



GOVERNANCE COMMITTEE AGENDA

7.00 pm

**Wednesday
19 August 2026**

**Town Hall, Main Road,
Romford**

Members 5: Quorum 2

COUNCILLORS:

**Reform UK Group
(4)**

George Harwin (Chairman)
Joe Lock (Vice-Chair)
Robert Benham
Malvin Brown

**Havering Aligned Residents'
Association Group
(1)**

Gillian Ford

**For information about the meeting please contact:
Anthony Clements tel: 01708 433065
e-mail: anthony.clements@havering.gov.uk**

**Please would all Members and officers attending ensure they sit in their allocated seats
as this will enable correct identification of participants on the meeting webcast.**

Under the Committee Procedure Rules within the Council's Constitution the Chairman of the meeting may exercise the powers conferred upon the Mayor in relation to the conduct of full Council meetings. As such, should any member of the public interrupt proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room and may adjourn the meeting while this takes place.

Excessive noise and talking should also be kept to a minimum whilst the meeting is in progress in order that the scheduled business may proceed as planned.

Protocol for members of the public wishing to report on meetings of the London Borough of Havering

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

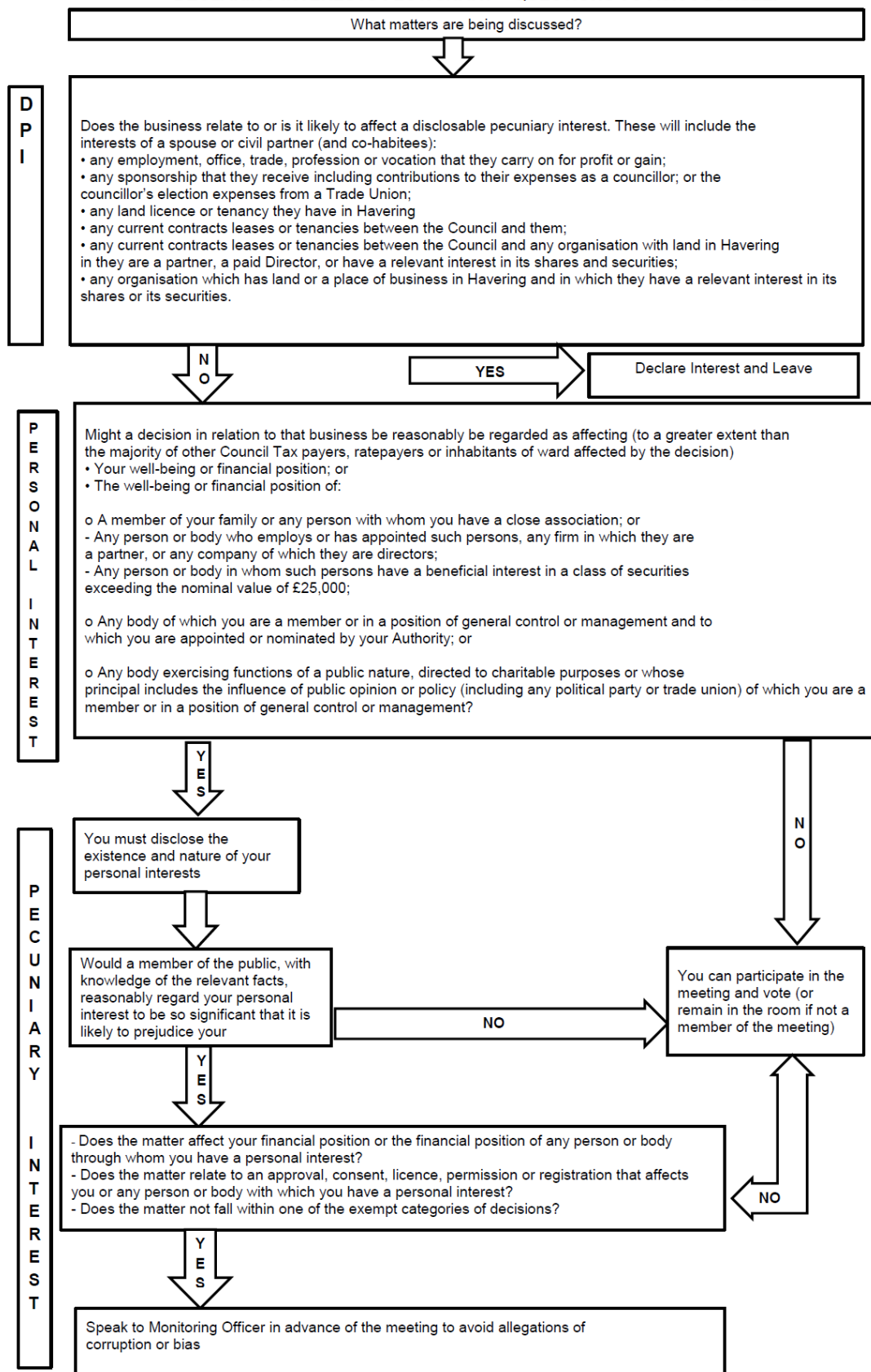
- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



Principles of conduct in public office

In accordance with the provisions of the Localism Act 2011, when acting in the capacity of a Member, they are committed to behaving in a manner that is consistent with the following principles to achieve best value for the Borough's residents and to maintain public confidence in the Council.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

AGENDA ITEMS

1 CHAIR'S ANNOUNCEMENTS

The Chair will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE & SUBSTITUTE MEMBERS

(If any) – receive.

3 DISCLOSURE OF INTERESTS

Members are invited to disclose any interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any interest in any item at any time prior to the consideration of the matter.

4 MINUTES (Pages 7 - 22)

To approve as a correct record the minutes of the Committee held on 11 June 2026 (attached) and to authorise the Chairman to sign them.

5 CONSTITUTION REVIEW - VARIOUS PARTS (Pages 23 - 86)

Report and appendices attached.

6 APPOINTMENTS TO OTHER ORGANISATIONS 2026/27 (Pages 87 - 90)

Report attached.

Zena Smith
Head of Committee and
Election Services

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**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Town Hall, Main Road, Romford
11 June 2026 (7.00 - 7.25 pm)**

Present:

COUNCILLORS

Reform UK Havering Group George Harwin (Chairman) Malvin Brown and Bailey Nash-Gardner

Havering Aligned Residents' Associations Group Barry Mugglestone

The Chairman reminded Members of the action to be taken in an emergency.

1 APOLOGIES FOR ABSENCE & SUBSTITUTE MEMBERS

Apologies were received from the Vice-Chairman, Councillor Joe Locke (Councillor Bailey Nash-Gardner substituting) Councillor Gillian Ford (Councillor Barry Mugglestone substituting) and Councillor Robert Benham.

2 DISCLOSURE OF INTERESTS

There were no disclosures of interest.

3 MINUTES

The minutes of the meeting of the Committee held on 10 March 2026 were agreed as a correct record and signed by the Charman.

4 APPOINTMENTS TO OTHER ORGANISATIONS 2026/27

The full list of non-executive appointments is attached as appendix 1 to these minutes. At the meeting, the Committee agreed the following nominations to vacant positions. All nominations were agreed with a vote being required, unless stated otherwise.

Adoption and Permanency Panel – Councillor Khuram Amin

Havering Chamber of Commerce and Industry – Councillor Iurie Bivol

Havering Theatre Trust - Councillor Malvin Brown by 3 votes (Councillors Brown, Harwin and Nash-Gardner) to 1 vote for Councillor Barry Mugglestone (Cllr Mugglestone).

It was noted that this nomination may be subject to an interview with the Havering Theatre Trust.

Local Government Association – Councillor Sean McMahon by 3 votes (Councillors Brown, Harwin and Nash-Gardner) to 1 vote for Councillor Barry Mugglestone (Councillor Mugglestone).

Road Safety Council – Councillor Martynas Cekavicius

Lucas Children's Play Centre – Nominative Trustees – Councillor Kevin Gill by 3 votes (Councillors Brown, Harwin and Nash-Gardner) to 1 votes for Councillor Oscar Ford (Councillor Mugglestone).

Poyntz Charity Representative Trustees – Mr Terry Clark and Mr Jared Tse.

Standing Advisory Council on Religious Education (SACRE) – Councillors Khuram Amin, Graham Edwards, Kevin Gill, Sathya Maddasani and Henry Williams.

BETRA Tenant Management Organisation – Councillor Liz Tyler

DELTA Tenant Management Organisation – Councillor Tom Vickery

PETRA Tenant Management Organisation – Councillor Robert Attree

Wennington Quarry Liaison Committee – Councillor Terry Brown

It was noted that the Monitoring Officer would investigate whether it was possible to amend the Council's nomination to the Hornchurch Housing Trust.

The Committee also noted the list of Executive Appointments made by the Leader as shown in appendix 2 to these minutes.

RESOLVED:

- 1. That the Committee determined appointments to the non-executive organisations referred to in the report in the agenda papers for the period until the meeting that deals with appointments for the municipal year, 2027/2028 (or such other period as may be relevant in any specific case).**

(b) Where the appointment is executive, the Committee NOTED the appointments made by the Leader.

2 That it is agreed that where the Council's representative (or any deputy or alternative representative where applicable) is unable to attend a particular meeting and the constitutional arrangements of the body in question so permit, that representative may authorise the Chair of the meeting to exercise a proxy vote.

3 That the Council's voting rights at the General Assembly of the Local Government Association be exercised by the Leader of the Council (5 votes, or his respective nominee in the event he is unable to vote in person).

Chairman

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Appendix 1 - Appointments to other Organisations made on behalf of Council 2026/27

ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non-Executive Appointments)	COMMENTS AND NOTES
Adoption & Permanency Panel-2	Cabinet Member for Children – Cllr Kevin Gill and Cllr Khuram Amin	
Children's Executive Board	Cabinet Member for Children – Cllr Kevin Gill	
Coopers Company & Coborn Educational Foundation -1	Cllr Christopher Wilkins	
Havering Chamber of Commerce and Industry	Cllr Iurie Bivol	
Havering Community Safety Partnership – 2	Cabinet Member for Planning & Public Protection – Cllr Terry Brown & the Chief Executive – Andrew Blake-Herbert	
Havering Joint Forum - 6	Leader of the Council – Cllr Keith Prince Deputy Leader of the Council – Cllr Sue Benjamins Leader of the Opposition Group – Cllr Gillian Ford Cllr Martin Goode Cllr Matt Stanton	
Havering Theatre Trust - 2	Cllr Trevor McKeever Cllr Malvin Brown	

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ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non-Executive Appointments)	COMMENTS AND NOTES
<i>Hornchurch Housing Trust (Nomination Trustees) - 1</i>	Ms Carol Smith (sine dies)	
Local Government Association General Assembly - 4	Leader of the Council – Cllr Keith Prince Councillor Sue Benjamins Councillor Gillian Ford Councillor Sean McMahon	
Local Government Information Unit - 1	Leader of the Council- Cllr Keith Prince	
London Road Safety Council - 2	Cabinet Member for Highways – Cllr Alex Sibley Cabinet Member for the Public Realm- Martynas Cekavicius	
London Youth Games-1	Cabinet Member for Adults & Health – Cllr Graham Day	
<i>Lucas Children's Play Charity Nominative Trustees – 2</i>	Cabinet Member for Children – Cllr Kevin Gill (until June 2030) Councillor Matthew Stanton (until June 2028)	
NELFT NHS Council of Governors	Councillor Julie Wilkes (until July 2026)	
North East London NHS Foundation Trust – 1	Strategic Director of People – Barbara Nicholls	
Poyntz (a.k.a. Richard Poyntz's) and other charities	<i>1 ex-officio</i> Mr Terry Clarke and Mr Jared Tse (until March 2028)	

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ORGANISATION AND NUMBER OF APPOINTEES	MEMBER APPOINTED (Non-Executive Appointments)	COMMENTS AND NOTES
Reserve Forces & Cadets Association -1	Champion for the Armed Forces- Cllr Alex Donald	
Romford Town Management Partnership	Cabinet Member for Regeneration- Cllr Robert Whitton	
<i>Romford Combined Charity</i> <u><i>Nominative Trustees</i></u> – 2	Mrs Wendy Brice Thompson and Mrs Jane Keane (until 3.11.26) Mr Melvin Wallace (until 3.11.27) Mrs Viddy Persaud (until 3.11.28)	
Safer Neighbourhood Board	Cabinet Member for Planning & Public Protection – Cllr Terry Brown	
Standing Advisory Council for Religious Education (SACRE) - 5	Cllr Khuram Amin Cllr Graham Edwards Cabinet Member for Children – Cllr Kevin Gill Cllr Sathya Maddasani Cllr Henry Williams	
Tenant Management Organisations - 3	Ward Councillors: BETRA (Gooshays) – Cllr Liz Tyler DELTA (Squirrels Heath)—Cllr Tom Vickery PETRA (St Andrews’) – Cllr Robert Attree	
Wennington Quarry Community Liaison Committee- 1	Cabinet Member for Planning & Public Protection – Cllr Terry Brown	

APPENDIX 2 - APPOINTMENTS MADE BY THE LEADER TO OTHER ORGANISATIONS, 2026/27

ORGANISATION AND NUMBER OF APPOINTEES	EXECUTIVE MEMBER APPOINTMENTS	
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CEME (Centre for Engineering & Manufacturing Excellence) - 1

Strategic Director of Place

East London Waste Authority - 2

Cabinet Member for Public Realm and Cabinet Member for Finance – ***Cllr Martynas Cekavicius*** and ***Cllr Sue Benjamins***

East London Waste Authority Board (Officer)

Director of Environment
Head of Finance

London Councils
(Leaders' Committee)

Representative (1): Leader of the Council – ***Cllr Keith Prince***
Deputy: (1) Deputy Leader of the Council – ***Cllr Sue Benjamins***

Transport & Environment Committee

Representative (1): ***Cllr Alex Sibley***
Deputies (up to 4): ***Cllr Martynas Cekavicius***

Appointments to other organisations, 2026/27

Grants Committee

Representative (1): ***Cllr Sue Benjamins***

Deputy (up to 4): ***Cllr Kevin Gill***

Pensions CIV (Sectorial Joint Committee)

Representative (1): Chairman of Pensions Committee – ***Cllr David Johnson***

Deputy (up to 2): *Vice Chair of Pensions Committee* – ***Cllr Graham Edwards***

Greater London Employment Forum

Representative (1): ***Cllr Keith Prince***

Deputy Representative (1): ***Cllr Sue Benjamins***

Local London Inter Authority

Representative: Leader of the Council – ***Cllr Keith Prince***

Deputy: Deputy Leader of the Council – ***Cllr Sue Benjamins***

*Agreed by
Executive Decision
on 04/05/2023*

**Newable (formerly Greater London
Enterprise Limited) -1**

Cllr Robert Whitton

London Riverside (BID) Ltd

Representative (1): Cabinet Member for Regeneration – ***Cllr Robert Whitton***

Thames Freeport Governance Board

Leader of the Council – ***Cllr Keith Prince***

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Havering Community Safety Partnership – 2	Cabinet Member for Planning & Public Protection – Cllr Terry Brown & the Chief Executive – Andrew Blake-Herbert	
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Appointments to other organisations, 2026/27

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Representative (1): Chairman of Pensions Committee – ***Cllr David Johnson***

Deputy (up to 2): *Vice Chair of Pensions Committee* – ***Cllr Graham Edwards***

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*Agreed by
Executive Decision
on 04/05/2023*

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Cllr Robert Whitton

London Riverside (BID) Ltd

Representative (1): Cabinet Member for Regeneration – ***Cllr Robert Whitton***

Thames Freeport Governance Board

Leader of the Council – ***Cllr Keith Prince***



GOVERNANCE COMMITTEE – 19 August 2026

Subject Heading:

**CONSTITUTION REVIEW
PLANNING, PENSIONS AND VARIOUS
PARTS**

ELT Lead:

Kathy Freeman, Strategic Director of Resources

Report Author and contact details:

Patricia Narebor
Monitoring Officer, Legal and Governance Services
01708 432838

Policy context:

A well-run Council that delivers for People and Place.

Financial summary:

There are no financial implications arising from this report.

The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place X

SUMMARY

This report sets out proposed amendments to the Constitution arising from the commencement of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, coming into effect on 31 October 2026, consequential amendments to the Constitution, to include the Officer Delegations. Changes to the planning legislation prescribe the types of planning applications that must be determined by officers and those applications that can be determined by the Planning Committee, subject to a gateway process. The revised Planning Committee functions and related matters (to include the Constitution) must be updated by 31 October 2026. The consequences of the 2026 Planning Regulations require that the existing Planning Committee (consisting of 5 members) and Strategic Planning Committee (consisting of 5 members) be abolished and a replacement Planning Committee be constituted in line with the regulations. The proposal is that the newly constituted Planning Committee consist of 9 Members though a maximum of 13 is permitted under the regulations.

The report also outlines required changes to the Pension Committee functions arising from the Local Government Pension Scheme (Amendment) (Governance) Regulations 2026 and governance arrangements relating to the pension fund. The regulations came into force on 30 June 2026. The Council is obliged to strengthen and update the pension fund governance arrangements, appoint a new LGPS Senior Officer and an Independent Person on or before December 2026. The terms of reference for the Pension Committee must be updated in readiness for the next scheduled Pension Committee in September 2026 to ensure that the working arrangements are in line with the 2026 regulations.

The comments and recommendations of the Constitution Review Working Group consisting of Members have been taken into account in the preparation of this report. A supplemental paper will be prepared in relation to the pension matters should this be necessary.

RECOMMENDATIONS

1. Governance Committee to recommend to full Council the recommendations below:
2. To approve the revised parts of the Constitution as outlined in this report and in **Appendix 1** to this report relating to planning matters, the Planning Procedure Rules, the Protocol on Probity in planning matters, pension fund administration and governance arrangements and consequential changes to the Constitution.
3. To approve an amendment of the start time for Council meetings from 7.30pm to 7.00pm, with a corresponding amendment to Council Procedure Rule 5.

4. Delegate authority to the Monitoring Officer to make consequential amendments to the Constitution arising from the changes in legislation and the proposed changes outlined on Appendix 1, Appendices 2 and 3.

REPORT DETAIL

1. INTRODUCTION

The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that the Council operates efficiently, transparently and is accountable to local people.

By law the Council is required to keep the Council's Constitution up to date, it must contain specified information, or any information directed by the Secretary of State (section 9P Local Government Act 2000) and to publish it. To comply with this duty, the Council is required to keep the Constitution under review to ensure that the operation of the Constitution and the aims of the Constitution are given full effect. When necessary, proposed amendments must be recommended to Full Council. In line with the statutory requirement the Monitoring Officer is granted the delegation to maintain an up-to-date version of the constitution and ensure that it is widely available for consultation by Members, Officers and the public. This report and related matters are in discharge of the duty and to comply with the statutory requirements.

2. PROPOSED CHANGES TO THE CONSTITUTION

Constitution Part 3 (Article 2 – Functions Delegated to General Council Committees).

2.1 PLANNING COMMITTEE

The terms of reference for the Planning Committee and the Strategic Planning Committee are not in accordance with the requirements of the new Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. The Regulations introduce a national scheme of delegation and a gate way process for a planning committee in relation to the determination of planning applications from 31 October 2026. The Council is obliged to update the governance arrangements in the Constitution and the Local Planning Authority procedures and processes relating to the determination of planning applications and discharge of planning functions.

To discharge the duties, there is a need to abolish the Planning Committee and the Strategic Planning Committee and constitute a new Planning Committee with appropriate Terms of Reference in line with the 2026 Planning Regulations.

Appendix 1 to this report outlines the current terms of reference for the Planning Committee and the Strategic Planning Committee (which will be deleted along with the committees). New terms of reference for the Planning Committee constituted under the 2026 Planning Regulations will need to be approved as outlined on Appendix 1.

Health and Safety

It is proposed that the terms of reference relating to Health and Safety at Work Act 1974 be moved to the Governance Committee since this Committee is responsible for staffing and general governance matters. Matters relating to Health and Safety have historically not been referred to the Planning Committee.

Part 1 of the 1974 Act outlines the general duties of employers and self-employed to persons other than their employees within the workplace. It is a duty of every employer to conduct its undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment (eg contractors) who may be affected thereby are not exposed to risks to their health or safety.

Highways use and regulation

The terms of reference relating to Highways use and regulation within the existing Planning Committee should be retained in the new terms of reference for the new Planning Committee constituted under the 2026 Planning Regulations. The function is required to enable certain functions not to be exercised by the Executive such as the power to make a rail crossing extinguishment order, to be discharged by the newly constituted Planning Committee.

Membership of Planning Committee – Appendix Part 2

The 2026 Planning Regulations and statutory guidance provide that no more than 13 members be appointed onto the Planning Committee constituted under the regulations. The proposal is that 9 members be appointed onto the Committee to ensure that adequate time will be available to deliberate each application considered at Planning Committee. Sufficient time should be available for the report relating to each application to be presented to the Planning Committee, representations to be made to the Committee and Member queries to be addressed. Committee membership higher than 9 members may protract the deliberation of each application.

The Committee Procedure Rules currently provide that the quorum is one third of the whole number of the committee but must not be less than three members in the case of a committee. A quorum of 5 Members as a minimum is proposed for the new Planning Committee

The Council has a duty to appoint the proposed Members of the newly constituted Planning Committee on a proportionate basis to the membership

of the Council as nominated by the Political Groups – Local Government and Housing Act 1989, section 15 and Local Government (Committees and Political Groups) Regulations 1990.

Proposal:

- (a) Delete the existing Planning Committee and the Strategic Planning Committee with the relevant terms of reference. Constitute a new Planning Committee with terms of reference in accordance with the 2026 Planning Regulations. Incorporate consequential revisions to the Constitution.
- (b) Membership of the Planning Committee to be 9 members with a quorum of 5 members.

2.2 Constitution Part 4.10 – Planning Committee Procedure Rules

The Planning Committee Procedure Rules have been updated to reflect the requirements of the Gateway Process outlined in the 2026 Regulations, the changes outlined above and working procedures. The updated version is attached at **Appendix 2** of this Report.

Committee Procedure Rules – Part 4.3

It is proposed that existing paragraphs 13(a) to 13(h) of Part 4.3 of the Constitution be deleted and updated wording be incorporated to achieve consistency with the Planning Committee Procedure Rules.

Constitution Part 5.5 - Protocol on probity in Planning Matters

The Protocol on Probity in Planning Matters has been updated to align with the requirements of the 2026 Planning Regulations and the updated Planning Committee Procedure Rules. The updated version is attached as **Appendix 3** to this Report.

2.3 Current Specific powers of the Strategic Director of Place – Planning matters

In relation to planning, the current wording provides that the Strategic Director is authorised to exercise all powers and functions on behalf of the Council and to meet all obligations imposed upon the Council pursuant to any planning legislation, except where such powers, functions and obligations are reserved to the Council or its committees. It is proposed that this delegation be revised to:

Revised delegation:

To exercise all powers and functions on behalf of the Council and to meet all obligations imposed upon the Council pursuant to any planning legislation, except where such powers, functions and obligations are reserved to the Council or its committees and the Nominated Officer under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.

New Delegation to the Assistant Director of Planning and delegated Representative

The 2026 Planning Regulations require that certain planning applications must be determined by the Council's Nominated Officer. The proposal to the Council is that the Assistant Director of Planning or his/her representative discharge the functions.

The new delegations below are proposed:

New Delegation to the Assistant Director of Planning and delegated Representative

- (a) To discharge the role and duties of the Nominated Officer under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.
- (b) To undertake all statutory functions of the Council acting as Local Planning Authority under planning and other relevant legislation.
- (c) To serve enforcement and other notices under planning and other relevant legislation.

2.4 PENSION COMMITTEE

The Local Government Pension Scheme (Amendment) (Governance) Regulations 2026 amend the Local Government Pension Scheme Regulations 2013 ("the 2013 Regulations"), which establish the Local Government Pension Scheme for England and Wales ("the Scheme") and require certain local authorities to maintain pension funds as administering authorities. The Regulations make provision to strengthen and update governance arrangements applying to administering authorities. New Regulation 53A requires administering authorities to appoint a senior officer with overall responsibility for the administration, governance and investment of the Scheme, and sets out restrictions on who may be appointed to that role. The regulation also requires administering authorities that delegate Scheme functions to appoint an Independent Person to support the discharge of those functions.

[Local Government Pension Scheme: fund governance - GOV.UK](#)

An update on the changes was provided to the Pension Committee in March 2026: [5 Fit for the Future - update.pdf](#)

Under the current LGPS (Management and Investment of Funds) Regulations 2016, Havering Pension Fund appoints and manages its own investment managers directly, retaining full discretion over mandates and operational decisions. However, under the new proposed draft LGPS Regulations, the Investment Management Agreement will facilitate the oversight and management responsibilities to the London CIV. As such, London CIV will become the legal investment manager for all Havering Pension Fund

assets, whilst taking responsibility for the day-to day investment management of the Fund's assets. The Pension Fund will retain its responsibility for setting the investment strategy. The Pension Committee will continue to play an important role in the strategic direction of the Pension Fund, ensuring strong governance by establishing clear objectives for its investment pool and regularly monitoring investment performance.

The terms of reference for the Pension Committee provides that the committee consider and agree the investment strategy and statement of investment principles for the pension fund and subsequently monitor and review performance. These duties will now be discharged as part of the Investment Management Agreement (IMA) with London CIV. The Pension Committee Terms of Reference should be updated to discharge the duties below:

2.5 Revised terms of reference for Pension Committee

Pension Fund

- To determine the strategic direction of the Pension Fund and to exercise all functions delegated to the Committee in relation to the Local Government Pension Scheme
- To approve, maintain and review the Fund's Investment Strategy Statement and other pension fund strategies and policies required by legislation and statutory guidance.
- To monitor the implementation of the investment strategy by the Fund's investment pool and to review investment performance, funding, administration, governance, risks and compliance with statutory requirements.

Fund Advisers

- To appoint, terminate and review the performance of the Fund Actuary, Independent Person and any other professional advisers to the Pension Fund.
- To authorise the LGPS Senior Officer to undertake procurement exercises and award contracts in accordance with the Council's Contract Procedure Rules and Scheme of Delegation in respect of Pension Fund matters.
- To authorise the LGPS Senior Officer to undertake the recruitment process for the Independent Person and to make a recommendation to the Pension Committee for appointment of the Independent Person in accordance with the Local Government Pension Scheme Regulations and statutory guidance.

- To monitor the performance of the Fund's investment pool and any specialist providers directly retained by the Pension Fund.
- To discharge other pension related functions required by the Pension Schemes Act 2026, the Local Government Pension Scheme (LGPS) (Amendment) (Governance) Regulations 2026 and related legislation.

2.6 LGPS Senior Officer

New regulation 53A of the LGPS Regulations 2013 (as amended by the 2026 Pension Regulations) require every administering authority to have a LGPS senior officer. The LGPS senior officer is responsible for ensuring the administering authority is appropriately managed and resourced in respect of all matters of the Scheme. This includes administration, investment and governance. The Council is obliged to comply with the related statutory guidance to the 2026 Regulations.

The LGPS senior officer should have a direct relationship with the independent person and the Pension Board chair, in order to draw on their expertise and consider any recommendations or concerns they may raise.

Where the administering authority chooses to delegate pension functions to an officer, it should be to the LGPS senior officer. Senior officers should be involved in the development and approval of all fund strategies, including the Funding Strategy Statement and Investment Strategy Statement, although the final approval of such strategies is still for the Pension Committee.

Whilst the Section 151 officer will remain ultimately responsible for the proper administration of the local authority's financial affairs, under the 2026 Pension regulations, the LGPS Senior Officer will have senior responsibility across all pension functions to ensure the fund is appropriately managed and resourced across administration, investment and governance matters.

The statutory guidance to the 2026 Regulations provide that the LGPS Senior Officer role **must not be combined** or attached to other significant senior roles in the administering authority. Specifically, the LGPS senior officer must not be the same person as the Section 151 officer at the administering authority.

Proposal

The proposal is that the LGPS Senior Officer be assigned to the Director of Finance or the Head of Pensions. The Head of Paid Service and the Strategic Director Resources be authorised to finalise the appointment.

The existing Pensions related delegations to the Strategic Director Resources should be deleted. New delegations outlined within Appendix 1 (relating to the LGPS Senior Officer) be delegated to the Director of Finance or the Head of Pensions.

2.7 Independent Person - Pension Committee

The 2026 Pension Regulations require every administering authority to appoint an independent person to support the LGPS senior officer and the pensions committee or equivalent officer(s) that the administering authority delegates its pension functions to. The appointment must be in accordance with guidance issued by the Secretary of State.

The independent person should support pension committees by providing independent and professional expertise including to support committees to scrutinise and challenge the advice they receive.

The government expects the independent person to hold one or more of the following qualifications or experience:

- a qualification from Pensions Management Institute (PMI) – the award in pension trusteeship, diploma in professional trusteeship, certificate in professional trusteeship, accreditation for professional trustees
- member of, and accredited by, the Association of Professional Pension Trustees (APPT)
- significant experience of pensions.

Administering authorities may appoint an individual to perform the role or may procure a firm (such as a professional trustee firm) to provide an independent person. It is for each administering authority to decide adequate remuneration, appointment or procurement arrangements for the role taking into account the professional requirements and the duties of the role.

The guidance to the 2026 Pension Regulations provide that selection or procurement of candidates is expected to be delegated in most circumstances, either to officers (including to the LGPS senior officer), to an appointments committee, or to the relevant committee for fund appointments. Where selection of candidates is delegated to officers, the LGPS senior officer should make the final decision on appointment (in consultation with the Head of Paid Service).

Proposal:

The proposal is that the recruitment of the Independent Person be delegated to the Senior LGPS Officer (in consultation with the Head of Paid Service) and to make a recommendation to the Pension Committee regarding the appointment.

2.8 Duties of the Independent Person

The independent person's duties should include, among other things:

- to support and contribute to the development of all strategies for which the pension committee is responsible
- to scrutinise any advice given to the committee, whether from the pool or any other organisation or individual
- to help monitor and assess performance against targets set in LGPS strategies, including administrative performance and the pool's implementation of the investment strategy, and help monitor whether the collective pool oversight process is meeting the requirements of the administering authority
- to support consideration of the committee's governance arrangements, including any action plans arising from Independent Governance Reviews
- to contribute in any other way appropriate to the authority's LGPS functions.

The independent person should therefore provide additional scrutiny and challenge, by virtue of their being fully independent from the administering authority.

2.9 Independent Governance Reviews

The 2026 Pension regulations and the statutory guidance require LGPS administering authorities to prepare, commission and publish Independent Governance Reviews (IGRs) by the Senior LGPS Officer or the Pension Committee. The proposal is that the Pension Committee discharge functions relating to the IGR.

The IGR will ensure administering authorities review their governance processes and compliance with legislation supported by independent scrutiny, to provide assurance to members and employers. The review should be a periodic IGR in accordance with the regulations and an ad-hoc governance review as directed by the Secretary of State.

The regulations require that an administering authority should carry out the IGR at any time as long as it is within the period spanning the 31st March 2025 and 31st March 2028 valuation dates.

The person or party undertaking the IGR must be independent of the Authority. Independence requires that the individual undertaking the review is not employed by, or acting on behalf of, a specific legal entity that has delivered services to the administering authority in any capacity relating to the pension function.

Local Pension Board of the London Borough of Havering Pension Fund

The Local Pension Board for the Council will be retained. The Local Pension Board generally meets before or after each Pension Committee in a municipal year. The terms of reference for the Board will be reviewed and revised in line with the regulations.

Proposal: Delegate authority to the Monitoring Officer to update the arrangements relating to the Local Pension Board where necessary to comply with the requirements of the 2026 Pension Regulations.

2.10 Constitution Part 4.5 - Council Procedure Rules

Council Procedure Rule 5 provides that the meetings of the Council will begin at 7.30pm unless an earlier time is agreed in advance by the Council, or by the Mayor, and the change is notified in the summons.

A proposal has been suggested that full Council should begin at 7.00pm rather than 7.30pm and that Council Procedure Rule 5 be revised with any consequential amendments to the Constitution. This will enable sufficient time for the business on the agenda to be dealt with.

The proposed revision has been incorporated into the table of changes to the Constitution.

IMPLICATIONS AND RISKS

3. Financial implications and risks:

The remuneration for the Independent Person to be appointed in relation to the Council's Pension duties will need to be assessed and determined.

The role of the LGPS Senior Officer will be assigned to an officer of the Council. The remuneration for the officer role will cover the Senior Officer duties with appropriate adjustments.

4. Legal implications and risks:

The Council has a duty to prepare and keep up to date its Constitution which explains, in ordinary language, the content of their constitution – section 37(1A) Local Government Act 2000. The changes proposed are required to comply with changes in legislation relating to planning and pension matters and consequential changes.

The Council has a duty to appoint the proposed Members of the newly constituted Planning Committee on a proportionate basis to the membership of the Council as nominated by the Political Groups – Local Government and Housing Act 1989, section 15 and Local Government (Committees and Political Groups) Regulations 1990.

5. Human Resources implications and risks:

The assignment of the role of the LGPS Senior Officer will be in accordance with the Council's Human Resources procedures.

6. Equalities implications and risks:

None directly associated with this report.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The changes proposed relating to the discharge of planning functions are required statutory changes as such accord with relevant environment regulations and the Environment Act 2021.

BACKGROUND

Local Government Act 1972, section 100d

List of background documents

- (a) Statutory Guidance - Planning Committees and the National Scheme of Delegation of Planning Functions: Draft guidance for local planning authorities in England - [Planning Committees and the National Scheme of Delegation of Planning Functions: Draft guidance for local planning authorities in England - GOV.UK](#)
- (b) 17 March 2026 – Pension Committee Report - [5 Fit for the Future - update.pdf](#).
- (c) Statutory Guidance - Local Government Pension Scheme: fund governance. [Local Government Pension Scheme: fund governance - GOV.UK](#)

Appendix 1: List of Proposed Changes to the Constitution and current wording

Appendix 2: Planning Committee Procedure Rules

Appendix 3: Protocol on Probity in Planning Matters

Appendix 4: Briefing Paper – Planning Committee Reform and changes to the Council's Constitution

APPENDIX 1

CURRENT WORDING AND PROPOSED CHANGES TO THE CONSTITUTION

Constitution	Current wording	Proposed wording or revisions	Rationale for change
Constitution Part 3, Article 2 – Functions Delegated to General Council Committee	PLANNING COMMITTEE Planning - To determine: (a) Applications for Planning Permission; or (b) Applications for Listed Building Consent; except where they are referable to the Strategic Planning Committee. - To determine any planning matter referred to the Planning Committee by the Deputy Chief Officer responsible for Planning acting in his or her discretion. [DELETE]	Constitute a new PLANNING COMMITTEE Planning - To determine: (a) Applications for Planning Permission; or (b) Applications for Listed Building Consent; which are required to be determined by Committee in accordance with the Planning Committee Procedure Rules and the Committee and Gateway Consideration Criteria within - Any other planning matter, which is not covered by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (or such legislation updating, amending or replacing the Regulations), which, in the opinion of the	To comply with the 2026 Planning Regulations.

	Health and safety • To carry out functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer. [DELETE] Highways use and regulation • To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority’s or to Officers. [DELETE] Strategic Planning Committee • To receive presentations in the pre-application or pre determination stage. • To determine: (a) Applications	Chief Officer responsible for Planning acting in his or her discretion, raises strategic issues and should be referred to the Planning Committee. • To receive presentations in the pre-application or pre determination stage. Health and Safety . • To exercise powers relating to the regulation of the use of highways as set out in Part 3, section 4: functions not to be the responsibility of an authority’s or to Officers.	
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	for Planning Permission; or (b) Applications for Listed Building Consent; which, in the opinion of the Deputy Chief Officer responsible Planning acting in his or her discretion, raise strategic issues and should be determined by the Strategic Planning Committee. • Any other planning matter which, in the opinion of the Deputy Chief Officer responsible for Planning acting in his or her discretion, raises strategic issues and should be referred to the Strategic Planning Committee. [DELETE] Delete the existing Planning Committee and Strategic Planning Committee and all terms of references.		
Constitution Part 3, Article 2 – Functions Delegated to General Council Committee	PENSION COMMITTEE Pension fund • To consider and agree the investment strategy and statement of investment	Pension Fund • To determine the strategic direction of the Pension Fund and to exercise all functions	To comply with the 2026 Pension Regulations.

	principles for the pension fund and subsequently monitor and review performance Advisers and investment managers • Authorise Officers to invite tenders and to award contracts to actuaries, advisers and fund managers and in respect of other related investment matters. • To appoint and review the performance of advisers and investment managers for pension fund investments. Other Non-executive matters	delegated to the Committee in relation to the Local Government Pension Scheme • To approve, maintain and review the Fund's Investment Strategy Statement and other pension fund strategies and policies required by legislation and statutory guidance. • To monitor the implementation of the investment strategy by the Fund's investment pool and to review investment performance, funding, administration, governance, risks and compliance with statutory requirements. Fund Advisers • To appoint, terminate and review the performance of the Fund Actuary, Independent Person and any other professional advisers to the Pension Fund. • To authorise the LGPS Senior Officer to undertake procurement exercises and award contracts in accordance	
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	• To take decisions on those matters not to be the responsibility of the Executive under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to those matters concerning the Local Government Pension Scheme. [RETAIN WORDING]	with the Council's Contract Procedure Rules and Scheme of Delegation in respect of Pension Fund matters. • To authorise the LGPS Senior Officer to undertake the recruitment process for the Independent Person and to make a recommendation to the Pension Committee for appointment of the Independent Person in accordance with the Local Government Pension Scheme Regulations and statutory guidance. • To monitor the performance of the Fund's investment pool and any specialist providers directly retained by the Pension Fund. • To discharge other pension related functions required by the Pension Schemes Act 2026, the Local Government Pension Scheme (LGPS) (Amendment) (Governance) Regulations 2026 and related legislation.	
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		Other non-executive matters Retain wording	
Part 3.3 OFFICER DELEGATIONS	Scheme 3.3.5 Specific powers of the Strategic Director of Place 2.1 To exercise all powers and functions on behalf of the Council and to meet all obligations imposed upon the Council pursuant to any planning legislation, except where such powers, functions and obligations are reserved to the Council or its committees. [REVISE WORDING]	Scheme 3.3.5 Revised powers of the Strategic Director of Place 2.1 To exercise all powers and functions on behalf of the Council and to meet all obligations imposed upon the Council pursuant to any planning legislation, except where such powers, functions and obligations are reserved to the Council or its committees and the Nominated Officer under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. New Delegation to the Assistant Director of Planning (a) To discharge the role and duties of the Nominated Officer under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.	To comply with the 2026 Planning Regulations.

		(b) To undertake all statutory functions of the Council acting as Local Planning Authority under planning and other related legislation. (c) To serve enforcement and other notices under planning and other related legislation.	
Part 3.3 OFFICER DELEGATIONS	Scheme 3.3.6 Specific powers of the Strategic Director of Resources Pensions 1.20 To administer the Council's pension fund. 1.21 To make direct investments in local infrastructure assets as part of the Pension Fund local infrastructure portfolio in consultation with the Chairman of Pensions. Delete above in accordance with the 2026 regulations ?]	Scheme 3.3.6 Under Strategic Director of Resources, include: Head of Pensions OR The Director of Finance (Local Government Pension Scheme Senior Officer) 1.20 To discharge the role of LGPS Senior Officer and be responsible for the day-to-day management and administration of the Pension Fund in accordance with the Local Government Pension Scheme Regulations, statutory guidance and the Council's Constitution.	To comply with the 2026 Pension Regulations.

		1.21 To implement the policies, strategies and decisions approved by the Pension Committee and oversee the effective operation of the Pension Fund's investment, funding, administration, governance, communication, compliance and risk management arrangements. 1.22 To manage and monitor contracts, advisers, service providers and other operational arrangements relating to the Pension Fund, including the appointment of the Independent Person. 1.23 To exercise all Pension Fund functions not expressly reserved to the Pension Committee or Full Council by legislation or the Council's Constitution. Delegate to the Head of Paid Service to appoint an Officer of the Council to discharge the role of the LGPS Senior Officer.	
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SECTION 3.4: Functions not to be the responsibility of the Council's Executive	Various	Delegate authority to the Monitoring Officer to make consequential amendments to Part 3.4. Some functions under the Highways Act 1980 are discharged by Officers rather than Planning Committee. Reference to Planning Committee should be changed to the Strategic Director Place.	To comply with statutory requirements.
Part 4.3 Committee Procedure Rules	Paragraph 13 (a) to (eh) Planning Committees (a) Where one or more objections have been received to an application, the objector(s) shall have an opportunity to address the committee before the application is determined. Any objector wishing to make an address must notify the Assistant Director Development not less than three days before the meeting	Delete Paragraph 13 (a) to (h) from Part 4.3 Committee Procedure Rules and replace with: The procedure outlined within the Planning Committee Procedure Rules, to include the Gateway Process should be complied with in relation to the Planning Committee. Delegate authority to the Monitoring Officer to incorporate procedure rules consistent with the Planning Committee Procedure Rules.	To comply with statutory requirements.

	at which the objection is to be held. (b) If there is more than one objector, they shall be invited to agree among themselves before the meeting who shall speak for them all; in the event that no agreement can be reached, the Chairman shall draw lots to determine who shall speak. (c) If an objector speaks against an application, the applicant or their designated representative shall be entitled to respond. (d) Addresses by both objector and applicant shall not exceed two minutes or such lesser time as the Committee by resolution, either generally or in		
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	relation to a specific application, may agree. (e) Only a Councillor representing the ward in which the planning application is located, or in exceptional circumstances any member of the Council, may call-in an application before the Planning Committee. Any such request for call-in must be received by the Assistant Director Development in writing (to include email and facsimile) and must set out detailed reasons for the call in which must be related solely to matters of material planning concern. Any member of the planning committee calling in a matter		
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	must take care to express themselves in a manner which would not amount to bias or pre-determination should they intend to take part in the meeting. (f) A Councillor calling in a planning matter should attend the Planning Committee or appoint a substitute to explain the reasons for the call in. (g) A Councillor calling in an application or speaking as a Ward Councillor on an item shall be limited to four minutes in addressing the Planning Committee. (h) Speeches by Ward Councillors should not involve a cross examination of staff but Members of the		
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	Committee may seek clarification from staff. DELETE THE ABOVE COMMITTEE PROCEDURES.		
Part 4.10	Planning Committee Procedure Rules Current version to be updated: Part 4.10 Planning procedure rules.pdf	Planning Committee Procedure Rules Updated Procedure rules with the Gateway Process:	To comply with statutory requirements.
Part 5.5	Protocol on Probity in planning matters. Current version to be updated:	Protocol on Probity in planning matters. Updated version to be approved.	To comply with statutory requirements.
Part 4.5 Council Procedure Rules	CPR 4.5 TIME AND PLACE OF MEETINGS Meetings of the Council will be held at Havering Town Hall (or such	CPR 4.5 TIME AND PLACE OF MEETINGS Meetings of the Council will be held at Havering Town Hall (or	To allow for sufficient time for agenda items to be fully considered.

	other place that may be determined either by the Council generally or by the Mayor for a particular meeting) and begin at 7.30pm unless an earlier time is agreed in advance by the Council, or by the Mayor, and the change is notified in the summons.	such other place that may be determined either by the Council generally or by the Mayor for a particular meeting) and begin at 7.00pm unless a different time is agreed in advance by the Council, or by the Mayor, and the change is notified in the summons.	
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PLANNING COMMITTEE PROCEDURE RULES

Contents

1. Introduction
2. Committee and Gateway Consideration Criteria
3. Public Speaking Procedure
4. Pre-Committee Matters
5. Committee Agenda
6. Order of Proceedings
7. Decision Making
8. Voting Procedures
9. Committee Performance

1 INTRODUCTION

- 1.1 These Rules apply to all meetings of the Council's Planning Committee in relation to the determination of planning applications and any other business dealt by the committee.
- 1.2 When the term "Councillor" is used, it means that the text is applicable to all Members of the Council. The term "Planning Committee Councillor" means a Member or a substitute Member of the Council's Planning Committee.
- 1.3 The term "Assistant Director of Planning" refers to any subsequent or equivalent Chief Planning Officer or Chief officer responsible for planning position in the Council. "Head of Development Management" would also refer to any subsequent equivalent position managing the planning application service.
- 1.4 The term "Nominated Member" means the Chair of Planning Committee or his/her representative which shall normally be the Vice-Chair unless otherwise specified by the Chair. The term "Nominated Officer" means the Assistant Director of Planning or his/her representative. The term "Own-Interest Planning Application" means a Planning Application made by or on behalf of the Council, a Councillor or an Officer of the Council.
- 1.5 The term "Gateway" means a meeting between the Nominated Member and Nominated Officer to agree whether to refer a relevant application to committee.
- 1.6 References to "Schedule 1" or "Schedule 2" relate to the definitions and procedures as set out in The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, or any legislation amending or replacing those Regulations. Schedule 1 applications must be determined by an officer. Schedule 2 applications may be determined by a committee or by an officer
- 1.7 The determination of planning applications is a statutory administrative process involving the application of national, strategic, local and neighbourhood level planning policies within a legislative framework. Planning decisions can be appealed by unsuccessful applicants and challenged by way of judicial review by aggrieved parties. Complaints about maladministration and injustice can also be made to the Local Government Ombudsman. To mitigate these risks, it is vital that those involved in the determination of

planning applications, and particularly officers and Councillors, act reasonably and fairly to applicants, supporters and objectors.

- 1.8 These Rules are designed to help ensure that this is achieved, but they should not be read in isolation. These Rules are prepared in accordance with the requirements of [sections 319ZZC to 319ZZF of the Town and Country Planning Act 1990](#) (introduced through section 54 of the Planning and Infrastructure Act 2025) and the Town and Country Planning (Discharge of Local Planning Authority Functions) Regulations 2026
- 1.9 Councillors need to also have regard to the Protocol on Probity in Planning Matters (the Planning Code) within this Constitution. Whilst both these Rules and the Planning Code interpret the Members' Code of Conduct with respect to planning matters, they are subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between these Rules and the Members' Code of Conduct, the latter shall prevail.

2 COMMITTEE AND GATEWAY CONSIDERATION CRITERIA

- 2.1 Part 3 of the Constitution (Responsibilities for functions) sets out what functions are the responsibilities of committees and the functions delegated to officers.
- 2.2 Part 3.1.2 (Functions delegated to general council committees) set out the matters that are within the remit of the Planning Committee, these are:
- 1) To determine: (a) Applications for Planning Permission; or (b) Applications for Listed Building Consent; which are required to be determined by Committee in accordance with the Planning Committee Procedure Rules and the Committee and Gateway Consideration Criteria within
 - 2) Any other planning matter, which is not covered by the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (as amended), which, in the opinion of the Chief Officer responsible for Planning acting in his or her discretion, raises strategic issues and should be referred to the Planning Committee
- 2.3 Part 3.3 (Functions delegated to officers) lists all the planning powers that have been delegated by Council to specific officers and identifies the exceptions where they need to be determined by Planning Committee in accordance with the Committee Consideration Criteria in these Procedure Rules. These exceptions relate to applications for Planning Permission or Listed Building Consent only. All other planning application types are delegated to officers.

COMMITTEE AND GATEWAY CONSIDERATION CRITERIA

- 2.4 The Committee Consideration Criteria in relation to planning matters are:
- Applications to be Determined at Planning Committee:

Applications that have been through the Gateway where it has been agreed that the application should be referred to Planning Committee as it raises-

(a) one or more issues of economic, social or environmental significance to the local area, or

(b) one or more significant planning matters having regard to the development plan and any other material considerations.

2.5 Any application caught by these Criteria is referred in these Rules collectively as a Planning Committee Matter.

2.6 The Gateway Consideration Criteria in relation to planning matters are:

Only the following planning applications will be considered through the Gateway for possible referral to Planning Committee:

1) Schedule 2 applications that are:

a. applications for listed building consent, but only in connection with a planning application which will be considered by Gateway; or

b. applications to vary or remove a planning condition (Section 73) attached to a planning permission or to vary or remove conditions attached to a listed building consent, where the relevant original planning application was previously considered by the Planning Committee; or

c. applications within the categories which must be referred to the Mayor of London under the Town and Country Planning (Mayor of London) Order; or

d. planning applications which have been subject to a request by a ward councillor that the application in their ward, or in an adjoining ward, be considered through the Gateway Test for consideration as to whether committee should determine the application – known as “Gateway Request”; or

e. applications which, in the opinion of the Head of Development Management, or equivalent, acting in his or her discretion, raise significant issues in relation to the development plan and/or national policy and should therefore be referred to the Gateway for decision as to whether it should be a Planning Committee Matter.

2) Own-interest applications where:

a. The applicant is an elected member, an officer of the local planning authority or senior officer at the Council (Assistant Director or above)

b. The applicant is by or on behalf of the Council and the application is a Major Development (as defined in the Town and Country Planning (Development Management Procedure) Order 2015 or any subsequent amendment

- 2.7 Any application caught by these rules is collectively known as a Planning Gateway Test Matter.
- 2.8 Planning applications that do not meet the Planning Gateway Consideration Criteria (including all Schedule 1 applications and Schedule 2 applications/requests not specified) or are not referred to committee through the Gateway Test are to be decided by officers under delegated powers

Gateway Requests:

- 2.9 If a ward or adjoining ward member wishes a Schedule 2 application to be considered at Gateway, they must request this in writing in accordance with the instructions and timescales as set out in the weekly list. Requests must be made within 21 days of the publication of the weekly list, must clearly state the issues which they consider to be of significance for the local area and/or significant planning matters and whether the ward member has been approached/contacted by anyone in connection with the application.

GENERAL

- 2.10 The Rules around Individual Representations, Petition Representations and Ward Councillor Representations (referred in these Rules collectively as Representations) comprise:

Timescales: within which all Representations must be with the Planning Service

General Requirements: that all Representations must comply with categories.

- 2.11 Any Representation that does not meet the Timescales and General Requirements will still be considered by the case officer in finalising their report and recommendation, provided he/she receives the Representation before submitting their report for authorisation.
- 2.12 For probity reasons the Timescales and General Requirements must be adhered to. The decision of the Assistant Director of Planning will be final in determining whether the Timescales or General Requirements Criteria are met.

TIMESCALES

Statutory notification period

- 2.13 Applications may be publicised in a variety of different ways: letters to nearby neighbours, emails to Councillors and, in some cases, by the display of one or more site notices or an advertisement in the local paper. However, it does not matter how a person hears of a proposal, anyone is able to submit a Representation to the Planning Service.
- 2.14 The time limit for the public to make a Representation is specified on the Council's standard letter, notice or advert. The statutory period is usually 21 days.
- 2.15 Representations on applications must be made in writing to the Planning Service. They can most easily be made online via the Planning Application

Search and the Enter Comment facility on a live application on the Council's website. Comment may also be submitted by letter or email.

- 2.16 Representations on a planning application should not be sent to any email address other than the one on the notification email or advert (planning@haverling.gov.uk). This is important because other email addresses (e.g., the case officer, team leader or service head) may not be monitored (e.g., the officer may be on leave) and the email will therefore not be actioned.
- 2.17 Councillors must ensure that any Representations made directly to them must go through the Planning Service. It is important for probity reasons to ensure that all representations made on an application follow the same process.

Amended plans

- 2.18 Where the Council accepts amended plans on an application and it is considered necessary to republicise them, the Council will notify those people who have responded to the original publicity exercise and anyone considered to be affected by the amendment.
- 2.19 Amended plans are often negotiated in response to Representations. The Council may consider that an amendment it receives has overcome the Representations previously made, so it is therefore important that people consider whether they need to make a further Representation as follows:
- If the amendments do overcome their concerns, a person may write to confirm this, but the General Requirements (in particular paragraph 2.23 below) are designed to take account of such circumstances so people do not have to make a further Representation.
- If someone has already made a Representation and the amendments do not overcome their concerns, they should make a further Representation to that effect.
- If the amendment raises new concerns, such further Representations need to be made.
- 2.20 The time limit for responding to publicity of amendments will generally be at least 14 days.

Councillor timescales

- 2.21 All Councillors receive the weekly list of planning applications across the whole borough, listed by ward.
- 2.22 If a Councillor wishes to make or forward Representations on an application, they must respond by email to planning@haverling.gov.uk (not to another email address – see paragraph 2.16 above) within the timescale given on the weekly list.

GENERAL REQUIREMENTS

- 2.23 A Representation is a letter, an email or a petition from any party (Councillor, resident or business, stakeholder etc) that meets all the following requirements:
- It is in response to an application that has been publicised or advertised by the Council;
- It is not anonymous and includes the person's name and postal address;

It is received by the Planning Service within the relevant Timescales set out above;
It raises objections that are material planning considerations and are related to the application; and
Any material planning objection raised cannot be overcome by scheme amendment, imposing planning condition(s) or securing planning obligation(s).

- 2.24 Identical or similar pro-forma letters or emails, which also meet the above requirements, will be treated as forming a Petition (i.e., each letter potentially being a single signature on a petition) rather than being treated as individual Representations.
- 2.25 We will only notify the person who sends in a petition or a bundle of pro-forma letters about the progress of an application. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified about the progress of an application. A pro-forma letter is a letter or email that has been produced and distributed for people to just sign and send to the Council.

3 PUBLIC SPEAKING PROCEDURE

- 3.1 People can only address the Planning Committee on items that are on the Applications for Decision part of the agenda. Other items on an agenda (such as Development Presentations) do not attract public speaking rights, except at the discretion of the Chairman.
- 3.2 Ward Members can address the committee on Development Presentations. The procedures for this are set out towards the end of this section.

SPEAKING SLOTS

- 3.3 Subject always to the limitations below, for each planning application on the “Applications for Decision” part of the agenda there the following separate categories of speaking slot, in the following order, allocated to:
1. An objector who has registered a speaking slot (a “Registered Objector”)
 2. The applicant or his/her agent/representative/supporter(s) in response to a Registered Objector (a “Responding Applicant”)
 3. Councillors – maximum of 3 slots (see next section for rules)
 4. Cabinet Member (see subsequent section for rules)

Allocation of speaking slots for Councillors

- 3.4 For the purposes of Planning Committee reference to a “Ward Councillor or Ward Member” is a reference to Councillors where the application site is within, partly within or adjoining their ward only, as these applications generally raise local issues.
- 3.5 For Planning Committee, the three Councillor slots are open to all Councillors, but priority will be in the following order:
1. Ward Councillors
 2. Other Councillors

3.6 In all cases if a Ward Councillor wishes to speak but is unable to attend the Committee, they may nominate a substitute Councillor to address the Committee on their behalf.

3.7 In all cases, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.

Allocation of speaking slot for a Cabinet Member

3.8 A Cabinet Member can address Planning Committee on strategic cases where significant issues for their portfolio area arise. However, where the Council is the applicant and the promoting Cabinet Member wishes to address committee, this should be done in the applicant's slot and not this slot.

Length of Speaking Slots

3.9 Each speaking slot for items on Planning Committee is a maximum of five minutes each.

3.10 If the Chairman, using his discretion, changes the time allocated to any speaker slot, all speaker slots will be offered the same length of time to speak.

COMMITTEE NOTIFICATIONS

3.11 Where a planning application is reported on the "Applications for Decision" part of the agenda, all the individuals and organisations (including Councillors) that made a Representation on the application will be notified (by letter or email) that the application will be considered by Committee.

3.12 The Council will only notify the person who sends in a petition or a bundle of pro-forma letters. Where we receive a petition that is not sent in by an individual, we will write to the first person on the petition, if a clear address is included. Pro-forma letters that are received individually will not be notified.

3.13 The applicant (or his/her agent) will be sent a similar notification.

3.14 The notification will explain the procedures regarding public speaking. Requests to address Committee will not be accepted prior to the publication of the agenda and these notifications.

REGISTERING A SPEAKING SLOT

3.15 Any objector who wishes to address Committee must notify the Council by the date specified in the notification to register a speaking slot. Email or telephone should be used for this purpose. This communication should provide the name and contact details (email address and/or phone number) of the intended speaker so that any changes to the arrangements can be communicated.

3.16 The Registered Objector speaking slot is allocated on a strictly first come basis. Any further objectors registering to speak will be told that the slot has been taken.

3.17 If there is a Registered Objector on an item, the applicant will be contacted by the Council and given the opportunity to register to speak in response to the Registered Objector.

- 3.18 If there are supporters wishing to address the committee, they must liaise with the applicant. However, the slot is for the applicant to decide how to use.
- 3.19 If a public speaker needs special arrangements this must be brought to our attention when registering a speaking slot so that arrangements can be made in good time. Havering Town Hall has facilities for wheelchair users, including level access and toilets. The Chamber is fitted with a hearing loop.

REGISTERING ATTENDANCE

- 3.20 On the night of the Committee meeting:

Registered Objectors and Responding Applicants who have a registered speaking slot; and

An eligible Councillor (or his/her nominated substitute – see paragraphs 3.4 to 3.8 above).

must register their attendance with the Committee Clerk at the meeting at least 15 minutes before the meeting starts.

SPEAKING

- 3.21 All those involved in public speaking are restricted to an oral presentation only. The officers' presentation is therefore not available for use by public speakers.
- 3.22 Following the completion of a speaker's address to the Committee, that speaker shall take no further part in the proceedings of the meeting, unless permitted to do so by the Chairman of the Committee.
- 3.23 The distribution of additional material or information to Planning Committee Councillors is not permitted at the meeting. If a speaker, or any other member of the public, wishes to bring material to the Committee's attention they need to either supply it to the Planning Service, if it is written material, by noon on the day of the Committee, to include in the Update Report (see paragraphs 5.7 to 5.11 below for procedures, limitations and deadlines) or otherwise send it direct to Councillors in advance of the meeting. Councillors contact details are available from the Council's website.

ADDITIONAL CONSIDERATIONS FOR COUNCILLORS

- 3.24 When a Councillor addresses the Committee in accordance with these Procedures (either as a Councillor or as a Registered Objector) they must:
- declare, before making their speech, details of any material contact with the applicant, agent, adviser, neighbour, objector or other interested party and whether the speech is made on behalf of such person(s) or any other interest;
- sit separately from Planning Committee Councillors, to demonstrate clearly that he/she is not taking part in the discussion, consideration or vote; and
- not communicate in any way with Planning Committee Councillors or pass papers or documents to them during the meeting.
- 3.25 A Planning Committee Councillor may address the Committee in accordance with these Rules but, where they do so, they cannot take part in the debate or

vote on the application they have made Representations on. They may address the Committee in accordance with these procedures provided they do not have a Disclosable Pecuniary Interest in the matter.

- 3.26 Where the Councillor has a Disclosable Pecuniary Interest, the Councillor may only address the Committee on any matter in which they have such an interest if they have been granted a dispensation by the Monitoring Officer for this purpose.
- 3.27 The Responsibility for Functions (part 3 of the Constitution) enables Planning Committee to receive presentations in the pre-application or pre-determination stage.
- 3.28 Ward Councillors can address the Committee when it is considering Development Presentations. There are three speaking slots a maximum of five minutes each. Ward Councillors will be notified that the development will be presented to Committee. On the night of the Committee meeting a Ward Councillor (or his/her nominated substitute) must register their attendance with the Committee Clerk in attendance at the meeting at least 15 minutes before the meeting starts.
- 3.29 If more than one Ward Councillor indicates that they wish to speak, Councillors should avoid duplication and coordinate their attendance at committee in the interest of efficiency.
- 3.30 Like all public speaking slots, Ward Councillors are restricted to an oral presentation only and the presentation is therefore not available for their use. The additional considerations for Councillors, set out above, also apply to these speaking slots.
- 3.31 Ward Councillors who elect to address the Planning Committee at a Development Presentation should remember that the purpose of these presentations is for participants (including Councillors) to be constructive and to try to improve schemes so that they can be approved if they are finally submitted as formal planning applications. Any presentation should be confined to commenting on aspects of the development (e.g. its design, highway impacts, level of affordable housing etc) and not objecting to the principle of the development or the scheme as a whole. If you are unable to do this then you should not register to speak at this stage. The time to address the Planning Committee on your objection will be when any subsequent planning application is reported on the applications for decision part of the agenda.
- 3.32 If you do not follow the advice in the previous paragraph, the Chairman may stop you from speaking.

CHAIRMAN'S DISCRETION

- 3.33 At the discretion of the Chairman, such as in the interests of natural justice or in exceptional circumstances, the public speaking procedures may be varied. The reasons for any such variation shall be recorded in the minutes. The number of objectors or supporters should not, of itself, be a factor.

4 PRE-COMMITTEE MATTERS

- 4.1 The work of Planning Committee mainly comprises the determination of planning applications. Delays in determining applications will jeopardise the

Council's ability to meet national performance targets and impact adversely on the interests of residents and affected applicants.

- 4.2 The Council is expected to decide all applications within statutory timescales. Applications that are to be considered by Committee are included on the agenda of the first available Committee after completion of the officer's report so that a decision can be taken in the shortest possible time. For this reason, Councillors should avoid requests for officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, residents or other interested parties.

PRE-COMMITTEE BRIEFING

- 4.3 A further potential cause of delay is the deferral by committee of agenda items for Councillors to undertake site visits or receive further information. To minimise this risk Planning Committee Councillors who consider that they need further information (including a site visit) or who have queries on an application should contact the Assistant Director of Planning as soon as possible before the meeting at which it will be considered.

SITE VISITS

- 4.4 It is advisable that Planning Committee Councillors are familiar with the sites of the applications on the agenda to enable them to make informed decisions on the planning applications before them and to avoid deferring or adjourning those decisions pending site visits.
- 4.5 The presumption will be that planning Committee Councillors will be sufficiently familiar with the agenda sites and their locations before the meeting. Councillors may already be familiar with them from their local knowledge or will visit one or more of them in advance of the meeting. Advice on site visits by individual Planning Committee Councillors is given below.
- 4.6 In addition, photographs of sites will be presented by officers at committee.

By Planning Committee Councillors

- 4.7 Where a Planning Committee Councillor visits the site before the meeting, care must be taken to ensure that they comply with the Planning Code in the Constitution. Such visits should be carried out discreetly and the Councillor should avoid making themselves known to the applicant or to neighbours. Accordingly, he/she should not go onto private land, such as the application site or a neighbouring property. The reason for this is that contact between a Planning Committee Councillor and the applicant or a local resident could be misinterpreted as lobbying and may create a suspicion of bias. Where such contact is made, this should be declared in Committee, but it should not prevent that Councillor from taking part in the consideration of that application, if he/she has followed the advice in the Planning Code and acts in accordance with the Members' Code of Conduct.

By the Planning Committee

- 4.8 Where the Chairman of the Committee considers that a whole committee site visit is necessary because a proposal appears to be particularly complex or it

is difficult to visualise from the plans, wherever possible this should be made in advance of the Committee meeting.

- 4.9 If a request for a site visit emerges during the meeting of the committee, this request will be decided by a majority vote and the reasons for it recorded in the minutes.

- 4.10 The procedure for site visits by Committee shall be as follows:

Only the Planning Committee Councillors and officers can attend a site visit. Arrangements for visits will not normally be publicised or made known to applicants, agents or third parties, such as objectors.

Where permission is needed to go onto land, contact will be made with the owner by officers. The owner cannot take any part in the visit, other than to effect access onto the site.

The purpose of a site visit is to enable Planning Committee Councillors to view the site and to better understand the impact of the development. The Committee should not receive representations or debate issues during a site visit. They can ask the Planning Officer present questions of clarification.

The Planning Officer will make a note of the site visit and it will be placed on the planning file.

Where new information emerges from a site visit that needs to be brought to the attention of the Committee, this will be included in the Update Report.

Failure to attend a formal site visit shall not bar a Planning Committee Councillor from voting on an item at the Committee meeting that considers it, provided the Planning Committee Councillor is satisfied that he/she is sufficiently familiar with the site and its location.

5 COMMITTEE AGENDA

- 5.1 The Committee's agenda may contain the following sections for planning reports:

Development presentations: to enable the Committee to receive presentations on proposed developments, including when they are at the pre-application stage. These items do not attract public speaking rights, other than Ward Councillors.

Applications for decision: these items attract public speaking rights as detailed above.

Other planning matters: non-application matters that require Committee consideration. These items do not attract public speaking rights.

Items for information: reports that are for information only. These items do not attract public speaking rights.

REPORTS

- 5.2 Each planning application for decision is the subject of a written report with an officer recommendation. Reports will be produced in a standard form provided by the Assistant Director of Planning, and will identify and analyse the material considerations, of which the Committee need to take account when considering the application on its planning merits.
- 5.3 In addition to the written report, illustrative material will usually be presented at the meeting to explain the scheme. The planning files will also be available

(via the document management system) at the meeting for inspection by Planning Committee Councillors.

RECOMMENDATIONS AND DELEGATIONS

- 5.4 The recommendations in the reports to Committee do not set out the final wording of planning conditions, reasons for refusal, informatives and planning obligations, but are a draft/summary of them. There are two reasons for this:
1. It communicates the details of the recommended decision more clearly to Planning Committee Councillors than many pages of detailed conditions or grounds; and
 2. There can sometimes be a delay before a decision is issued (such as waiting for the signing of a legal agreement or views from the Mayor of London and/or the National Planning Case Unit) and something may arise which necessitates an amendment, a deletion or an addition.
- 5.5 It is hereby delegated to the Assistant Director of Planning to communicate the detailed wording of Committee decisions to applicants.
- 5.6 The Functions Delegated to officers states that where the Committee determines an item on an agenda and either the committee makes changes to the recommendation or it is necessary for officers to subsequently make changes (such as to delete, vary or add conditions, informatives, planning obligations or reasons for the decision or to accept changes to the development), the making of these changes, provided that they are within the substantive nature of the committee decision, is delegated to the Assistant Director of Planning.

UPDATE REPORT

- 5.7 It is common for material (such as late representations) to be received by the Planning Service after the close of the agenda. Such material will be considered and placed on the public planning file along with all the other papers for the application, subject only to any public exclusion restrictions.
- 5.8 Where this material needs to be brought to the attention of the Committee, so that it can be considered, it will be presented in the Update Report. It will comprise a summary of what has been raised, in the same way as representations are summarised in the main Committee report.
- 5.9 The Planning Service will email the Update Report to Planning Committee Councillors and publish it on the Council's website as soon as it is ready, but before the Committee commences.
- 5.10 The practicality of producing such a report means there must be a cut-off point for the receipt of late material by the Planning Service. This is noon on the day of the meeting. Generally, material received after this time will not be reported to the Committee. The Assistant Director of Planning has an absolute discretion in this regard.
- 5.11 Material must not be distributed to Planning Committee Councillors by members of the public (including public speakers) or other Councillors during the meeting. The distribution of such material should be done in advance of the meeting as explained in paragraph 3.23 above.

6 ORDER OF PROCEEDINGS

- 6.1 Except as otherwise stated on the agenda, generally meetings take place at Havering Town Hall. The time the meeting is expected to begin will be stated on the agenda papers.
- 6.2 At the discretion of the Chairman, the agenda may be re-ordered at the meeting.

DEVELOPMENT PRESENTATIONS

- 6.3 The procedure for considering each item shall be as follows:
- The Assistant Director of Planning, or his/her representative, will introduce the main issues;
- The developer will present their scheme for no longer than 20 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;
- A Ward Councillor, if registered to speak in accordance with Rule 3 (Public Speaking Procedure), can address the committee for no longer than 5 minutes unless the Chairman, exercising his/her discretion, has allowed a longer period;
- Through the Chairman, Planning Committee Councillors may ask questions; and
- The Assistant Director of Planning, or his/her representative, will summarise the issues raised by the Committee which will form the minute for the item.

APPLICATIONS FOR DECISION

- 6.4 The procedure for considering applications where there are public speakers shall be as follows:
- The Assistant Director of Planning, or his/her representative, will introduce the development the subject of the application;
- Public speaking in accordance with Rule 3 (Public Speaking Procedure) will take place;
- The Assistant Director of Planning, or his/her representative, will present the material planning considerations and address, where necessary, any issues raised during public speaking; and
- The Committee will consider the item and reach a decision.
- 6.5 The procedure for considering applications where there are no public speakers shall be as follows:
- If requested by the Chairman, the Assistant Director of Planning, or his/her representative, will present the main issues; and
- The Committee will consider the item and reach a decision.
- 6.6 The procedure for considering any item shall be as follows:
- If requested by the Chairman, the Assistant Director of Planning, or his/her representative, will present the main issues;
- Through the Chairman, Planning Committee Councillors may ask questions of clarification; and

The Committee will consider the item and, if required, reach a decision.

OTHER PROCEDURAL ISSUES

Attendance

- 6.7 Where a decision is made on an agenda item, to be able to vote a Planning Committee Councillor must be present throughout the whole of the Committee's consideration of that item, including the officer introduction and any public speaking. Any dispute as to whether the Planning Committee Councillor in question should be permitted to vote shall be decided by the Chairman, in consultation with legal and other officers as necessary.
- 6.8 This does not apply to Development Presentations because no decisions are being made as they are part of an informal pre-application process, rather than the formal planning application decision making process.

Duration of meetings

- 6.9 Planning Committee meetings are subject to a guillotine that they should finish within 2½ hours of the time that the meeting was due to start (as listed on the agenda papers). An item started before the guillotine can continue to be considered for a further 30 minutes to enable it to be determined.
- 6.10 Where a report has been placed on a Planning Committee agenda but the meeting either fails to start to consider that item prior to the guillotine, or starts consideration before the guillotine but fails to complete determination of it within the additional 30 minutes, further consideration of the matter will be suspended and it will be delegated to officers to determine in accordance with the recommendation set out in the report.
- 6.11 The meeting can only suspend these provisions if it does so by way of a resolution made prior to the guillotine and agreed on a majority vote. Generally, the committee would only suspend the guillotine for undetermined items with speakers.

Minutes

- 6.12 The minutes of the meeting will record:
- The Councillors and officers present at the meeting;
 - Any disclosures of interest made by Councillors or officers;
 - For each item, the identity of any public speakers and the decision;
 - Where a decision goes against the recommendation, the reason(s) for doing so;
 - Where a decision is deferred, the reason(s) for doing so;
 - Any decision to suspend the guillotine, and the reason(s) for doing so;
 - The use of the Chairman's discretion to depart from these Procedure Rules, and the reason(s) for doing so; and
 - The time the meeting finished.

7 DECISION MAKING

- 7.1 In coming to a decision on a planning application, a Planning Committee Councillor must:

Come to meetings with an open mind.

Comply with these Rules.

Not allow anyone (except officers, other Planning Committee Councillors and public speakers when they are addressing the Committee) to communicate with you (orally, electronically, in writing or by any other means) during the Committee's proceedings as this may give the appearance of bias. For the same reason, it is good practice to avoid such contact in the period before the meeting starts and when it ends.

Consider the advice that planning, legal or other officers give the Committee in respect of the recommendation, any proposed amendment to it or on any other matter.

Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and always make decisions in accordance with the development plan unless there are good and demonstrable planning reasons to come to a different decision.

Come to a decision only after due consideration of all the information reasonably required to base a decision upon. This will include the local information that Planning Committee Councillors are uniquely placed to access, but always remembering to take decisions on planning grounds alone. Raise any queries you may have on an application with the Assistant Director of Planning prior to the meeting.

If you feel that there is insufficient time to digest new information or that there is insufficient information before you, seek an adjournment to allow these concerns to be addressed.

Not vote on a proposal unless you have been present to hear the entire debate, including the officers' introduction and any public speaking. The Chairman should be prepared to consider adjourning briefly to allow any necessary comfort breaks during meetings.

Make sure that if you are proposing, seconding or supporting a decision contrary to the officer's recommendation or the Development Plan, that you clearly identify and understand the planning reasons leading to this conclusion and that you consider any advice planning, legal or other advice officers give you. Your reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

8 VOTING PROCEDURES

- 8.1 The Chairman will bring the Committee to a vote when he/she considers that there has been sufficient debate of an item.
- 8.2 The Committee will vote on the recommendation set out in the report, unless a motion is made and seconded to defer or adjourn consideration of an item (for example for a site visit or further information/advice).
- 8.3 If a Planning Committee Member wishes to amend the recommendation (such as an additional condition or a variation to a condition) they will need to move this and have it seconded prior to any vote on the recommendation.
- 8.4 The committee must consider carefully any advice officers give on the proposed amendment, including legal advice. If the Assistant Director of Planning (or his/her representative) and the legal representative consider that

they are unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the Assistant Director of Planning can bring a report to the next available committee setting out his/her advice. If legal advice is required, this may need to be on the private business part of the agenda. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future committee meeting.

- 8.5 For the vote on the recommendation (or an amendment to the recommendation) to be successful there needs to be a majority vote in favour of it. In the event of an equality of votes, the Chairman has an additional casting vote. This can be exercised irrespective of whether the Chairman voted.

DECISIONS CONTRARY TO THE RECOMMENDATION

- 8.6 A motion to go against the recommendation must always be considered after a vote on the recommendation (or an amendment to the recommendation) has taken place, so that officers are clear that the committee may be minded to go against the recommendation and can prepare their advice accordingly.
- 8.7 When the recommendation is not supported, a new motion to either grant or refuse the application must be moved and seconded. However, before a new motion is proposed, the Committee must first receive advice from the Assistant Director of Planning, or his/her representative, as to what form a new motion could take. That advice will be based upon the material planning considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge.
- 8.8 The solicitor advising the Committee may be called upon as necessary to give advice on legal matters, but cannot advise the committee on planning matters.
- 8.9 Once the Committee has received the advice of the Assistant Director of Planning, or his/her representative, they can proceed to a vote. A detailed minute of the Committee's reasons to go against the officer's recommendation, which as a matter of law (Dover District Council v CPRE Kent [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.
- 8.10 If the Assistant Director of Planning (or his/her representative) and the legal representative consider that they are unable to give that advice immediately, the procedure outlined in paragraph 8.4 above must be followed. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.

DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

- 8.11 The law requires that where the Development Plan is relevant, decisions must be taken in accordance with it unless there are good planning reasons to do otherwise. If a Committee intends to approve an application which does not accord with the provisions of the Development Plan, the material considerations must be clearly identified and the justification for overriding the

Development Plan clearly demonstrated. The application must be advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 and, depending upon the type of development proposed, may also have to be referred to the Secretary of State for Housing, Communities and Local Government (National Planning Case Unit).

- 8.12 If the recommendation in the officer report would not accord with the provisions of the Development Plan, the justification will be included in that report and the necessary advertisement would have been undertaken.
- 8.13 If the Committee is minded to make a decision which would be contrary to the officer recommendation (whether for approval or refusal) and that decision would not accord with the provisions of the Development Plan, such a motion may only contain the Committee's initial view and must be subject to a further report detailing the planning issues raised by such a decision. Further consideration of the matter will be suspended to a future meeting of the Committee when officers will present a report setting out the proposed new position and explaining the implications of the decision. If legal advice is required, this may need to be on the private business part of the agenda. Any necessary advertisement of the application will also be undertaken. In such cases, it will be important that the Chairman communicates clearly to the meeting that a decision on the application has not been made and that it will be considered further at a future meeting of the Committee.
- 8.14 If, having considered the report, the Committee decides to determine the application contrary to the provisions of the Development Plan, a detailed minute of the Committee's reasons, which as a matter of law (*Dover District Council v CPRE Kent* [2017] in the UK Supreme Court) must be clear and convincing, shall be made and a copy placed on the application file.

9 COMMITTEE PERFORMANCE

- 9.1 Planning Committee carries out the Council's statutory planning application determination function and, like all local planning authorities, are expected to do so properly and lawfully. Decisions "must be made in accordance with the [development] plan unless material considerations indicate otherwise" (s38(6) of the Planning and Compulsory Purchase Act 2004). Government have a range of planning performance monitoring regimes and have taken powers from Parliament to take action where performance is under specified levels. Both speed and quality of decisions are measured.
- 9.2 It is therefore important that the performance of Planning Committee is monitored like other parts of the planning service. The following indicators will be used to monitor performance:
 - The percentage of officer recommendations that are overturned
 - The percentage of agenda items that are deferred
- 9.3 Such performance management reports shall be reported at least annually, to Planning Committee in the first instance and then to Council.
- 9.4 Where an application is determined against the recommendation and it goes to appeal, particular consideration will be given to those cases where:

The appeal was allowed;
The appeal was dismissed, but not all grounds were supported; or
Costs were awarded against the Council.

- 9.5 Such matters shall be considered as they arise and reported to Planning Committee in the first instance and then to Council. A summary of these matters shall be included in the annual performance management report.

PLANNING CODE OF GOOD PRACTICE

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1 INTRODUCTION

- 1.1 This Code has been prepared using advice in the Local Government Association's revised guidance note on good planning practice for Councillors and officers dealing with planning matters – Probity in Planning for Councillors and Officers (December 2019).
- 1.2 The term "Assistant Director of Planning" refers to any subsequent or equivalent Chief Planning Officer or Chief officer responsible for planning position in the Council.

KEY PURPOSE OF PLANNING

- 1.3 Planning has a positive and proactive role to play at the heart of local government. It helps Councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.
- 1.4 The planning system works best when Councillors and officers involved in planning understand their roles and responsibilities and the context and constraints in which they operate.
- 1.5 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. In doing this, decision-makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.

2 AIM OF THE CODE

- 2.1 In today's place-shaping context, early Councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the places that communities need. This guidance is intended to reinforce Councillors' community engagement role whilst maintaining good standards of probity that minimizes the risk of legal challenge.

- 2.2 Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that the Council makes planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- 2.4 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

WHEN THE CODE APPLIES

- 2.5 This code applies to Councillors when they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or consultative meetings. It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications. If you have any doubts about the application of this Code to your own circumstances you should seek advice early from the Monitoring Officer, and preferably well before any meeting takes place.
- 2.6 This Code applies to all meetings of the Council's Planning Committees in relation to the determination of planning applications and any other business dealt with at these committees. When the term "Councillor" is used, it means that the text is applicable to all Members of the Council. The term "Planning Committee Councillor" means a Member or a substitute Member of the Council's Planning Committee.

RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- 2.7 Councillors are reminded that this Code is designed primarily for Planning Committee Councillors and Councillors who, for whatever reason, find themselves involved in the planning process. It should not be read in isolation. Whilst this Code interprets the Members' Code of Conduct with respect to planning matters, it is subordinate to the Members' Code of Conduct and, in the event of any inconsistencies arising between this Code and the Members' Code of Conduct, the latter shall prevail.

3 ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

GENERAL ROLES OF COUNCILLORS AND OFFICERS

- 3.1 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Councillors are responsible to the electorate.
- 3.2 Officers are not appointed to serve any political group and therefore advise all Councillors. Officers carry out the daily functions of the Council's business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers Code of Conduct contained in the Constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.
- 3.3 The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Members Code of Conduct in the Constitution is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to Council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council's constitution set down rules and orders which govern the conduct of Council business.

RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS

- 3.4 Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.
- 3.5 Planning officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Councillors.
- 3.6 Councillors must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views must be received in written form and be placed on the planning file, so that they can be considered together with other material planning considerations.

4 INTERESTS: REGISTRATION AND DISCLOSURE

- 4.1 A Councillor should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. A failure to properly register a Disclosable Pecuniary Interest or to participate in

discussion or voting in a meeting on a matter in which a Councillor has a Disclosable Pecuniary Interest, are criminal offences. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.

- 4.2 The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable Member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.

REGISTRATION OF INTERESTS

- 4.3 A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.

DISCLOSURE OF INTERESTS

- 4.4 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a matter to be discussed at a Planning Committee, he or she should raise this with the Monitoring Officer as soon as possible.

Personal and Pecuniary Interests

- 4.5 The Council's Members' Code includes provision for declaration of interests that are wider than Disclosable Pecuniary Interests under the Localism Act 2011. Some personal interests may amount to pecuniary interests that impact on members' ability to participate and vote on that item.

Disclosable Pecuniary Interests

- 4.6 Where a Councillor has a Disclosable Pecuniary Interest relating to an item under discussion, the Councillor may not participate (or participate further) in any discussion of the matter at the meeting or participate in any vote (or further vote) on the matter. The Councillor should also withdraw from the Chamber. This means that a Councillor with a Disclosable Pecuniary Interest is precluded from making representations orally to the committee or from making representations on behalf of a party to the hearing.
- 4.7 A Councillor with a Disclosable Pecuniary Interest can still present their views to the committee through other means. For example, the Councillor can:
- make written representations in their private capacity in accordance with the Committee Consideration Criteria as set out in the Planning Committee Procedure Rules – the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations – such written representations should be addressed to officers rather than to other Councillors;
 - use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; or

- arrange for another Councillor (eg, a fellow ward Councillor) to represent the views of the Councillor's constituents on matters in which the Councillor has a Disclosable Pecuniary Interest.
- 4.8 Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances, a dispensation can be sought from the Monitoring Officer to be present for that item of business.
- 4.9 Members should also have regard to the requirements regarding personal and pecuniary interests under the Code since these may also require a declaration of interest and may impact on members' ability to participate in an item.

5 BIAS: PREDETERMINATION/PREDISPOSITION

- 5.1 In addition to being aware and taking appropriate action in relation to interests, Planning Committee Councillors need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to.
- 5.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the committee's decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.
- 5.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear that, although they have an initial view, they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such a planning decision.
- 5.4 Section 25 of the 2011 Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This enacted the common-law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and potentially changing their mind in the light of information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 5.5 For example, a Councillor who states, "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a Councillor who states, "Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area". The

former has a closed mind and is predetermined, whereas the latter is predisposed but is maintaining an open mind.

- 5.6 This distinction is particularly important in the context of the Council's practice of facilitating presentations of strategic proposals to the Planning Committee by developers of schemes at the pre-application stage. After these presentations, Planning Committee Councillors question details of the development so that they can input into the design development of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which will display predisposition around these elements. What a Planning Committee Councillor should not do at this pre-application stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process, when all the material considerations are available to the Planning Committee Councillors to consider and weigh up before finalising their view.

DEALING WITH LOBBYING

- 5.7 A Planning Committee Councillor who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application. A Planning Committee Councillor could speak at a Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their pre-determined position but could not take part in the planning decision.
- 5.8 Participation as a Planning Committee Councillor where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Councillor considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.

6 APPLICATIONS SUBMITTED BY THE COUNCIL, COUNCILLORS OR OFFICERS

APPLICATIONS SUBMITTED BY THE COUNCIL

- 6.1 Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.
- 6.2 Certain Councillors may, through their other roles outside of a Planning Committee (eg a Cabinet Member), have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Planning Committee, the Councillor concerned, if they sit on the Committee, must consider whether they have an

interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. The most appropriate course of action, if that is the case, is that the Councillor concerned may address the Committee in the applicant's speaking slot (see the Planning Committee Procedure Rules) but does not take part in its consideration and determination. It is important that the Councillor should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.

APPLICATIONS SUBMITTED BY COUNCILLORS OR OFFICERS

- 6.3 It is perfectly legitimate for planning applications to be submitted by Councillors and members of staff. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.
- 6.4 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing.
- 6.5 The 1APP planning application form requires an applicant to indicate whether they are a member of staff or a Councillor or a partner/spouse of a member of staff or a Councillor. Decisions relating to applications where members of staff or Councillors are the applicant should be reported to Gateway for consideration at Committee where they relate to the following:
- Councillors
 - Senior officers of the Council (Service Head and above)
 - Officers of the Local Planning Authority.
- 6.6 The term "Officers of the Local Planning Authority" means officers within the Council who, in the opinion of the Assistant Director of Planning, are closely involved in the day-to-day work of the Council's planning function.
- 6.7 The procedures to be followed in Committee in such circumstances are as follows:
- The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary Interest for that Councillor and he/she will need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members' Code of Conduct.
 - If such a Councillor does not have a Disclosable Pecuniary Interest, they may address the Committee as the applicant in accordance with the Council's public speaking procedures. If, however, such a Councillor has a Disclosable Pecuniary Interest they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.
 - The Planning Committee Councillors must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.

- 6.8 The principle in the final bullet point also applies to an application submitted by a member of staff when it is considered in Committee.

7 LOBBYING OF AND BY COUNCILLORS

- 7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Planning Committee Councillor.
- 7.2 As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the Councillors themselves".
- 7.3 Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense are exercised by all the parties involved.

LOBBYING OF COUNCILLORS

- 7.4 A Planning Committee Councillor should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Councillors should ensure that it is made clear to any lobbyists that they will only be able to reach a final decision on any planning matter after they have heard all the relevant arguments and looked at the relevant information during the sitting of the determining Committee.
- 7.5 Planning Committee Councillors should therefore:
- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer report prepared for determination under delegated powers or by Committee;
 - pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Planning Service (planning@havering.gov.uk) as soon as practicably possible so that it can be considered and included in the report on the application;
 - refer the matter to another ward member;
 - remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
 - not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg, refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and
 - inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.

- 7.6 Planning Committee Councillors should note that, subject to the requirements to ensure that they comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:
- listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.
- 7.7 In the interest of openness, Planning Committee Councillors should declare any lobbying to which they have been subject.
- 7.8 It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual Councillor.

LOBBYING BY COUNCILLORS

- 7.9 Planning Committee Councillors should not become a Member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Councillor does, he/she may appear to be biased. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have such an interest, unless they have received a dispensation for this purpose from the Monitoring Officer.
- 7.10 Planning Committee Councillors can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest and consider whether that also amounts to a pecuniary interest where that organisation has made representations on a particular proposal. Where a Planning Committee Councillor is able to participate they should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.
- 7.11 Councillors should not excessively lobby Planning Committee Councillors regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 7.12 Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises,

is likely to compromise, or could be seen as compromising the officers' impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.

- 7.13 Call-in to Gateway requests, whereby in certain circumstances a Ward Councillor can request a proposal that would normally be determined under officers' delegated authority, to be considered at Gateway whether the application should be determined by Committee, require the reasons for call-in to be recorded in writing and to refer solely to material planning considerations. Should the application pass the Gateway Test, the Councillor must additionally commit to attending the Planning Committee at which the application is to be determined, to explain their concerns. A Councillor who fails to do so on two or more occasions within a year may be excluded from exercising these rights. The procedures for this are set out in the Planning Committee Procedure Rules.
- 7.14 Planning Committee Councillors should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Planning Committee Councillor to do so.
- 7.15 As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.

8 PRE-APPLICATION DISCUSSIONS

- 8.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. For this reason, the Council have developed a pre-application process that enables engagement at the pre-application stage.
- 8.2 For major strategic applications, the Council offers a service to potential applicants, which includes presenting their schemes to the Council's Planning Committee. Details of this are set out in the Planning Committee Procedure Rules. This is the way in which Planning Committee Councillors engage with these schemes and there should therefore be no need to attend any other meeting with potential applicants or their agents/representatives.
- 8.3 In other cases, potential applicants may seek to meet Planning Committee Councillors. These can be treated as a form of lobbying and Councillors, including Planning Committee Councillors, should follow the advice set out above in section 7.
- 8.4 Where the application is not subject to pre-application committee presentations, any meetings will be subject to the following procedures:
- No meeting involving Planning Committee Councillors shall be convened without the presence of a Council planning officer for the entire duration of the meeting.

- Understand that such meetings will attract a fee and make sure the applicant understands this.
 - Both this Code and the Members' Code of Conduct will apply when attending such meetings.
 - Any Planning Committee Councillor involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.
 - Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
 - Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.
 - Councillors should not become drawn into any negotiations, which should be done by officers to ensure that the authority's position is co-ordinated.
 - A contemporaneous note of the meeting should be prepared by the planning officer attending and a copy sent to all parties for their agreement.
 - The final version of the note of the meeting will be placed on the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.
- 8.5 Councillors should not seek to arrange meetings that would circumvent the Council's normal pre-application procedures, including the need to charge applicants for such meetings.
- 8.6 Planning Committee Councillors should not attend pre-application meetings that are not organised through officers.

9 POST-SUBMISSION DISCUSSIONS

- 9.1 A Planning Committee Councillor should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.
- 9.2 There are limited circumstances when Planning Committee Councillors may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.
- 9.3 If a Planning Committee Councillor is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether it would be prudent in the circumstances to make notes when contacted. A Councillor should report to the Assistant Director of Planning any significant contact with the applicant or other parties, explaining the nature and purpose of the contact and their involvement, so that it can be recorded on the planning file.

- 9.4 Planning Committee Councillors should not attend post-submission meetings that are not organised through officers.

10 PLANNING APPEALS

- 10.1 Appeals against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.
- 10.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Assistant Director of Planning to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Councillor, brings the Council into disrepute or puts the decision made at risk of challenge.
- 10.3 A Planning Committee Councillor cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on the Committee that made the decision, unless this is as part of the Council's case as decided by the Assistant Director of Planning. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.
- 10.4 Where the appealed decision was contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

11 PLANNING ENFORCEMENT

- 11.1 It is perfectly legitimate for Councillors to bring to the attention of the Planning Service suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the Assistant Director of Planning.
- 11.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service. Councillors must not seek to have matters that they have raised given preferential treatment merely because they are a Councillor.

12 COUNCILLOR TRAINING

- 12.1 Councillors may not participate in decision making at meetings of the Council's Planning Committee unless they have attended mandatory training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.
- 12.2 Whilst all new Planning Committee Councillors (and new substitutes) must attend this compulsory training before they can participate in the Council's

Planning Committees, all other Planning Committee Councillors (and substitutes) are also encouraged to attend so that they can ensure that they keep up-to-date on these matters. All Planning Committee Councillors (and substitutes) must attend this training at least every two years, or as recommended individually or collectively by the Monitoring Officer.

- 12.3 All Planning Committee Councillors should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role.
- 12.4 Training provided on planning related matters, whilst aimed at Planning Committee Councillors, is open to any Councillor with an interest to attend.

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BRIEFING PAPER

PLANNING COMMITTEE REFORM AND CHANGES TO COUNCIL CONSTITUTION

1.0 Introduction

- 1.1 Government reform of the planning system was set out in the Planning and Infrastructure Act 2025, enacted in December 2025. Included in the Act are powers for regulations to be made to reduce the scope of planning applications that can be determined by committee and limiting the size of planning committees (Section 54) as well as the introduction of mandatory national training for planning committee members (Section 53).
- 1.2 The Government have now published enabling legislation in respect of Section 54 through the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. These Regulations will come into force on 31st October 2026. Mandatory training is not implemented through these Regulations and would be subject to enabling legislation in due course.
- 1.3 Published alongside the legislation is detailed statutory guidance – “Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England.” Paragraph 4 of the Guidance states:

“For the avoidance of doubt, where local planning authorities do not comply with the Regulations from the date they come into force (31 October 2026) and their planning committees make decisions on applications which must be delegated officers, those decisions may be subject to judicial review by anyone aggrieved by the decision. This may lead to the quashing of the decision.”

- 1.4 The measures introduced through the legislation make it necessary to review and make changes to the Council’s Constitution so that those decisions made by Planning Committee from 31st October are legally sound and do not conflict with the legislation.
- ### **2.0 Summary/Implications of legislative changes and national guidance**

- 2.1 The most significant change from the legislation is that there will no longer be a general right for Members to call-in applications for committee consideration.
- 2.2 The new Regulations sets out a National Scheme of Delegation which categorise planning applications into two groups:
- Schedule 1 – all decisions must be delegated to officers and planning committee can play no role – See Appendix A for full list of Schedule 1 applications
- Schedule 2 – all decisions are delegated unless they meet a “Gateway Test” that confirms referral to committee
- 2.3 The Gateway Test requires the Chief Planning Officer (in Havering this is the Assistant Director of Planning) and the Chair of the Planning Committee to agree that an application:
- A. raises an economic, social or environmental issue of significance to the local area; or
- B. raises a significant planning matter having regard to the development plan and any other material considerations;
- C. is an own-interest application (applicant is the Council or a member or officer of the Council) that should be determined by committee
- 2.4 It is clear from the legislation and guidance that it is not a requirement, nor is it an intention, that all Schedule 2 applications will be considered through the Gateway test. Based on April 2025 – March 2026 annual application decision figures, 327 applications could be considered through Gateway. This compares with 14 applications that were referred to and decided by Planning Committee/Strategic Planning Committee over the same period. If circa 300+ applications were required to pass through the Gateway test, there would be a significant administrative burden as well as requiring significant dedication of time from the Chair of the Planning Committee and Assistant Director of Planning in terms of both number of Gateway meetings and the length of such meetings.
- 2.5 As per the national guidance, Local Planning Authorities can, through their constitution, set out the criteria for which Schedule 2 and own-interest applications are to go to Gateway or be delegated to officers to make the decision.
- 2.6 Through Governance Committee and Full Council, it is recommended that the constitution in relation to planning decisions be amended, most importantly to ensure compliance with legislation, but also to ensure that only those applications that raise relevant issues are considered by Gateway/Planning Committee and in the interests of efficiency of the service.

3.0 Proposed Changes to Constitution

- 3.1 The current constitution results in the majority of planning applications being decided by officers, with only strategic applications recommended for approval automatically being decided at committee. Planning applications that are subject to a call-in from Members and recommended for approval are also subject to committee decision.
- 3.2 As a result of the new legislation, it is considered that the changes to the constitution must be made, but should reflect as much as possible the current arrangements, with the following significant changes:
- a) Existing Planning Committee and the Strategic Planning Committee to be abolished. New Planning Committee to be constituted in line with the 2026 Regulations, including size of committee and quorum (constitutional and legislative requirements)
 - b) No applications can automatically be considered by committee – relevant applications will need to pass through the Gateway test first (legislative requirement)
 - c) Schedule 1 applications will not be considered at Gateway or committee and will automatically be decided by officers (legislative requirement)
 - d) Only certain Schedule 2 applications will be referred to Gateway for consideration as to whether to refer to committee, but that will include applications where a Ward Member (or adjoining ward member) requests that the application be considered through the Gateway Test and applications that are recommended for approval (in the interests of efficient Gateway process)
- 3.3 The recommended changes to the constitution also make provision for own-interest applications to be referred to Gateway in certain circumstances and for other planning matters not covered by the new legislation (e.g. Local Development Orders) to be referred to Gateway and/or Committee at the discretion of the Assistant Director of Planning.

APPENDIX A – Schedule 1 Applications

- householder development
- minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)*
- minor residential development which is defined in the Regulations as:
 - development that includes only dwellings and development for the purposes incidental to the enjoyment of dwellings, comprises at least one but not more than nine dwellings, and is to be carried out on a site having an area smaller than 0.5 hectares
 - development of a building containing flats, or development within the curtilage of such a building, for any purpose incidental to the enjoyment of the flats or any of them but excludes development in respect of a building containing flats, or development within the curtilage of such a building, that involves either or both of a change of use or change to the number of flats
 - an application for any consent, agreement or approval required by or under a planning permission, development order or local development order for development within paragraph (a) or (b)**
- to develop land without compliance with conditions previously attached) in respect of which the previous planning permission was a Schedule 1 planning permission (applications under section 73(1) of the Town and Country Planning Act 1990)
- reserved matters approval in respect of an outline planning permission other than a large outline phase permission (i.e. one which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 square metres or more) (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- discharge of conditions (applications under Article 27(1) of Town and Country Planning (Development Management Procedure) (England) Order 2015)
- prior approval for permitted development rights (applications under Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015)
- permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 1 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)

- where local planning authority considers a planning obligation is connected to a Schedule 1 application, modification or discharge of a planning obligation (applications under section 106A(3) of the Town and Country Planning Act 1990)
- non-material changes to planning permission or permission in principle (applications under section 96A(4) of the Town and Country Planning Act 1990)
- certificates of lawfulness of existing use or development (under section 191(1) of the Town and Country Planning Act 1990)
- certificates of lawfulness of proposed use or development (under section 192(2) of the Town and Country Planning Act 1990)
- certificates of lawfulness for proposed works to listed buildings (under section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- biodiversity gain plan (duty to approve under paragraph 14 of Schedule 7A to the Town and Country Planning Act 1990)
- certificates of appropriate alternative development (applications under section 17 of the Land Compensation Act 1961)

* minor commercial development applications would be applications to make alterations to ground floor retail units, professional service premises, restaurants, pubs and takeaways

** a dwelling would include an HMO

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GOVERNANCE COMMITTEE 19 August 2026

Subject Heading:

**APPOINTMENTS TO OTHER
ORGANISATIONS, 2026/27**

SLT Lead:

**Patricia Narebor
Monitoring Officer**

01708 431942

Report Author and contact details:

Jacqui Barr
Governance Officer
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01708 432439

Policy context:

The Council appoints Members and others to serve on a variety of other bodies

Financial summary:

There are no significant financial implications.

The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well X

Place - A great place to live, work and enjoy X

Resources - Enabling a resident-focused and resilient Council X

SUMMARY

The Council makes appointments to a large number of other organisations, some statutory, others voluntary.

Since the executive governance arrangements were revised, responsibility for making Executive appointments has passed from this Committee to the Leader of the Council, but the Constitution provides that in the case of Non-Executive appointments, it is for this Committee to make decisions

RECOMMENDATIONS

That the Committee **AGREE** to:

1. **REVOKE** the appointment of Ms Carol Smith and **APPOINT** XXXX as the Council's representative to the Hornchurch Housing Trust for a term of four years, until September 2030

REPORT DETAIL

1. HORNCHURCH HOUSING TRUST

- 1.1** In accordance with the Hornchurch Housing Trust's Constitution, the Council is required to appoint one Trustee to the Charity.
- 1.2** In May 2025, at the request of the Trust, this Committee agreed to appoint former Councillor Carol Smith as the Council's representative, until such time as she should chose to resign.
- 1.3** The Hornchurch Housing Trust's Constitution does not require the Council's representative to be an elected Member, and consequently Ms Smith has continued in office since ceasing to be a Councillor in May 2026.
- 1.4** Under Part 3.1.2 of the Council's Constitution, Functions Delegated to General Council Committees, Governance Committee is permitted:

To appoint (or in the case of appointments to be made by the Executive, to recommend for appointment) any individual: (a) to any office (other than an office in which he is employed by the authority) in the authority's gift (b) as the authority's representative to any body other than the authority or to any committee or sub-committee of such a body and to revoke any such appointment (see Part 3, section 5: local choice functions)

IMPLICATIONS AND RISKS

Financial implications and risks:

In some cases, membership of an organisation is dependent upon the Council paying a subscription: where relevant, the subscription will be met from within an appropriate budget provision and cost is minimal.

Legal implications and risks:

These appointments are administrative and have no direct legal implications or risks. However, Members who sit on outside bodies will need to consider whether (a) they are required to register their interests with the Council and, where appropriate, declare the interests at meetings and (b) seek advice when they are potentially involved in Council decisions that may affect the outside body. As there is no remuneration for the appointments, they are very unlikely to be disclosable pecuniary interests. Trustee status means that the trustee must always act in the best interests of the trust. The Monitoring Officer is available to provide advice as and when necessary.

Human Resources implications and risks:

There are none directly associated with this report.

Equalities implications and risks:

There are no specific implications or risks. Appointments should be made with the Council's equalities policies in mind.

Environmental implications and risks:

There are none directly associated with this report.

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