

Minute extract from Overview and Scrutiny Committee – 22 November 2016

Scrutiny of update to the Constitution – Code of Conduct for members and officers dealing with planning matters

At Council on 3 November 2016, members had considered a number of changes to the Constitution, many of which would help to deliver a standardised position across all three partner councils. These changes were agreed by Council with the exception of an update to align the existing Code of Conduct for members and officers dealing with planning matters. At the meeting a number of concerns were raised with regard to this document and it was agreed that the draft document should be referred to the Overview and Scrutiny Committee for re-examination and to provide comments and make a recommendation to the Executive Committee.

Members considered the draft Code of Conduct for members and officers dealing with planning matters which was attached at Appendix 1 to the report. The Corporate Manager, Legal Services and Land Charges noted that the draft document had been subject to an extensive consultation process including planning committee chairs, relevant portfolio holders and group leaders.

Members considered the contents of the draft code of conduct and during discussion the following points were raised:

- In line 2 of paragraph 2.2, reference should be to 'pre-application' and not 'pre-determination';
- In respect of the section of 'Lobbying', a number of members expressed concern that the document would place unnecessary restrictions on the freedom of members to attend meetings or presentations associated with developments. The view was expressed that members of the public would expect elected councillors to attend these meetings in order to listen to the information and views being given and that they would be criticised for not attending;
- The Corporate Manager clarified that the provision in the code of conduct at paragraph 3.1 (c) related to members of the Planning Committee only. The code of conduct sought to protect members and the council from questions of bias and to reduce the likelihood of pre-determination;
- In respect of single member wards, the point was made that arrangements could be made for another member to attend a meeting or for the member to have a meeting with an officer;
- The key point was that members of the decision making body had access to the same information in order to take the decision on a planning application;
- Members felt that there needed to be clarity within the document between the parts that applied to members of the Planning Committee and which parts applied to all members;
- Points were made that members were there to represent the residents in their ward and that ward members needed the freedom to be able to attend relevant meetings or presentations;
- The Corporate Manager noted that the document encouraged members to consider their actions in respect of planning matters but was not prescriptive in what they could or could not do;

- If a member received a representation in connection with a development or planning application, this should be passed on to the relevant planning case officer;
- In response to a question raised, the Corporate Manager confirmed that references in paragraph 3.1 (c) and the paragraph immediately following related to both public and private meetings. The general point being made was that the safest approach for members was to decline an invitation. However the document recognised that there could be public consultations and this would be for members to decide whether they attended;
- A number of members made the point that the draft document should be split into two sections – one section setting out the code of conduct and one section to provide general and simplified guidance for members which would provide greater clarity for both members and the public;
- A request was made that reference to ‘constituents’ should be removed and replaced with ‘residents’ throughout the document;
- With regard to section 3.2 (Lobbying – by members), the view was expressed that it was important for members to be able to remain in a meeting of the Planning Committee in order to hear the outcome of the determination of the application and to assure themselves that correct procedures had been followed. Therefore it was felt that the section stating that members would be advised to withdraw following public or ward member speaking opportunities, should be deleted;
- The Corporate Manager noted that the wording of the document was deliberately not precise as it was intended to give guidance to members;
- The Leader of Council clarified that the wording at paragraph 3.1 (c) applied when a planning application had been submitted to the council but not yet determined. The point was made that many representations, meetings and presentations were held at the pre-application stage which would not be covered by the wording referred to above. It was suggested that the document could be re-worded to make sure that it was clear that this was a set of rules that applied to members of the Planning Committee once an application had been submitted;
- With regard to paragraph 3.2 (e), members discussed whether reference should be made to ‘planning merits’ or ‘planning issues’.

The Executive Committee would reconsider the draft code of conduct at the meeting in December 2016 and the comments of this committee would be presented for consideration.

Recommendation to Executive Committee

That the points raised by the Overview and Scrutiny Committee as detailed in the bullet points above, particularly the recommendation that the document is divided into two parts – one part to set out the code of conduct and one part to provide guidance to members - be reviewed by the Executive Committee when the draft Code of Conduct for members and officers dealing with planning matters is reconsidered.

To respond to the resolution of Full Council on 3 November 2016 for the Overview and Scrutiny Committee to undertake a review of the Code of Conduct for members

and officers dealing with planning matters for recommendation to the Executive Committee.