

Standards Committee : 12 October 2010

Title of report: Proposed revisions to the adopted Planning Protocol

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Is it in the Council's Forward Plan?	N/A
Is it eligible for "call in" by Scrutiny?	N/A
Cabinet member portfolio	Corporate

Electoral wards affected: All

Ward councillors consulted: N/A

Public or private: Public

1. Purpose of Report

At its meeting on 9 March 2010 this committee approved the proposed amendments to the Planning Protocol set out in Appendix 1 attached. The committee also resolved to recommend approval of the revised Protocol to Full Council. On 26 May 2010 members considered the revised Protocol at the Annual Council meeting. A number of concerns were expressed by members regarding the content of the revised Protocol but also provisions of the existing Protocol that were approved in July 2007 and have been applied consistently to date. Annual Council resolved to refer the proposed revised Protocol back to the Corporate Governance & Audit Committee for members' concerns to be explored in greater detail. However, the consideration and approval of protocols relating to member conduct falls within the terms of reference of this committee. Any proposed amendments to the existing or revised protocol must therefore be reported to this committee in the first instance (although discussions have taken place with members of the Corporate Governance & Audit Committee regarding the current form of the Protocol, whether it can be simplified, whether it is too restrictive etc.)

2. Key Points

The most contentious parts of the existing Protocol and the proposed revised Protocol appears to be paragraph 3 relating to bias and pre-judgement. The monitoring officer has therefore prepared a draft guidance note regarding these issues (Appendix 2). The guidance reflects the current legal position in respect of bias and predetermination and recognises that members of planning committees and sub-committees do have considerable freedom to express opinions on planning applications and proposals provided that they do not have a closed mind when making the final decision.

This committee's views are therefore sought on the content of the draft guidance attached to this report as Appendix 2. In particular members are asked to consider they wish to replace the current paragraph 3 with this draft guidance as it does represent the current legal position regarding issues of bias and predetermination. Members are also asked to consider whether they wish to see further changes made either to the existing Protocol or the proposed revised Protocol (that was deferred by Annual Council in May of this year) and, if so, to provide guidance to the monitoring officer as to the extent and nature of the amendments that this committee would like to see.

3. Implications for the Council

It is essential that the Council's Planning Protocol reflects the current planning and administrative case and statute law, particularly relating to matters of predetermination and bias. It is also essential that the Protocol provides pragmatic guidance that can be applied consistently by the local planning authority to ensure that its interests are protected whilst not unduly fettering the ability of councillors to represent the public who elected them.

4. Consultees and their opinions

The views of the chairs of the Planning Sub-Committees and the Planning & Highways Committee are presently being sought on Appendix 2. Proposed changes to the Protocols will also be referred to the Corporate Governance & Audit Committee for comments and further consideration.

5. Officer recommendations and reasons

It is recommended that committee consider the contents of Appendix 2 and approve the replacement of paragraph 3 of the existing Protocol with the revised guidance. It is also recommended that committee determine the full nature of any further amendments that they would wish to see and advise the monitoring officer accordingly.

6. Cabinet portfolio holder recommendation

N/A

7. Next steps

See recommendation.

8. Contact member and officer and relevant papers

Vanessa Redfern
Acting Assistant Director – Legal & Governance

Telephone: 01484 221720
Internal: 860 1720
E-mail: vanessa.redfern@kirklees.gov.uk

Background Papers:

Report to Corporate Governance & Audit Committee – 28 April 2010
Report to Standards Committee - 9 March 2010