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| Meeting: | Strategic Planning Committee |
| Date: | 16 th January 2008 |
| Subject: | Protocol for Planning Committees |
| Key Decision: | No |
| Responsible Officer: | Graham Jones |
| Portfolio Holder: | Councillor Marilyn Ashton Planning, Development and Enterprise |
| Exempt: | No |
| Enclosures: | A. Protocol for Members and Reserve Members when Dealing with Planning Applications and Lobbying B. Connecting Councillors with Strategic Planning Applications: A Good Practice Guide for London |

Section 1 – Summary and Recommendations

This report sets out proposed changes to the Protocol for Members and Reserve Members when dealing with Planning Applications and Lobbying and the Council's Committee Procedure Rules

Recommendations:

1. To agree to additional paragraphs as set out in the report as additions to the Constitution Committee Procedure Rules and the 'Protocol for Members and Reserve Members when dealing with Planning Applications and Lobbying' to ensure that decisions are properly taken for planning reasons.
2. That the Changes be referred to the Standards Committee and then to full Council for approval as it has the effect of amending the Council's Constitution

Reason: To ensure sound and consistent decision making

Section 2 – Report

Introductory paragraph

The Protocol for Members and Reserve Members When Dealing with Planning Applications and Lobbying was approved by the Development Control Committee on the 29th April 2003. A copy is attached at Appendix A.

The content of the protocol remains sound but it is considered that additions are required in the interests of better decision making. This is consistent with the aims of the protocol to ensure that decisions are not biased, they are impartial and they are well founded.

Two additions to the protocol are proposed:

1. To specifically allow for members to have early opportunities for engagement on strategic applications. This is designed to ensure that members are fully aware of the proposals before they take decisions
2. To establish a clear process for members voting against officer recommendations such that reasons for refusal are clearly stated and documented. This also needs to be reflected in the Council's Committee Procedure Rules.

These changes are considered particularly urgent as there are several major and complex applications either submitted or expected in the coming months. With this in mind it is recommended that the changes should be recommended to the Standards Committee on 17 March 2008 and the Council on the 17 April 2008.

1.Early Engagement on Strategic Applications

Since 2003 the complexity of the planning process has increased considerably particularly in respect of major applications which can require Environmental Assessments, Access and Design Statements, Transport Assessments, Viability 'Toolkits', Energy Statements, Childrens Play statements etc etc. The numbers of major applications which are currently in the pipeline is far above what has previously been the norm for the authority, and the pressure to deal with these in a timely manner within Government targets remains. .

To enable members to understand large scale applications and their implications the officers consider that they should have the opportunity to ask questions, raise issues and meet applicants, both prior to submission and between submission and determination. However, to avoid any problems of probity this engagement needs to be carefully managed. This approach is recommended in a leaflet published by London Councils, The Government Office for London and London First in November 2007. (attached Appendix B)

Officers are recommending that applicants for major strategic schemes should be invited to make a presentation to members of the Committee and reserves, at which they should explain their proposals and answer questions of fact. Such presentations may also involve a site visit, and where necessary site visits for strategic proposals should be arranged prior to Committee meetings

where the proposal is to be considered. At such presentations there should be no debate about the merits or otherwise of the scheme.

At least one senior officer should be present at all such meetings and may be called upon to answer any factual questions about policy issues etc.

Such meetings can be at either pre- or post-application stages and in some instances both may be appropriate. Similar meetings may also be arranged for ward/backbench members and members of the Executive.

2. Reasons for Refusal against Officer advice

To clearly establish sound planning reasons for refusal for applications where officers have recommended approval the following process is recommended:

1. Members who wish to vote against a recommendation should propose a motion to refuse, which should be seconded and should state clearly the proposed planning reasons for refusal. The motion including the reasons will be included in the minutes.
2. Where such a motion is carried, the reasons stated will become the Local Planning Authority's reasons for refusing the application.
3. Where such a motion is not carried the members supporting the motion for refusal may vote against original officer recommendation .
4. In the absence of a motion for refusal with clearly stated reasons, Members should be aware that a vote against the officer recommendation could result in a refusal with no substantive justification and potential costs against the Council should this lead to a inquiry.

Adherence to this procedure will ensure that the potential danger of an application being refused without clear reasons, with the potential risk of the Council prejudicing any future appeal, will be avoided. The quasi-judicial nature of SPC and DMC reinforces the importance of having clearly spelt out reasons for refusal which are robust, reasonable and sustainable.

Options considered

None

Recommendation:

It is recommended that the Committee agree:

To include para 1. Early Engagement on Planning Applications as an amendment to the Protocol and para 2. Reasons for Refusal against Officer Advice, both as an addition to the Protocol and to the Committee Procedure Rules.

Legal Implications

The proposed changes have the effect of altering the Council's Constitution. Accordingly the proposed changes must be agreed by the Standards Committee and approved by full Council before they are effective.

Financial Implications

There are no financial implications

Performance Issues

The proposed additions to the protocol will assist in respect of BV109a determination of Major Applications in ensuring they are determined in a timely way. Performance is currently very good with 87% of applications determined within 13 weeks for the first 3 quarters of 2007/08. However to maintain this level of performance with the anticipated workload through the next year, many of which will have complex S106 agreements, will be very challenging. BV 204 'Performance on Planning Appeals' is below target and this resulted in a rebate on the 2007/8 PDG allocation due to the poor performance. Currently 43% of planning appeals are successful compared with the national average of 33%. Introducing the proposed procedure should help in ensuring that applications are refused for sound planning reasons.

Section 3 - Statutory Officer Clearance

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| Name: ...Sheela Thakrar... | <input checked="" type="checkbox"/> | on behalf of the Chief Financial Officer |
| Date: ...7 th January 2008 | | |
| Name: Adekunle Amisu | <input checked="" type="checkbox"/> | on behalf of the Monitoring Officer |
| Date: ... 7 th January 2008.. | | |

Section 4 – Performance Officer Clearance

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| Name: ...Tom Whiting..... | <input checked="" type="checkbox"/> | Divisional Director (Strategy and Improvement) |
| Date: 7 th January 2008..... | | |

Section 5 - Contact Details and Background Papers

Contact: Graham Jones, Director of Planning Development & Enterprise – 020 8420 9317

Background Papers:

None