

 WEST OXFORDSHIRE DISTRICT COUNCIL	West Oxfordshire District Council
Name and date of Committee	Development Control Committee: Monday 2 March 2020
Report Number	Agenda Item No. 5
Subject	Update: Good Practice Guidance and Training
Wards affected	All
Accountable member	N/A
Accountable officer	Phil Shaw Business Manager Development Management Tel: 01993 861687 Email: phil.shaw@publicagroup.uk
Summary/Purpose	To advise members of a previous resolution of the Committee and to enable consideration of external Planning Training.
Annexes	Annex 1 : Report and minutes of the Committee's consideration of Good Practice Guidance dated 25 April 2016
Recommendations	(a) That the need for updated Planning Good Practice Guidance be confirmed, based on the principles agreed in April 2016; and (b) That the Business Manager, Development Management be requested and authorised to arrange for the commissioning of external planning training, in consultation with the Chairman of the Committee.
Corporate priorities	N/A
Key Decision	N/A
Exempt	No
Consultees/ Consultation	N/A

I. BACKGROUND

- 1.1. Members will be aware that the DC committee only sits when required and so this report uses the opportunity created by the need to convene the Committee to consider a planning application to undertake some 'housekeeping' as regards a matter which has previously been considered by this committee and to decide whether to undertake external training

2. MAIN POINTS

Good Practice Guidance

- 2.1. In April 2016 a report was prepared and members endorsed the heads of terms that they would wish to see incorporated into new planning good practice guidance. The report and minute are included at [Annex I](#).
- 2.2. Work commenced but legislative changes at national level along with internal changes in the way that the Council was structured meant that it was never completed. Officers continued to give Members advice as to best practice in terms of probity/interests etc and as such the need to formally reinvigorate the code was perceived as diminished. However recent events at a Council in the NE of England (where the planning system has been heavily criticised and where some key officers and members appear to have strayed from good practice) have brought the matter back into focus. The Planning Advisory Service has also very recently produced a national guide to probity in the planning process that could be readily adapted/used and as such it is hoped that a new local guide could be introduced relatively quickly. Given the profile of Planning and the reputational damage that can be caused if Members or Officers are perceived to have departed from best practice it is considered that this matter should be carried forward.
- 2.3. Members are thus asked to review the earlier report and minutes and advise as to whether they wish to confirm the initial resolution. Your Officers would advise that this seems an appropriate course of action.

Training

- 2.4. There are a number of national bodies which are currently offering planning training for Members. Historically this training has generally been undertaken in house. The advantage of this is that there is little cost and it can be tailored to meet local requirements but the disadvantage is that perhaps Members only get one message and have no opportunity to sense check it against a national perspective. As advised above, it is essential for probity and reputational reasons that a high profile service such as Planning operates with the highest ethical standards and with the advantage of informed and properly trained Members. As such Officers consider that taking up one of the offers of training may be useful in consolidating some of the in house training that has already been undertaken.
- 2.5. Accordingly, [recommendation \(b\)](#) seeks appropriate authority.
- 2.6. Obviously, it will be as essential that as many members of the Committee as possible attend the training when it is delivered.

3. FINANCIAL IMPLICATIONS

- 3.1. Adopting Good Practice Guidance will reduce the likelihood of inappropriate decision making processes being challenged with consequent legal and reputational costs. Training costs can be met from existing budgets and some training courses are now offered free of charge

4. LEGAL IMPLICATIONS

- 4.1. Fully trained Members acting in accordance with an adopted code of good practice is likely to reduce the potential for legal errors

5. ALTERNATIVE OPTIONS

- 5.1. None considered relevant

6. BACKGROUND PAPERS

- 6.1. None.

WEST OXFORDSHIRE DISTRICT COUNCIL
DEVELOPMENT CONTROL COMMITTEE

MONDAY 25 APRIL 2016

AMENDMENTS TO THE PLANNING GOOD PRACTICE GUIDANCE
REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

(Contact: Phil Shaw, Tel: (01993 861687)

(The Committee decision on this matter will be a resolution)

1. PURPOSE

To enable Members to consider some key issues that will need to be included in any refreshed protocol/guidance and advise as to any further areas where they would want additional guidance.

2. RECOMMENDATIONS

- (a) That the Committee endorses the key heads of terms set out at paragraph 4.1 below as being areas where guidance is required; and
- (b) That the Committee advises of any further areas not mentioned where guidance would be welcomed/required.

3. BACKGROUND

- 3.1. The Planning system operates very largely in the public domain, there are winners and losers for most decisions made and planning decisions often have substantial financial consequences. As such it is essential that the system operates in an open and transparent manner that gives confidence to all parties that they have been treated equitably and applications are properly assessed and determined solely on their planning merits and in accordance with the relevant legislation. It is also important for Members and Officers to know that if they have followed protocols that they will be protected to some degree from allegations of malpractice etc. In that regard the Council has historically produced a protocol for the assistance of both the public and Officers/ Members setting out the key principles to be applied when dealing with planning applications.
- 3.2. However, as part of its reforms the last Government substantially amended the laws regarding such matters as pre-determination, and the registration and disclosure of interests, as well as abolishing the Standards Board for England and introducing the ability for members of the public to record and film local authority meetings, including planning meetings. Thus the previously adopted protocol had to be withdrawn. This is far from ideal in that periodically the Ombudsman or persons with a complaint will seek to ensure that proper protocols have been followed by Officers or the Sub-Committees and there is at present no readily available reference to give a context for a response. Thus as the Council year comes to a close Officers considered that it would be a useful opportunity to sound out Members using the experience of the retiring committee to inform the debate as to what a new protocol should cover with a view to creating some new guidance early in the new council year.

4. ASSESSMENT

4.1. Your Officers would envisage any refresh of the previous document would cover the following matters:

- Appropriate training for both Officers and Members
- Officers/members as applicant
- Lobbying
- Protocols regarding Member referral of applications to committee
- Registering to speak at the meetings
- The order of public speakers and who is allowed to speak
- Use of the half hour slot before meetings to clarify matters with Officers
- Chairman's role in relation to opening address, control of speakers, ensuring speaking time limits are adhered to, control of interruptions, control of filming and recording etc
- Declaration of interests
- Chairman's discretion to allow additional speakers
- Questions allowed of public speakers- what is clarification and what is new debate?
- Chairman's decisions to bring applications out of schedule order
- Which member speaks first to the application?
- Should the Officer response be 'question by question' or grouped?
- Officer ability to correct matters of law or policy
- Should ward members be allowed to vote on applications in their ward?
- Role of Chairman when application is in their ward
- Protocol for going into private session
- Protocol for Member overturns
- Protocol for referral to DC committee
- Protocol for requiring a site visit
- Conduct of site visits
- General conduct expected of officers and members when determining applications
- Bias and pre determination
- Members as advocate/agent/ward member/applicant/lobbyist
- Voting powers of cabinet members

4.2. Your officers hope that the above list covers most matters that are likely to need guidance but if members have any additional suggestions then officers would be pleased to consider them for inclusion in the new guidance. When finalised it is anticipated that the final version will be brought back to members as early as possible in the new council year for sign off and adoption.

5. ALTERNATIVES

Members could decide not to consider re-introducing a protocol. However this would leave the potential for complaints against the operation of the system or individual participants and could open the Council to potentially adverse Ombudsman decisions/compensation. Public confidence in the system could also be undermined. It should also, of course, be remembered that a protocol is intended to help and support members and officers of the Council.

6. FINANCIAL IMPLICATIONS

This report has no financial implications.

Giles Hughes
Head of Planning and Strategic Housing

(Author: Phil Shaw, Tel: (01993) 861687; EMail: phil.shaw@westoxon.gov.uk)

Date: 13 April 2016

Background Papers:

None

**EXTRACT FROM THE MINUTES OF THE
DEVELOPMENT CONTROL COMMITTEE ON 25 APRIL 2016**

20. AMENDMENTS TO THE PLANNING GOOD PRACTICE GUIDANCE

The Committee received and considered the report of the Head of Planning and Strategic Housing regarding key issues that would need to be included in any refreshed protocol/guidance and whether there were any further areas where additional guidance was required.

Mrs Crossland indicated that she had found the training provided to be useful and enquired whether this could be extended to Town and Parish councils. In response, the Development Manager advised that this could possibly be incorporated into Parish Forum meetings.

Mr Handley suggested that it could appear premature to members of the public for a motion to be put before any discussion had taken place. Mr Cooper disagreed, indicating that a motion was always open to amendment and, once proposed, offered a position to debate.

In relation to the role of the Chairman when dealing with applications in their own ward, Mr Cooper indicated that the provisions of the Localism Act enabled them to put forward their point of view. In response, the Development Manager concurred, indicating that the matters listed had not been included as matters to be precluded but as issues in need of clarification in Good Practice Guidance. The same applied to Members voting on applications in their own ward.

In conclusion, Mr Cooper indicated that he had found the training offered by OALC to be of particular value.

Mr Robinson questioned whether, to avoid undue repetition, there was merit in introducing a limit on the time a Member could speak and on the number of times they could speak on an application.

(Mr R A Langridge left the meeting at this juncture)

Sir Barry indicated that, if Members were restricted in speaking, the same would have to be applied to Officers and suggested that such restrictions would be inappropriate. In terms of Officers responding to Members' questions, he considered that answers should be given on a question by question basis and not grouped.

In relation to questions on public participation, Mr Kelland suggested that it would be helpful to extend questioning beyond matters of clarification. In response, the Chairman advised that technical questions and questions of fact were more appropriately directed to Officers.

Mr Cotterill noted that there had been occasions when it would have been useful to have been helpful to be able to get clarification of technical issues from applicants. Dr Poskitt concurred and also indicated that she was opposed to the introduction of time restrictions.

Mr Simcox raised a question in relation to bias and pre-determination, indicating that a Member may have already formed a view before arriving at a meeting. It was explained that there was nothing to preclude a Member from forming an initial view provided that they remained open minded and prepared to consider all information provided when

determining an application at a meeting. Sir Barry added that there was nothing to preclude Members from expressing an opinion prior to determining an application provided that they made it clear that they retained an open mind.

Mr Haine noted that it was important for Members making propositions contrary to Officers' recommendations to provide clear reasons. Accordingly, it was necessary for Members to have considered and prepared these in advance.

Mr Robinson suggested that matters of detail should be considered at the time the revised draft protocol was brought forward.

Mr Kelland suggested that, in representing the views of the local council and residents, it was inevitable that Members would have an established position when attending a meeting. It was explained that the role of Members at a meeting exceeded the purely representative and was to consider and determine applications on planning grounds alone.

Mr Colston noted that, by presenting late representations at the meeting, undue prominence was being given to those views. He questioned whether an earlier deadline for submission of representations should be employed. The Development Manager advised that Officers sought to summarise late representations as far as possible but were required to present Members with all relevant facts.

RESOLVED: That the key heads of terms set out at paragraph 4.1 of the report be endorsed as being areas in relation to which guidance is required.