

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 10 June 2014
Report of: Adrian Fisher, Head of Strategic & Economic Planning
Title: Withdrawal of Reasons for Refusal

1.0 Purpose of Report

- 1.1 To consider a motion referred to Strategic Planning Board by Council meeting of 10 April 2014.
- 1.2 The motion proposed *"In view of the fact that planning officers have withdrawn reasons for refusal, given and voted upon by councillors at planning committees, without the consent of the members, before the matter comes to the relevant appeal hearing, council instructs the director to ensure that any future withdrawals are authorised before they are signed by the relevant planning committee in full session"*
- 1.3 This item was deferred from the SPB meeting of 28 May 2014 for further information on the current wording within the delegation to Officers.

2.0 Decision Required

- 2.1 To note the report and confirm that SPB and the Northern / Southern Committees continue to review any proposed withdrawal of conditions prior to appeals unless there are exceptional reasons / circumstances which prevent this for which discussion with the Chairman / Ward Councillor would be needed.
- 2.2 To introduce the revised wording for the 'slip rule'.
- 2.3 To notify the Ward Member of any changes to the original decision.

3.0 Background

- 3.1 Members will be aware that the Council has been subject to a high number of appeals over the last 18 months and that some of those applications subject to appeal have multiple reasons for refusal. Some of these are often considered to be 'technical' reasons which could be overcome by the submission of additional information or further evidence. For example, additional ecology surveys may be submitted before the appeal to overcome an ecological reason.

- 3.2 If such information is submitted and Officers are accepting of such details, then they will normally prepare a report for Committee which outlines the details of the updated information. They will then make a subsequent recommendation which seeks to withdraw a previous reason (or reasons) for refusal thereby negating the need to defend that issue at appeal.
- 3.3 Strategic Planning Board Members will certainly be familiar with this process during the recent plethora of appeals when the above scenario has resulted in a number of reasons being withdrawn leaving the main policy issues to be defended accordingly.
- 3.4 Officers are not aware of any recent circumstances whereby reasons for refusal from a Planning Committee have been unilaterally withdrawn without Member input. There has been the occasional example of a resubmitted application being refused for less or different reasons which may impact on any pending appeal. There may also be circumstances due to the appeal process and the associated timetable where such a decision is not able to be brought before a Committee. This may be a rare occurrence, but if Officers found that this was the position then they would seek the views of the Chairman of Committee and Ward Members before progressing. It should also be noted that there is a process for Urgent Decisions within the Council's Constitution.
- 3.5 Members may also be aware that there is already specific wording which delegates very minor changes to the wording of conditions, reasons for refusal or legal agreements to Officers in discussion with the Chairman of Committee.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Strategic & Economic Planning has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.

- 3.6 This gives due delegation to Officers but is not intended to change the substantive nature of the Committee's decision. However a revised wording has been drafted by legal colleagues to provide a slightly tighter remit for officers and further reassurance to Members. The revised wording is as follows:

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of Strategic Planning Board, to

correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

4.0 Conclusion

- 4.1 It is considered that the existing process of returning applications back to committee functions effectively. It gives the necessary authorisation and also transparency within the decision making process.
- 4.2 However, it is considered that the revised wording for the 'slip rule' should be introduced with immediate effect for SPB and Area Committee's.

5.0 Recommendation

- 5.1 To note the report and confirm that SPB and the Northern / Southern Committees continue to review any proposed withdrawal of conditions prior to appeals unless there are exceptional reasons / circumstances which prevent this for which discussion with the Chairman / Ward Councillor would be needed.
- 5.2 To introduce the revised wording for the 'slip rule'
- 5.3 To notify the Ward Member of any changes to the original decision.

6.0 Financial Implications

- 6.1 There are no financial implications.

7.0 Legal Implications

- 7.1 There are no legal implications with the recommendation as any decision made to withdraw reasons would be based on its own merits.

8.0 Risk Assessment

- 8.1 There are no risks associated with this decision.

9.0 Reasons for Recommendation

- 9.1 To ensure transparency within the decision making process.

For further information:

Portfolio Holder: Councillor Don Stockton
Officer: David Malcolm – Principal Planning Manager
Tel No: 01270 686744
Email: david.malcolm@cheshireeast.gov.uk