

Merton Design Review Panel

CODE OF CONDUCT

INTRODUCTION

The Merton Design Review Panel is set-up, organised and managed by the London Borough of Merton, and reviews development proposals within the London Borough of Merton. As a group of independent experts, it is important that the Merton Design Review Panel provides independent and impartial advice according to principles of good practice in public life, and guidelines produced by relevant organisations. This includes Central Government, the Greater London Authority and Design Council CABE. This Code of Conduct applies principally to the conduct of Panel members, but also includes all those attending meetings and involved in the design review process. It also includes guidelines on what is and is not considered a conflict of interest and how this process is managed.

PANEL MEMBERS

Code of Conduct

Panel members are expected to conduct themselves to a high standard and in a professional manner, maintaining the integrity of the Panel, not bringing it into disrepute by their actions as part of their work on the panel, outside the panel or by association through other inappropriate behaviour. They are also expected to adhere to good practice in how they review schemes. Particularly, Panel members are expected to:

- Adhere to the seven Nolan Principles of Public Life¹, the CABE 10 Principles of Design Review², and the Mayor of London's London Quality Review Charter³,
- Behave in a professional, respectful and courteous manner to all during Panel meetings, including allowing one person to speak at a time and respecting one another's views,
- Understand and respect that all pre-application proposals are commercially confidential in line with LB Merton pre-application service, and not discuss or disseminate information on them to any third party,
- Give an informed and open-minded view of a scheme in its context, beyond narrow realms of expertise and not allowing strongly held personal preferences and predilections to dominate or inappropriately influence advice,
- To consider a scheme 'in the round' starting from the big issues, working to the detailed, and remaining focused on relevant design issues,

¹ <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

² <https://www.designcouncil.org.uk/resources/guide/design-review-principles-and-practice>

³ <https://www.london.gov.uk/what-we-do/regeneration/advice-and-guidance/about-good-growth-design/london-quality-review-charter>

- Give advice and criticism in a constructive, encouraging and non-adversarial manner with a view to encouraging applicants to willingly take comments on board,
- Have due regard to the planning process, current planning policy and standards within which the Design Review Panel operates and give appropriate comments within this context,
- Not engage in negotiating on behalf of the local authority, not recommend other designers and not attempt to design schemes themselves, or the projects being reviewed,
- Not attend Panel meetings as a reviewer in order to act on behalf of any person or client having their proposals reviewed at that meeting,
- Not engage in separate or independent discussions or give advice – paid or unpaid – with applicants who will be or have previously presented to the Design Review Panel, during the lifetime of the project,
- Following reviewing a scheme, not comment on the proposal in any other formal capacity, eg. through a public consultation exercise,
- Not engage with, or encourage any interested party in attempting to lobby them individually or to the Panel as a whole, or in any way attempting to influence their views, and report this immediately to Panel management as soon as it happens,
- Not bring the work of the Panel into disrepute by association, through actions and behaviours outside their work on the Panel,
- Familiarise themselves with the list of companies and employees involved in all schemes being reviewed as identified on the agenda and inform the Panel management of any actual or potential conflicts of interest. Attendance at meetings will be dependent on Panel management receiving confirmation from Members there is no known conflict of interest,
- Familiarise themselves with proposals sites and their context, either by visiting the sites themselves, or researching them on-line,
- Familiarise themselves with previous reviews for sites where they exist and with previous planning applications where indicated.
- Punctually attend all review meetings and other meetings they have been scheduled for. If members find they cannot attend, they should ideally give at least 7 days notice, although it is understood this may not always be practical. Continued inability to attend meetings may result in the member being removed from the panel.

Conflicts of Interest

To ensure the Design Review Panel operates in an independent and impartial manner, with high standards of probity, it is essential that conflicts of interest are not allowed. A proper process for ensuring this is also important in policing this and giving confidence that such conflicts do not take place. Firstly, it must be clear what constitute conflicts of interest and what is expected of Panel members in this regard. Panel members must:

- Provide Panel management with a list of interests to be held on a Register of Interests in order to aid assessment of conflicts of interest. This list should include interests such as development projects members are involved in in Merton, property they own in Merton, membership of local groups and societies, positions held in

companies such as directorships, financial stakes and investment interests in relevant companies and organisations, and active political work. Anything that is, or could be construed as a potential conflict of interest with the work of the Panel should be identified. This should include members places of residence and of work. Panel members must update panel management in a timely manner of any relevant changes to their circumstances in this respect. ***In some cases, such interests may bar Members from attending a review.***

- Declare to the Panel management relevant pecuniary and non-pecuniary interests they (or their family) have in relation to the operation of the panel in general, and they have in relation to any specific site, company, development team member in relation to any specific proposal being reviewed. Pecuniary and non-pecuniary interests are defined for councillors on the council website⁴ and should form the reference point for Panel members. ***Pecuniary interests will bar Members from attending a review and non-pecuniary interests will be assessed on a discretionary basis by Panel management and the Chair.***
- Identify to Panel management if they are involved, in any way, with sites that are adjoining, opposite, adjacent or in any other way affected or in close proximity to schemes being reviewed. ***In cases where such a site will be clearly affected by the proposal under review, this will bar Members from attending the review for that scheme.***
- Make the Panel management aware of any projects they are working on within the borough that are likely to come to the Design Review Panel. The Panel management will decide whether these schemes should be reviewed according to normal procedure. ***Where a Panel member has a scheme that comes to review, they must step down from their position on the Panel for the duration of the project – from the first submission for pre-application advice to the final discharge of conditions and signing of legal agreements.*** This is in order to ensure there are no blurred lines between the reviewing role and applicant role of Panel members. A clear distinction is essential to ensure the Panel is impartial and seen to be impartial.
- Not take part in a review where they, in the preceding 12 months, have been personally, professionally or informally involved with the proposal being reviewed, either paid or unpaid or in any other way giving advice on the proposal.
- Not become involved in sites personally, professionally or informally, that have been presented to a Panel review that they sat on, for a period of at least 24 months after the Council have determined the scheme.
- Not review any other schemes at a review meeting where they will be involved in any way with one or more of the schemes being reviewed (i.e. they will not be allowed to ‘cross the floor’ during a review meeting).
- State whether, in any other forum, they have objected to or otherwise commented on a proposal to be reviewed, including any other plans, policies or other factors affecting the proposal. ***Such a connection is likely to bar a member from attending the review for that scheme.***
- Not use their participation as a reviewer on the Panel to directly or indirectly promote their own business interests. Approaches should not be made to anyone involved in schemes being reviewed before, during or after a review in order to

⁴ <https://www.merton.gov.uk/council-and-local-democracy/councillors/declarations-of-interests>

actively or by default canvass for work. It is accepted that working for the panel, members are enhancing their reputations and public profiles, but the right balance needs to be struck in this regard. Panel members accept that this may affect their ability to conduct their professional business in the borough.

Mechanism for avoiding Conflicts of Interest

Panel members are required to state to Panel management, each time they receive an agenda for a meeting, that they have no known conflicts of interest. This is based on the companies and individuals identified by the applicants and in accordance with this Code of Conduct document. Access to review material will be dependent on this communication. This process may be made electronic in the future.

The above is not an exhaustive list and potential conflicts will be considered on a case by case basis at the discretion of the Panel management and Chair. Where the conflict may not be strong, the panel management may consult with the applicant team to establish whether they are content to proceed with the panel member in question.

Where a member experiences conflicts of interest to a degree that it adversely affects their ability to regularly attend or be chosen for meetings, it may be deemed by panel management that their continued membership of the panel is impractical (through no fault of their own), and that it is brought to an end.

PANEL MANAGEMENT

The role of Panel management is important in providing a clear and unbiased notes and aiding in the independence, credibility and professionalism of the Panel. To this end, the following procedures will be applied by the Panel management:

- The Design Review Panel administrator will take notes at meetings and provide a draft set of notes. These will then be distributed to Panel members for comment on the notes. The notes will be passed to the Chair for amendment based on members comments and production of a 'final' set of notes. The Chair will send out the notes to applicants (and other relevant parties), normally within one working week from the review.
- Notes will be written in prose form, synthesising individual comments into text that broadly comments from the larger scale and fundamental issues first, moving towards details. Notes should include a short introduction and conclusion culminating in the verdict. Notes should not be ambiguous, and indicate the strength of opinion of the Panel on issues where there is a clear and strong view.
- The notes of the panel will be based on a collective view of the panel as a whole, presenting a single point of view, and will provide a consistent, clear and concise report to be as useful a steer as possible to the applicant. They will not be based on individual members' preferences or any formal system of voting.
- Following this process, the notes are final and not subject to variation or negotiation either by Panel members, council officers, applicants, councillors or any other third party.

- Notes of the reviews will be based only on a record of what was said at the review meeting and no other subsequent commentary offered by panel members, council officers or others will be included. The traffic light verdict given at the end of meetings will not change in the final notes from that given at the review.
- The agenda and full set of plans and drawings will be made available to Panel members approximately one week prior to the review meeting to enable Members sufficient time to familiarise themselves with the proposals.
- The agenda/applicant documentation will include a list of companies and employees involved in all schemes being reviewed to aid Members in identifying potential conflicts of interest.
- Council officers will not take part in the review itself, but will play a role in fact-checking on points of planning policy for the purposes of clarity and accuracy.

COUNCILLORS

As elected representatives of the council it is currently considered appropriate that councillors are able to attend panel meetings as observers, whether applications or pre-applications. Councillors should, like others, conduct themselves appropriately.

- Councillors must abide by their own Code of Conduct as elected representatives as well as this code of conduct.
- Councillors are permitted to attend only where they have a relevant ward member or cabinet portfolio interest, do so as observers, and respect this in the same manner as members of the public.
- Councillors must also respect the confidentiality of pre-applications and not disseminate any information shown or discussed as part of the review, including the review notes, with any third party. This includes not taking photos of, recording or videoing the meeting or use of social media.

THE PUBLIC

The public, including representatives from local groups, societies and organisations, as well as representatives from other schemes under review, are currently allowed to be present at the review of schemes for which a planning application has been submitted. The basis on which this is allowed is that the application is in the public domain and the Panel's notes will also be so, therefore it is appropriate for the public to be present. Currently the public are allowed to listen to relevant meetings when using Zoom and/or a meeting recording of the relevant agenda item is posted on the DRP webpage (this may be subject to change).

The purpose of the Panel however, is for the independent design experts that constitute the panel, to review the proposals before them. It is not an open or public meeting or a constituted council committee. Therefore the public are allowed to be present on a discretionary basis solely as observers and are not allowed to take part. On this basis the Code of Conduct is applicable to the public as much as it is to other participants. Should the public in the future not be allowed to attend or listen to meetings (but recordings be made available after the meeting) some of the code of conduct below may become irrelevant or need re-wording.

The public (including representatives from local groups, societies and organisations) must:

- Adhere to this Code of Conduct and do not attempt to speak or otherwise influence the views of Panel members before, during or after meetings.
- Not engage in any other behaviour that is likely to disrupt or otherwise hinder the effective and impartial work of the Panel,
- Not unduly attempt to engage with applicants as they wait to enter the review meeting, nor attempt to record or film applicants without permission. If they wish to speak to the applicant, this should be done outside the design review process, as part of the applicants own consultation in accordance with the National Planning Policy Framework (NPPF).
- Recording by audio, video or any other means of Panel meetings is not permitted. Anyone found to be secretly filming or recording by any means will automatically be barred from attending any future Panel meetings. Recording will only be permitted by the council, whether meetings are held in person or electronically.
- Not engage in lobbying of panel members by communicating or attempting to communicate with them or, in any other way to attempt to influence their views and decisions on schemes, before, during or after review meetings.
- When attending, be willing to give their names to the panel management for accurate recording of the meeting attendees.

People attending as observers will only be allowed on this basis. Failure to do so may lead to them being excluded from attending public DRP meetings in the future, in person or electronically.

THE APPLICANT

The way the applicant presents their proposals and responds to the review can have an important impact on how productive and positive the review is for all, including keeping to time and extracting the maximum advice from the Panel. To this end, the applicant team are expected to:

- Be clear and honest in their presentation and do not attempt to mis-represent schemes,
- Not use the review as an opportunity for the client or architect/designer to directly advertise or promote their company, development or practice,
- Do their best to keep to time in their presentation and present a clear design-based narrative of their proposals,
- Understand that their primary role is to absorb the comments of the panel and not feel duty bound to respond to or defend all criticism,
- Feel free to identify any mis-interpretations or inaccuracies they feel arise in the review discussion,
- Not approach panel members to in any way become involved in projects that have been or are likely to be reviewed by the panel.

The applicant has a right to expect that Panel members have no conflict of interest when reviewing their proposals. However, it is considered inappropriate to give applicants the opportunity to choose or vet members to review their proposals as this equally could be open to abuse. It would also take away the role of Panel management in choosing the most suitable balance of expertise for the schemes on the agenda. To address this issue, this Code of Conduct has intentionally been made more comprehensive and robust than the original Terms of Reference. It is considered that this will adequately address concerns applicants may have in this regard.

THE PRESS

Whilst the Design Review Panel respects the confidentiality of pre-application stage proposals, it is not de-facto a confidential process. Therefore, for schemes that are at the public application stage, the press are also welcome to be present. They should also adhere to this Code of Conduct in the following way:

- Adhere to their own professional codes of conduct and ethics as set out by the Independent Press Standards Organisation (IPSO).
- Adhere to this Code of Conduct and do not attempt to speak or otherwise influence the views of Panel members.
- Recording by audio, video or any other means of Panel meetings is not permitted. Anyone found to be secretly filming or recording by any means will automatically be barred from attending any future Panel meetings.
- They must identify themselves as members of the press to the Panel administration if they are attending in that capacity. If they are attending in a personal capacity then they must adhere to this Code of Conduct as it applies to the public and not subsequently write an article in any publication in their capacity as a member of the press.
- Where they subsequently write a press article they should give the LB Merton communications team the opportunity to check the article for factual accuracy as it may be published before the formal meeting notes, and as a matter of courtesy.
- Be willing to give their name and employer details to the panel management for accurate recording of the meeting attendees.

Breaches of the Code of Conduct

For Panel members, an identified breach of this Code of Conduct will be verified by the panel management and a verbal warning given. Ongoing failure to comply with the Code of Conduct will be followed by a written warning. If the panel member still fails to comply with the code of conduct and cannot offer a satisfactory explanation for their behaviour, they will be dismissed from the Panel by agreement of the Panel Chair and management. Any Panel member should notify the Panel management if they become aware of a breach of the Code of Conduct.

For councillors, breaches can be reported to the council complaints department⁵ And they may be barred from attending future panel meetings. For members of the public, individuals may be barred from attending future panel meetings. For representatives of organisations, the chair of their organisation or the ombudsman may be informed.

Related Documents

1. Nolan 7 Principles of Public Life
2. Design Council/CABE, Design Review: Principles and Practice
3. London Quality Review Charter
4. LB Merton, Councillors declarations of Interest
5. LB Merton, Councillors Code of Conduct and complaints

⁵ <https://www.merton.gov.uk/council-and-local-democracy/councillors/code-of-conduct-and-complaints>