
Review of Constitution for Thanet District Council in respect of its planning functions

To: **Constitution Review Working party – 6 October 2009**

By: **Director of Regeneration Services**

Classification: **Unrestricted**

This report seeks Members approval for Officers to review the Constitution in respect of the roles and function of Members and Officers in the planning application process, taking account latest Government advice. This report also discusses a number of specific more detailed concerns raised with regard to public speaking, dealing with “departure” applications, minor changes to drawings, and procedure for notification of planning applications to Ward Members and the call in procedure.

1.0 Introduction and Background

- 1.1 The Constitution was last reviewed in respect of the Planning process in 2008 and amendments were made to the Constitution in May 2008. These amendments included withdrawing public speaking at site visits, removing the requirement for Planning committee decisions that are contrary to officer recommendation to be reported back to the next meeting for decision, the requirement for a pool of substitutes to be formed, the introduction of quality reviews, delegation of the service of certain enforcement notices to Officers, along with other detailed amendments to procedure.
- 1.2 Since the latest amendments were made a number of issues have been raised by Members with regard to the protocol, both in respect of the effectiveness of the more recent amendments and other matters; and it is considered appropriate to include these issues in any review of the protocol.

2.0 The Current Situation

- 2.1 In May 2009 the Local Government Association (LGA) published a revised guidance note “Probity in planning: the role of councillors and officers-revised guidance note on good planning practice for councillors and officers dealing with planning matters”, and this document provides guidance on issues ranging from lobbying to review of decisions. It is considered appropriate for the Constitution including the Planning Protocol to be reviewed in the light of that document, and to ensure that in all other respects including in respect of the scheme of delegation that the Constitution is up to date and fit for purpose, with any draft amendments to be considered by the Working Party at a future meeting.
- 2.2 In addition to the general review referred to in 2.1 of this report, the following specific issues which are a combination of those raised by Members and Officers during the past year, that are considered to be worthy of further consideration by the Working party. Annex I contains a summary of the following issues that have been raised including, options and recommendations for change:
1. Notification of planning applications to Ward Members
 2. Public speaking at site visits

3. Departures
4. Order of public speaking at planning committee
5. Non-material changes to plans

It is considered that the review of the Constitution should take account of these issues and any further issues that the Working Party would like included in the review, and any draft review document which may be presented for further consideration at a future Working Party meeting.

3.0 Options

- 3.1 Members decide whether or not to agree for the Protocol to be reviewed in the light of the LGA guidance set out in “Probity in planning: the role of councillors and officers-revised guidance note on good planning practice for councillors and officers dealing with planning matters”, and an amended draft be presented to the Working Party at a future meeting for agreement.
- 3.2 Members to decide which options (if any) set out in annex 1 should be included in the review of the protocol for consideration in the form of an amended draft which would be presented to the Working Party at a future meeting for agreement.
- 3.3 The Working Party are also invited to suggest further issues which should be included within any review and included within a future draft document which would be considered at a future meeting.

4.0 Corporate Implications

4.1 Financial

- 4.1.1 There would be no significant additional cost associated with the options for change set out in the report.
- 4.1.2 The forthcoming procedural change for dealing with minor amendment applications may also result in additional fee income being received.

4.2 Legal

- 4.2.1 The review of the protocol in line with Government advice on probity along with the greater transparency of the process resulting from increased public speaking and improved call-in arrangements would reduce the potential risks of legal challenge to planning decisions and accordingly costs.
- 4.2.2 Councils Solicitor will assist Planning Applications Manager in the review of the protocol following agreement by Members.

5.0 Recommendation(s)

- 5.1 To agree for the Protocol to be reviewed in the light of the LGA guidance set out in “Probity in planning: the role of councillors and officers-revised guidance note on good planning practice for councillors and officers dealing with planning matters”, and so as to ensure that the Constitution, including the scheme of delegation, in respect of the Councils planning functions, is up to date and fit for purpose.
- 5.2 To agree which options, if any, set out in annex 1 should be included in the review of the Protocol; and to suggest any additional issue(s) to be included within the review.

5.2 To agree that an amended draft of the Protocol and any other relevant parts of the Constitution so revised be presented to the Working Party at a future meeting for consideration.

6.0 Decision Making Process

6.1 At this stage Members should agree what shall be included in the review of the Constitution in terms of the recommendation set out in this report. Following which the Officers will work up a draft review document for consideration at a future meeting of the Working Party.

6.2 Should it be agreed to carry out such a review Officers, at the next meeting of the Working party, will present a revised draft of the Constitution in respect of the Councils planning functions, for consideration.

6.3 Any such draft document, incorporating any revisions that the Working Party agree, will be referred, to Standards Committee for consideration and the document (as amended if necessary by the Standards Committee) will then be presented to Council for agreement

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Annexes

Annex1 Summary table of issues recommended to be included within proposed review

Annex2 Local Government Association guidance "Probity in planning: the role of councillors and officers-revised guidance note on good planning practice for councillors and officers dealing with planning matters", (May 2009)

Annex 3 Thanet Council Planning Protocol

Annex4/4a Thanet Council Scheme of delegation to Planning Committee and Director of Regeneration Services

Annex5 Procedure agreed by the Public Speaking Working party in 2004, relating to public speaking and call in procedure (marked as Annex B, C and D)