

of secondary importance in the decision-making process and not as a basis on which to determine an application.

The Corporation considers the following methods of supplying information to Planning Committee Members appropriate:

- 4.2.1 a short briefing letter to all Planning Committee Members, copied to the planning officer, to provide information on key details of the proposal to members;
  - 4.2.2 an exhibition<sup>2</sup> where all Planning Committee Members and a planning officer have been offered the opportunity to attend. Where the entire Planning Committee cannot attend simultaneously, Planning Committee Members should attend an exhibition with at least one other Planning Committee Member, or a planning officer;
  - 4.2.3 a meeting with Planning Committee Members when accompanied by a planning officer, where all Planning Committee Members have been offered the opportunity to attend; where the entire Planning Committee cannot attend simultaneously, Planning Committee Members should only attend such a meeting with at least one other Planning Committee Member or a planning officer;
  - 4.2.4 a site visit where Planning Committee Members are accompanied by a planning officer and where all Planning Committee Members have been offered the opportunity to attend.
- 4.3 Planning Committee Members should avoid private discussions or correspondence with relevant stakeholders, including the applicant or local residents, about a planning application or prospective application. Planning Committee Members should encourage relevant information, representations and/or correspondence about an application or prospective application to be directed towards the whole Planning Committee.
  - 4.4 All information in relation to a planning application or prospective application received by Planning Committee Members must be forwarded to the relevant planning officer who will determine whether to circulate the information to Planning Committee Members on the basis that it provides additional, relevant detail that benefits the decision-making process.
  - 4.5 Third parties approaching Planning Committee Members should be encouraged to write to the planning officer. Arrangements concerning public speaking at the Planning Committee meeting are set out in the Corporation's Code of Practice for Public Speaking at Planning Committee Meetings ([www.ltqdc.org.uk](http://www.ltqdc.org.uk)).
  - 4.6 The same standards as apply to third parties should be applied where Board Members are subject to lobbying by other Board Members or by or on behalf

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<sup>2</sup> Such exhibitions may be arranged exclusively for 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 Members may attend the exhibition as a matter of course.

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of, the Borough Councils of Hackney, Barking and Dagenham, Newham, Havering and Tower Hamlets.

- 4.7 Where approached by an applicant or any other interested party in respect of an application or prospective application a Planning Committee Member should make it clear that he/she will not be in a position to make a final decision on a planning application until all the relevant evidence and submissions have been placed before the Planning Committee meeting when the application is considered.
- 4.8 **Planning Committee Members must not express a view on the merits of an application prior to its consideration by the Planning Committee. Should any Planning Committee Member do so, that Planning Committee Member must not vote on the application nor participate in the debate about the relevant application.** Board Members and Planning Committee Members should not behave in any way that undermines the status of the Planning Committee meeting as the sole forum in which all applications considered by the Corporation are determined.

## 5. Pre- and post-application discussions

- 5.1 Pre-application and post-application discussions can be of considerable benefit to both the Corporation and applicants. Although the term "pre-application" has been used, the same considerations should apply to any discussion which takes place before a decision has been taken. 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:
- 5.1.1 pre-application discussions should always be conducted in the presence of a planning officer;
  - 5.1.2 all pre-application discussions held with the Corporation (as opposed to the Corporation as a planning authority) should involve a planning officer;
  - 5.1.3 a written note should be made of all pre-application meeting discussions or telephone discussions and placed on the application file (or pre-application file if appropriate);
  - 5.1.4 applicants and/or prospective applicants should be informed from the outset of their discussion that any discussion will not bind the Corporation to make a particular decision on an application and that any views expressed are personal and provisional; and
  - 5.1.5 any advice given to applicants or prospective applicants is not partial and will not be seen to be partial.
- 5.2 The Corporation has established a contacts register for everyday contact between Planning Committee Members and interested parties, or parties who are reasonably likely to have an interest in the future, in any capacity. This is to be maintained by the Planning Committee clerk. Planning Committee Members must submit details of the contact to the Planning Committee clerk within 28 days after the contact has taken place or prior to a matter relating to

the interested party being considered by the Planning Committee, whichever is sooner.

## **6. Planning Committee site visits**

The Corporation considers that where a site visit is advantageous in understanding a planning application the following requirements should be met:

- 6.1 formal Planning Committee site visits should be triggered by advice from the planning officer or by a request from Planning Committee Members. The reason for the site visit should be recorded and placed on the application file. All Planning Committee Members should be given the opportunity to attend. A planning officer should also attend.
- 6.2 Planning Committee Members 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. Should a Planning Committee Member have visited a site with an applicant or prospective applicant, he/she should notify the planning officer and supply the relevant details to be included in a note to be placed in the application file;
- 6.3 the attendance of an applicant or their agents at a formal site visit should be to answer questions about the application but not to make a presentation about the application;
- 6.4 a full record of the site visit, including details of questions raised and information supplied by the applicant in response, should be made by the planning officer, placed in the application file and noted in the planning officer's report to the Planning Committee.

## **7. Breaching the Code, complaints and record-keeping**

- 7.1 Where a Board Member believes that another Board Member has breached this Code, the Board Member has a duty to report this to the Chief Executive for investigation.
- 7.2 Where Board Members are uncertain as to how to apply this Code in a particular instance, they should seek advice from the Chief Executive.
- 7.3 The Corporation takes responsibility for training Planning Committee Members in the operation of this Code. All new Planning Committee Members are required to undertake the Corporation's training on the Code prior to commencing in their role as a voting member of the Planning Committee. Continuing Planning Committee Members should also attend an annual "refresher" training session on the application of this Code. All Planning Committee Members should ensure they are familiar with the Code and are responsible for ensuring that they behave according to its requirements.
- 7.4 Any complaints about the adherence of Planning Committee Members to this Code will be handled according to the Corporation's Complaints Procedures.