



Standards Committee

4 July 2022

Report Title	Revised Protocol for Councillors and Officers Dealing with Planning Matters and Related Constitutional Changes
Cabinet Portfolio	Finance and Governance
Cabinet Member	Councillor Martin Bond
Exempt Report	No
Reason for Exemption	N/A
Key Decision	No
Public Notice issued	N/A
Wards Affected	N/A
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Borough Priorities	Ensure children and young people have a positive start in life	
	Promote good health, independence, and care across our communities	
	Create safe and strong communities and neighbourhoods for all	
	Support a strong, thriving, inclusive and well-connected local economy	
	Create green and vibrant places that reflect our heritage and culture	
	Be a responsible Council	X

1. Summary

- 1.1 The agreed comments of Standards Committee are sought on proposed revisions to the Protocol for Councillors and Officers Dealing with Planning Matters (known as the Planning Protocol) and related constitutional changes. The agreed comments of Standards Committee (and Planning Committee) will be considered by Council at its meeting on 12 July 2022, prior to its adoption of an updated Protocol and the making of any related constitutional changes.

2. Recommendation for Decision

Standards Committee is recommended to:

- 2.1 Provide agreed comments, for consideration by Council, on the proposed revisions to the Planning Protocol, set out at Appendix 1 and related changes to Part 3 of the Constitution (Responsibility for Functions – Council Functions Delegated to Officers – Planning), set out at Appendix 2.

3. Purpose of this report

- 3.1 The Planning Protocol aims to ensure that, within the planning process, there are no grounds for suggesting that a planning decision taken by officers or members has been biased, partial or not well founded in any way. The Protocol is a living document and has been the subject of amendment over the years to ensure it reflects current best practice.
- 3.2 The report seeks the views of Standards Committee with regard to proposed revisions to the Planning Protocol which are recommended in order to reflect recent changes to the Code of Conduct for Elected and Co-opted Members. Amendments are also recommended to officer delegations contained at Part 3 of the Constitution (Appendix 2) and which are to be referenced within the Protocol. Other updates are made to the site visit protocol and public speaking arrangements. The opportunity has also been taken to reflect recent changes to officer job titles and to provide greater clarity with regard to the requirement to report excessive lobbying to officers.

3.3 The agreed comments of Standards Committee will be considered by Council at its meeting on 12 July 2022, prior to its adoption of an updated Protocol and any related constitutional changes. The agreed comments of Planning Committee, following its meeting of 4 July 2022, are attached at Appendix 3, for information, and will also be considered by Council.

4. Background / Reason for the recommendations

4.1 On 21 July 2021, the Merseyside model Code of Conduct for Elected and Co-opted Members ('the Code') was adopted by Council. Council agreed an updated version on 19 January 2022. The Code is modelled on a national model code issued by the Local Government Association and makes reference to three categories of interest: disclosable pecuniary interests, personal interests and prejudicial Interests.

4.2 The Planning Protocol has been updated so that it reflects the latest version of the Code and provides guidance to members so they can deal appropriately with interests that may arise from time to time when they consider planning matters.

4.3 Part 3 of the Constitution (Responsibility for Functions – Council Functions Delegated to Officers – Planning) sets out those planning functions that are delegated to the Executive Director of Place Services. It is proposed to amend these delegations in accordance with Appendix 2. The proposed revisions provide that all planning applications, which are contrary to the Council's Development Plan, but recommended for approval by officers, are considered by Planning Committee. Currently, only those applications that are of a scale that might be "called in" by Government are considered by Planning Committee. In addition, it is proposed that variations to section 106 agreements and planning conditions relating to applications originally granted by Planning Committee are brought back before members rather than being delegated to officers. It is also proposed that all applications submitted by, or on behalf of the Council, are decided by Planning Committee (currently only major Council developments, or minor development where there are 6 or more objections, are considered by Planning Committee).

4.4 Under Section 70C of the Town and Country Planning Act 1990 the Council may decline to determine an application for planning permission where an enforcement notice has been issued. The Executive Director of Place Services already has delegated powers to decline to accept applications for development where an appeal has been dismissed within the preceding two years and in situations where there has been a refusal of planning permission and no material change in circumstances. Accordingly, it is proposed that power to decline to determine an application for planning permission in circumstances where an enforcement notice has been issued is also included within the delegations set out at Appendix 2.

4.5 Minor amendments are proposed to the public speaking provisions (Appendix B to the Protocol) to clarify that whilst a dialogue will not be permitted between members of the Planning Committee and members of the public who are exercising their right to speak, members may still seek clarification from them on factual matters.

4.6 The site visit procedural rules (Appendix C to the Protocol) are also updated to remove reference to the "official coach" which is no longer provided as members now make their own way on site visits.

- 4.7 Finally, recent changes to officer job titles are reflected in the amended Protocol and further clarity is provided in respect of lobbying. Paragraph 7.0 of the Protocol is amended to provide that, whilst it is essential for the proper operation of the planning system that local views are adequately ventilated, *excessive* lobbying, either for or against a particular application, should be appropriately reported, recorded and disclosed.

5. Consideration of Alternatives

- 5.1 Not to agree the proposed amendments would risk the Council's Planning Protocol being out of step with the Code of Conduct for Elected & Co-Opted Members and not in keeping with accepted best practice.

6. Conclusions

- 6.1 Members are recommended to provide agreed comments on the proposed revisions to the Planning Protocol, set out at Appendix 1 and related changes to Part 3 of the Constitution (Responsibility for Functions – Council Functions Delegated to Officers – Planning), set out at Appendix 2.

7. Legal Implications

- 7.1 The update to the Planning Protocol is intended to ensure that, within the planning process, there are no grounds for suggesting that a planning decision taken by officers or members has been biased, partial or not well founded in any way, thus reducing the risk of legal challenge. The amended Protocol and proposed revisions to Part 3 of the Constitution (Responsibility for Functions – Council Functions Delegated to Officers – Planning) referenced at appendix A of the Protocol will, if approved by Council, form part of the Council's constitution.

8. Community Impact Assessment (CIA) Implications

- 8.1 One of the key purposes of the planning system is to control development in the public interest. In performing this role planning necessarily affects land and property interests, particularly the financial value of land holdings and the quality of their settings. It is important, therefore, that planning decisions are made openly, impartially, with sound judgment and for justifiably reasons. The Planning Protocol provides opportunities for public speaking at planning committee prior to the determination of planning matters. The suggested revisions to the Protocol enhance the existing provisions by providing an opportunity for members to seek clarification on issues raised by members of the public who have exercised their public speaking rights.

9. Social Value

- 9.1 None

10. Sustainability and Environment

- 10.1 None

11. Health and Wellbeing

- 11.1 None

12. Equality and Human Rights

12.1 None

13. Customer and Resident

13.1 The Planning Protocol seeks to ensure that planning decisions are made openly, impartially, with sound judgment and for justifiably reasons. The Planning Protocol provides opportunities for public speaking at planning committee prior to the determination of planning matters. The suggested revisions to the Protocol enhance the existing provisions by providing an opportunity for members to seek clarification on issues raised by members of the public who have exercised their public speaking rights.

14. Asset and Property

14.1 None

15. Staffing and Human Resources

15.1 None

16. Risks

16.1 See paragraph 7.1 above.

17. Finance

17.1 None

18. Policy Framework Implications

18.1 The Planning Protocol seeks to ensure that planning decisions are made openly, impartially, with sound judgment and for justifiably reasons and helps to ensure that the Council meets its Borough Strategy priority “to be a responsible Council”.

19. Impact and Opportunities on Localities

19.1 None

20. Background Documents

20.1 St. Helens Borough Council Code of Conduct for Elected and Co-opted members

21. Appendices

Appendix 1 - Protocol for Councillors and Officers Dealing with Planning Matters (the Planning Protocol)

Appendix 2 - Part 3 of the Constitution (Responsibility for Functions – Council Functions Delegated to Officers – Planning)

Appendix 3 - Relevant minute of the meeting of Planning Committee held on 28 June 2022

