

**Manchester City Council  
Report for Information**

**Report to:** Standards Committee - 2 November 2017  
**Subject:** Planning Protocol  
**Report of:** City Solicitor

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**Summary**

To advise the Committee of the operation/efficacy of the Planning Protocol, and to set out a proposed change to the Protocol in relation to site visits undertaken by the relevant Committee of the Council in discharging its statutory planning function.

**Recommendations**

1. To note the position regarding the operation/efficacy of the Planning Protocol.
  2. To endorse the proposed change to the Planning Protocol.
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**Wards Affected:** All

**Financial Consequences for the Revenue Budget:** None directly.

**Financial Consequences for the Capital Budget:** None directly.

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**Backgrounds documents (available for public inspection):**

None

## **1. Introduction**

- 1.1 Planning has a positive and proactive role to play in Local Government by stimulating growth whilst looking after important environmental issues. Planning decisions balance many competing demands; in doing so decision makers require an ethos of making decisions in the wider public interest on what can be controversial proposals.
- 1.2 The risk of controversy and conflict is increased by the openness of a system which invites public engagement before making decisions and the legal nature of the planning framework. It is nevertheless key that the decision making process is open and transparent.
- 1.3 The Planning Protocol therefore sets out to guide Members and officers in the discharge of the City Council's statutory planning functions. This provides for potential developers and the public the context for the high standards of ethical conduct adopted by the Council in the exercise of its planning powers.
- 1.4 The purpose of the Protocol is to ensure planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and officers making such decisions are held duly accountable.

## **2. Review of the Planning Protocol**

- 2.1 The Protocol is reviewed annually as part of the Council's consideration of the Constitution. Its content has been guided by the Local Government Association's ('the LGA') guidance on planning matters – Probity in Planning for Councillors and Officers. No changes to the protocol have been proposed in the last few years, as there has been no change in the guidance from the LGA, nor has there been (until recently) any experience to indicate that change is required.

## **3. Proposed changes to the Protocol**

- 3.1 No part of the planning process should be open to allegations of bias or that the decision itself is unlawful, irrational or procedurally improper. The process leading to a decision on a planning application can include site visits undertaken by the relevant Committee of the Council. In Manchester this is the Planning and Highways Committee or, in appropriate cases, Wythenshawe Area Committee.
- 3.2 Following the most recent review of the Protocol, it was considered that the provisions of the Protocol relating to site visits could be strengthened. The intention is to provide more clarity for members in relation to site visits. The Protocol already follows the principles set out by the LGA, the recommendation is to make the guidance more explicit and clearer.
- 3.3 Site visits are a legitimate part of the decision making process. As with other parts of the planning process there should be a clear and consistent approach to such matters; on why to hold and how to conduct a site visit to avoid accusations that they are arbitrary, unfair or a covert lobbying device.
- 3.4 A site visit should only be used where the benefit is clear and substantial; officers will have already visited the site and assessed the scheme against policy and material considerations. The format and conduct needs to be clear

from the outset and adhered to throughout the visit and a record of why a visit is called recorded.

- 3.5 Where a visit is requested by a local member the 'substantial benefit' test must still apply.
- 3.6 A site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise. The purpose of the visit is to observe the site only and to gain a better understanding of the issues.
- 3.7 The proposed change to the wording to the Protocol therefore provides more explicit guidance than exists at present to Members when considering a site visit. A copy of the proposed replacement provisions relating to site visits is appended to this report. The principle changes include:
- Members should not decide on a visit until they have heard the application and representations. This will avoid calls of unfairness or that the visit is arbitrary.
  - Confirmation that a decision to carry out a site visit should only be made on sound planning grounds and therefore a reason for deferring an application must be given before a vote is taken. This must be recorded in the minutes of the meeting.
  - A site visit should only take place if a decision cannot be made on the basis of the officers' report and presentation. If a member votes for a visit and then does not attend this will call into question whether that member should now take part in the decision making process having decided that an informed and objective decision would not have been possible without the visit. The Protocol therefore provides guidance on the issue.

#### **4. Training**

- 4.1 New members on the Committee must attend appropriate training before being able to take part in the decision making process. This includes drawing members' attention to the Protocol and its purpose generally. It also provides training on specific elements of the Protocol including personal and prejudicial interests, bias and predetermination, decisions against officer recommendation and the Members' Code of Conduct. This training for new members also covers key elements of the planning system (legislation and process). The last such training was provided to a new member of Committee in August 2017
- 4.2 In addition to the training offered to new members of Committee, annual training is also provided and this is open to all members of the Council. A range of topics are covered, with attention drawn to relevant parts of the Planning Protocol as required. The last such training was provided in November 2016, with another training session being planned for November 2017.

#### **5. Effectiveness of the Protocol**

- 5.1 It is considered that the Protocol is effective. There are very few occasions when it has to be referred to. Those occasions are almost exclusively related to advising Members on the provisions around personal/prejudicial interests, bias/predetermination and members' rights with regard to participating where

these issues arise. There has also been some reference to the provisions on site visits.

- 5.2 The fact that members have known to seek advice in such situations, and that there have been no complaints arising from alleged breaches of the protocol would suggest that the Protocol is effective in achieving its purpose, though the issue of site visits does merit some attention, as detailed above.

## **6. Conclusion**

- 6.1 The Planning Protocol sets out a duty to promote and maintain high standards of conduct in the discharge of the Council's duty as local planning authority. The Protocol is reviewed annually and periodically changes are made having regard to legislative changes or to ensure best practice continues to be followed.
- 6.2 Following the most recent review it is proposed to provide more clarity in relation to site visits undertaken by the Committee by replacing the provisions on site visits, as set out in this report.

## **APPENDIX**

### **SITE VISIT PROTOCOL**

#### **INTRODUCTION**

In order to ensure that all Planning Committee site visits relating to planning matters are dealt with consistently and fairly, the following protocol will apply.

#### **THE DECISION TO HOLD A SITE VISIT**

1. A decision to carry out a site visit may be made where a proposal is contentious or complex and the impact is difficult to visualise or assess from the plans or any supporting presentation. The visit is intended to enable members to gain knowledge of the proposal and its physical context.
2. The purpose of the site visit is to obtain information relevant to the determination of the application only. The decision should not be arbitrary, unfair or be used as a lobbying device.
3. Site visits can, however, cause delay and additional cost, so should only be used where the expected benefit is substantial.
4. A site visit will be held following a majority resolution of the Planning Committee. In reaching its decision, the Planning Committee, having heard the application and representations, must consider that such a visit would be of substantial benefit to the decision making process. Members should bear in mind that officers will have visited the site prior to writing their report and forming their recommendation.
5. A site visit should not be used as an opportunity to defer consideration or determination of an application.
6. The reason for a site visit based on sound and proper planning reasons must be recorded and minuted.

#### **PRACTICAL ARRANGEMENTS FOR THE SITE VISIT**

7. The site visit may take place at any reasonable time during any working day (including the day of the Committee) before the Committee meeting at which it is proposed to determine the application.
8. Wherever possible, a site visit should be attended by all members of the Planning Committee.
9. The appropriate Council officers will attend the site visit. This would include the Planning Officer and other officers who may be required to provide specialist advice and information relevant to the application.
10. The applicant will be notified of the date and time of the site visit.
11. If it is proposed to enter onto private land as part of the site visit, it will be necessary to obtain permission from the landowner first.
12. Members, objectors and interested parties who are in regular contact with officers about specific applications will be able to obtain information about proposed site visits. Any correspondence from officers relating to a site visit

shall identify clearly the purpose of the visit and its form and explain the limited extent (see paragraphs 13 and 16) to which members can receive representations during a site visit from the local members, applicants, objectors and interested parties.

### **PROCEDURE AT THE SITE VISIT**

13. The Chair or Planning Officer (as appropriate) will inform those attending the site visit that they should not approach or attempt to speak to or engage with any member or officer of the Council about the application during the site visit and that this is not an opportunity for lobbying, representations, public address or debate.
14. The Planning Officer will explain the proposal to members and provide a summary of the objections.
15. Members can ask any questions concerning the proposal to the respective officer(s) in attendance.
16. Occasionally, and at the discretion of the Chair, a person attending the site visit may be asked to identify specific areas for the Committee to view and/or point out important or relevant site features, but in doing so should make no further representation. Any questions or representations by local members, applicants, objectors and other interested parties shall be made in the presence of the other parties.
17. In order to ensure transparency of public dealing by members, members shall keep together as a group and shall not engage individually in discussion with local members, applicants, objectors and other interested parties present at the site visit.
18. Members should not express an opinion on the planning application or on its merits (or otherwise) at the site visit. Members should be mindful at all times of the need to avoid allegations of predetermination or bias, or the fettering of the Council's discretion in relation to the application.
19. No hospitality may be accepted by members and officers from any party present at the site visit.
20. A note shall be taken by the Planning Officer of any significant events occurring during the site visit.

### **PROCEDURE AT COMMITTEE FOLLOWING THE SITE VISIT**

21. Officers will provide a brief update to members of any significant additional information or issues raised at the site visit.
22. Following the update, members of the Committee who were not able to attend the site visit should consider whether they have sufficient information before them to enable them to take part in determining the application and, if not, they should take no part in the deliberation and should abstain from the vote on the proposals.
23. The fact that a member has not attended the site visit shall not of itself prevent them from voting in respect of that application, provided that the member concerned considers that they are able to make an informed,

objective and appropriate decision on the basis of the information before them. This may though be called into question if that member had previously found it necessary to vote for a visit.