



**REPORT of
DIRECTOR OF STRATEGY AND RESOURCES**

**to
PERFORMANCE, GOVERNANCE AND AUDIT COMMITTEE
7 MARCH 2024**

COUNCIL CONSTITUTION - PLANNING APPEALS PROTOCOL

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to review this constitutional document and recommend to the Council.

2. RECOMMENDATION

To the Council:

That the Planning Appeals Protocol (**APPENDIX A**) is reviewed, taking into account the points outlined in paragraph 3.4 of this report, and commended to the Council for adoption afresh as part of the Constitution.

3. SUMMARY OF KEY ISSUES

- 3.1 The need for the review and refresh of this document comes to the Committee as a result of a recommendation of the Overview and Scrutiny Committee accepted by the Council in February last year (Minute No. 585 refers) as part of its on-going work on an item of scrutiny around Planning Decision-Making. This document is attached as **APPENDIX A**.
- 3.2 Where planning decisions are taken contrary to the Officer's recommendation it is important to consider the role of Members in supporting the Council's decision (as distinct from the Officer's recommendation, which will be examined) to be defended in the subsequent appeal alongside the reasoning for going against the Officer's recommendation. This is covered in the Planning Appeals Protocol which is appended to the Code of Good Practice and Guidance on the conduct of Planning Matters included in the Council's Constitution. The document, now submitted for review and possible adoption afresh, envisages the role and involvement of Members in Planning Appeals as good practice.
- 3.3 The document should also reflect practice advice issued by the Royal Town Planning Institute which professional planning offices must heed. This recognises that an officer whose professional opinion is quite distinct from the decision to be defended on appeal may not be the best expert witness. It states "It is better to avoid the situation where someone is giving evidence that they do not agree with. It is preferable to call someone else, who is in a position to speak with conviction about the harm that the scheme would cause or why the planning balance should be weighed in favour of refusing the scheme. For example, the Chair of the Planning Committee could be called or an external planning consultant could be appointed".

- 3.4 The document was considered by the Committee's Governance Working Group on 9 January 2024 where it was generally agreed that where possible the guidance should be strengthened to best protect the position of the Council when involved with planning appeals. In particular, paragraph 1.2.1 should state that a Committee **will seek to** identify which Member(s) **will be** involved in assisting defence of the Council's decision in the subsequent appeal. It was also felt that the existence and profile of this Protocol should be raised with Chairpersons of Planning Committees and included in future training for Members with a view to it being engaged and applied consistently.

4. CONCLUSION

- 4.1 The Committee is requested to review and look at ways of refreshing this Protocol, taking into account the thoughts of its Working Group. and report to the Council accordingly.

5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027

5.1 Provide good quality services.

- 5.1.1 Thorough good governance, improved decision-making, performance, and efficiency will in turn will contribute to the quality of services provided, and functions undertaken by the Council.

6. IMPLICATIONS

- (i) **Impact on Customers** – None directly other than the implications of decisions on planning applications and resulting appeals.
- (ii) **Impact on Equalities** – Not applicable.
- (iii) **Impact on Risk (including Fraud implications)** – Good governance in relating to planning decision-making will help minimise the risk of the award of costs against the Council associated with planning appeals being upheld.
- (iv) **Impact on Resources (financial)** – None directly but see (iii) above.
- (v) **Impact on Resources (human)** – Not applicable.

Background Papers: None.

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