

Appendix 30: Major Projects Conflicts Protocol

1. Introduction

- 1.1. The Council is the Local Planning Authority for the City of York. It determines applications for planning permission and approves relevant planning policies in respect of development.
- 1.2. The Council is the Highway Authority for the City of York and makes decisions in respect of highway matters including the construction and adoption of roads servicing development.
- 1.3. Officers will have different roles in respect of development as professional advisers to promoters, policy makers and decision makers.
- 1.4. Members will have different roles in respect of development as promoters, advisers, policy makers and decision makers.
- 1.5. Where the Council has a material interest in a key, major development project within the City, for example as a landowner, potential investor or development partner, a clear distinction of the roles undertaken by the separate arms of the Council should be documented to ensure transparency of the governance arrangements – in particular in relation to Local Planning Authority and Highway Authority decision making.

2. Why have a protocol?

- 2.1. The Council would wish to avoid any perception that developments in which it has an interest are treated differently from those of any other developer.
- 2.2. The Council would also wish to ensure that Officers charged with providing professional and technical advice in respect of its regulatory functions understand that they are free to do so in line with their professional obligations and without feeling constrained by the Council's commercial interests.

- 2.3. The Council would wish to ensure that Members have a clear understanding as to the remit and forum within which they can take part in decision making
- 2.4. A clear protocol identifying the distinction between the Executive Members' role in actively promoting development and the independent role of Planning Committee Members when dealing with applications before them will assist Members' understanding and ensure that the processes robustly manage conflicts of interest, demonstrating fairness.

3. Key Controls

Planning applications

- 3.1. The Council's Constitution, at Appendix 1, sets out the Responsibility for Functions. This is framed so that direct delegation is given to the Chief Planning Officer from Full Council. The Head of Planning and Development Services is the designated Chief Planning Officer for the Council.
- 3.2. All planning applications made by or on behalf of the Council will, in accordance with normal practice, as detailed at Article 13 and Appendix 1 of this Constitution, be determined by the Planning Committees and not delegated to Officers unless of a minor nature.
- 3.3. For the avoidance of doubt, planning applications in relation to a major project promoted by the Council as a development partner will likewise be determined by Planning Committee A and not delegated to Officers, even when not submitted in the Council's name.

Role of Members

- 3.4. Where the Leader and the Deputy Leader are jointly responsible for promoting a major project they will not sit on the Planning Committee when it is determining an application related to that major project.

- 3.5. Where an Executive Member may have input or play a lead role into the master planning of a major project, for example, Culture Leisure and Communities, they will not sit on the Planning Committee when it is determining an application in respect of that major project.
- 3.6. Other members of the Executive may sit on the Planning Committee when it is determining an application relating to a major project but should consider their participation in decision making on the scheme at meetings of the Executive. This is in line with the Council's Planning Code of Good Practice Appendix 17 in this Constitution.
- 3.7. Major planning applications can be the subject of Pre Committee Presentations to the Planning Committee. Members promoting the development at such meetings are likely to have difficulty in demonstrating objectivity at Planning Committee, and should not take part in the Planning Committee determining the application.

Officers

- 3.8. Where the Corporate Director of Place is responsible for promoting a major project in which the Council is the developer or a development partner a conflict may arise between the planning/highway functions of the Corporate Director of Place and their economic development and/or the estate management and property functions. Where such a conflict arises the Corporate Director of Place will not provide advice or take statutory decisions for the Council in respect of its functions as a planning and/or highway authority relating to that major project, including in relation to planning applications, or planning applications made by a development partner.
- 3.9. Any decision that a conflict exists between the planning/highway functions and the economic development and/or the estate management and property functions of the Corporate Director of Place will be made jointly by the Corporate Director of Place and the Chief Operating Officer and will be recorded in writing.

- 3.10. The Director of Governance shall determine any dispute regarding whether or not a conflict exists between the planning/ highway functions and the economic development and/or the estate management and property functions of the Corporate Director of Place.
- 3.11. The Director of Transport, Environment & Planning has overall responsibility for the advice given to the Council in its role as local planning and highways authority. The advice will not be subject to any undue influence or veto from any other part of the Council. The Director's role in respect of ensuring the provision of advice the Council as a developer will be restricted to the giving of such advice as would be available to any other developer. Any concerns regarding undue influence can be raised with the Chief Operating Officer or the Director of Governance.
- 3.12. The Corporate Director of Place and the Director of Transport, Environment & Planning, or the Chief Operating Officer (as appropriate) will be responsible for ensuring that "ethical walls" are maintained to prevent information being shared inappropriately between those responsible for progressing the major project and those undertaking regulatory roles. Other parts of the Council, for example legal services, providing support to the scheme and to the regulatory arm will operate similar protocols.
- 3.13. Any conflicts of interest identified will be managed with the aim of removing them. If that is not possible the conflict shall be raised with the Director of Governance whose approval to the conflict and any mitigating measures will be required and will be recorded on the relevant file.