

GOVERNANCE COMMITTEE

28TH SEPTEMBER 2015

REPORT OF HEAD OF REGULATORY SERVICES

PLANNING COMMITTEE – REVIEW OF THE CODE OF CONDUCT ON PLANNING MATTERS REGARDING THE ROLE OF COMMITTEE MEMBERS AND WARD COUNCILLORS

1.0 PURPOSE OF THE REPORT

- 1.1 The Committee is requested to consider issues raised at the meeting of 11th February 2015 regarding the role of Members at Planning Committee.
- 1.2 At that meeting Councillor Orson explained how he sometimes attends the Planning meetings and sits in the public area which gives a different perspective of a meeting. This has prompted him to raise this concern to ensure Members of the Committee who are also Ward Councillors are not open to a challenge in the future.
- 1.3 It was agreed to the review of the Code of Conduct for Members dealing with Planning Matters in respect of the Planning Committee and this report is intended to provide background information on this subject.
- 1.4 The issue was considered by Governance Committee on 29th June 2015 but it was resolved to defer for further discussion at a future meeting of the Committee, to which all Members would be invited to contribute.

2.0 RECOMMENDATIONS

- 2.1 **To consider the following updates to the Constitution for onward referral to the Full Council for adoption :-**
 - (a) **To consider and agree the changes to the Code of Conduct for Members dealing with Planning matters in respect of the Planning Committee as set out at Appendix A (the suggested amendments are all contained within para 4.7 of the Appendix)**

3.0 KEY ISSUES

- 3.1 Cllr Orson regularly attends meetings of the Planning Committee, both in his capacity as speaking on issues affecting his Ward and his wider interest in planning and development. He has shared his experience and observations in some detail and these are summarised as follows:
 - The public has a strong expectation that Ward Members represent, and support, their views during the Committee debate and decision.
 - This can often create intense pressure on individual Members to act as advocate of constituents views.
 - This, in turn, can often be incompatible with the regulatory nature of the Committee (i.e the need to make evidence-based decisions within the legal framework of the Planning Acts and for decisions to be made in the wider public interest).

- The practice of inviting a Ward Councillor to lead a debate, which can give the impression that their views hold more weight than other Members of the Committee.
 - A perception expressed by from some members of the public that the Committee ‘follow the lead’ of the Councillor in whose Ward a development is proposed, and a cynical view that this is motivated by the belief that Members may also expect such support in future.
 - An extrapolation of this perception speculating that it may lead to resistance of development in Wards represented by Members on the Committee and its resultant ‘deflection’ to Wards not represented.
- 3.2 A review of controversial decisions has been undertaken to identify whether there are any trends that support these perceptions. However, due to the manner in which records are kept, i.e. that it is very rare for individual votes to be recorded, this has not provided any insight.
- 3.3 Anecdotally, decision making records would not support this view. There are many examples of controversial applications (i.e. developments with high levels of opposition) being both refused in locations where there is no Ward representation amongst the Committee membership and also approved where there is. The following are examples of such decisions from within the last 18 months:
- Belvoir Rd, Bottesford (50 houses) - approved despite Ward representation on the Committee.
 - Scalford Rd, Melton Mowbray (97 houses) - approved despite Ward representation on the Committee.
 - Somerby Wind Turbine – refused despite absence of Ward representation.
 - Thorpe Satchville turbines – refused despite absence of Ward representation.
- 3.4 Furthermore, there are limited examples where it could be speculated that the presence or absence of Ward representation has had a bearing. Only the following are considered to be questionable in this way;
- Nottingham Rd, MM - refused despite recommendation to approve, refusal tabled by Ward Member (subsequently granted on appeal).
 - Asfordby Hill - refused despite recommendation to approve, refusal tabled by Ward Member (subsequently refused on appeal but grounds of refusal rejected by Inspector).
- 3.5 It has been long standing practice that the meeting has been Chaired in such a manner that the Ward Councillor is invited to open the debate on an application. Officers understand this is to allow the Member with the best local knowledge to speak first, but agree that this can be construed as the Ward Member having a more important role. Members are invited to consider whether there would be benefit in abandoning this practice to address this perception (whether or not in tandem with other suggestions).
- 3.6 Officers are aware that these issues are not unique to Melton and there are examples from elsewhere where measures have been put in place to address it. One example is Leicestershire County Council where the Ward Councillor is prevented from participating in a decision that is located in their Division (‘Ward’) and we are aware of a more extreme arrangement where decisions

were made on an area Committee basis but arranged so that Members were excluded from the committee that covered their Ward, i.e. a 'north area committee' made up from Members of Wards in the south, and a 'south area Committee' made up from Members of Wards from the north of the Borough.

3.7 It is considered that the area-based model is fundamentally unsuitable for Melton because of the strong economic and social linkages between different parts of the Borough, Melton Mowbray and the rural hinterland in particular. Decisions made in one part of the Borough can have a significant direct or indirect impact elsewhere. However the suggestion of specific Ward Member exclusion from individual, high profile, applications would be achievable in an operational sense, and Appendix A to this report presents amendments to the Constitution as to how this could be achieved.

3.8 The Committee is to refer its recommendations for amending the Constitution to the Full Council for approval and inclusion in the Constitution.

3.9 The Code of Conduct for Members dealing with Planning Matters has been reviewed in respect of the Planning Committee and proposed changes are set out at Appendix A for the Committee's consideration.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 Due to the Constitution being a living document there are times when amendments are needed to enable the organisation to function efficiently. Therefore items will be referred to the Committee as required.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 Any financial and resource implications will be met from existing resources.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Any change in legislation overrides the current wording of the Constitution and the Monitoring Officer has delegated authority to make amendments as required by the law. Therefore such legal consequential changes will be put in place immediately and reported to the Committee as soon as possible thereafter.

7.0 COMMUNITY SAFETY

7.1 There are no community safety implications relating to this report.

8.0 EQUALITIES

8.1 Equalities Screening Assessments have been drafted on the items within the report and these are available on the Council's website.

9.0 RISKS

9.1 The risks associated with report are considered to relate to the perception of how the Committee should operate by some members of the public:

L I K E L I H O O D	A	Very High				
	B	High	2			
	C	Significant				
	D	Low		1.3		
	E	Very Low				
	F	Almost Impossible				
			Negligible 1	Marginal 2	Critical 3	Catastrophic 4

IMPACT

Risk No	Risk Description
1	Lack of local representation in decision making
2	Failure to meet some residents expectations that Ward Members fulfil an advocacy role
3	

10.0 CLIMATE CHANGE

10.1 There are no climate change issues arising from this report.

11.0 CONSULTATION

11.1 There has been internal consultation with Management Team and T3 to ensure the Constitution reflects the Council's current responsibilities and arrangements. .

12.0 WARDS AFFECTED

12.1 All wards are indirectly affected by this report.

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Date : 27th August 2015

Appendices : Appendix A – Code of Conduct for Members dealing with Planning Matters with amends suggested.

Background Papers : Constitution 2014/15