

Report to: Planning Committee **Date of Meeting:** 3rd April 2014
Audit and Governance Committee 16th April 2104
Council 24th April 2014

Subject: Proposed changes to the Code of Conduct for Councillors and Officers
Dealing with Planning Applications

Report of: Director of Built Environment **Wards Affected:** All wards

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

To review the Code of Conduct for Councillors and Officers Dealing with Planning Applications as set out in the Constitution and to update as appropriate.

Recommendation(s)

- 1 That the proposals as set out in the report be endorsed by Planning Committee and that the changes then be recommended to Audit and Governance Committee.
2. That Audit and Governance Committee approve the changes to the Code of Conduct as set out in the report and that these changes be recommended to Council.
3. That Council approve the measures as set out in the report and that the Code of Conduct for Councillors and Officers Dealing with Planning Applications in the Constitution be updated to reflect the approved changes.

How does the decision contribute to the Council’s Corporate Objectives?

	Corporate Objective	Positive Impact	Neutral Impact	Negative Impact
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities		√	
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

Reasons for the Recommendation:

To ensure existing policies and procedures for planning decision making are robust, transparent and up to date.

What will it cost and how will it be financed?

(A) **Revenue Costs** - None

(B) **Capital Costs** - None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal The updates within this report will need to be considered by Audit and Governance Committee and Cabinet.
Human Resources N/A

Equality
1. No Equality Implication <input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated <input type="checkbox"/>
3. Equality Implication identified and risk remains <input type="checkbox"/>

Impact on Service Delivery:

What consultations have taken place on the proposals and when?

The Head of Corporate Finance & ICT (FD2824/14) notes that the report recommends procedural changes and does not have any financial implications.

The Head of Corporate Legal Services has been consulted and her comments have been included in the report. (LD 2130/14)

Are there any other options available for consideration?

No

Implementation Date for the Decision

Following consideration by Audit and Governance Committee and Council.

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Background Papers:

Council's Constitution

Protocol - Pre Applications with Planning Committee

Protocol – Planning Committee Site Visits

Planning Advisory Service 'Probity in Planning for councillors and officers' April 2013

Introduction

From time to time it is necessary to review processes and protocols for planning decision making. This is good practice and will help to ensure that appropriate, robust and transparent decision making takes place. This is especially necessary within the Planning System since decisions are made in the public arena and can create significant interest and legal challenge. This report contains proposed changes to the process of decision making and protocols for members which, if approved, will need to be reflected in the Council's Code of Conduct and constitution.

It is clear to members that the planning system has undergone significant change in recent years – and it is fair to expect further changes in the coming months. Systems of planning decision making have to balance social, environmental and economic issues in order to achieve sustainable economic development. The abundance of changes in the national system mean that it is more important than ever to ensure that decision making is clear, robust and based on material planning considerations. Planning decisions have to be made in a transparent manner and on occasion decisions taken by committee, or officers, can be controversial since the planning process often has to balance competing interests when coming to a decision. It is therefore essential to ensure that appropriate measures are in place to both inform and protect decision makers.

In recent years this committee has approved a number of protocols to provide more transparency in the committee's process. For example the Site Visit Protocol and the Pre Application with Planning Committee Protocols. These are good practice and have been used successfully to inform and assist decision making in a positive manner. It is considered that there are opportunities to make some adjustments to the code of conduct in order to continue to make improvements to processes, provide more clarity and to ensure decisions remain robust.

Proposed Updates to the Code of Conduct;

- **Ongoing monthly training programme for members is proposed to be continued.** This training is available for all members, including substitute members and any other member who may be interested in the subject. This is important because of the complexities of the planning system, ongoing legislative and procedural changes and the need to ensure members are up to date with training on various planning issues. The monthly training sessions run by officers are well attended and provide a regular platform for discussion and learning. Members are invited to advise the Head of Planning Services at any time for specific topics/requests to be added to the programme.
- **Mandatory training.** In addition to the above and as a consequence of the quasi judicial nature of planning – it is proposed to introduce a new requirement for all committee members (including substitute members) to attend one mandatory training session with officers covering key planning principles/information. This requirement will need to be met before sitting on the committee each municipal year. In addition, there will be a need to attend a further two compulsory training events during the course of each municipal year. Failure to attend the total three required sessions each year may lead to that member being excluded from the committee. Whilst training events are run every month members will be encouraged to continue to attend as many as possible, having regard to other pressures on their time and availability. This will help to ensure members are well

informed and up to date on relevant matters – in particular the council will be able to demonstrate its commitment to informed and robust decision making – in times of increased legal challenge and appeals.

- **Annual appointments** – linked to the above points regarding training is the need to ensure that members are informed to make decisions on planning matters. On occasion membership of the committee changes during the year. This brings new members, sometimes with limited knowledge of planning, onto the committee. In light of the proposed changes regarding mandatory training it is also considered appropriate that appointments to planning committee be made for the full municipal year. If any changes to membership need to occur in exceptional circumstances any new member will be required to undergo the mandatory training before sitting on the Committee.
- **Visiting Panel –attendance to be prioritised for members or substitutes.** Committee site visits are an integral part of the committee’s decision making role. Site visits by the committee enable an additional level of information to be obtained to inform decision making. Visits do not cover all applications on the agenda. Officers will continue to make pro active use of visiting panel as appropriate as recognised good practice to inform decision making– identifying all applications subject to petitions, also identifying sites which involve unusual or complex policy/contextual issues. Members are able to defer items for committee site visits – and are required to set out clear planning reasons for these requests. Due to the importance of Visiting Panel members are strongly encouraged to attend all committee Visiting Panels as an important part of the committee’s role and responsibilities.
- **Visiting Panel – attendance at committee and visiting panel by the same member.** Attendance at visiting panel is key to informed decision making. If a member knows that they are able to attend the site visit but not the committee meeting – or vice versa- that member should wherever possible arrange with their substitute member to attend both meetings. This is to ensure consistency in decision making and to help ensure that all decision makers have access to the same information.
- **Petitions –circulation of materials/photographs to committee to be prohibited.** On occasion petitioners bring along written or other material to the meeting and ask to circulate this to members. At present this is not covered by any protocol and is at the discretion of the Chair. Officers have expressed some concern in these circumstances as they have not seen the information, not had opportunity to form any conclusions on the relevant information and importantly are not able to advise committee as to the accuracy or relevance of the materials. This has potential to put committee in a difficult position – when considering the amount of weight they should (or shouldn’t) give to this information. It is therefore proposed that petitioners, respondents or any other person addressing the committee will not be permitted to display or circulate any information to members or the committee. This can then be communicated in advance to interested parties to help avoid confusion.
- **Ward members addressing the committee** –ward members often ask to address the committee, this is subject to approval of the Chair and occurs at the committee meeting. Hitherto it has been practise that ward members address the committee after both a petitioner and the respondent have addressed the committee. This means that the committee, applicant and objectors do not know in advance of the meeting that a ward member will address the committee. In addition the respondent cannot currently respond to the ward members

submissions as the member addresses the committee last. In the interests of balanced decision making it is suggested that an amendment to this process would be appropriate and fair. It is suggested that ward members (and only ward members) will be able to address the committee provided that they have written/mailed Democratic Services by midday the day before committee – setting out that they will be addressing the committee and including a short summary of the issues they intend to raise. This information can then be brought to the attention of the petitioner/respondent/applicant as appropriate. The process at committee will then be amended such that the petitioner addresses the committee first, ward councillors address the committee second and the respondent responds to the committee last. It is considered that this measure ensures balance to the decision making process. If there is not a petition the ward councillor may address the committee (subject to the notification as set out above) and the applicant or agent will be given the opportunity to respond. The usual time limits will apply in all cases, i.e. no more than five minutes for each speaker.

Conclusions

The proposed changes are intended to provide further transparency, clarity and equity to the processes of the committee and decision making. In order to ensure appropriate approvals are in place these proposals will need to be considered by Audit and Governance Committee and Council. The Council's Constitution will then be updated in accordance with the final approved scheme.