AGENDA ITEM

REPORT TO CABINET

4 JANUARY 2007

**REPORT OF
CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION

Regeneration and Transport - Lead Cabinet Member - Councillor Cook

PLANNING CODE OF GOOD PRACTICE

1. Summary

    Cabinet is asked to consider the draft planning code of good practice attached to the report and to recommend its approval and adoption to Council.

2. Recommendations

    Cabinet is asked to consider the draft planning code of good practice attached to the report and to recommend its approval to Council.

3. Reasons for the Recommendations/Decision(s)

    It is recommended best practice for local authorities to adopt a local code or protocol in relation to their planning systems. This was advocated by the Nolan Committee in its Third Report and more recently endorsed by the Local Government Association.

4. Members Interests

    Members (including co-opted members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

    Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 of the code of conduct).

    A Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held, whilst the matter is being considered; not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (paragraph 12 of the Code).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc.; whether or not they are a member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting, and if their interest is prejudicial, they must also leave the meeting room during consideration of the relevant item.

COUNCIL DECISION

PLANNING CODE OF GOOD PRACTICE

SUMMARY

Cabinet is asked to consider the draft planning code of good practice attached to the report **(Appendix 1)** and to recommend its approval and adoption to Council.

RECOMMENDATIONS

Cabinet is asked to consider the draft planning code of good practice attached to the report and to recommend its approval and adoption to Council.

DETAIL

1.   It is recommended best practice for local authorities to adopt a local code or protocol in relation to their planning systems. This was advocated by the Nolan Committee in its Third Report and more recently endorsed by the Local Government Association.

2.   Attached to this report is a copy of a draft Code of Good Practice for Stockton-on-Tees Borough Council. Cabinet is asked to consider the document, provide any comments it wishes to make on its contents and to recommend its approval to full Council on 17 January 2007.

3.   The draft Code was considered by the Planning Committee at its meeting on 6 December and by the Standards Committee on 7 December 2006. The comments made by those Committees are summarised as follows:-

Planning Committee

4   Members pointed out that the guidelines in relation to pre application discussions with developers or applicants should take account of confidentiality requirements. Therefore it would not always be possible to report members involvement in pre application discussions or obtain the approval of the committee for attendance at presentations. Accordingly, the guidelines will be revised to take account of this (paragraph 7.2 of the draft code refers)

5.   There was some concern about the responsibility for declaring interests at paragraph 9.6 of the draft code. One of the examples provides that it is likely that a member will be required to declare an interest on a planning matter, where their spouse or partner has an interest in the matter. Some members felt this would be difficult to comply with since they may not be aware of their spouse or partner's interest. This issue was debated further at the Standards Committee and their comments are set out below.

Standards Committee

6   The Standards Committee welcomed the draft planning code of conduct and supported it's adoption by the Council subject to a proposed amendment to paragraph 7.2 in relation to pre application discussions.

7   In relation to the guidance on disclosing an interest that concerned a spouse or partner, the Committee felt that this should remain as it was in accordance with the National Code of Conduct. Paragraph 8(1) of the National Code requires members to disclose an interest that might reasonably be regarded as affecting the well being or financial position of himself, a relative, or a friend. Therefore a planning matter that might affect the well being of a member's spouse or partner, due to the spouse/partner's friendship or close acquaintance with an applicant, agent or objector should be disclosed. The committee felt that the spouse/partner should make the member aware so as to avoid complaints being made. Removing this guidance from the Planning Code did not protect the member from a breach of the National Code.

8.   Some general comments were received from Members of Council, the main issues are :-

        A query was raised regarding the status of the code and the sanctions for breach. Once approved the Planning Code will be incorporated at part 5 of the Council's Constitution and will be binding on both officers and members. Whilst it should be stressed that the code is intended to assist and guide members of the Planning Committee rather than impose penalties for non compliance, any failure to observe the code without good reason could lead to a finding of maladministration.

        Some uncertainty was expressed in relation to informal comments and views expressed by members prior to a planning meeting and at what stage these may lead to the member having a personal and prejudicial interest, particularly where members have been involved in a campaign or lobby group. Clearly, there is no hard and fast rule on this and each case should be considered on its individual merits.

9.   Subject to the above and to any comments from Cabinet, the draft Code will be revised and recommended for approval to Council on 17 January.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

10.   None specifically as a result of this report.

Legal

11.   The aim of the proposed Code is to promote good practice in relation to the exercise of planning functions and ensure that in terms of the Council's planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way, and therefore challengeable in law.

RISK ASSESSMENT

12.   The matters identified in this report and the proposed code are assessed as medium risk and are being addressed by means of appropriate training, advice and guidance for all Members.

COMMUNITY STRATEGY IMPLICATIONS

13.   The proposed code of good practice will be an important part of the Council's ethical framework and corporate governance arrangements. It will also support key objective 21 in

the Liveability thematic area of the Council Plan (modernising the planning system and improving performance in dealing with planning applications).

CONSULTATION INCLUDING WARD COUNCILLORS

14.   All Members have been sent a copy of the draft Code for comments. The document ha s also been reported to and considered by the Planning and the Standards Committees

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Background Papers: The appendix to the report

Ward(s) and Ward Councillors: Not Ward specific

Property Implications: None