



Title of Report:	NI Local Government Commissioner for Standards Report – Lisburn & Castlereagh City Council		
Committee Report Submitted To:	Planning Committee		
Date of Meeting:	27 November 2024		
For Decision or For Information	For Decision		
To be discussed In Committee YES/NO	No		
Linkage to Council Strategy (2021-25)			
Strategic Theme	Cohesive Leadership		
Outcome	Council has agreed policies and procedures and decision making is consistent with them		
Lead Officer	Head of Planning		
Estimated Timescale for Completion			
Date to be Completed	N/A		
Budgetary Considerations			
Cost of Proposal	Nil		
Included in Current Year Estimates			
Capital/Revenue			
Code			
Staffing Costs			
Legal Considerations			
Input of Legal Services Required	NO		
Legal Opinion Obtained	NO		
Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

1.0 Purpose of Report

1.1 The purpose of this report is remind Members of their responsibility in relation to declarations of interest and to seek approval to amend para. 8.6 of the Protocol for the Operation of the Planning Committee in relation to leaving the Chamber during the discussion of the item they have declared an interest on.

2.0 Background

2.1 The Assistant Northern Ireland Local Government Commissioner for Standards issued a decision in relation to the matter of former Councillor Luke Poots, Lisburn & Castlereagh City Council in March 2024 in relation to declaration of interests at the Planning Committee.

2.2 Subsequently Lisburn & Castlereagh City Council undertook a review of the findings set out in the Assistant Commissioner's Report to consider any actions taken or additional learning that could improve processes further (attached at Appendix 1). This Report was brought to Lisburn & Castlereagh City Council in June 2024 and subsequently shared with other Councils through Solace NI in November 2024.

3.0 Details

3.1 The review set out a number of actions both for officers and Elected Members and provides a number of guidance and reminder points for Elected Members. Some of the actions are specific to Planning Committee meetings whilst others are relevant to all Committees and meeting of Council.

3.2 The matters considered by the review covered the following:

- The action Councillors should take once they have declared a pecuniary or significant non-pecuniary interest regarding a matter to be considered by the Council, Committees or sub groups;
- The actions Councillors on the Planning Committee should take once a relative or employer indicates an intention to make representation on a planning application;
- The steps Councillors should take where either they or their family submit a planning application where they have an interest in the land associated with the application;
- Early intervention that could be taken by Members or Officers where concerns regarding declaration of interest exists; and
- Increasing transparency in the declarations of interest held by the Council and in declarations of interest made during Planning Committee meetings.

3.3 Summary of the actions, guidance and recommendations from the review are set out at para. 9.0 of the Report. Those specific to the Planning Committee are listed in Table 1 below:

Table 1: Actions, Guidance and Recommendations for Planning Committees

No.	Action	Responsibility	Complete/ To Action
A7	Amend the Protocol for the Operation of the Planning Committee to note that, where a Councillor declares an interest and does not leave the room without valid justification, the matter should be challenged by the Chair of the Committee, or other Councillors.	Officers	To Action
A9	Amend the Protocol for the Operation of the Planning Committee to report annually for noting, all declarations of interest made relating to the work of the Planning Committee.	Officers	Ongoing – DoI Register published
A11	As part of a continuous improvement journey a recommendation shall be to include the NIAO guidance as part of the prescribed training in order to sit on the Planning Committee.	Officers	Complete – already part of the annual training
Guidance			
G1	For circumstances where a councillor on the Planning Committee works for an MLA or MP who wishes to make representation on a planning application under consideration, a pecuniary interest should be declared and the member should leave the room. There are no exceptions to this as there is a pecuniary interest.	Councillors	Ongoing - requirement under Code of Conduct
G2	For circumstances where a councillor on the Planning Committee is related to an MLA or MP who wishes to make representation on a planning application under consideration, a significant non-pecuniary interest should be declared and the member should leave the room.	Councillors	Ongoing - requirement under Code of Conduct
Reminders			
R7	Councillors on the Planning Committee to continually reflect on their role in relation to the planning process	Councillors	Ongoing - requirement under Code of Conduct
R8	The risks related to planning decision outcomes increase significantly where the Planning Committee overturns the recommendation of professional planning offices, more notably for single houses in the countryside	Councillors	For Noting
R10	Being a councillor requires the highest standards of probity and integrity. In submitting a planning application for land within the Council's boundary, councillors should ensure appropriate declaration of interest, by them (and of their wider family), in the land.	Councillors	Ongoing - requirement under Code of Conduct

4.0 Proposal

- 4.1 It is proposed to change the wording of paragraph 8.6 of the Protocol for the Operation of the Planning Committee to read as follows:
Should a Member declare an interest they must have regard to the Local Government Code of Conduct for Councillors. Member(s) cannot vote on the item where they have declared an interest and are required to remove themselves from the Chamber during the full discussion of the item and voting on such.

5.0 Options

- 5.1 *Option 1* – To note the contents of the Lisburn & Castlereagh City Council Review Report and AGREE to the amendment of paragraph 8.6 of the Protocol for the Operation of the Planning Committee to read: *Should a Member declare an interest they must have regard to the Local Government Code of Conduct for Councillors. Member(s) cannot vote on the item where they have declared an interest and are required to remove themselves from the Chamber during the full discussion of the item and voting on such.*

This would address the actions recommended within the Review Report that are specific to the Planning Committee.

- 5.2 *Option 2* – To note the contents of the Lisburn & Castlereagh City Council Review Report and DISAGREE to the amendment of paragraph 8.6 of the Protocol for the Operation of the Planning Committee.

This would not address the actions recommended within the Review Report and may leave Councillors open to challenge under the Local Government Code of Conduct for Councillors and reported to the Northern Ireland Local Government Commissioner for Standards.

6.0 Recommendation

- 6.1 **IT IS RECOMMENDED** that the Planning Committee APPROVE OPTION 1 – To note the contents of the Lisburn & Castlereagh City Council Review Report and AGREE to the amendment of paragraph 8.6 of the Protocol for the Operation of the Planning Committee to read: *Should a Member declare an interest they must have regard to the Local Government Code of Conduct for Councillors. Member(s) cannot vote on the item where they have declared an interest and are required to remove themselves from the Chamber during the full discussion of the item and voting on such.*

Lessons Learned Following the Report of the Assistant Commissioner for Standards against a former LCCC Councillor

1.0 Introduction & Report Purpose

- 1.1 The Local Government (Northern Ireland) Act 2014 included a new ethical framework for local government in Northern Ireland. A key element of this was a mandatory code of conduct for councillors. The Northern Ireland Local Government Code of Conduct for Councillors was subsequently introduced on 28 May 2014. Part 9 of that Code (planning) was implemented from 1 April 2015. The Act imposes a requirement on councillors to observe the Code.
- 1.2 Given the change to the Code and the transfer of planning to local government, a comprehensive training plan was developed to ensure competency of those on the various Committees making decisions.
- 1.3 Following complaints against a former LCCC Councillor in 2017, the Assistant Commissioner for Standards issued a decision following investigation into the allegations. The hearing found that the former councillor had breached 7 paragraphs within the Code of Conduct for Councillors and subsequently suspended the individual from being a Councillor for a period of 4 years from the written decision in February 2024.
- 1.4 The purpose of this report is to identify any learnings from the Assistant Commissioner's findings with a view to minimising the risk and reputational damage to the Council in the future.

2.0 Summary of Issues

- 2.1 A summary of the matters raised by the Assistant Commissioner and to be considered further in this review is as follows:
 - The action Councillors should take once they have declared a pecuniary or significant non-pecuniary interest regarding a matter to be considered by the Council, Committees or sub groups;
 - The action Councillors on the Planning Committee should take once a relative or employer indicates an intention to make representation on a planning application;
 - The steps Councillors should take where either they or their family submit a planning application where they have an interest in the land associated with the application;
 - Early intervention that could be taken by Members or Officers where concerns regarding declaration of interest exists; and
 - Increasing transparency in the declarations of interest held by the Council and in declarations of interest made during Planning Committee Meetings.

3.0 Terms of Reference

- 3.1 Terms of Reference for this review were developed and agreed by the Corporate Management Team following a report presented to the Governance & Audit Committee on 20 March 2024. The key objectives of the review are to consider:
 - Any weaknesses identified by the Assistant Commissioner in this Council's processes relating to decision making;
 - Whether sufficient improvements have been made to the Council's Planning Protocol;

- Improvements made to policy, processes and training for Elected Members linked to their decision-making role;
- The role of officers in highlighting, reporting and recording of concerns or advice provided to Elected Members;
- What options exist to mitigate future reputational damage;
- The 35 cases referred to within the report and implications for the Council; and
- Whether recommendations need to be made to third party organisations or other councils relating to the Assistant Commissioner's findings.

4.0 Breaches Identified by the Assistant Commissioner and Developing Actions

In reaching his decision, the Assistant Commissioner for Standards found the following paragraphs of the Code of Conduct for Councillors had been breached. Commentary has been added as appropriate in relation to proposed actions that could improve or refresh our compliance with the Code.

4.1 Paragraph 4.2

You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.

- **Reminder 1 – Councillors to regularly reflect on their conduct as part of their role as an Elected Member to avoid bringing themselves or the council into disrepute.**

4.2 Paragraph 4.3

You must review regularly (at least annually and when your particular circumstances change) your personal circumstances and take steps to mitigate any conflict of interest in relation to your functions as a councillor. Such conflict may arise as a result of circumstances such as a change of business interests, a change in direct or indirect pecuniary interests required to be declared under section 28 of the 1972 Act or involvement on a new committee.

An Internal Audit Report on conflict for interests for staff indicated that a nil return should not be assumed as no alteration to conflicts. As such, all officers must complete the conflict of interest form annually. For consistency in approach, rather than asking Members to advise of any new conflicts of interest annually, Members will be expected to complete and return a Conflict of Interest form. Note, a Conflict of Interest form was sent to all Councillors following the Local Government Election in May 2023. The annual request for updated circumstances was issued following the Annual Meeting, held on 7th June.

Furthermore, and to increase transparency to our citizens, stakeholders and interested parties, the Conflict of Interest register for all Members will be published on the Council's website and updated following the annual refresh.

- **Action 1 – Officers to issue Conflict of Interest Form to all Councillors each year, after the Annual Meeting**
- **Action 2 – Councillors must complete and return the conflict of interest form annually, or more frequently as and when required**
- **Action 3 – Publish annually a combined Elected Member Conflict of Interest Register**

- **Action 4 – advise Solace NI of the proposed requirement being adopted in LCCC with regards to the annual completion of a Conflict of Interest form by all Members.**
- **Reminder 2 – Councillors will refresh their conflicts of interest list during the course of the year should new pecuniary or non-pecuniary interests arise**

4.3 Paragraph 4.6

You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.

- **Action 5 – Officers to recommend to NILGA that conflicts of interest and complying with the Commissioner for Standards/Ombudsman is strengthened in the standard Member induction training** (NB this could include case studies/examples to help Members ensure they recognise potential or actual conflicts; and that appropriate action is taken on a timely basis to protect themselves and the body corporate. This should also incorporate their responsibilities post term).
- **Reminder 3 - Councillors to note the requirement in law to comply with a Commissioner's request in connection with an investigation, even following the end of their term as a Councillor.**

4.4 Paragraph 6.3

You must declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not required to be given.

- **Action 6 – Officers to update declaration of interest form to capture relevant guidance on what is a significant private or personal non-pecuniary interest, including the expected action by those who declare an interest.**
- **Action 7 - Amend the Protocol for Operation of the Planning Committee to note that, where a Councillor declares an interest and does not leave the room without providing valid justification, the matter should be challenged by the Chair of the Committee, or other Councillors. Similar principles to exist for all other Committees, Council and sub-groups.**
- **Action 8 – Member services officers to have immediate access at any Council, Committee, or sub-group meeting, details of the declared conflicts of interest of all Members with voting rights.**
- **Reminder 4 – Councillors to declare any significant private or personal non-pecuniary interest arising at a Council, committee or sub-group meeting**

4.5 Paragraph 6.4

You must declare any significant private or personal non-pecuniary interests in a matter as soon as it becomes apparent. You must then withdraw from any council meeting (including committee or sub-committee meeting) when the matter is being discussed. It is your own personal responsibility to determine, having regard to council advice and guidance, whether you have any such interest.

- **Reminder 5 – Councillors should withdraw from the relevant meeting when the matter to which they have a significant private or personal non-pecuniary interest is being discussed**

4.6 Paragraph 8.1

When participating in meetings or reaching decisions regarding the business of your council, you must:

- a) Do so objectively, on the basis of the merits of the circumstances involved, and in the public interest;***
- b) Have regard to any particular advice provided by your council's officers, in particular, by the chief executive, the chief financial officer (where appropriate) or the council's legal advisers;*
- c) Take into account only relevant and material considerations and discount any irrelevant or immaterial considerations;*
- d) Give reasons for your decisions, when required to do so, in the interests of fairness, openness and accountability and in accordance with any statutory requirements;*
- e) Act in accordance with any relevant statutory criteria;*
- f) Act fairly and be seen to act fairly;***
- g) Ensure that all parties involved in the process are given a fair hearing (insofar as your role in the decision making process allows);***
- h) Not prejudge or demonstrate bias, or be seen to prejudge or demonstrate bias, in respect of any decision;***
- i) Not organise support for, or opposing against, a particular recommendation on the matter being considered;*
- j) Not lobby other councillors on the matter being considered;*
- k) Not comply with political group discussions on the matter being considered, where these differ from your own views; and*
- l) Not act as an advocate to promote a particular recommendation in relation to the matter being considered.*

*Paragraph 8.1 (the 4 bold statements) and 9.3 combined were the elements of the Code breached in relation to these 2 paragraphs.

- **Reminder 6 – Councillors to reflect on the 12 requirements in reaching decisions regarding the business of the Council.**

4.7 Paragraph 9.3*

Application of the Code of Conduct with regard to planning matters

Your role as a councillor is to represent the views and aspirations of your community through development of the local development plan, discussions with developers and council planning officers or deciding on planning applications. This Code (and any associated guidance) is intended to assist you in balancing the interests of developers and interest groups with taking planning decisions, by applying your local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community. This Code applies to councillors at all times when involving themselves in the planning process, including taking part in the decision-making meetings of the council or when involved in less formal occasions, such as meetings with officers or the public. It applies equally to local plan development and planning enforcement as it does to planning applications.

- **Reminder 7 – Councillors on the Planning Committee to continually reflect on their role in relation to the planning process.**

5.0 Declaration of Interests

5.1 Section 28 of the Local Government Act (Northern Ireland) 1972 requires members to declare any pecuniary interest, direct or indirect, that may be coming before the Council, Committee or Sub Committee. Pecuniary interests are your business interests (for example, your employment, trade, profession, contracts, or any company with which you are associated) and wider financial interests you may have (for example, investments, and assets such as land and property). In declaring a pecuniary interest, Members should verbally advise the Chair at the beginning of the meeting, record the pecuniary interest in the meeting register of interests and withdraw from the meeting for the duration of that report. Members should note that there are no exceptions for pecuniary interests and they must leave the room during the consideration of the relevant business.

5.2 The Code requires members to also declare any significant private or personal non-pecuniary interests. Non-pecuniary interests are those that do not involve business or financial matters and can include, for example, those interests that arise through a position of responsibility in, or membership of, a club, society or organisation. It is a member's responsibility to determine if they have a significant non-pecuniary interest in any matters being considered by the Council or its Committees. Where a significant non-pecuniary interest exists, members should verbally advise the Chair at the beginning of the meeting, record in the meeting register of interests and withdraw from the meeting. The only exceptions to withdrawing from the room for the duration of that discussion are as follows:

- If special dispensation has been granted by the Department under Section 29 of the 1972 Local Government Act (Northern Ireland) (this should be made available to the Council in advance of the meeting)
- On occasions, you may feel that it would be to your council's benefit if you were to remain in a council meeting when a matter in which you have a significant private or personal non-pecuniary interest is to be debated. Before doing so, you must consider whether your interest is so significant that it would be wrong in any circumstances for you to remain. If you remain in the room, you may only speak and vote on such a matter if :
 - **At least half of the council or committee would otherwise be required to withdraw from the debate due to their personal interests in the matter; or**
 - **Your withdrawal, together with that of other councillors of the council or committee who are required to withdraw due to their interests in the matter, would leave the council or committee without a quorum.**

If you decide to remain in the meeting, you must declare that decision and your reasons for doing so.

5.3 It would, however, be appropriate for you to remain at a council meeting and speak and vote on a matter in which you have declared a significant private or personal non-pecuniary interest if your interest arises because you are:

- A member of a public body; or

- A member or supporter of a charity, voluntary body or other organisation formed for a public purpose (ie not for the personal benefit of members)
 - However, except where you have been appointed by your council as a representative on the organisation, you must not vote (although you may speak) on any matter directly affecting the finances or property of the organisation if you are a member of the organisation's management committee or governing body.
- **Guidance 1 – for circumstances where a Councillor on the Planning Committee works for an MLA or MP who wishes to make representation on a planning application under consideration, a pecuniary interest should be declared and the member should leave the room. There are no exceptions to this because there is a pecuniary interest.**
 - **Guidance 2 – for circumstances where a Councillor on the Planning Committee is related to an MLA or MP who wishes to make representation on a planning application under consideration, a significant non-pecuniary interest should be declared and the member should leave the room. The member could remain in the room if they have been given dispensation by DFC to remain or where they believe it would be to the Council's benefit for the Member to remain. Any members deciding on this latter course of action should be prepared to be challenged by other Members of the Committee and/or by the CEO/Director either during or following the meeting, recognising an increased risk of the report potentially coming under greater scrutiny through the declaration of interest.**

6.0 Monitoring Declarations of Interest

- 6.1 The Assistant Commissioner was concerned about the extent to which Lisburn & Castlereagh City Council had adequately monitored its Planning Committee, to ensure that it was being conducted with proper regard for the Code and in compliance with the Council's Planning Protocol, during the period that the Respondent was a member and, at times, the Chair of that Committee. From the witness evidence...*"it was apparent there had been ongoing concerns about the actions of the Respondent"*.
- 6.2 The Assistant Commissioner observed that this concern had been in existence over an extended period, and it was therefore surprising that the Council appeared not to have taken sufficient action to ensure compliance with the Code and its own Protocol. The Assistant Commissioner indicated that the actions of the former councillor were found to be in breach of the Code and the Protocol and had inevitably damaged public confidence in the work of local government.
- 6.3 The Assistant Commissioner reiterated the Deputy Commissioner's submission.
- "This is a personal responsibility matter, all persons elected to public office in local councils have that responsibility. It is theirs and theirs alone in the final analysis."*
- 6.4 Although this is a personal responsibility matter, it is worth considering the steps Council could take to action or intervene where non declaration of interests may occur. For the investigation carried out by the Deputy Commissioner for Standards, the complaints were first submitted to the Commissioner in December 2017 and a decision was issued to the Council on 8 March 2024, some 6 years later. Although the Commissioner's investigation will have been impacted by the Covid19 pandemic and the particular circumstances of the case, the Council needs to consider how such matters can be resolved quickly and effectively for the purposes of

minimising reputational damage, and minimising the cost to the public purse. In noting the Assistant Commissioner's comment about the adequacy of monitoring of the Council's planning committee, the Chief Executive wrote to the Assistant Commissioner for advice or guidance on what more the Council could have done to mitigate the ongoing concerns regarding conflict of interest.

- 6.5 In a response received on 11th June, the Assistant Commissioner indicated that the case was delayed significantly by the Covid19 pandemic however, it was clear that the solicitor had known for some time that behaviours of the former councillor could have been highlighted at an earlier stage. The Assistant Commissioner has referred this to the Ombudsman for consideration of what might be considered as best practice in such circumstances.
- 6.6 None of the officers involved in the case at that time remain in employment with the Council. Therefore, it is difficult to determine how long an awareness existed regarding non-declaration of interests by the former councillor. It may well be that the time taken to highlight the potential conflict of interest could reflect a new process embedding within the Council, as it had only transferred from Central Government in April 2015. Since that time, transparency in the decision-making process has improved significantly through the audio recording of all Planning Committee meetings and the voting preferences of Members being recorded where the decision is not unanimous.
- 6.7 The Head of Planning, supported by the legal advisor, insists and is assertive to ensure the Members engage with policy with appropriate reasoning in concluding a planning determination. The minute now only captures what the decision is but refers the reader back to the appropriate point in the audio recording where the full detail of the reasons for making the decision can be found. This removes the necessity for the reasons to be drafted into the minute as was our previous improved practice.
- 6.8 In the meantime, to improve transparency around declarations of interest made at the planning committee, and to increase monitoring of such, declarations of interest should be included as part of the annual performance monitoring reports submitted to the Planning Committee. To improve transparency across local government in Northern Ireland, it is recommended that this improvement be shared with Solace NI and NILGA.
- **Action 9 – Amend the Protocol for Operation of the Planning Committee to report annually for noting, all declarations of interest made relating to the work of the Planning Committee and to share this recommendation with Solace NI and NILGA.**
 - **Action 10 – Where the Council's legal advisor has concerns about the action of a Councillor following declaration of interest, the legal advisor should bring those concerns to the attention of the CEO/Director. Officers will confirm this position to the Council's solicitors appointed through the relevant framework.**

7.0 Planning Committee Decisions and Processes

7.1 Decisions

7.1.1 The Findings of Fact on Page 13, Section 12 of the Decision notice details 35 occasions (for 33 planning applications) where the former Councillor had a potential conflict of interest. However, the analysis below gives more nuanced description of the events and the outcomes of those application processes.

7.1.2 At page 2 of the Commissioner's report, Complainant 1 makes a complaint in respect of 4 applications and he stated that on 3 of the occasions the former councillor had a casting vote at the same meeting.

7.1.3 All decisions taken by the Planning Committee require a majority and in circumstances where the chamber is tied, the Chair has the casting vote. On review of the records we can only find on 2 occasions the former councillor, as Chair, used his casting vote. These were at separate meetings in December 2017 (LA05/2015/0345) and June 2018 (LA05/2016/1050). For the 31 other cases (we make a distinction between the number of occasions when the former councillor's father spoke, being 35 and the number of applications that the Commissioner reviewed which was 33), the vote of the former councillor alone did not have a direct impact on the outcome of the Committee's consideration on 24 of the 33 cases.

7.1.4 Details are outlined below of the outcome of the 2 applications that the former councillor used his casting vote:

LA05/2015/0345 – 16 Dromore Road Hillsborough

This application was for three dwellings inside the settlement limit of Hillsborough on previously developed land. It was recommended for refusal and approved contrary to the officer's recommendation with the Chair of the Committee using his casting vote following a tie. The dwellings are built and occupied.

LA05/2016/1050 – Beanstown Road, Lisburn

This application was for four dwellings inside the settlement limit of Lisburn on zoned housing land. It was recommended for approval and refused contrary to the officer's recommendation with the Chair using his casting vote following a tie. The application was subsequently approved at appeal and costs awarded against the council for bringing an unnecessary appeal. The dwellings are not built.

7.1.5 Of the 3 applications referenced at 7.1.2 by Complainant 1 where it is alleged the former councillor used his casting vote, in only 1 application did the former Councillor use his casting vote (this was application LA05/2015/0345). In the other 2 applications there was a majority vote of 5:4 against the officer recommendation to refuse.

7.1.6 Beyond the 2 applications referred to at 7.1.4, there are 7 other applications the former Councillor voted with his employer's (and father's) representation in a majority decision. The application references are LA05/2015/0342, LA05/2015/0765, LA05/2016/0542, LA05/2016/0676, LA05/2017/0633, LA05/2017/0097 and LA05/2017/0977. The latter application was a split decision but the casting vote was exercised by the new Chair for that year.

7.1.7 Consequently, there are 9 occasions where the former Councillor, exercising his vote, was critical to the outcome of the decision making process. The outcome of 2 of these 9 are highlighted above in paragraph 7.1.4. Of the other 7 applications:

- LA05/2015/0342 was withdrawn by the applicant and no further application was made
- LA05/2015/0765 was approved and built
- LA05/2016/0542 was withdrawn and the car park in Antrim Street was closed

- LA05/2016/0676 was approved and one of the dwellings was built
- LA05/2017/0633 was subject to judicial review proceedings remitted back to the council and subsequently refused and no further application has been submitted;
- LA05/2017/0097 was a retrospective development that was approved contrary to the officer's recommendation to refuse
- LA05/2017/0977 was withdrawn and then subsequently approved under delegated authority and is now built

7.1.8 The application subject to judicial review proceedings at 7.1.6 (LA05/2017/0633) and the application overturned at appeal at 7.1.4 (LA05/20165/1050) cost the council circa £110K in terms of legal costs and costs in bringing forward an unnecessary appeal.

7.1.9 More recently (March 2023), the NIAO issued updated guidance in respect of Planning fraud risk that highlights good practice standards for Elected Members based on abiding by the seven Nolan principals and the additional five principals adopted by the NI Assembly and set out in the NI Local Government Code of Conduct for Councillors. Consequently, it is intended that this NIAO guidance is incorporated within the council's overall planning improvement programme as prescribed training and part of the protocol for the operation of the Planning Committee.

7.1.10 The risk of a planning decision being overturned increases significantly where the Planning Committee votes against the recommendations made by the professionally trained Planning Officer. This is further supported in a recent set of judicial review proceedings against a planning decision made by Causeway Coast and Glens Borough Council (Ref: SCO12472). The judgement stated at paragraph 59 under the heading 'A cautionary word':

[59] These proceedings provide an example, in my view, of the dangers of elected councillors rejecting the advice of professional planning officers without valid planning grounds for doing so. The analysis of the NIAO discussed above suggests that there may be more willingness on the part of council members to do so in relation to single houses in the countryside than in relation to some other types of development. Whilst it is entirely permissible for elected councillors (to whom planning powers have been given by statute) to exercise planning judgment in a different way to officers in many instances, or to give material considerations different weight than their officers might, they should be wary of stretching planning policy beyond its proper meaning or making decisions on grounds which are not legally defensible. Where they wish to depart from an officer's recommendation, it will often be better to discuss this in advance, including (at least in some cases) with the benefit of the officers' advice or legal advice as to whether there is legitimate scope for a different view to be taken. Where, as here, an unjustifiably generous approach is taken and a legal challenge ensues, this can result in delay and heartache for the planning applicant whom the councillors may have hoped to benefit; and in significant legal costs to the council concerned.

- **Reminder 8 – the risks related to planning decision outcomes increase significantly where the Planning Committee overturns the recommendation of professional planning officers, more notably for single houses in the countryside.**

7.2 In summary of the 33 planning cases referred to in the Findings Report, the former Councillor used his casting vote on 2 occasions to overturn the recommendation from officers. In another 7 cases, the outcome of the vote was a margin of 1. Had the former Councillor declared an interest in these cases and left the room, the outcome may have differed and therefore would have been reliant on the vote of the Vice Chair/Deputising Chair in the event of a tie.

7.3 In addition to making declarations of interest, Members will be reminded of their obligations to engage with policy in framing any reason which is contrary to the officer's recommendation to ensure that the proper basis for making the planning decision is fully recorded and that there is openness and transparency in the decision making process.

7.4 The Council recognises that interested parties will have had the opportunity to engage with the council's complaints process, considered the appropriateness of taking judicial review proceedings or had recourse through the Planning Appeals process. This is where, on occasion, an application was decided contrary to the planning officer's recommendation and where the former Councillor's vote in particular was considered to be critical to the outcome.

- **Action 11 – As part of a continuous improvement journey, NIAO guidance to be included as part of the prescribed training in order to sit on the Planning Committee with a view to minimising risk to the council.**

7.5 Planning Guidance & Training

7.5.1 Following the Planning function passing to local government on 1st April 2015, a Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee was introduced from that date. This was a newly transferred function to Local Government and significant improvements have been made to policy, procedures and processes over the past 9 years. This has been a combination of new Planning Advice Notes, internal and sector wide audits, recommendations from external bodies such as the PAC (Planning Appeals Commission), self-evaluation and outcomes from appeals to the PAC or through the judicial review system.

7.5.2 Paragraph 31 of the 2015 Protocol for the Operation of the Lisburn & Castlereagh City Council Planning Committee relates to Declaration of Interests and states:

*“At the beginning of **every** meeting, Councillors will be asked to declare an interest on any item on the agenda and must then leave the meeting for that item. Once discussions are complete, members will be invited to return to the meeting. Notification of the Committee decision will be provided before the meeting reconvenes.”*

7.5.3 On 1 March 2017, the Protocol was updated and the Declaration of Interests section was expanded as follows:

*“At the beginning of **every** meeting, Members will be asked to declare whether they have a pecuniary and/or significant private or personal non-pecuniary interest in any item on the agenda. Should a Member declare such an interest they must leave the meeting room for the duration of that item. Members will then be invited to return to the meeting room and notified of the Committee's decision before the meeting recommences.*

7.5.4 *Where a Member, in advance of the relevant Committee meeting, has taken a firm view on the planning application (in essence they have “pre-determined” the application) that Member should make an open declaration at the beginning of the relevant meeting and leave the meeting for that entire item. Once discussions are complete, the Member (s) will be invited to return to the meeting. Notification of the Committee decision will be provided to the Member(s) before the meeting reconvenes.”*

7.5.5 The March 2017 Protocol also introduced a specific requirement for training as follows:

“A Member shall not participate in decision making at meetings of the Planning Committee if they have not attended the training prescribed by the Council. Members of the Planning Committee shall also endeavour to attend any other specialised training sessions provided, since these are designed to extend the knowledge of the Member on planning law, regulations, procedures and development plans and to generally assist the Member in carrying out their role properly and effectively.”

7.5.6 The minimum training to be undertaken by all Members includes training on the principles of good decision making and on Part 9 of the Code of Conduct for Councillors. If Members do not attend both of these courses, they cannot participate in the planning committee decision making process. Records are held by the Council’s HR & OD team and training is refreshed for Members following Local Government elections. It has been confirmed that the 11 Members of the current Planning Committee have all undertaken the minimum training requirements and will be subject to any further adoption of prescribed training such as the NIAO recent guidance on fraud risk in a planning context.

7.5.7 The Protocol relating to Declaration of Interests was further refined on 3rd May 2021 as follows:

*“At the beginning of **every** meeting, Members will be asked to declare whether they have any pecuniary and/or significant private or personal non-pecuniary interest in any item on the agenda.*

Should a Member declare such an interest they must have regard for the Members Code of Conduct and it is recommended that they leave the meeting room for the duration of the item unless they have registered to speak on the item. Members will then be invited to return to the meeting room and notified of the Committee’s decision before the meeting recommences. In this circumstance the Member will be invited into the room to address the Committee and answer questions at the appropriate time.

Once discussions are complete, the Member(s) will be invited to return to the meeting room. Notification of the Committee decision will be provided to the Member(s) before the meeting reconvenes.”

7.5.8 Improvements have been made to the planning protocol in relation to declarations of interest while all members of the Planning Committee have received the necessary training to participate in meetings. It should be noted that there is an annual review

of the planning protocol allowed for within the body of the documentation and this review has taken place on several occasions.

7.6 Options Available where Concern exists regarding a Planning Application Decision

7.6.1 Where a planning officer recommendation is overturned by the Committee or where concern exists over a non-declared conflict of interest, the following options exist:

Actions available to Members

- Where the interest is known by other Committee Members or by officers, the matter should be raised at the earliest point possible, being at the Planning Committee, by other Members. The discussion should be captured within the minute of the meeting.
- Where a Member reflects on circumstances and considers that they should have declared an interest in an agenda item, the declaration of interest should be submitted retrospectively. Consideration would be needed as to whether the business should be referred back to Committee for reconsideration.
- Internal Fraud Risk Assessment – Members could refer the case to Internal Audit for internal investigation. This process was followed recently in relation to soil misrepresentation samples highlighted to Council by NIAO and NIEA. Dependent on the outcome, this could be escalated to the Commissioner for Standards for Local Government.
- Refer to the Commissioner for Standards for Local Government – noting the time taken to investigate the case against a former Councillor of the Council, this may not result in early intervention however, the case will be appropriately investigated in due course.

Actions Available to Officers after the above options have been considered

- Any concerns noted by the legal advisor following declaration of interest should be brought to the attention of the CEO/Director by the legal advisor
- The CEO/Director to raise the non-disclosure directly with the relevant Councillor(s) – it is a Councillors responsibility to declare the interest however, in such circumstances, it would be appropriate for the CEO/Director to formally record details of the conversation and to share this with the relevant councillor. The outcome of this may be that no further action is required following the clarification provided; or the Member retrospectively declares the conflict of interest; or the CEO/Director considers one of the options below. Where the Member retrospectively declares the conflict of interest before any decision is issued, consideration would be needed as to whether the decision should be referred back to Committee for reconsideration. Officers may consult with our legal advisers on this on a case by case basis.
- Internal Fraud Risk Assessment – as above.
- Refer to the Commissioner for Standards for Local Government – as above.
- CEO instigates a Judicial Review of the Council Decision – proceedings could progress to quash the decision on the grounds of administrative error. This is only available for a time limited period following the decision of the Planning Committee. This option allows for the decision-making process to be corrected at minimum cost to the Council. For the cases referred to in the Assistant Commissioner's decision notes, a Judicial Review could not be instigated due to the passage of time since the original planning decision.
- Where the planning decision is for a refusal the applicant can take an appeal to the Planning Appeals Commission. Otherwise their recourse is to the judicial review courts or via the Council's complaints system leading to an escalation to the Commissioner's office.
- Revocation of the planning decision – It is a decision not to be taken lightly as there are significant cost implications for the Council. For the cases referred to in the Assistant

Commissioner's decision notice, none of these can be revoked due to the passage of time without first seeking leave to appeal to the High Court due to time limitations for such action.

- **Reminder 9 – Councillors to be aware of the options that exist to the Council to allow for quick and effective engagement with Elected Members where a declaration of a pecuniary or significant non-pecuniary interest has not been made. Early intervention in such circumstances is crucial.**

7.7 Ongoing Improvements to the Planning Service

7.7.1 Recognising good practice guidance issued by the Northern Ireland Audit Office, recommendations from internal audit reports on the planning function and the NI wide improvement plan, 2 improvement projects remain outstanding for the service. These are to develop a LCCC specific planning improvement plan and a review of processes to measure and improve performance within the Planning Unit. Recognising our continuous improvement journey, the Council agreed at the Governance & Audit Committee on 13th June 2024 to include planning performance improvement as a key action for 2024/25. An improvement plan is under development and will be presented to the Corporate Management Team in the near future and thereafter, to the Planning Committee for endorsement.

- **Action 12 – Develop the Planning Improvement Plan and associated planning performance targets by 31st October 2024**
- **Action 13 – Implement the Planning Improvement Plan by 31st March 2025 and note any performance improvements through the annual Planning Improvement Plan reporting process.**

7.8 Land Interest

7.8.1 Paragraphs 22 – 40 of the Findings of Fact within the Decision Notice (Pages 15-18) detail information regarding submission of a planning application by the former councillor on 7 December 2017. The process outlines steps taken to avoid the former councillor declaring an interest in land associated with a planning application. An amended planning application with the correct information was submitted on 7 September 2018.

- **Reminder 10 – Being a councillor requires the highest standards of probity and integrity. In submitting a planning application for land within the Council's boundary, councillors should ensure appropriate declaration of any interest, by them (and of their wider family), in the land.**

8.0 Conclusion

8.1 This timely review of the Decision by the Assistant Commissioner allows the Council to reflect on processes and to remind all on the requirement to comply with the Code of Conduct for Councillors.

8.2 The Planning function transferred to Councils on 1 April 2015 and over the past 9 years, has undergone significant improvements as a result of training, self-assessment, new guidance, appeals and legal outcomes. As part of the Council's continuous improvement journey, an

improvement plan is in development to drive down our current performance trends in relation to planning decision making. In tandem with this, improvement work is ongoing at a NI wide level through joint work between Councils and DFI.

- 8.3 There are learnings from the review for all of local government and the action plan associated with this review should be shared with Solace NI and NILGA.
- 8.4 Both Officers and Members have a role to play in protecting the reputation of the Council and the wider local government sector. It is the individual responsibility of Members to declare pecuniary and significant non-pecuniary interests at Council, Committee and Sub Group meetings as required. However, it is hoped that this review acts as a refresh for all concerned and provides clarity on the steps that can be taken where a conflict of interest hasn't been declared. Furthermore, the proactive actions being proposed through this review should assist in improving openness and transparency to our citizens, stakeholders and those with an interest in the work of local government.
- 8.5 The role of the Planning Committee provides an opportunity to support or refuse new developments within the Council area. Strong justification for over turning planning officer recommendations is essential.

9.0 Summary of Actions, Guidance and Recommendations

No.	Action	For Councillors or Officers	Action Complete? If no, action by when?
A1.	Issue Conflict of Interest Form to all Councillors each year, after the Annual Meeting	Officers	Yes, ongoing
A2.	Councillors must complete and return the conflict of interest form annually	Councillors	Yes, now issued annually. 2024/25 Declaration issued June 2024
A3.	Publish annually a combined Elected Member Conflict of Interest Register	Officers	No, 31 st August 2024
A4.	Advise Solace NI of the proposed requirement being adopted in LCCC with regards to the annual completion of a Conflict of Interest form by all Members	Officers	No, by 30 th September 2024
A5.	Recommend to NILGA that conflicts of interest and complying with the Commissioner for Standards/Ombudsman is strengthened in the standard Member induction training.	Officers	No, by 31 st July 2024
A6.	Update declaration of interest form to capture relevant guidance on what is a significant private or personal non-pecuniary interest, including the expected action by those who declare an interest.	Officers	No, by 31 st July 2024
A7.	Amend the Protocol for Operation of the Planning Committee to note that, where a Councillor declares an interest and does not leave the room without providing valid justification, the matter should be	Officers	No, by 31 st December 2024

	challenged by the Chair of the Committee, or other Councillors.		
A8.	Member Services Officers to have present at any Council, Committee, or sub group meeting, details of the declared conflicts of interest of all Members with voting rights.	Officers	No, by 31 st August 2024
A9.	Amend the Protocol for Operation of the Planning Committee to report annually for noting, all declarations of interest made relating to the work of the Planning Committee and to share this recommendation with Solace NI and NILGA	Officers	No by 31 st December 2024
A10.	Where the Council's legal adviser has concerns about the action of a Councillor following declaration of interest, the legal adviser should bring those concerns to the attention of the CEO/Director. Officers will confirm this position to the Council's solicitors appointed through the relevant framework.	Officers	No, by 31 st July 2024
A11.	As part of a continuous improvement journey a recommendation shall be to include the NIAO guidance as part of the prescribed training in order to sit on the Planning Committee.	Officers	No, by 30 th September 2024
A12.	Develop the Planning Improvement Plan and associated planning performance targets by 31 st October 2024	Officers	No, by 31 st October 2024
A13.	Implement the Planning Improvement Plan by 31 st March 2025 and note any performance improvements through the annual Planning Improvement Plan reporting process.	Officers	No, by 31 st March 2025
	Guidance		
G1.	For circumstances where a Councillor on the Planning Committee works for an MLA or MP who wishes to make representation on a planning application under consideration, a pecuniary interest should be declared and the member should leave the room. There are no exceptions to this because there is a pecuniary interest.	Councillors	Ongoing
G2.	For circumstances where a Councillor on the Planning Committee is related to an MLA or MP who wishes to make representation on a planning application under consideration, a significant non-pecuniary interest should be declared and the member should leave the room. The member could remain in the room if they have been given dispensation by DFC to remain or where they believe it would be to the Council's benefit for the Member to remain. Any members deciding on this latter course of action should be prepared to be challenged by other Members of the Committee and/or by the CEO/Director either during or following the meeting, recognising an increased risk of the	Councillors	Ongoing

report potentially coming under greater scrutiny through the declaration of interest.

Reminders			
R1.	Regularly reflect on their conduct as part of their role as an Elected Member to avoid bringing themselves or the council into disrepute.	Councillors	Ongoing
R2.	Refresh conflicts of interest declared during the course of the year should new pecuniary or non-pecuniary interests arise	Councillors	Ongoing
R3.	Note the requirement in law to comply with a Commissioner's request in connection with an investigation, even following the end of their term as a Councillor.	Councillors	Ongoing
R4.	Declare any significant private or personal non-pecuniary interest arising at a Council, committee or sub group meeting	Councillors	Ongoing
R5.	A requirement to withdraw from the relevant meeting when the matter to which an Elected Member has a significant private or personal interest is being discussed	Councillors	Ongoing
R6.	Continue to reflect on the 12 requirements of Section 8.1 of the Code in reaching decisions regarding the business of the Council.	Councillors	Ongoing
R7.	Councillors on the Planning Committee to continually reflect on their role in relation to the planning process.	Councillors	Ongoing
R8.	The risks related to planning decision outcomes increase significantly where the Planning Committee overturns the recommendation of professional planning officers, more notably for single houses in the countryside.	Councillors	Ongoing
R9.	Be aware of the options that exist to the Council to allow for quick and effective engagement with Elected Members where a declaration of a pecuniary or significant non-pecuniary interest has not been made. Early intervention in such circumstances is crucial.	Councillors	Ongoing
R10.	Being a councillor requires the highest standards of probity and integrity. In submitting a planning application for land within the Council's boundary, councillors should ensure appropriate declaration of any interest, by them (and of their wider family), in the land.	Councillors	Ongoing

10.0 Examples to assist Members with regard to declaration of interests:

The employer of a Councillor applies for planning permission of any sort – **Action Councillor should declare a pecuniary interest, complete a Declaration of Interest Form and leave the room.**

A Councillor on the Planning Committee is employed by an MLA or MP. The MLA or MP requests permission to speak to a Planning Application – **Action Councillor should declare pecuniary interest, complete Declaration of Interest Form and leave the room.**

A report is presented to Committee on a decision to award a contract for the development of a new IT system for the Landlord Registration System. Several Councillors declare an interest as they are a landlord – **Action, no action required and no requirement to leave the room, as there is no benefit to the Councillor.**

A sports or community group has applied for funding from the Council on the advice of a Councillor. A report has been presented to the Committee to outline the outcome of assessments. The local group are noted as being successful in the award of funding – **No declaration of interest required, as funding criterion only is developed by Committee. The assessment of applications and award of funding in line with criteria is progressed by officers. For the purposes of clarity for Members, the Code could be clearer on where a conflict would exist, perhaps holding an office, employed by or being part of the governing committee. This would differentiate advocating from representing. Officers will raise this point with DFC.**

A sports, advocacy or community group has applied for funding from the Council on the advice of a Councillor. A report has been presented to the Committee to outline the outcome of assessments. The local group has missed out on funding by 1 point. **The Councillor suggests an alteration to the assessment criteria or proposes increase in the funding pot to allow additional awards to be made. This could be deemed to be a significant non-pecuniary interest. In such circumstances, Councillors should avoid such proposals as public perception may suggest that the proposal was made to gain favour with an element of voters.**

A notice of motion referred to the Corporate Services Committee proposes writing to the Health Minister to request a pay rise for all staff in the Health family. Nine members of the Corporate Services Committee declare a pecuniary interest because they have immediate family working in the health sector. **Action – Councillors should declare the interest and complete the register of interests and leave the room, if the committee can continue with the minimum quorum. This is to avoid members of the public suggesting the Council's lobbying of a Minister was for a direct benefit to individual Councillor's financial circumstances. If quorum can't be met, then all Members return and Chair notes the rationale for returning to the room. Alternatively, should the Chair consider the matter to be too significant for those to declare an interest to vote, the matter could be referred to the next Council meeting for decision, if a quorum is likely.**

A report is presented to the Corporate Services Committee following a DFC notification that Councillors allowances have increased in line with inflation. This is a very challenging consideration for Members. On the one hand, there is a DFC recognition that cost of living is impacted by inflation and with 40 councillors from a variety of backgrounds, the financial implication for some will be greater than it is for others. On the other hand, some members may see the hardship being experienced by our residents and seek to deviate away from the DFC recommendation. Despite the long hours and family sacrifices that Councillors may have to make, it can be difficult to be seen to be voting one way or the other. **Action – short term, all Members should declare an interest and a vote should be taken. Officers shall explore further with DFC the possibility of such decisions being taken by DFC as the Department with responsibility for local government. Meanwhile, officers shall develop a report for**

Committee to request that all future inflationary increases applied by DFC be adopted and thereafter to be noted at Committee.

The NILGA corporate plan is presented to the Corporate Services Committee. Six Members of the Committee are nominated as Council representatives on NILGA. **Action – the members should declare a non-pecuniary interest but can remain in the room and speak and vote on the matter, as they have been appointed by the Council as a representative on the organisation.**

A report is presented to committee to indicate a request from NILGA to increase the payments made annually to NILGA Office bearers. Six members of the Committee are nominated as Council representatives on NILGA and one of those is an existing NILGA Office Bearer. **Action – The Office Bearer should declare a pecuniary interest and leave the room. The remaining 5 members should declare a significant non-pecuniary interest but can remain in the room and speak and vote on the matter, as they have been appointed by the Council as a representative on the organisation.**

An award of funding is to be made to Citizens Advice following receipt of a block grant from DFC. 2 members declare an interest (1 is appointed by Council to the Board of Citizens Advice and the other was appointed following a public recruitment process). **Action – Both members should declare a significant non-pecuniary interest however, both can remain in the room. The member appointed to the Board by the Council may speak and vote on the matter. The member appointed following a recruitment process may only speak on matters affecting the finances or property of the organisation, but cannot vote.**

A report is presented to Committee to seek agreement to award funding to a specific sports group following a successful application to the Community Investment Fund (CIF). An elected member is a Director on the sports group – **Action – Councillor should declare interest, complete register of interest and leave room for the duration of this agenda item.**

A report is presented to Committee to note the outcome of sport funding awards to 45 groups in the Lisburn Castlereagh area. Four Councillors are Directors on the board of 6 successful groups – **Action – no action as report is for noting only.**

11.0 References

The Local Government Act (Northern Ireland) 1972 [Local Government Act \(Northern Ireland\) 1972 \(legislation.gov.uk\)](#)

The Local Government Act (Northern Ireland) 2014, [Local Government Act \(Northern Ireland\) 2014 \(legislation.gov.uk\)](#)

The Northern Ireland Code of Conduct for Councillors, Department for Environment, 27 May 2014 [Northern Ireland Local Government Code Of Conduct For Councillors \(communities-ni.gov.uk\)](#)

The Northern Ireland Local Government Code of Conduct for Councillors – Guidance for Councillors from the Northern Ireland Commissioner for Standards, Northern Ireland

Commissioner for Standards, May 2017 [Guidance-for-Councillors-from-the-Northern-Ireland-Commissioner-for-Complaints-April-2017-2-1 \(1\).pdf](#)

Planning in Northern Ireland, Northern Ireland Office, 1st February 2022 [NIAO Report - Planning in NI.pdf \(niauditoffice.gov.uk\)](#)

Planning Fraud Risks, Northern Ireland Audit Office, 1 March 2023 [Planning Fraud Risks | Northern Ireland Audit Office \(niauditoffice.gov.uk\)](#)

Decision of the Assistant Northern Ireland Local Government Commissioner for Standards following an Adjudication Hearing held on 15 November 2023 and 15 February 2024, Northern Ireland Local Government Commissioner for Standards, 8th March 2024 [Luke Poots | NIPSO](#)