

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Planning Protocol Sub-Committee**
held on Thursday, 6th January, 2011 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillors D Brickhill, J P Findlow, S Jones, W Livesley and J Wray

In attendance

Councillor J Hammond

Officers

Paul Jones, Democratic Services Team Leader
Paul Mountford, Democratic Services
Nicky Folan, Legal Services
Stephen Irvine, Planning Development Manager

1 APPOINTMENT OF CHAIRMAN

RESOLVED

That Councillor D Brickhill be appointed Chairman of the Sub-Committee.

2 DECLARATIONS OF INTEREST

No interests were declared.

3 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

4 THE PLANNING PROTOCOL

The Constitution Committee on 30th September 2010 considered proposed revisions to the Planning Protocol which both the Strategic Planning Board and the Standards Committee had recommended to the Constitution Committee for approval. The Constitution Committee had resolved that:

- (1) the Planning Protocol be not referred to Council for approval at this stage; and
- (2) a sub-committee be appointed, the size, proportionality and membership to be determined in consultation with the Chairman and Group Whips, to be charged with examining the Protocol and, if necessary, redrafting it as a short sensible guide with the assistance of the Officer who drafted the amendments.

The Sub-Committee had before it the report to the Constitution Committee on 30th September 2010, including the proposed changes to the Planning Protocol.

The Sub-Committee noted that for the Planning Protocol to operate effectively it needed to be reviewed and updated regularly so that members involved in the planning process were fully aware of their responsibilities.

If such reviews did not take place, a number of risks could be identified:

- a lack of up-to-date advice aimed at ensuring the integrity of the planning system;
- 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;
- lack of clarity and inconsistent procedures with regard to decision making at Planning Board/Committee meetings; and
- complaints to the Local Government Ombudsman being upheld over conduct and matters that occur at Planning Board/Committee meetings and during the conduct of planning applications.

Nicky Folan of Legal Services outlined the nature and purpose of the Planning Protocol which was intended to protect the Council and individual Members from any claims relating to bias, predetermination or procedural matters in considering planning applications.

Members noted that the existing Planning Protocol within the Constitution remained in force. The proposed amendments to the Protocol presented Members with an opportunity to review the Protocol in its entirety and to produce a revised version for the future which was briefer, more accessible and less prescriptive but which continued to provide clear information and advice in order to protect the interests of the Council and individual Members.

Members worked through the Protocol and made a number of comments:

1. The Protocol should state at the outset that it applied to members of the Planning Committees and Strategic Planning Board.

2. A definition of 'predetermination' should be included, together with examples (para 4).
3. Advice should be included on how a Member may raise a matter in such a way as not to fetter their discretion, including a suggested form of wording (para 4).
4. The issue of Cabinet Members being members of planning committees should be reviewed through the Constitution Committee (para 6).
5. The requirements relating to the acceptance of gifts or hospitality from persons involved with or affected by a planning application should be amended (para 8.3).
6. The powers delegated to the Head of Planning and Policy in drafting conditions to add or amend when considering an application should be exercised in consultation with the chairman of the relevant planning committee (para 13.7).
7. The annual report of the Head of Planning and Policy should be made to the relevant Portfolio Holder and not to the Standards Committee (para 16.1).
8. Notwithstanding the additions and amendments suggested above, the Protocol as a whole should be reduced considerably so as to produce a short, accessible and user-friendly guide, using bullet points as appropriate. Where necessary, supplementary guidance should be contained within a separate supporting document.

RESOLVED

That

- (1) the Officers prepare, for consideration at the next meeting, a revised Planning Protocol, addressing the issues raised by Members, and comprising a brief overview guide supported where appropriate by further detailed information and advice contained in a separate reference document;
- (2) the following documents be submitted to the next meeting as background information:
 - The Planning Call-in Protocol
 - The Site Inspections Protocol
 - The publication 'Positive Engagement, a Guide for Planning Councillors'
- (3) the Officers provide for the next meeting information on those categories of planning application which are exempt from the normal

call-in provisions, such as applications relating to telecommunications masts, and advise on the procedure adopted in the consideration of such applications and the rights of Members to be consulted and comment; and

- (4) a report be submitted to the next meeting of the Constitution Committee on the issue of executive Members appointed to Planning Committees.

5 NEXT MEETING

Tuesday, 8th February 2011 at 2.00 pm in the East Committee Room, Municipal Buildings, Crewe.

The meeting commenced at 1.30 pm and concluded at 3.30 pm

Councillor D Brickhill