

Report to the Council

Committee: Standards Committee

Date: 13 December 2005

Chairman: Dr D Hawes

Item:

1. PLANNING PROTOCOL

Recommending:

That the draft revision to the planning protocol set out in Appendix to this report be approved.

1.1 The current Council planning protocol was agreed in 2003. We have reviewed the protocol in the light of further advice issued by the Standards Board for England on the subject of lobbying of councillors and the declaration of interest by members who serve on more than one tier of local government. We have also examined representations made to us about the practice of inviting developers to make informal presentations to councillors regarding their development proposals.

1.2 We consulted a range of planning agents with which the Council has regular contact and also all members of the Council via the Members' Bulletin. The general feedback received was favourable to the protocol in that the number of requests for changes was very small. Some respondents did refer to matters relating to planning policy, which we have arranged to be forwarded to the Head of Planning Services for consideration.

1.3 The main changes in the protocol now being proposed are as follows:

Section 5 - "Dual-hatted Councillors"

1.4 This Section has been changed to reflect Standards Board for England advice that dual-hatted councillors may speak and vote on planning matters at parish level provided that they reserve their final position until they have the full facts. We are aware that there was some confusion previously about whether Area Plans Sub-Committee members who served on Parish Councils would be debarred from speaking and voting at parish level on planning applications to avoid creating a prejudicial interest on that application. We feel that the position is now clearer in that only a personal interest needs to be declared if a Councillor has voted on a planning application at parish level, subject to the proviso mentioned above. However, limiting the interest to be declared to a personal one does assume that there is no other prejudicial interest which arises. If a prejudicial interest arises, the councillor would still need to leave the Area Plans Sub-Committee.

Section 12 - Lobbying

1.5 The present protocol contains a section regarding lobbying of councillors but the Standards Board for England has issued new advice on lobbying by councillors. In summary this advice states:

(a) a councillor who is a member or involved with the affairs of a campaign or lobby group, whether this is a formal body or a much looser association, has a personal interest if any matter relating to that group comes before the Council;

(b) the new advice also outlines circumstances in which such involvement may become a prejudicial interest, namely:

- where the Council may be considering matters which directly affect the rights or obligations of such a campaign or lobby group (e.g. grant aid);
- where the effect on the organisation is less direct (i.e. where the policy or opinions of the campaign or lobby group are involved) such an interest may be prejudicial depending on how far the member has gone prior to Council consideration in acting for the group or voicing its opinions which support the aims and objectives of the group; and

(c) the revision to the protocol sets out some tests for members to apply in deciding whether their personal interest is in fact a prejudicial one.

Section 11 - Presentations regarding Development Proposals

- 1.6 One of the respondents regarding the planning protocol raised concerns about the practice of developers and similar agencies to request an opportunity to present their proposals informally to councillors in advance of the submission of planning applications. We share the view of our correspondent that there are inherent dangers in this approach in terms of fettered discretions and conflicts of interest. However, by the same token, we take the view that such presentations may assist members in gaining greater knowledge about the background to planning applications before they are submitted. Our view is that the better-informed members are about the planning process the sounder their decisions will be.
- 1.7 Our revisions to the planning protocol stress we would regard such presentations as the exception rather than the rule and that they must at all times be treated very carefully. We have therefore included in paragraph 11.1 some general advice about such presentations where they are held and advice on how members should conduct themselves so as to avoid fettering their discretions. Councillors should deal with such events in the same way as they deal with lobby groups, namely reserving their position, asking questions, seeking factual information and indicating concerns but without indicating final or settled opinions, and ensuring a Planning Officer is present.

Section 21(11) – Organisations with Councillors Involved in Planning as Members

- 1.8 We have previously given advice to organisations which are consulted about planning applications and which count councillors (and in particular members of a planning committee) among their membership. In such cases we have advised that members involved in planning decisions should not be involved in discussions with their colleagues who are compiling views on behalf of the organisation. This will prevent those councillors from being fettered. Paragraph 21.11 has been amended to reflect this advice.
- 1.9 We recommend as set out at the commencement of this report.