

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 22nd September 2011
Report of: Monitoring Officer and Head of Planning and Housing
Subject/Title: Planning Protocol of Conduct

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. This revised version has been to the Strategic Planning Board and the Standards Committee prior to the Constitution Committee.

2.0 Recommendation

- 2.1 That the Constitution Committee review the amended version of the Planning Protocol of Conduct and recommend it to Council for inclusion in the Constitution as a replacement for the existing Protocol.

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 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 Committees 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 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 in reading and understanding 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. It was expected to be reviewed by both Officers and Members in light of any new Guidance that had been published and in light of experience gained in 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 Constitution Committee may be aware that a report was placed before their meeting on 30th September 2010, with an amended version of the Planning Protocol attached for their comments which took into account updated guidance issued since the adoption of the original Planning Protocol.

10.3 At the Constitution Committee on 30th September 2010, Members considered the amended Planning Protocol 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 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 that due to the introduction of the Localism Bill by the Government, further amendments to the Planning protocol were likely to be required in the near future.

10.7 The Strategic Planning Board considered the amended Planning Protocol at its meeting of 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 The Standards Committee considered the amended Planning Protocol at its meeting of 25th July 2011, and considered that paragraph 13.1 should be amended. This paragraph deals with training prior to participating in decision-making at the Strategic Planning Board or Planning Committees. The Standards Committee was happy to recommend the Planning Protocol to the Constitution Committee subject to this paragraph changing from reading:

“You should attend the mandatory training prescribed by the Council before you participate in decision-making at meetings”

to

“You *must* attend the mandatory training prescribed by the Council before you participate in decision-making at meetings”.

10.9 The Standards Committee felt that this amendment better reflected actual practice, as Members were not permitted to take part in meetings until they had undergone the required training. This amendment has been made in the amended version of the Planning Protocol that is attached to this report.

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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