

OLYMPIC DELIVERY AUTHORITY

PLANNING CODE OF PRACTICE

The Olympic Delivery Authority ("the ODA") will determine planning applications and other matters that fall within its jurisdiction pursuant to the Olympic Delivery Authority (Planning Functions) Order 2006. It will do so as a local planning authority. Decisions as such will be taken by the ODA's Planning Committee ("the Planning Committee") unless determined under delegated authority by ODA Planning Officers ("Planning Officers") or any of the London Boroughs of Hackney, Tower Hamlets, Greenwich or Waltham Forest ("the 4 Boroughs") or the Thames Gateway Urban Development Corporation ("TGUDC") under the ODA's schemes of delegation.

- A. The ODA, its Planning Officers and the Planning Committee Members are committed to the highest standards in decision-making to provide confidence in their decisions as a local planning authority. The ODA has therefore adopted this Code of Practice ("the Code"), which applies to its approach in making all planning decisions.

 - B. This Code applies to:
 - B.1 ODA Planning Committee Members (including ODA Board Members who are Planning Committee Members);

 - B.2 where and to the extent indicated in the Code, ODA Board Members who attend Planning Committee Meetings;

 - B.3 where and to the extent indicated in the Code, Planning Officers;

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- B.4 where and to the extent indicated in the Code, ODA Board Members (whether Planning Committee Members or not) who are in receipt of or involved in lobbying in relation to planning matters.
- C. ODA Board Members are also required to know and understand the Code so that the Planning Committee is able to discharge its functions in accordance with its terms. In the Code, ODA Board Members are referred to as "Board Members" which includes Planning Committee Members who are Board Members.
- D. Planning decision-making relies on informed judgements within the context of a range of policy and other material considerations. The ODA considers it to be of the utmost importance that the Planning Committee's decision-making is open, objective and fair. This Code is intended to provide a framework for decision-making by the Planning Committee so that decisions are transparent and accountable.
- E. Failure to comply with this Code may lead to criticism of the ODA, legal challenge in relation to an impugned decision and/or a referral of the ODA to the Local Government Ombudsman.
- F. The Code is adapted from the best practice advice provided by the Local Government Association in "Probity in Planning (Update); The Role of Councillors and Officers". Its content also draws upon Statutory Instrument 2001 No. 3575, which provides a model code of conduct for local authorities.
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- G. This Code should be read in conjunction with the ODA's Code of Practice for Board Members ("the ODA Board Code") and the Planning Committee's Terms of Reference.
- H. This Code was considered, approved and adopted on behalf the ODA under delegated approval from the ODA Board by the Chairman of the Board and Lorraine Baldry given on 24 August 2006. Copies of this Code will be supplied to all ODA Board Members, Planning Committee Members and ODA Planning Officers.
- I. This Code applies to Planning Committee Members whenever they:
- (a) conduct the business of the ODA;
 - (b) conduct the business of any office of the ODA to which they have been appointed; or
 - (c) act as a representative of the ODA,
- and references to such a Planning Committee Member's official capacity shall be construed accordingly
- J. Where any Planning Committee Member participates in any other body, he/she shall:
- (a) where that body is a local authority, comply with that other authority's code of conduct when acting for that authority; or
 - (b) in any other body, comply with the ODA's Code, except and insofar as it conflicts with any other lawful obligations to which that body may be subject.
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CONTENTS

1. Registration and declaration of interests and notification of hospitality.....
 2. Role and conduct of Planning Officers and Planning Committee Members ...
 3. Development proposals of, or promoted by, the ODA, or the ODA's Board Members or officers.....
 4. Lobbying of, and by, Board Members.....
 5. Pre- and post-application discussions
 6. Planning Committee site visits
 7. Breaching the Code, complaints and record-keeping.....
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1. Registration and declaration of interests and notification of hospitality

1.1 Personal interests

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

1.1.1 any employment or business carried out by the Planning Committee Member;

1.1.2 any person who employs or has appointed the Planning Committee Member, any firm in which he/she is a partner, or any company of which he/she is a director;

1.1.3 any corporate body in which the Planning Committee Member has a beneficial interest in a class of securities exceeding the nominal value of £5,000;

1.1.4 any of the following bodies in which the Planning Committee Member holds a position of general control or management:

- 1.1.4.1 a body to which he/she has been appointed or nominated by the ODA as its representative;
- 1.1.4.2 a public authority or body exercising functions of a public nature;
- 1.1.4.3 a company, industrial and provident society, charity, or body directed towards charitable purposes;
- 1.1.4.4 a body whose principal purposes include the influence of public opinion or policy; and
- 1.1.4.5 a trade union or professional association.

A personal interest will also arise if a decision of the ODA as local planning authority and/or the Planning Committee would affect a relative¹ or a friend of the Planning Committee Member, and any of their employees, where the Planning Committee Member might reasonably be considered to have knowledge of their interests. Planning Committee Members are required to act responsibly and to use their discretion as to whether to make inquiries into the interests of their relatives or friends.

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

1.2 Financial interests

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

- 1.2.1 any employment or business carried on by the Planning Committee Member;
- 1.2.2 the name of the person who employs or has appointed the Planning Committee Member, the name of any firm in which he/she is a partner, and the name of any company for which he/she is a remunerated director;
- 1.2.3 the name of any person, other than a relevant local authority, who has made a payment to the Planning Committee Member in respect of any expenses incurred by the Planning Committee Member in carrying out his/her duties;
- 1.2.4 the name of any corporate body which has a place of business or land in the ODA local planning authority's area, and in which the Planning Committee Member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- 1.2.5 a description of any contract for goods, services or works made between the ODA and the Planning Committee Member or a firm in which the Planning Committee Member is a

partner, a company of which he/she is a remunerated director, or a body of the description specified in Point 1.2.4 above;

1.2.6 the address or other description (sufficient to identify the location) of any land in which the Planning Committee Member has a beneficial interest and which is in the area of the ODA local planning authority;

1.2.7 the address or other description (sufficient to identify the location) of any land where the landlord is the ODA and the tenant is a firm in which the Planning Committee Member is a partner, a company of which he/she is a remunerated director, or a body of the description specified in Point 1.2.4 above;

1.2.8 the address or other description (sufficient to identify the location) of any land in the ODA's area in which the Planning Committee Member has a licence (alone or jointly with others) to occupy for 28 days or longer.

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

1.3.1 Planning Committee Members must register their own personal interests with the Chief Executive within 28 days of this Code being adopted or, if they are appointed as Planning Committee Members later than the date this Code is adopted, within 28 days of their appointment to the Planning

Committee, but in any event before any Planning Committee meeting where the interest is relevant.

- 1.3.2 New personal interests of a Planning Committee Member, arising following their appointment to the ODA Planning Committee and/or following the adoption of the Code, should also be registered with the Chief Executive within 28 days of the Planning Committee Member becoming aware of the new personal interest, or prior to any Planning Committee meeting where this interest is relevant, whichever is sooner.
- 1.3.3 Any personal interests relating to a matter to be discussed at a meeting of the Planning Committee, whether of a Planning Committee Member or one of their relatives or friends, must be declared at the start of the meeting by the affected Planning Committee Member. Other Board Members in attendance at a meeting of the Planning Committee are subject to the same obligation in respect of any such personal interests affecting them.
- 1.3.4 Planning Committee Members who vote to determine an application or other matter to be considered or determined by the Planning Committee in which they have an interest must ensure that any written statement made by the ODA in relation to that decision records the existence and nature of that interest.

1.3.5 Planning Committee Members must, in addition to other personal interests, register and declare financial interests, and register them with the Chief Executive in accordance with this Point 1.3.

1.3.6 The register of personal and financial interests is publicly accessible and available for inspection at the ODA offices at 1 Churchill Place, London E14 5LN .

1.4 Prejudicial interests

1.4.1 A prejudicial interest exists where a member of the public with knowledge of the relevant facts would reasonably regard:

1.4.1.1 a Planning Committee Member's personal interest as so significant that it is likely to prejudice that Planning Committee Member's judgement in relation to an application or other matter to be considered or determined by the Planning Committee; or

1.4.1.2 a personal interest of a Board Member who is not a Planning Committee Member but who is in attendance at a Planning Committee Meeting as so significant that it is likely to prejudice any Planning Committee Member's judgement in relation to an application or other matter to be considered or determined by the Planning Committee.

1.4.2 A prejudicial interest is likely to exist where significant financial gain or disbenefit to the Board Member, or their relative or friend (as set out under Point 1.1), would arise as a result of a planning decision. A prejudicial interest need not necessarily be financial in nature.

1.4.3 A Planning Committee Member or a Board Member attending a Planning Committee Meeting may generally regard himself/herself as **not** having a prejudicial interest in a matter if merely that matter relates to:

1.4.3.1 another public authority of which he/she is a member;

1.4.3.2 another public authority in which he/she holds a position of general control or management; or

1.4.3.3 a body to which he/she has been appointed or nominated by the ODA as its representative.

However, it remains possible that individual matters to be considered by the Planning Committee may due to the circumstances of those matters nonetheless give rise to a prejudicial interest. Thus, if any Planning Committee Member or other Board Member attending the Planning Committee Meeting is in doubt whether their relevant interest in a matter to be discussed by such Planning Committee is a prejudicial interest, the interest should be declared at the outset of the part of the Planning Committee Meeting taking

place where the matter is to be discussed, explain why he/she has doubt whether it is a prejudicial interest and either withdraw from the Planning Committee or take advice from a competent ODA officer as to whether the interest is a prejudicial interest before the Planning Committee proceeds further. Any such advice taken should be recorded in the minutes of the Planning Committee Meeting.

1.4.4 Planning Committee Members with a prejudicial interest can neither vote on an application nor influence its consideration or determination.

1.4.5 A Board Member must also not seek to influence a decision of the Planning Committee in relation to a matter in which he/she has a prejudicial interest.

1.4.6 All Planning Committee Members and Board Members who are not Planning Committee Members but who are also in attendance at a Planning Committee Meeting where applications or other matters to be considered or determined by the Planning Committee in which they have an interest are to be discussed must declare it at the outset of the part of the Planning Committee Meeting where the matter is taking place and to be discussed, explain why it is prejudicial and withdraw from the Planning Committee.

1.5 Gifts or Hospitality

1.5.1 All Planning Committee Members and Planning Officers are expected to ensure that acceptance of gifts and hospitality in their capacity acting on behalf of the ODA or in any way connected to the ODA can stand up to public scrutiny. Such gifts and hospitality should be declined wherever possible, and any offers should be reported to the ODA Chief Executive. Where it would be ungracious or otherwise difficult not to accept, Planning Committee Members and Planning Officers should inform the ODA Chief Executive of the gift or hospitality and the estimated value and the identity of the donor. Similarly, care should be taken that no extravagance is involved with working lunches and other social occasions. Planning Committee Members and Planning Officers must take personal responsibility to ensure that within 28 days of receipt a record is placed in the gifts and hospitality register of the Planning Committee of all gifts and hospitality offered to them or accepted by them in their capacity as Planning Committee Members or Planning Officers.

1.5.2 Planning Committee Members and Planning Officers will also make available to the ODA Chief Executive within 28 days of them taking place details of any meetings held in their private capacity with parties who have submitted, or who might in the future be reasonably anticipated to submit an application or make any representation in connection with a

matter for consideration or determination by the Planning Committee.

2. Role and conduct of Planning Officers and Planning Committee Members

Planning Committee Members and Planning Officers have different but complementary roles in relation to the consideration and determination of planning applications and other matters by the ODA as local planning authority.

2.1 Planning Officers

2.1.1 Planning Officers advise the Planning Committee Members on applications according to planning policy. Members of the Planning Committee remain the decision-makers except where and in the circumstances that the authority to make decisions has been delegated to officers or any of the 4 Boroughs or the TGUDC. It is the responsibility of Planning Committee Members to ensure that the decision-making powers conferred upon them are used appropriately, fairly and consistently.

2.1.2 Planning Officers should also ensure that they conduct themselves in a way that not only maintains their impartiality in advising Planning Committee Members, but ensure that they are seen to behave in a way that maintains impartiality.

Planning Officers should record all meetings and dialogue with interested parties in the application file.

2.1.3 Planning Officers' reports to the Planning Committee on applications should be accurate and cover, amongst other things, the applicant's position, the substance of any objections and the views of people and/or organisations that have been consulted. They should also, where appropriate:

2.1.3.1 include a clear exposition of planning policy, including the development plan, site or related planning history, and any other material considerations;

2.1.3.2 include a recommendation of action;

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

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

2.2 Planning Committee Members

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

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

2.3 Decisions contrary to the Planning Officer's recommendation

2.3.1 Planning Committee Members should make decisions having proper regard to a Planning Officer's written report and should identify reasons, based on planning grounds, if they choose to determine contrary to such advice.

2.3.2 Planning Committee Members must give reasons for their decision to approve or refuse applications or other matters determined by the Planning Committee, regardless of whether their determination accords with the Planning Officer's recommendation.

2.3.3 If the Planning Committee determines an application or other matter contrary to the Planning Officer's recommendation (whether for approval or refusal), a detailed minute of the Planning Committee's consideration and reasons for the determination should be made and a copy placed on the application file. The Planning Officer should also be given the opportunity to explain the implications of the contrary decision to Planning Committee Members during the Planning

Committee meeting where the application or other matter is being considered.

3. Development proposals of, or promoted by, the ODA, or the ODA's Board Members or officers

3.1 Development proposals of, or promoted by, the ODA

3.1.1 The ODA has the power to grant planning permission for its own proposals and for joint development proposals for development on the ODA's land. In addition, proposed developments that are supported by the ODA, or where the ODA has had such a significant involvement in their development that it could reasonably be considered that it supports the scheme, will be considered by the Planning Committee in the same way for the purposes of Points 3.1.2 and 3.1.3 below.

3.1.2 Such applications should be considered by the ODA Planning Committee and/or Planning Officers in the same way as any other application, according to the merits of the scheme and where considered by the Planning Committee having proper regard to the Planning Officer's report. To ensure transparency, the nature of the relationship of the ODA to the proposal and to the parties involved in promoting the application should be set out in the Planning Officer's report on the application. So far as not commercially sensitive or confidential (including by virtue of any appropriate Freedom

of Information Act or Environmental Information Regulations exemption), a record should also be maintained of the liaison between the relevant parties and the ODA and included in the application file.

3.1.3 The ODA Chief Executive should receive a copy of the Planning Officer's report prior to the Planning Committee meeting to ensure that the relationship between the applicant or person(s) affected by the matter to be considered by the Planning Committee and the ODA is properly recorded.

3.2 Development proposals of, or promoted by, Board Members, Planning Committee Members or Planning Officers

3.2.1 A Board Member or Planning Committee Member should play no part in the decision-making process, nor seek to influence in any way, proposals where a Board Member or Planning Committee Member is promoting a given proposal on his/her own account or is an agent in respect of a proposal. Board Members or Planning Committee Members should notify both the Chief Executive and the relevant Planning Officer in writing as soon as reasonably possible once any such application has been made and in any event within 21 days. At any relevant meeting of the Planning Committee, the Board Member or Planning Committee Member must declare the interest, explain the nature of the relationship with the

application and leave the room in which the meeting where the matter is being discussed is taking place whilst it is under discussion. It is the responsibility of the Board Member or Planning Committee Member to notify the Planning Officer dealing with the application prior to the Planning Committee meeting to ensure that a note is placed on the application file and in the Planning Officer's report on the application. The Board Member or Planning Committee Member must also notify the Chief Executive in writing of the details of his/her interest in the application.

3.2.2 Planning Officers, where the application is their own proposal, should have no involvement in the preparation of the Planning Officer's report on the application. The Chief Executive should be notified in writing as soon as reasonably possible of the nature of the Planning Officer's connection with the application.

4. Lobbying of, and by, Board Members or Planning Committee Members

4.1 Lobbying is a normal and perfectly proper part of the political process; those affected by a planning decision will often seek to influence its outcome by approaching decision-makers. It is therefore appropriate for Planning Committee Members to accept information from stakeholders that is relevant to planning applications where this information informs the decision-making

process. However, the ODA considers that all Board Members, and in particular Planning Committee Members, should take an approach to lobbying in relation to planning matters that not only ensures the impartiality of the ODA's decision-making, but which maintains confidence among stakeholders in the decision-making process.

- 4.2 The primary source of information about an application or other matter to be considered or determined by the ODA as local planning authority should be the Planning Officer's report on the application and its supporting information or other matter as applicable. Planning Committee Members should make planning decisions on the basis of a Planning Officer's written report. Additional information should be considered of secondary importance in the decision-making process and not as a basis on which to consider or determine an application or other matter.

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

- 4.2.1 a short briefing letter to all Planning Committee Members, copied to the relevant Planning Officer, to provide information on key details of the proposal to Planning Committee Members;

4.2.2 an exhibition² where all Planning Committee Members and a Planning Officer have been offered the opportunity to attend. Where the entire Planning Committee cannot attend simultaneously, Planning Committee Members should attend an exhibition with at least one other Planning Committee Member, or a Planning Officer;

4.2.3 a meeting with Planning Committee Members when accompanied by a Planning Officer, where all Planning Committee Members have been offered the opportunity to attend; where the entire Planning Committee cannot attend simultaneously, Planning Committee Members should only attend such a meeting with at least one other Planning Committee Member or a Planning Officer;

4.2.4 a site visit where Planning Committee Members are accompanied by a Planning Officer and where all Planning Committee Members have been offered the opportunity to attend.

4.3 Planning Committee Members should avoid private discussions or correspondence with relevant stakeholders, including as applicable the applicant or local residents, about an application or prospective application or other actual or prospective matter to be considered or determined by the ODA as local planning authority. Planning

² Such exhibitions may be arranged exclusively for Members and Planning officers, such as a private viewing of a public exhibition, or may be open to all members of the public, in which case Members may attend the exhibition as a matter of

Committee Members should encourage relevant information, representations and/or correspondence about an application or prospective application or other actual or prospective matter to be considered or determined by the ODA as local planning authority to be directed towards the whole Planning Committee.

- 4.4 All information in relation to an application or prospective application or other actual or prospective matter to be considered or determined by the ODA as local planning authority received by Planning Committee Members must be forwarded to the relevant planning officer who will determine whether to circulate the information to Planning Committee Members on the basis that it provides additional, relevant detail that benefits the decision-making process.
- 4.5 Third parties approaching Planning Committee Members should be encouraged to write to the relevant Planning Officer. Arrangements concerning public speaking at a Planning Committee Meeting are set out in the ODA's Code of Practice for Public Speaking at Planning Committee Meetings.
- 4.6 The same standards as apply to third parties should be applied where Planning Committee Members are subject to lobbying by other Board Members or by or on behalf of a local authority or TGUDC.

course.

4.7 Where approached by an applicant or any other interested party in respect of an application or prospective application or other actual or prospective matter to be considered or determined by the ODA as local planning authority a Planning Committee Member should make it clear that he/she will not be in a position to make a final decision on such application or matter until all the relevant evidence and submissions have been placed before the Planning Committee Meeting when the application or matter is considered.

4.8 **Planning Committee Members must not express a view on the merits of an application or matter prior to its consideration by the Planning Committee. Should any Planning Committee Member do so, that Planning Committee Member must not vote on the application or matter nor participate in the debate about the relevant application or matter.** Board Members and Planning Committee Members should not behave in any way that undermines the status of the Planning Committee meeting as the forum in which that application or matter is to be considered and/or determined by the ODA as local planning authority.

5. Pre- and post-application discussions

5.1 Pre-application and post-application discussions can be of considerable benefit to both the ODA and applicants. Although the term "pre-application" has been used, the same considerations should apply to any discussion concerning any application or other

matter which takes place before a decision has been taken in relation to it. In order to ensure that these discussions do not become, and are not seen to become, part of the lobbying process for the benefit of applicants, the ODA expects that:

5.1.1 pre-application discussions should always be conducted in the presence of a Planning Officer;

5.1.2 all pre-application discussions held with the ODA (as opposed to the ODA as a local planning authority) should involve a Planning Officer;

5.1.3 a written note should be made of all pre-application meetings discussions or telephone discussions and placed on the application file (or pre-application file if appropriate);

5.1.4 applicants and/or prospective applicants should be informed from the outset of their discussion that any discussion will not bind the ODA as local planning authority to make a particular decision on an application or matter and that any views expressed are personal and provisional; and

5.1.5 any advice given to applicants or prospective applicants is not partial and will not be seen to be partial.

5.2 The ODA has established a contacts register for everyday contact between Planning Committee Members and interested parties, or parties who are reasonably likely to have an interest in the future, in any capacity. This is to be maintained by the Planning

Committee secretary. Planning Committee Members must submit details of the contact to the Planning Committee secretary within 28 days after the contact has taken place or prior to a matter relating to the interested party being considered by the Planning Committee, whichever is sooner.

6. Planning Committee site visits

The ODA considers that where a site visit is advantageous to the Planning Committee in understanding an application or other matter to be considered or determined by it the following requirements should be met:

- 6.1 formal Planning Committee site visits should be triggered by advice from the relevant Planning Officer or by a request from Planning Committee Members. The reason for the site visit should be recorded and placed on the application file. All Planning Committee Members should be given the opportunity to attend. A Planning Officer should also attend;
- 6.2 Planning Committee Members should avoid unofficial visits to sites in the presence of an applicant where an application has been submitted or is likely to be submitted or the person who is affected or may be affected by the consideration or determination of the relevant matter. Should a Planning Committee Member have visited a site with an applicant or prospective applicant or relevant affected or prospectively affected person, he/she should notify the relevant Planning Officer and supply the relevant details to be included in a note to be placed in the application or matter file;

- 6.3 the attendance of an applicant or prospective applicant or relevant affected or prospectively affected person or their agents at a formal site visit should be to answer questions about the application or matter but not to make a presentation about the application or matter;
- 6.4 a full record of the site visit, including details of questions raised and information supplied by the applicant or person in response, should be made by the relevant Planning Officer, placed in the application or matter file and noted in the relevant Planning Officer's report to the Planning Committee.

7. Breaching the Code, complaints and record-keeping

- 7.1 Where a Board Member or Planning Committee Member believes that another Board Member or Planning Committee Member has breached this Code, such Board Member or Planning Committee Member has a duty to report this to the Chief Executive for investigation as soon as reasonably possible.
- 7.2 Where Board Members or Planning Committee Members are uncertain as to how to apply this Code in a particular instance, they should seek advice from the ODA Chief Executive.
- 7.3 The ODA takes responsibility for training Planning Committee Members in the operation of this Code. All new Planning Committee Members are required to undertake the ODA's training on the Code prior to commencing in their role as a voting member of the

Planning Committee. Continuing Planning Committee Members should also attend an annual "refresher" training session on the application of this Code. All Planning Committee Members should ensure they are familiar with the Code and are responsible for ensuring that they behave according to its requirements.

- 7.4 Any complaints about the adherence of the relevant Board Members, Planning Committee Members and Planning Officers to this Code will be handled according to the ODA's Complaints Procedures.