

Protocol for Councillors - Otterpool Park Development

1. Introduction

1.1 Shepway District Council ('SDC') is the local planning authority under the Town and Country Planning Acts for the District of Shepway. It is responsible for the determination of applications for planning permission and the formulation and approval of planning policies.

1.2 SDC also has interests as a landowner in the development of land at Otterpool Park adjoining junction 11 of the M20. As landowner it may take actions that other landowners can do including, but not limited to, making applications for planning permissions.

2. Purpose of this protocol

2.1 The dual role of SDC set out above could lead to conflicts of interest and perceptions of unfairness. It could be suggested that SDC as the landowner uses information and influence that other landowners do not have to further its own commercial interests.

2.2 This protocol therefore aims to establish a way of dealing with these dual roles by councillors (a separate protocol is in place for officers).

2.3 The governance structure set out below is specific to the Otterpool Park project

3. Underlying principles

3.1 The underlying principles are that:-

- SDC should carry out its role as local planning authority without having regard to its commercial interests where they do not constitute a material planning consideration and
- that in its capacity as a developer it will not seek to take advantage unfairly of its role as local planning authority.

3.2 The principles do not detract from the statutory provisions that the determination of planning applications and the approval of planning policies are (subject to the powers of the secretary of state) the responsibility of the council.

4. Definitions

"the Leader" – the leader of the council elected by the meeting of the full council;

"the cabinet" – the executive body of the council appointed by the leader under SDC's constitution;

"portfolio holder" – a member of the cabinet;

"the Project" - the project to develop Otterpool Park as a garden town.

5. Governance structure

5.1 A member of the cabinet shall not sit (either as a permanent member or a substitute) on a committee of SDC responsible for the determination of planning applications.

5.2 The Leader shall allocate responsibility for planning policy to one cabinet member (the Planning Policy Portfolio Holder) and for the Project to another cabinet member (the Project Portfolio Holder).

5.3 The Planning Policy Portfolio Holder shall have the responsibility for developing and putting forward planning policies for approval by cabinet or council. The Project Portfolio Holder shall have the responsibility for developing the Project and putting it forward for approval whether by the cabinet or council.

5.4 Both the Planning Policy Portfolio Holder and the Project Portfolio Holder shall ensure that they avoid conflicts of interest when carrying out their respective functions. This does not however prevent them from participating in any formal decision making on planning policy or the Project at meetings of the cabinet or council.

5.5 Formal decisions on or relating to planning policy and the Project shall be made collectively by cabinet or by full council as required by the constitution.

6. Dealing with conflicts

6.1 Where a conflict of interest does occur and cannot be avoided the portfolio holder concerned shall record his / her conflict with SDC's monitoring officer.

6.2 The Leader shall determine how any conflicts are dealt with in case of disagreement between the portfolio holders involved. His decisions shall similarly be recorded with the monitoring officer.

6.3 Decisions taken collectively in cabinet or council shall be treated as matters where a voluntary declaration should be considered. Such a declaration does not prevent the member concerned from participating and voting on the decision.

7. Personal responsibilities

This protocol does not purport to identify or provide solutions to all circumstances where conflicts between the interests of SDC can occur. It is the responsibility of each individual cabinet member to be aware of conflicts or potential conflicts and to act accordingly in accordance with this protocol and the underlying principles set out.

8. Approval and review

8.1 This protocol; was approved by cabinet on 19/10/2016 minute 22. It shall be kept under review to assess its effectiveness and may be amended by cabinet.

8.2 This protocol and any amendments shall be published on the council's web – site.

Issue No1

Date: 20 October 2016