

CHESHIRE EAST COUNCIL

Planning Protocol Sub-Committee

Date of Meeting: 7th March 2011
Report of: Interim Borough Solicitor
Subject/Title: The Planning Protocol of Conduct

1.0 Report Summary

- 1.1 This report attaches a further draft of the Planning Protocol of Conduct incorporating amendments requested by Members at the previous meeting.

2.0 Recommendations

- 2.1 That the Sub-Committee approve the amended version of the Council's Planning Protocol of Conduct and recommend it for approval by the Constitution Committee, subject to any further comments from the Strategic Planning Board and the Standards Committee.

3.0 Reasons for Recommendations

- 3.1 The Constitution Committee has appointed a Sub-Committee to advise on the production of a revised Protocol which has now been undertaken, and can be referred for approval to the Constitution Committee. However, as the original version of the Planning Protocol was the subject of a report to the Strategic Planning Board and Standards Committee, the amended version should also be reported to them prior to the Constitution Committee taking a final decision on such.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications

- 6.1 There are no direct policy implications arising from the proposals contained in this report.

7.0 Financial Implications

- 7.1 None can be identified.

8.0 Legal Implications (authorised by the Borough Solicitor)

- 8.1 There is a risk of legal challenge to the decisions made by the Strategic Planning Board and Planning Committee's if robust and consistent procedures are not in place in line with current national guidance.
- 8.2 There is also a greater risk of a Local Government Ombudsman complaint being upheld if the Authority does not provide clear, consistent and up to date advice to Councillors on carrying out their duties and responsibilities when determining Planning Applications and considering planning matters.

9.0 Risk Management

- 9.1 The Planning Protocol, in order to operate effectively, needs to be reviewed and updated regularly, and those amendments reported to the members of the relevant Committees so that members involved in the planning process are fully aware of the contents and their responsibilities.
- 9.2 If the reviews and updates do not take place, and members are not made aware of them, a number of risks can be identified:
 - Generally, a lack of up to date advice aimed at ensuring the integrity of the planning system for those Councillors involved as Members of the Board or Committees and for those involved as Local Ward Members
 - Personal and prejudicial interests and fettering of discretion not being identified and declared at the required times and the appropriate actions carried out as a result
 - lack of, or inconsistent, up to date advice concerning how Councillors respond to requests for any meetings with developers, applicants, neighbours, Parish/Town Councils
 - lack of, or inconsistent, advice regarding lobbying of and by Councillors and how to react to this
 - lack of clarity and inconsistent procedures applied throughout Cheshire East with regard to decision making at Board/Committee meetings
 - Complaints to the Local Government Ombudsman being upheld over conduct and matters that occur at Board/Committee meetings and during the conduct of planning applications.
- 9.3 The updated protocol should provide updated guidance and requirements on these points.

10.0 Background and Options

- 10.1 The Planning Protocol Sub-Committee was appointed by the Constitution Committee at its meeting on 30th September 2010, and the first Sub Committee meeting was held on the 6th January 2011. At that meeting the Sub-Committee requested amendments be made to the form and content of the Planning Protocol, and further amendments have been made in line with the Sub-Committee's wishes at their second meeting. This revised version of the Planning Protocol is attached as Appendix 1.
- 10.2 The Planning Protocol forms part of the Council's Constitution and any changes to it require the approval of Council on the recommendation of the Constitution Committee. As the Strategic Planning Board and Standards Committee have previously received reports on the amended Planning Protocol due to their respective interests in the document, the document that has now been produced by the Sub-Committee should be reported back to each of these Committee's prior to final consideration by the Constitution Committee.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer.

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