

Protocol for councillor Involvement in Pre-application and pre-decision Engagement

Purpose

The purpose of this protocol is to outline the process of development engagement with members of the Development Management Committee at the pre-application and pre-decision stages of the planning application process.

The process is solely for the following types of development proposals:

- Large-scale major developments – 100 houses or more or 10,000 square metres of non-residential floor space (which, by their nature (e.g., scale, location etc.) have wider strategic implications and raise issues of more than local importance.
- Other applications which, by their nature (e.g., scale, location, type of development), in the opinion of the Strategic Director of Community and Place Delivery or the Development Manager, raise concerns which have District-wide implications.

The involvement of councillors in the pre-application and application process is recognised as best practice in the National Planning Policy Framework and is encouraged by the Planning Advisory Service and the Planning Officers Society who have both published guidance in this regard.

<https://www.planningofficers.org.uk/uploads/news/CouncillorInvolvementInPreApplicationDiscussions.pdf>

It is important that the process and procedures relating to councillor involvement in pre-application and pre-decision discussions on planning applications are clearly understood by officers, councillors and the public and that discussions are subject to good governance. This protocol sets out the governance for such discussions for St Albans City and District Council.

Benefits

The Planning Advisory Service advise that the active involvement of members at the earliest stages of a development project is important to improving the quality of the development scheme and reducing potential delays in decision making.

The benefits of councillor involvement can be summarised as:

- Keeping councillors better informed on major applications
- Engaging councillors on issues to be dealt with in a formal submission
- Taking account of emerging or existing community concerns at a formative stage
- Providing councillors with the opportunity to ensure that proposed new development meets the wider spatial aspirations of the council
- Provide members of the Planning (Development Management) Committee with an invaluable opportunity to understand issues of viability and to explore potential contributions to local infrastructure and affordable housing (within the constraints of national guidance on such matters)

- Obtaining initial councillor guidance for officer negotiations on major applications
- Reinforcing councillors' roles in their communities.

Active involvement of both councillors and communities at the earliest stages of a development project is important to both improving the quality of the resultant scheme and in reducing potential delays.

Pre-application discussions are not a substitute for the formal consultation and processing of an application. They are not to conduct negotiations in public, nor to allow objectors to frustrate the process. Any negotiations should be conducted with officers separately from any pre-application discussions.

A good way to avoid any appearance of pre-determination is to seek to conduct the discussions with councillors in a transparent way, with a public file note produced by the officers, setting out the issues considered and any outcomes.

Probity

The Local Government Association with the Planning Advisory Service published "Probity in Planning" in December 2019 which provides clear advice on early engagement with applicants and pre-application discussions. This encourages early councillor engagement to ensure that proposals for sustainable development will lead to settlements that communities need. It reinforces the benefits outlined above of pre-application discussions between a potential applicant and the council that can benefit both parties.

However, it also warns that it would be easy for such discussions to become, or be seen by third parties to become, part of a lobbying process on the part of the applicant. A decision taker must not have made up their mind on a proposal such that they have a closed mind to any new information or alternative views before taking a decision on a future application. It is acceptable for a councillor to be predisposed to support or object a proposal as a result of both their community representative and leadership roles. A predisposal means a councillor's mind is still open to all possible outcomes even though they have an initial leaning in support of, or against, a proposal.

In light of this, Councillors' engagement in discussions is not intended to bring forward their views on the proposal. They may or may not be in a position to give a preliminary view on a proposal, but they need to be advised that they should not express a view which may pre-determine their position in the event that they will be a member of the planning committee determining the application.

If a Councillor decides to express anything but a clearly preliminary view, or at this stage decides to represent a view on behalf of their community or ward in support of their community champion role, then their pre-determined "ward" role will require them to stand aside from the determination of any subsequent planning application. Any such clear indication expressed at the pre-application stage should be included in the notes of the meeting.

Where wards with multiple councillors exist, it will often be possible for non-planning committee members to express any initial views on behalf of communities, whilst planning committee members restrict themselves to questions or clarification.

A note of those present, the issues discussed, and next actions should be placed on a public file by the officer involved, to protect the councillor and the council by showing what issues were discussed and that no pre-determination arose.