

## **Item 10 (i) - Item referred from Standards Committee – Call in Procedure**

<b>Committee:</b>	<b>Standards Committee</b>	<b>Agenda Item</b>
<b>Date:</b>	<b>3 March 2014</b>	
<b>Title:</b>	<b>Call-in Procedure</b>	
<b>Author:</b>	<b>Michael Perry, Assistant Chief Executive Legal, 01799 510416</b>	Item for decision

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### **Summary**

1. On 7 October 2013 the Committee resolved to recommend to Full Council a protocol to deal with the call-in of planning applications. Members are requested to bring the committee report from the meeting on 7 October 2013 to this meeting along with the draft protocol or to request further copies from the Committee section.
2. Full Council received the recommendation at its meeting on 10 December. After some debate members were not prepared to adopt the protocol and referred it back to the Standards Committee for further consideration.
3. This report is to inform members of the views of members of the council and to seek members' views as to whether any variations to the protocol should be made and if not how the committee wishes to proceed.

### **Recommendations**

4. That members either
  - (a) Repeat the recommendation to Full Council
  - (b) Amend the protocol and recommend the amended protocol to Full Council, or
  - (c) Issue guidance to members as to what would constitute unacceptable conduct.

### **Financial Implications**

5. None.

### **Background Papers**

6. None.

### **Impact**

- 7.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

8. The background behind the protocol is fully summarised in the report presented to the meeting on 7 October 2013.
9. In the light of concerns expressed by members at the meeting of Full Council I circulated all members of the council by email seeking their views on the draft protocol. Despite the strength of opposition at Full Council there has been a limited response. Comments received were as follows:

“I would not consider calling in an application from an individual if it was not a planning issues, I would find myself in an intolerable position if either of the Parish Councils in my Wards were to ask me to call something in and I had to refuse as it may technically not be a full planning issue. It could actually involve other factors that would cause major problems for the Parish Council and the surrounding area. I feel that a Parish Council would not abuse the procedure of ‘calling in’ and would have discussed the matter fully beforehand. I would, therefore, like to see the wording altered to allow us to accommodate a Parish Council if so required.”

“I have no opinion, it all seemed fine to me.”

“I think that it would be the best to keep it simple ie that any call in must have a Planning reasons attached to it and any advice should be sought from the Planning Department.

My only concern is that any applicant can withdraw at any time as can a Counsellor and when represented the call in lapses

In this instance I would like to receive an e mail saying that the Applicant has withdraw his application and another when the Applicant has represented it This does not happen and it shouldIt can only effect a limited number of cases so shouldn't be a problem”

“My concern is that the public feel that the protocol is fair and open. Some parish councils feel strongly about some applications and ask their local

councillor to call it in.

Providing there are sound planning reasons and not just a 'We don't like this' scenario, it seems perfectly reasonable to do so.

I don't regard the way other councils do things to be too relevant. For example some councils hold their planning meetings in the evening when the public are more able to attend. We don't!"

"I am happy to go along with the suggested guidelines and would agree with all of them, if I could be assured that action could be taken if an application were submitted "under the radar" as in the recent case of [text redacted as being commercially sensitive]"

"I think the draft is trying to address the consequences of action by two councillors in the wrong way. The act of asking a fellow member to call in an item on one's behalf has undertones of opacity that raise concerns in themselves. Acting in this way raises concerns in my mind, whatever the subject or process involved. This does not call for stringent rules subject to the code of conduct that will inhibit a member openly going about his duties to request a planning application to the determined in public if he or she feels that it is in the public interest so to do. Whilst it would be courteous to advise a ward member (including one's fellows in a multi-member ward), it is hardly a failure to meet the code if that is not done; rather a minor discourtesy. There is a danger that we try to regulate every action of every member. I think the onus must be on an officer to advise why an application should not be called in. But planning officers need to remain cognizant of being bureaucrats who are not directly accountable to the public, so what seems appropriate for them may not seem right to an elected politician. It makes sense for a member to say the purpose behind a call-in so that the case officer can address the matter. This may result in a member deciding that call-in is not necessary. However, I would wish to call in an application simply because I consider that it is in the public interest that the decision should be made in public so that democracy can be seen to be done. I might wish on occasions to do this without any view on whether an application should be approved or refused. This is why I would advise against creating complicated and potentially draconian rules that may tie us all in knots. Guidance is fine if it sets out what we are trying to achieve by open and transparent democracy rather than rules that try to restrict it. If there is no serious problem, such as a large number of call-ins, I would advise against creating one."

10. The advantage of having a protocol is that it is incorporated into the council's conduct by reference. Breach of the protocol would therefore be a breach of the code. However it is always open to the standards committee to give guidance as to its interpretation of the code. The issue which gave rise to the request for a protocol concerned an improper call-in of a planning application. If the council does not adopt a protocol dealing with the issue it would be reasonable for the standards committee to issue guidance as to what the committee considers may and may not be a breach of the code of conduct either by way of improperly using a members' position to endeavour to secure an advantage or disadvantage for another or by way of bringing the council into disrepute.

**Risk Analysis**

11.

Risk	Likelihood	Impact	Mitigating actions
The council does not adopt a formal protocol for dealing with call-ins	3 – Full Council does not adopt the protocol when first proposed to it	3 – Without clear guidelines there may be further allegations of a breach of the code of conduct which could lead the council to suffer reputational damage	If the council is unwilling to accept a protocol formal guidance be issued

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.