

PLANNING APPLICATIONS MEETING 20TH JANUARY 2011

I have given some considerable thought to this agenda item that is for noting.

This is a paper that for me lacks clarity. It does not clearly identify the reasons for a change in the constitution not does it explain what the legal implications are for the authority, the officers and members of the committee.

I suspect the paper has been produced following the decision of the committee to go against the officer recommendation on a recent planning application submitted to this committee.

Prior to the decision I believe there was some confusion on the motion and subsequently there was initially some confusion over the voting. I will come back to this point later.

The way in which this paper is constructed could well make members reluctant to vote against any recommendation of an officer in which case what is the point of a committee that merely “rubber stamps” officers recommendations. Paragraph 2 implies that only the professional advice of the officers will stand up at appeal or a judicial review. This supports my interpretation that the committee must “rubber stamp” all applications otherwise the authority would lose their case at either of the above appeal or review.

Paragraph 3 once again stresses that it is complex when the officers recommendations are overturned. we are told that “ the way in which each individual member voted can become a matter of legal significance “ what we are not told is to whom this becomes of legal significance or why it becomes a matter of legal significance. I consider that we as members should be given this information in this paper. If this is not possible then the legal implications will need to be spelt out at each committee meeting where it is apparent that an officer’s recommendation is to be overturned. What is the purpose of identifying each member in the vote in writing when a decision is made overturning an officer recommendation. The implication is that the authority considers that it will be able to identify those who voted against a recommendation and identify the members in order to pursue whatever course of action is open to the authority possible against those members for going against the advice of the officer.

I said I would come back to the issue of confusion.

I consider that it is essential that the committee receives clear legal advice on the issues arising in the event that a committee goes against an officers recommendation either for approval or refusal. This must in addition to any advice given by the planning officers.

It is clear to me that where there needs to be clear wording it must be fully minuted and that all members must understand the wording of the reasons given for refusal or approval and this even more important when going against officers advice.

If the reasons for the decision are difficult to draft which they have been on occasions in the past then the chairman should adjourn whilst a formal wording is drafted and when this is complete it can be brought back to the committee for approval or amendment. This would avoid the confusion that has sometimes occurred in the past.

I may be alone on this issue but I would be reluctant to approve this paper in its current form and would ask that it is withdrawn for further consideration and that consideration also be given for a much more detailed planning procedure document of best practice be drafted for our consideration and possible inclusion in the authority's constitution.

How do other planning and development control authorities handle this issue? Having only received the agenda this week I have not found the time to search the web.....

John Davies - 20.01.11