

**Report to: Full Council**

**Date of Meeting: 20 July 2016**

**Report Title: Amendments to the council's constitution – Refresh of planning protocol**

**Report By: Christine Barkshire-Jones, Chief Legal Officer and Monitoring Officer**

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### **Purpose of the Report**

**Council is asked to approve the revised planning protocol.**

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### **Recommendation(s)**

1. To consider and approve the revised planning protocol as part of the Constitution of the Council

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### **Reasons for Recommendations**

To agree the revised planning protocol giving clear guidance to Councillors about how they should carry out their duties in relation to planning and development proposals.

## Introduction

1. Members are aware of a number of high profile planning applications which have come before the planning committee recently. They have raised debate over a number of matters dealt with by the planning protocol, which required clarification and further discussion.
2. Hastings Borough Council first updated the planning protocol on 18 April 2007. It was revised again because the Local Government Association (LGA) published revised updated guidance in 2009. Cabinet on 10 January 2011 approved the setting up of a pre-application consultation forum to consider major development proposals before they are submitted as a planning application. The LGA in conjunction with the Planning Advisory Service (PAS) produced an update in 2013 to the 2009 version. The protocol was updated again to reflect these changes.
3. There is a need to regularly update and refresh the planning protocol to reflect changes in practice and procedure. The planning protocol has clarified the position in respect of lobbying with the introduction of a declaration of lobbying form in the interest of transparency, clarified the expectation on planning committee members to attend planning training and expanded upon the distinction between predetermination, predisposition and bias amongst other matters of clarification.. The current revision to the protocol has been consulted on amongst officers in planning and legal services and went to Working Arrangements Group (WAG) twice where it was debated thoroughly. WAG agreed this version on 14 April 2016.
4. Following the Cabinet meeting on 4<sup>th</sup> July 2016, the Chair of Planning Committee requested that the following paragraph be added to the Planning Protocol after paragraph 11. “The Council’s Standing Instructions to Authorised Officers (Part 8 of the Constitution of the Council) sets out the functions and responsibilities in respect of Planning and list the circumstances under which applications as specified in Part 3b paragraph 43 of the Standing Instructions are determined by the Planning Committee and not under delegated authority including (but not limited to) where:

- a. The application has attracted three or more letters of objection from different households or businesses, or a petition as defined in Standing Orders where the Assistant Director Housing and Built Environment or his nominee intends to recommend permission, consent or approval, or
- b. The Chair of the Planning Committee has referred any application to the Planning Committee within 21 days after registration of an application or 21 days after any press advertisement whichever is the later giving clear planning reasons for the referral, or
- c. Any Member of the Council with the consent of the Chair or a Ward member, has given written notice to the Assistant Director Housing and Built Environment within 21 days after registration of an application or 21 days after any press advertisement whichever is the later requiring that application to be considered by the Planning Committee, giving clear planning reasons for the referral.”

## Code of Conduct

5. The planning protocol is a council protocol under Part 5 of the constitution of the council. Breach of this protocol could lead to complaints being made to the council’s standards committee.
6. Members are reminded that councillors with a prejudicial interest can address the planning committee, but only for the purpose of making representations, answering questions and giving evidence where a member of the public would be permitted to do so. This would apply if a councillor presented a petition in accordance with the rules of public speaking and is their nominated spokesperson. If the councillor is the applicant they would have a right of reply to a petition against their application. Once they have completed making their representations and answering questions they are required to leave the room in the usual way.
7. Members are also reminded that ward councillors can address the planning committee in accordance with the rules of public speaking at planning committee. A ward councillor who is also a member of the

planning committee and who wishes to represent their constituent's views at planning committee should first approach the other ward Councillor to speak on behalf of their constituents. If this is not possible, the ward councillor may speak at the planning committee on behalf of their constituents as the nominated spokesperson for a petition.

8. However, they should declare their position and after making their representations, sit back and make it clear that they are not taking part in the debate or vote, to avoid accusations of bias and pre-determination.
9. Ward councillors who are also members of the planning committee who wish to address the committee in this manner should give notice to the chair and the Chief Legal Officer prior to the committee meeting. This would also need to be made clear to members of the public and recorded in the minutes when the item is called for consideration. Members are reminded that they need to balance the needs of their constituents with their part in the decision making process of planning committee and also any risk of challenge.

## Conclusion

10. It is recommended that the council endorses the revised planning protocol for adoption.

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### Wards Affected

All Wards

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### Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	Yes

Local People's Views  
Anti-Poverty

No  
No

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**Additional Information**

Appendix 1 planning protocol version July 2016

Appendix 2 amended planning protocol

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