

APPENDIX N: DEVELOPMENT MANAGEMENT PROTOCOL

FOR MEMBERS AND OFFICERS

1. INTRODUCTION

- 1.1 This protocol states and reinforces the principles that underpin effective Member involvement in the development Management process. It draws on established local practice as well as guidance from external sources. It will assist both Members and Officers to work together to ensure that the needs of the community are met within the legal and policy framework of planning. Members and Officers have separate but equally important roles to play in this function. The status of this Protocol is advisory unless otherwise shown by use of italics below. If any inconsistencies emerge between contents of any Appendix and the Constitution then the Rules of the Constitution will apply, as set out in Part 1 paragraph 1.1 of the Constitution.
- 1.2 Planning decisions can have a significant impact on our communities and it is fully understood that Members need to play an active role in development Management matters, both as representatives, decision makers and as community leaders.
- 1.3 In practice most planning decisions are delegated to the Chief Officer Planning and Regulatory Services for the following reasons:
- To minimise delay to the application;
 - Because they are not controversial and can easily be determined within the framework of planning policies;
 - Because, in the case of non controversial application, Officers are authorised to deal with them; and
 - For the maintenance of the efficiency of the service.
- 1.4 Those planning applications not dealt with under delegated authority are considered and determined by the Development Management Committee.
- 1.5 Members should represent the interests of the whole community in planning matters. When determining planning applications, they must take into account planning considerations only. These can include views expressed on relevant planning matters. However, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons and where these are considered by the Development Management Committee it is the Members that ultimately make the final decision on planning

applications, after taking due account of the advice given by professional officers.

1.6 Members will be guided by the Council’s current Code of Conduct with particular reference to declarations of Interest.

APPENDIX A

MEMBER INVOLVEMENT IN THE LIFE CYCLE OF A PLANNING APPLICATION IS SUMMARISED IN THE TABLE BELOW:

Stage	Opportunity for Member Involvement	Principal Means of Communication
Pre-application	<ul style="list-style-type: none"> • Members to advise Officers of local information • Officers to advise local Members of cases of potential concern involving pre-application discussions • Informal consultation on issues and sites known or likely to be controversial 	<ul style="list-style-type: none"> • Telephone/e-mail • Telephone/e-mail/meeting • Telephone/e-mail/meeting
Publicity for Application	<ul style="list-style-type: none"> • Weekly List • Contact with affected third parties • Contact statutory consultees • Public Access Module 	<ul style="list-style-type: none"> • Post/e-mail • Telephone/e-mail/meeting • Telephone/e-mail/meeting • Website
Assessment	<ul style="list-style-type: none"> • Dialogue with case officer • Contact with affected third parties • Possible reference to Development Management Committee 	<ul style="list-style-type: none"> • Telephone/e-mail/meeting • Telephone/e-mail/meeting • Telephone/e-mail/meeting
Negotiation	<ul style="list-style-type: none"> • Updates from case officer 	<ul style="list-style-type: none"> • Telephone/e-mail/meeting
(Significant) Amendment following negotiation	<ul style="list-style-type: none"> • Weekly list • Contact with affected third parties/statutory consultees • Dialogue with case officer 	<ul style="list-style-type: none"> • Post/e-mail • Post • Telephone/e-mail/meeting
Recommendation	<ul style="list-style-type: none"> • Dialogue with case officer • Early report on request • Requesting reasons for refusal/conditions for approval • Referral to Development Management Committee 	<ul style="list-style-type: none"> • Telephone/e-mail/meeting • Telephone/e-mail • Meeting • Meeting
Decision	<ul style="list-style-type: none"> • Attending Development Management Committee • Attending Committee site inspections 	<ul style="list-style-type: none"> • Meeting • Meeting

Appeal	<ul style="list-style-type: none"> • Dialogue with appeal officer • Attending Hearing or Public Inquiry 	<ul style="list-style-type: none"> • Telephone/e-mail/meeting • Meeting
Monitoring	<ul style="list-style-type: none"> • Advising officers of local information 	<ul style="list-style-type: none"> • Telephone/e-mail/writing

2. OBJECTIVES

2.1 This Protocol has the following main objectives:

- (a) To guide Members and Officers of the Council in dealing with planning related matters;
- (b) To ensure that the Council operates an open and fair system;
- (c) To establish clear procedures; and
- (d) To promote better communication between Officers and Members.

3. PRE-APPLICATION DISCUSSIONS

- 3.1 Members can influence future development through being involved at the pre-application stage. Planning Officers must consider the potential for Local Member input and use common sense in contacting all interested Members on any development proposals that might reasonably be considered controversial or sensitive.
- 3.2 Full discussions about planning applications are strongly encouraged between Local Members and Case Officers on a case-specific basis. However, recognising that Officers' and Members' time is very precious, an e-mail or phone call alerting local Members to any possible controversial pre-planning application discussions would be adequate.
- 3.3 Officers would be expected, upon receipt of an enquiry from a Local Member in relation to a specific site to discuss details with that Member of any contact with a potential developer albeit that these discussions were at a pre-application stage.
- 3.4 Potential applicants should always be advised that the final decision on any application ultimately rests with Members through the Development Management Committee. Officers and Members should make clear that the advice given to potential applicants does not constitute a formal decision. Applicants seeking advice should be made aware of the subjectivity of the advice given and, consequently, there is the need for a consistent approach by Officers in their dealings with potential applicants (enquirers).
- 3.5 It is important that Case Officers recognise that what might be a sensitive case or a 'case of interest' could vary from ward to ward. It is therefore essential that planning officers know their area well and consult with Local Member(s) regularly.

- 3.6 In dealing with pre-application discussions it should be recognised that as no application has yet been made, the discussion is informal and not governed by the statutory provisions of the Town and Country Planning Act. In order to ensure that an open discussion ensues, the enquirer (not applicant at this stage) must be given the opportunity to identify any matters that give rise to commercial confidentiality. It is recommended that the ideal model set of procedures be used where practicable as per Appendix B.

APPENDIX B

Formal Pre-application Meetings

- (a) In the case of formally arranged pre-application meetings (either at the office or on site) it is important that an accurate record of the discussion is made and this should set out the following:
 - (i) the context of the discussion;
 - (ii) the nature/extent of the draft proposals;
 - (iii) the relevant planning policies, considerations, and issues that apply;
 - (iv) the views and comments made by those present at the meeting as far as relevant to the matters under discussion.
- (b) At the end of the meeting the Planning Officer present will ensure that the status of the discussion is fully understood by the potential applicant/agent. The draft meeting note should be made available to all parties at the meeting so that they may comment and/or amend as necessary as an agreed record of the discussions.
- (c) The minutes/note of the meeting will be filed with a site reference (to avoid confusion by any changes to the site dimensions name or ownership). The meeting note to be recorded in Uniform system against the site record.

4. APPLICATIONS

- 4.1 Since the great majority of applications are for household extensions and other minor developments it is expected that most queries from local Members can be dealt with by telephone or by e-mail. For more complex or controversial applications, face-to-face briefing between Members and Officers may be appropriate.
- 4.2 To promote good communications, Officer/Member discussions will normally be held with the responsible case officers rather than their seniors. The latter should however become involved when issues arise that cannot be resolved by Members and case officers.
- 4.3 Member/Officer discussion should take place at the earliest opportunity, with openness and respect for each other's roles, responsibilities and opinions, recognising that officers have a professional duty to give impartial planning advice.
- 4.4 Planning officers, applicants and agents should ensure that site plans are correct and are up to date and should include recent development/permissions and any affected buildings in the vicinity together with the latest drawing numbers.

- 4.5 Every application site must be identified by an Ordnance Survey or GIS reference.
- 4.6 As with pre application advice, file notes of every contact with applicants/ potential applicant should be written and placed on file.

5 PUBLICITY

- 5.1 The 'Weekly Planning List' should be accurate in identifying all valid applications received, showing the correct wards and the responsible case officer. There is an obligation on Members to follow up concerns within their ward arising from the 'Weekly List' with Planning Officers.
- 5.2 Public Access is an important source of information for Members, the public and applicants/agents and therefore it should be scrupulously maintained.
- 5.3 There is a need for consistency in the clear display of 'orange' site notices, as set out in the adopted relevant Statement of Community Involvement. An accurate record that a site notice is required should be identified within the Uniform system together with a record of the date when the notice was posted. Officers to check notices are correctly displayed when undertaking their site visits.
- 5.4 Neighbour notification should be carried out in accordance with the adopted relevant Statement of Community Involvement. All neighbours who are likely to be directly affected by the application should be identified to receive a neighbour notification letter. A record of all those notified will be maintained within the Uniform system.
- 5.5 Site visits by Officers are essential to ensure that all parties who ought to be notified of an application have been correctly identified and as such will receive a neighbour notification letter. Any additional neighbour notification will be carried out following the site visit.

6 CONSULTATION

- 6.1 There is a need to ensure that all affected parties are notified of a planning application. In accordance with recognised 'best practice' the Council's consultation procedures exceed the statutory minimum required. A record of all parties consulted will be maintained on the Uniform system.
- 6.2 A proper, and reasonable timescale should be given for comments and a copy of the application documents should be provided to statutory consultees as appropriate.
- 6.3 It is recommended the letters to neighbours should be issued at the same time as letters to parish/town councils with the same deadline for responses.

7. COMMUNICATION

- 7.1 Members and Officers need to make sure that there is proper and adequate communication between them and if not available on the phone, e-mail should be used.
- 7.2 Communication problems can be reduced still further if Members ensure that they inform the case/area officer of their holiday (or any other absence) dates, and indicate a time or a regular day when they can be contacted.
- 7.3 If an Officer routinely works at home on a certain day each week, then this information should be made available to Members. Members who wish to contact an Officer who is on site, or working at home, will contact the relevant Development Management Team so that a message can be passed to the relevant Officer to contact the Member in order to deal with their enquiry or concerns.
- 7.4 Officers and Members need to make sure that queries, calls and e-mails are responded to as quickly as possible.

8. ASSESSMENT

- 8.1 Local Members have a duty to check the Weekly Planning List to identify potentially contentious applications and enter into a dialogue with the case officer if they wish to be advised / consulted on the progress of the application. Any contact by a Local Member will be recorded by the Case Officer.
- 8.2 If a Member makes clear his/her interest in an application the Case Officer should offer a briefing with that Member with a view to clarifying and/or resolving any concerns in relation to that application.
- 8.3 If a Member is contacted by a third party in relation to an application care must be taken to avoid any personal commitment either for or against an application.

9. AMENDMENT OF APPLICATIONS

- 9.1 If a Member has expressed an interest in an application he/she should be informed when an amendment to that application is sent out for further consultation. Members should not unreasonably/unnecessarily hold up the planning process over minor amendments to an application. Members should always react and respond quickly.
- 9.2 All amendments should be notified to Members who have previously expressed an interest before a decision is made.

10. REPORTS

10.1 Draft reports to Development Management Committee should be produced in accordance with existing internal procedures.

10.2 The following principles should be adhered to in the production of reports to the Development Management Committee:

- reports should be accurate and balanced. The report should include, amongst other things, the substance of objections and the appropriate importance must be attached to the views of those consulted;
- there should be a clear exposition of the Development Plan and other policies, the site, proposal, related history and any other material considerations;
- the reports should contain technical appraisals which clearly justify the recommendation;
- there should be a written recommendation either for approval or refusal. However, where the recommendation is finely balanced, this should be clearly reflected in the report;
- all relevant documents, including the Regional Spatial Strategy, Local Development Plan or Framework and Planning Policy Statements/Guidance should be cited with an explanation of the weight given to each policy. Where a recommendation seems to be contrary to policy, the material considerations justifying the departure should be clearly stated.

11. APPLICATION FILES

11.1 *Planning application files for applications to be considered by Development Management Committee will be made available for Members from 6 p.m. on the evening of the meeting.*

11.2 Members should be aware that they may inspect application files at the District Council offices at Argyle Road during normal office hours by prior arrangement to ensure the availability of the files for the Members' visit.

12. IMPLICATIONS FOR DEVELOPMENT MANAGEMENT COMMITTEE MEMBERS AND LOCAL MEMBERS

12.1 *Development Management Committee operates akin to a quasi-judicial manner and all sitting Committee members must avoid reaching a judgement before all relevant evidence is presented to the Committee. They must view applications dispassionately and have regard to the provisions of the Development Plan and all other material planning considerations.*

- 12.2 *All sitting Committee members must ensure that they never give the impression of closing their minds to information relevant to an application, however much pressure they are placed under to take a particular line.*
- 12.3 Members must ensure that they keep themselves informed of issues within their wards i.e. viewing Weekly Plan list etc. This would assist Members in identifying potentially contentious applications and seeking views of their town/parish council.
- 12.4 There is an obligation on Members, where they have requested that an application be referred to the Development Management Committee, to attend the meeting at which the application is considered. Should the Member, due to a prior commitment be unable to attend, they should provide a written personal report to be read to the Committee and/or brief another Member who does not serve on Development Management Committee to present their case to the Committee. Officers should not be expected to prepare a full committee report if the Member or their representative does not intend to be present to reserve the application for debate and a Member's written report is not provided - an exception is when the report relates to application by a Member/Officer.
- 12.5 Lobbying is a normal and perfectly proper part of the planning process. However, members of the public who feel they would be adversely affected by a planning application will often seek to influence it by approaching their elected Member. Members should exercise care and common sense. The impartiality and integrity of the Council should not be called into question.
- 12.6 When being lobbied, Members will need to take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been able to consider all the facts, considerations and arguments. If Members do express an opinion they should make it clear that individually they will only be in a position to vote on a final decision after having heard all the relevant evidence and considerations at the Development Management Committee.
- 12.7 Individually or in Committee, Members are entitled to hold views and take decisions contrary to Officer advice. However, such a decision should be based on valid planning considerations, the details of which should be given by the Member at the meeting, and the reason for the decision should be clearly documented in the minutes of the meeting. It therefore follows that Members of the Committee when moving for a decision contrary to recommendation should be ready to advance adequate reasons before a vote is taken.

13. APPEALS

- 13.1 In the event of an appeal being lodged against: a refusal of, or failure to determine a planning application; or application for a Lawful Development Certificate; or the issuing by the Council of an enforcement notice; Local

Member(s) will be kept informed of the progress of the appeal. Local Members wishing raise comments or questions on any aspect of the appeal should contact the Chief Officer Planning and Regulatory Services or Development Management Manager to discuss the specific case.

- 13.2 The local Member(s) are encouraged to have dialogue with Officer on the general grounds for an appeal and the Council's defence of that appeal.
- 13.3 Members are expected to attend an appeal if they have been instrumental in the refusal of the application that led to the appeal.

GLOSSARY:

Enquirers

Potential applicants

Briefing

When an Officer contacts a Member by phone, e-mail or with a meeting to update them on planning issues.