

**Decision Maker:**       **STANDARDS COMMITTEE**

**Date:**                   **Monday 13 December 2021**

**Decision Type:**       Non-Urgent                               Non-Executive                               Non-Key

**Title:**                   **PROBITY IN PLANNING**

**Contact Officer:**     Tim Horsman, Assistant Director (Planning)  
Tel: 020 8313 4956   E-mail: Tim.Horsman@bromley.gov.uk

**Chief Officer:**        Director of Corporate Services and Governance

**Ward:**                   All Wards

---

1. Reason for report

At its last meeting on 15 July 2021, the Standards Committee discussed the review undertaken by the Planning Advisory Service and the Council's recently implemented Planning Protocol with the Chairman of the Development Control Committee. At the conclusion of the discussion the Committee resolved that issues of probity of planning be further considered by the Standards Committee at its next meeting in December 2021.

---

2. **RECOMMENDATION(S)**

**The committee consider the matters raised in the report**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
- 

### Corporate Policy

1. Policy Status: Existing Policy – Local Planning Protocol, Code of Conduct
  2. BBB Priority: Excellent Council:
- 

### Financial

1. Cost of proposal: Not applicable at this point
  2. Ongoing costs: Recurring costs of potential training
  3. Budget head/performance centre: Planning Department
  4. Total current budget for this head: £1.65m
  5. Source of funding: Existing budget
- 

### Personnel

1. Number of staff (current and additional): 66.8 FTE
  2. If from existing staff resources, number of staff hours: Not possible to determine at this point
- 

### Legal

1. Legal Requirement: Localism Act
  2. Call-in: Not Applicable:
- 

### Procurement

1. Summary of Procurement Implications: None at this point
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable

### 3. COMMENTARY

- 3.1 At the Standards Committee meeting held on 2 March 2021, it was recognised that a large proportion of Code of Conduct Complaints related to planning matters. It was therefore agreed that the Chairman of the Development Control Committee and the Assistant Director for Planning should be invited to the meeting of the Standards Committee held on 15 July 2021. It was further agreed that the discussion should centre around the report of the Planning Advisory Service and the Council's existing Local Planning Protocol.
- 3.2 The Chairman of the Development Control Committee confirmed to the Standards Committee that practically all of the initial recommendations from the Planning Advisory Service (PAS) had been accepted and a Local Planning Protocol had been developed, endorsed by Full Council and now formed part of the Council's Constitution.
- 3.3 The Standards Committee noted that planning training for Members was provided but this stopped short of being mandatory. The Chairman of the Development Control Committee stated that in her opinion when Members chose to sit on a planning committee, they should take all the available training.
- 3.4 The Assistant Director for Planning reported that at the time the PAS were in the process of undertaking a further review.
- 3.5 The relevant minute from the Standards Committee on 15 July 2021 is attached as Appendix 1 to this report.
- 3.6 The following suggestions (not from the PAS report) were brought at the last Standards Committee:
- a) When more than 50% of a planning committee declared that they knew a planning applicant the matter would automatically be referred to the Development Control Committee. The Chairman of the Development Control Committee would regularly liaise with officers and when applications were submitted by local developers whom many Members may know the application would automatically be referred to the Development Control Committee.
  - b) Members to be made aware that a "Cab Rank" principle operated for the allocation of planning applications and they should therefore not request that an application be referred to a specific committee.
  - c) Councillors who have called an application to committee should not move or second the motion.
- 3.7 A motion was also raised and agreed that basic training in planning for all Councillors, before they sit on a planning committee or within 3 months of election, be made mandatory. To be implemented by May 2022.
- 3.8 The further review by PAS was carried out in Summer 2021 and produced a range of further recommendations as well as picking up on some matters from the previous 2019 report.
- 3.9 Some of the recommendations from the 2021 PAS report are relevant to Standards Committee and these are set out below:
1. Profile of the Local Planning Protocol and Code of Conduct should be raised amongst Officers and Members.
  2. Local Planning Protocol should be reviewed and included in future training for Members and Officers.

3. Substitutions at committee should be impartial and seen to be so.
4. Relevant training for committee Members and substitutes should be compulsory in the following areas:

- Introduction to Planning
- The Development Plan and Decision Making
- Predetermination and Predisposition
- Probity and Disclosure of Interests
- How committees work
- The Local Planning Protocol

3.10 A full report with all the recommendations from the latest PAS report, including the matters raised in paragraphs 3.6 and 3.7 above, an updated Local Planning Protocol and proposed amendments to the Scheme of Delegation for planning matters will be taken to Development Control Committee in January 2022.

#### **4. FINANCIAL IMPLICATIONS**

4.1 Poor decision making in planning can result in awards of costs against the Council at appeal.

#### **5. LEGAL IMPLICATIONS**

5.1 The principal statutory provisions relating to standards of conduct for Members are contained in the Localism Act 2011. Section 27(1) of the 2011 Act provides that the Council must promote and maintain high standards of conduct by Members and Co-opted Members of the authority.

5.2 Sections 27 and 28 of the Localism Act require the Council to adopt a Code of Conduct consistent with the Nolan principles of good governance and to appoint at least one Independent Person whose views must be sought and taken into account before the Council makes any decision about an alleged breach of the Code that has been investigated.

5.3 The Council has a Code of Conduct in place as well as arrangements for dealing with complaints. The Council has also appointed Independent Persons, who have an important role in providing a perspective of the public.

5.4 At all times the Council and individual Member of the Council are required to promote and maintain high standards of ethical behaviour as is required by law. Perceptions are important and are often the basis of complaints. Therefore, the Council and individual Members must not only comply with the law but also be seen to be doing so.

<b>Non-Applicable Sections:</b>	Personnel Implications, Procurement Implications, Policy Implications, Impact on Vulnerable Adults and Children
Background Documents: (Access via Contact Officer)	Planning Advisory Service Reports 2019 and 2021 Bromley Local Planning Protocol (Council Constitution)

## STANDARDS COMMITTEE

Minutes of the meeting held at 7.00 pm on 15 July 2021

### Present:

Councillor Nicholas Bennett MA J.P. (Chairman)  
Councillor Vanessa Allen (Vice-Chairman)  
Dr Simon Davey, Councillor Melanie Stevens and  
Councillor Michael Tickner

### **6 DISCUSSION WITH THE CHAIRMAN OF THE DEVELOPMENT CONTROL COMMITTEE AND THE ASSISTANT DIRECTOR FOR PLANNING** **Report CSD21068**

At the last meeting it was recognised that a large proportion of Code of Conduct Complaints related to planning matters. It was therefore agreed that the Chairman of the Development Control Committee and the Assistant Director for Planning should be invited to the next meeting of the Standards Committee on 15 July 2021. It was further agreed that the discussion should centre around the report of the Planning Advisory Service and the Council's existing Planning Protocol.

The Chairman welcomed Councillor Alexa Michael (Chairman of the Development Control Committee) and Mr Tim Horsman (Assistant Director for Planning) to the meeting.

The Chairman of the Development Control Committee confirmed that practically all of the initial recommendations from the Planning Advisory Service (PAS) had been accepted and a Local Planning Protocol had been developed, endorsed by Full Council and now formed part of the Council's Constitution. The Chairman of the Development Control Committee addressed each of the recommendations made by the PAS and provided an update on the progress that had been made.

The Chairman of the Development Control Committee was pleased with the revised format of committee agendas and the improved quality of committee reports. Progress had also been made in reducing the number of applications being referred to Committee.

The principle of Officer presentations had been accepted but had not been advanced as much as it could have been. The PAS had confirmed that they considered that this would be of benefit and was therefore something to be developed.

The Committee noted that planning training for Members was provided but this stopped short of being mandatory. The Chairman of the Development Control Committee stated that in her opinion when Members chose to sit on a planning committee they should take all the available training.

The Assistant Director for Planning highlighted that Appendix 9 of the report (Page 85) provided a useful up-to-date summary of the current position with respect to the recommendations from the PAS. It was also noted that the PAS were currently undertaking a further review.

A Member noted that Planning Committees were a difficult "grey" area for Members to navigate as decisions were often subjective and it was not possible to please all those party to a planning application. There was a need for the Standards Committee to focus on the issues of Member integrity and the public perception of Member integrity. It was noted that there had been a number of

challenging applications and there was a need to improve the public perception of the planning system in Bromley.

A Member noted that the PAS report contained some very strong recommendations yet there appeared to be very little reference to these recommendations in the Local Planning Protocol. The Chairman of the Development Control Committee responded that the intention had been for the Local Planning Protocol to address the recommendations in the PAS report. It was noted that the Protocol could be revised where Members felt that there were areas that could be strengthened. The Chairman of the Development Control Committee explained that the Local Planning Protocol was primarily about the way in which the committees were run and how members should behave rather than the decisions that were taken as these were often based on planning policies and principles. The development of a Local Planning Protocol was one of the recommendations made by the PAS. The Independent Person suggested that the Local Planning Protocol should cover all areas of governance and it was therefore a significant omission if the protocol did not guide on decision making. It was suggested that it may be helpful to strengthen the Protocol to include more information to support Members to take effective decisions. In response, the Chairman of the Development Control Committee clarified that the Planning Protocol did set out the procedure for decision making whilst highlighting that it was the responsibility of individual members to be as fully informed as possible. It was the personal view of the Chairman of the Development Control Committee that it would be helpful for Officers to make more open recommendations for the more contentious applications. This would then highlight when applications were more finely balanced as planning was a question of judgement.

A Member highlighted that the *Probity in Planning* document underpinned both the PAS report and the Local Planning Protocol. The Member reported that she had been interviewed both as part of the initial PAS review and for the follow-up review. In the second interview the Member had the impression that the PAS had been surprised by the lack of implementation of the recommendations and the Member could only assume that there had not been a will amongst other Members to implement the recommendations.

It was highlighted that the issues of call-in to committee and local views were important. It was felt that there needed to be a greater awareness of the impact of decisions that were taken and the costs of any subsequent appeal. The Committee recognised that there should be a more strategic approach to planning decisions with greater account taken of the impact on the Borough as a whole

The Chairman of the Standards Committee stressed that the central issue was that of the integrity of members. It was undeniable that often when residents were not happy with the outcome of planning applications there were unsubstantiated allegations of corruption. It was therefore important that the Council and its Members were transparent. The importance of training was highlighted as this would ensure that Members had the basic information they required to take planning decisions.

The Chairman of the Standards Committee welcomed the improved information presented to the Development Control Committee in respect of planning appeals, although it was felt that this could go further. The Chairman also suggested that where a pre-application meeting was held, the committee report should make clear when the applicant had followed all the advice.

In terms of the accountability of the Development Control Committee, it was noted that the Chairman of that Committee was accountable to Full Council. In addition, any decision taken by the Committee was subject to judicial review and the appeals system. Ultimately, there was accountability through public scrutiny and the ballot box.

In relation to competence, the Independent Person highlighted the need to provide regular training and refresher training in order to demonstrate that Members had the relevant competence to take decisions at meetings. As such it was the view of the Independent Person that training in planning

matters should be compulsory for all Members of the Council (as there was not a specific pool of substitutes for planning meetings). It was also noted that the individual political parties had a role to play in selecting candidates who were competent to fulfil the role and had integrity.

In drawing the discussion to a close, the Chairman of the Standards Committee noted that recently there had been discussions on some further changes. Matters considered were:

- d) When more than 50% of a planning committee declared that they knew a planning applicant the matter would automatically be referred to the Development Control Committee. The Chairman of the Development Control Committee would regularly liaise with officers and when applications were submitted by local developers whom many Members may know the application would automatically be referred to the Development Control Committee.
- e) Members to be made aware that a "Cab Rank" principle operated for the allocation of planning applications and they should therefore not request that an application be referred to a specific committee.
- f) Councillors who have called an application to committee should not move or second the motion.

The Committee welcomed the proposals and noted the importance of not only ensuring that there was open and transparent decision making but that the Council was seen to be open and transparent in its decision making. It was anticipated that any changes would be considered by Full Council in October 2021.

Councillor Allen proposed that:

It be recommended that basic training in planning for all Councillors, before they sit on a planning committee or within 3 months of election, be made mandatory. To be implemented by May 2022.

The motion was seconded by Councillor Stevens, was put to the vote and was CARRIED (Councillor Tickner dissented).

The Chairman thanked the Chairman of the Development Control Committee and the Assistant Director of Planning for attending the meeting.

#### **RESOLVED: That**

- 1. The issues of probity of planning be further considered by the Standards Committee at its next meeting in December 2021; and**
- 2. It be recommended that basic training in planning for all Councillors, before they sit on a planning committee or within 3 months of election, be made mandatory. To be implemented by May 2022.**