

Council Report

Ward(s) affected: All

Report of Director of Finance

Author: John Armstrong, Democratic Services Manager

Tel: 01483 444102

Email: john.armstrong@guildford.gov.uk

Lead Councillor responsible: Matt Furniss

Tel: 07891 022206

Email: matt.furniss@guildford.gov.uk

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Review of Probity in Planning – Local Code of Practice

Executive Summary

The Probity in Planning - Local Code of Practice document (see Appendix 1) has not been reviewed for some time and has been included as a part of the ongoing review of the Council's Constitution. The document provides guidance for councillors and officers on their role and conduct in the planning process. The guidance includes how councillors and officers should manage contact with applicants, developers and objectors or supporters. The purpose of the guidance provided in the document is to ensure that decisions made in the planning process are not biased and are taken openly and transparently, and based on material planning considerations only.

During the review, officers have undertaken a comparison process between the existing document and other councils' local codes published more recently. The Planning Development Manager, the Principal Planning Solicitor and the Monitoring Officer have reviewed the document. During the course of this process, it was suggested that the updated Probity in Planning - Local Code of Practice could be amalgamated with other relevant information in respect of the determination of planning applications, including how the Planning Committee operates in that regard, and published as a 'Probity in Planning Councillors' Handbook', which will be very useful for all councillors, particularly those newly elected following the Borough Council Elections on 2 May 2019.

The draft Handbook is attached as Appendix 2 to this report.

The report has been considered by both the Planning Committee (on 27 March 2019) and Corporate Governance and Standards Committee (on 28 March 2019). Both committees' comments are set out in section 4 of this report.

Recommendation to Council:

That the 'Probity in Planning Councillors' Handbook' attached as Appendix 2 to this report be adopted.

Reason for Recommendation:

To provide up to date and fit for purpose Probity in Planning guidance to councillors and officers, together with other relevant information on the planning process at the Council in a helpful handbook for councillors.

1. Purpose of Report

- 1.1 The purpose of this report is to set out why the Probity in Planning – Local Code of Conduct has been reviewed, the process of the review and the changes that have been made in draft to include other relevant information in respect of the planning process into a helpful Councillors’ Planning Handbook. This report asks the Council to formally adopt the Handbook.

2. Strategic Priorities

- 2.1 Place-making. The Council, as the local planning authority, has a key role in local development, redevelopment and implementation of the Local Plan in line with legislation and the National Planning Policy Framework. The Council must ensure that councillors and officers are properly supported with fit for purpose guidance that can provide confidence in the decision-making process and reassurance to local residents and businesses.

3. Background

- 3.1 Probity in Planning guidance is provided by all local authorities and it normally sits within councils’ constitutions. There is no statutory requirement to provide such codes of practice, but it is good practice to have accessible, up to date guidance available to all decision makers. The guidance should be read alongside the Councillors’ Code of Conduct, the Code of Conduct for Staff and the Protocol on Councillor/Officer Relations.
- 3.2 The Council’s Probity in Planning – Local Code of Practice has not been reviewed or updated for some time. It does not, for example, include guidance for councillors on bias, predetermination, and predisposition.
- 3.3 The review to date has involved a comparison process between the existing Local Code of Practice document (Appendix 1) and a number of other councils’ local codes which have been published recently.
- 3.4 As the draft Probity in Planning document developed in terms of themes and information, it was suggested that it might be useful to councillors and officers to have all information and guidance related to the planning decision-making process in one place, in the form of a ‘Handbook’. This will be useful for all councillors, particularly those newly elected following the Borough Council elections in May, especially those who are appointed to the Planning Committee. A copy of the draft ‘Handbook’ is attached as Appendix 2.

4. Consultations

- 4.1 The Planning Development Manager, the Principal Planning Solicitor and the Monitoring Officer have reviewed the draft ‘Handbook’.

Planning Committee – 27 March 2019

4.2 As stated above, the 'Handbook' will be a useful tool for all councillors, but as it is directly relevant to the planning process and the operation of the Planning Committee, it was considered appropriate that that Committee was afforded the opportunity of being consulted on it. The following points were raised by Planning Committee members at their meeting held on 27 March 2019:

- Other than the review of the Local Code of Practice, no substantive changes have been made to the other relevant planning related content of the Handbook.
- The Handbook, if adopted by the Council on 9 April, would form part of the Constitution and would therefore be available for viewing by the public on the Council's website.
- Where it is necessary in the future to consider amendments to those parts of the Handbook, which deal with how the Planning Committee operates, those proposals would be referred to the Planning Committee for determination.

(NB. Matters regarding probity aspects of the Handbook would still be referred to the Planning Committee for comment, but would also be considered by the Corporate Governance and Standards Committee for recommendation to full Council for adoption.)

- Request that a hyperlink to the planning search pages of the website be included in the Seven Day Notification Process Template (Appendix 4 to the Handbook)

(NB. This has already been included)

- Planning Committee members generally welcomed the proposed Handbook, incorporating the revised Local Code of Practice, together with the other relevant planning related contents, as a very useful reference document for councillors, particularly those new to Planning.

Corporate Governance and Standards Committee – 28 March 2019

4.3 As the Local Code of Practice forms part of the Council's Constitution, and given that the Corporate Governance and Standards Committee is responsible, amongst other things, for monitoring and reviewing the operation of the Constitution, the proposals were also considered by that committee on 28 March. The Committee noted the comments from the Planning Committee and commended the adoption of the 'Handbook' by the Council. It was suggested, should the Council adopt the 'Handbook', that as well as promoting it internally, the Council also publicises it to parish councils and residents' associations to assist them in understanding the role and purview of councillors on the Planning Committee.

5. Equality and Diversity Implications

- 5.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies
- 5.2 There are no equality and diversity implications arising from this report.

6. Financial Implications

- 6.1 There are no immediate financial implications arising from this report; however, it is of vital importance that councillors and officers operate under the guidance issued in the Planning in Probity document so as not to expose the Council to awards of costs resulting from poor decision-making.

7. Legal Implications

- 7.1 The legal implications are set out in the draft Handbook.

8. Human Resource Implications

- 8.1 There are no human resource implications arising from this report

9. Summary of Options

- 9.1 The Council may decide that the existing Probity in Planning – Local Code of Practice should be retained if councillors consider it remains fit for purpose.
- 9.2 The Council may submit the matter back to officers for further revision if it considers it is still not fit for purpose after the recent review.
- 9.3 The Council may adopt the Probity in Planning Councillors' Handbook'. This is the recommended option.

10. Background Papers

Probity in Planning documents from the following local authorities:

- Broadland District Council
- Manchester City Council
- Rother District Council

'Probity in Planning for councillors and officers', Local Government Association and the Planning Advisory Service 2013

11. Appendices

Appendix 1: Current Probity in Planning – Local Code of Practice
Appendix 2: Proposed Councillors' Probity in Planning 'Handbook'