

# STANDARDS COMMITTEE

12 August 2015

\*PART 1 – PUBLIC DOCUMENT

AGENDA ITEM No.

**6**

## TITLE OF REPORT: PROPOSED NEW PLANNING CODE OF GOOD PRACTICE

REPORT OF THE ACTING MONITORING OFFICER

### 1. SUMMARY

- 1.1 The report seeks the views of the Standards Committee on a proposed new Planning Code of Good Practice and the referral of the proposed new Code to Full Council for adoption.

### 2. RECOMMENDATIONS

- 2.1 That the Standards Committee recommends to Full Council that the proposed new Planning Code of Good Practice attached at Appendix A be adopted.

### 3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure good governance within the Council and that the Council's Planning Code of Good Practice remains fit for purpose and is consistent with best practice.

### 4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Consideration was given to amending the existing Code to bring it into line with current best practice, but adaptation of the "Lawyers in Local Government ('LLG') Code or Protocol" 2014 was considered the most appropriate course of action.

### 5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND MEMBERS

- 5.1 Consultation has been undertaken with the Leader and the Executive Member for Planning and Enterprise, the Senior Management Team, Senior Planning Officers and the Planning Team. Comments received have been incorporated in the draft Code being considered by the Committee.

### 6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

### 7. BACKGROUND

- 7.1 The existing Planning Code of Good Practice (see Appendix B) was adopted by Full Council on 6 September 2012 and updated under the Leader's Delegated Authority on 9 August 2013 to make it consistent with the Member Code of Conduct adopted on 18 July 2013.

- 7.2 The national approach to planning codes/ protocols for Members was outlined in the “Probity in Planning – LGA 2013” guide to Members and Officers, and most recently in the LLG Model. The good practice guide had originally been prepared in response to a series of successful court challenges relating to Members’ conduct and/or conflicts of interest. The aim of the national guide and subsequent LLG Code/ Protocol has therefore been to provide a consistent approach, and replace individual and potentially haphazard methods that could lead to a legal challenge. In reviewing the national approach to best practice it is evident that the largest difference with the existing Council Code is around the approach to site visits.

## **8. ISSUES**

- 8.1 The approach taken was to use the LLG Model as the starting point, as it was felt that the structure and approach of the Code, using Do’s and Don’ts, was easy to follow. By basing the approach on a Model Code it also ensured that the proposed new Code would be consistent with national best practice. It has, however, been adapted to cover and include some specific NHDC requirements.

### **NHDC specific clauses**

- 8.2 The 2012 review of the Planning Code of Good Practice introduced three new areas, partially in response to requests from Members and partially to clarify working practices. The LLG model has been adapted to cover these three areas, namely:

- “multi-hatted” Members (i.e. those who are Parish/ Town Councillors, District Councillors and / or County Councillors – or all three);
- pre-application advice; and
- planning enforcement.

In the case of “multi-hatted” Members, this reflects a reasonable approach and one previously favoured by NHDC Members in relation to planning issues.

### **Site visits**

- 8.3 As identified at paragraph 7.2 above, where the proposed new Code differs from existing practice is largely around site visits. The LLG model (as with the previous Probity in Planning) does not encourage site visits by Members and it is recommended that NHDC now follows this national good practice approach. What we have sought to distinguish is the difference between a “site visit” (i.e. a procedural planning term for entering onto the site) and visits from public vantage points (i.e. “location/ drive by” visits). The former will be arranged by Planning Officers where relevant and Members may still undertake the latter.
- 8.4 The best practice approach that Members are not advised to go on visits of their own is to avoid accusations that these are arbitrary, unfair or lobbying opportunities that will lead to accusations of bias. In lieu of this (as per LLG and previous Probity in Planning advice), site visits will be organised by Planning Officers where there is a clear and substantial benefit (i.e. if large/ controversial). In all cases short presentations on the applications that go to Committee will be provided by Planning Officers, with pictures, site and location plans and design images, together with development plan/ material planning considerations given in bullet form. This approach will ensure that Members are directed to key considerations and the public are made aware of what has been considered relevant in planning terms. The Planning Control Committee meetings in June and July have adopted this new approach to how the information is presented.

## **9. LEGAL IMPLICATIONS**

- 9.1 The terms of reference of the Standards Committee include at paragraph 7.5.10 “to advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council”. The terms of reference of Full Council include at paragraph 4.4.1(s) “adopting and amending the Authority’s Code of Conduct for members and other codes and protocols comprising the ethical framework”.
- 9.2 The Code assists to regulate Member actions and ensure good governance. It also assists transparency of decision making and sets expectations as to how Councillors approach planning matters. This helps to ensure that the Council’s decision making on planning matters is robust and reduces the potential for successful appeals or challenges to decisions. This Code follows best practice and assists the Council to fulfil its statutory duty to promote and maintain high standards of conduct for both Members and Officers.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 There are no capital or revenue implications arising from the content of this report.

## **11. RISK IMPLICATIONS**

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 The Equality Act 2010 came into force on the 1<sup>st</sup> October 2010, a major piece of legislation. The Act also created a Public Sector Equality Duty, which came into force on the 5<sup>th</sup> April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. The contents of this report do not directly impact on equality, in that it is not making proposals that will have a direct impact on equality of access or outcomes for diverse groups.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of ‘social value’ as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at Paragraph 12.

## **14. HUMAN RESOURCE IMPLICATIONS**

- 14.1 Training will be offered to Members and relevant officers as part of the roll out of the new Code. This will be met from within existing resources.

**15. APPENDICES**

15.1 Appendix A – Proposed new Planning Code of Good Practice.

15.2 Appendix B – Current Planning Code of Good Practice.

**16. CONTACT OFFICERS**

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**17. BACKGROUND PAPERS**

17.1 None.