

Report of the Monitoring Officer

Planning Code of Practice

Summary

1. This report provides an update in respect of the production of a local planning code of good practice.

Background

2. At the February meeting Members approved a local planning code of practice for consultation. The intention was that the code would replace the code which presently sits within the City Council's Constitution. That document requires an update in light of the abolition of the former standards regime and developments in the law of predetermination and bias since it was originally approved.
3. Following the meeting in February consultation took place with relevant Officers and the then Chair of the Planning Committee. The only change of significance suggested was the addition of a section on planning enforcement. It was suggested that the draft code be placed on the agenda of a Planning Committee meeting early in the new Municipal Year.
4. In the meantime the Local Government Association issued a revised version of their guide: "Probity in planning". The 2009 version of that guidance had underpinned the Council's original local code. The opportunity has therefore been taken to compare the Council's draft code against the new guidance. The draft code was already very much in line with the new guidance but a small number of additions are suggested and have been incorporated in an updated draft of the code annexed to this report. Key changes suggested are as follows:

- Specific reference to the fact that simply being a Member of an outside body will not automatically amount to a prejudicial interest
 - The adoption of language used in the Guidance for when site visits may be requested – when there is a “clear and substantial benefit” in doing so
 - A change in emphasis around Councillors conducting their own site visits. The previous draft gave guidance on what to do in an exceptional case where (with permission) a Councillor entered on private land. The revised draft simply discourages this practice.
 - The adoption of language from the guidance regarding Members’ responsibility to explain reasons in full when departing from an Officer recommendation.
 - The inclusion of guidance against messages being passed between Members of the Planning Committee
5. In at least one respect the Council’s existing code goes further than the new guidance. The code says that Member should not act as the lead spokesman for a group supporting or opposing a development. This advice is not contained in the guidance. Instead the guidance suggests that whenever a councillor, whether or not a committee member, speaks on behalf of a lobby group they should withdraw from the meeting after the public speaking session. It is suggested that this will counter any suggestion that Members have been influenced by their continuing presence. Members may wish to consider whether to replicate this advice.

Applicability of the Code to Parish Councils

6. The code contains some advice which is only of relevance to City Councillors. For example references to political groups do not currently apply to any of the City’s Parish Councils and references to call in powers only apply to City Councillors. However, the general good practice guidance is just as applicable to Parish Councillors when acting as consultees on planning applications. It ensures that the process leaves no grounds for suggesting that those participating in decisions were biased or that a decision was irrational or improper.

Recommendations

7. Members are recommended to:

- 1) Determine whether the advice referred to in paragraph 5 of this report be incorporated in the draft code of good practice
- 2) Approve and recommend that the City Council adopt the code
- 3) Ask the Monitoring Officer to ensure that Planning Committee Members are made aware of the requirements of the code

Reason: To ensure that planning decisions are made openly, impartially and for justifiable reasons.

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**Report
Approved**

Date 09/08/13

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

None

Annex

Draft Planning Code of Good Practice