

CHESHIRE EAST COUNCIL

REPORT TO: Standards Committee

Date of Meeting: 25th July 2011
Report of: Monitoring Officer and Head of Planning and Housing
Subject/Title: The Planning Protocol

1.0 Report Summary

- 1.1 This report attaches as Appendix 1 an amended version of the Planning Protocol that has been developed by a sub-committee of the Constitution Committee. The Standards Committee is asked to review and comment on the revised version.

2.0 Recommendation

- 2.1 That the Strategic Planning Board review the amended version of the Planning Protocol and commend the amended Planning Protocol to the Constitution Committee for inclusion in the Constitution.

3.0 Reasons for Recommendations

- 3.1 Since the adoption of the original version of the Planning Protocol by the Council, updated versions of guidance for Planning Councillors have been published, and additionally the Planning Protocol has been reviewed by the Chairmen and Vice Chairmen of the Strategic Planning Board and Planning Committees, in conjunction with Officers. A revised version of the original Planning Protocol was presented to the Strategic Planning Board and the Standards Committee previously, however the Constitution Committee subsequently considered that the Planning Protocol should be reviewed more fully. As a result, a Sub-Committee was set up by the Constitution Committee to re-draft the Planning Protocol, and undertake a more comprehensive review of the document prior to re-consideration of the document by the relevant Committees.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All Strategic Planning Board and Planning Committee Members

**6.0 Policy Implications including - Climate change
- Health**

6.1 None

7.0 Financial Implications

7.1 None

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 a document that is 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 provides updated guidance and requirements on these points, as well as including a contents page and summary to the document to assist Members understanding and reading of the Planning Protocol.

10.0 Background and Options

10.1 A Planning Protocol was adopted as part of the Constitution by the Council in February 2009, and was expected to be reviewed by both Officers and Members in light of any new Guidance that had been published and the operation of the Planning Protocol following the first few months of the Strategic Planning Board and Planning Committees taking decisions as the Local Planning Authority for Cheshire East.

10.2 Members of the Standards Committee may recall that a report was placed before them at their meeting on the 27th September 2010, with an amended version of the Planning Protocol attached for their comment that took into account up-dated guidance that had been issued since the adoption of the original Planning Protocol. The Planning Protocol was then to be referred, with some further minor amendments, to the Constitution Committee prior to final approval by Full Council.

10.3 At the Constitution Committee on the 30th September 2010, Members considered the Planning Protocol before them, and resolved that:

“(1) The Planning Protocol not be 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.”

10.4 The Planning Protocol Sub Committee was set up, and met on the 6th January 2011, 8th February 2011 and 7th March 2011. As a result of these meetings, an amended Planning Protocol has now been produced and approved by the Planning Protocol Sub-Committee, and is attached as Appendix 1 to this report.

10.5 The main changes to the Planning Protocol from that previously before the Standards Committee are the form of the document and the inclusion of a Contents page, and Summary sheet.

- 10.6 The Planning Protocol Sub Committee acknowledged, and members of the Standards Committee should be aware that due to the introduction of the Localism Bill by the Government, further amendments to the Planning protocol are likely to be required in the near future.
- 10.7 The Strategic Planning Board considered the amended Planning Protocol at their meeting of the 20th April 2011, and resolved that the amended version of the Planning Protocol should be recommended to both the Standards Committee and the Constitution Committee for adoption by the Council and inclusion in the Constitution.
- 10.8 This amended version of the Planning Protocol, will be referred to the Constitution Committee, reporting the decision of the Standards Committee together with the view of the Strategic Planning Board.

11.0 Access to Information

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

None – all public documents

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