

	Planning Committee January 6 th 2010	Agenda Item No.
	Councillor involvement at the pre - application stage of development proposals.	
For further information about this report please contact	John Edwards	
Service Area	Planning	
Wards of the District directly affected	Whole District	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number	Planning Committee March 11 th 2009	
Background Papers	<p> “Positive Engagement: a guide for planning councillors” .ODPM/LGA/PAS Leaflet 2005 “The Planning System – matching Expectations and Capacity” Audit Commission February 2006 Planning Officers Society: Practice Guidance note 3 “Councillor Involvement in pre application discussions”. 2007 “Constructive Talk-investing in pre-application discussions “ Planning Advisory Service Aug. 2008 The Killian Pretty Review- “Planning Applications: A faster and more responsive system” Nov 2008 “Probity in Planning” –LGA publication may 2009 Report to Planning Committee – March 11th 2009 </p>	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes

Officer/Councillor Approval		
With regard to officer approval all reports <i>must</i> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Portfolio Holder	December 09	John Hammon
Relevant Director	December 09	Bill Hunt
Legal	December 09	Peter Oliver
Finance	December 09	Marcus Miskinis

Head of Members Services	December 09	Robert Inman
Consultation Undertaken		
Initial consultation - Chairman and Vice Chairman of Planning Committee – February 2009 Meetings of Councillors Working party through 2009 – Councillors Mackay, Illingworth, Barrott and Blacklock.		
Final Decision?		Yes

1. **SUMMARY**

- 1.1 At the Planning Committee meeting of March 11th, councillors agreed to set up a working party to explore the development of a protocol for councillor involvement at pre- application stage in respect of development proposals. The working party has met on a number of occasions since then, with planning and legal officers in attendance, and has discussed both how a protocol might operate and the implications for the Councillor Code of Conduct. This report sets out the details of how such a protocol might operate.

RECOMMENDATION

- 2.1 That members approve the protocol for the operation of a Proposed Development Review Forum set out in Appendix A, with its operation to commence from April 2010.
- 2.2 That specific training for councillors take place prior to the protocol taking effect.

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 To improve the planning application decision making process through putting in place a mechanism whereby community aspirations or issues of concern can be identified at the earliest opportunity and taken into account when major development proposals are being formulated.

4. **ALTERNATIVE OPTION CONSIDERED**

- 4.1 The lack of a published protocol may mean a more ad hoc “unmanaged” approach or missed opportunities for community engagement in the development process.

5. **BUDGETARY FRAMEWORK**

- 5.1 There are some budgetary implications as additional meetings will need to be serviced (with implications for increased officer time) and the cost of councillor training will also need to be taken into account. Preliminary indications on this are that a sum of £1450 is likely to be involved for a one off half day session. Quantifying actual costs for the operation of the forum depends to a large extent on the frequency of meetings. Initially, it is suggested that a quarterly frequency would be appropriate. Overall, it is considered that the additional costs are likely to be outweighed by the benefits of having a scheme in place, which will facilitate better prepared applications and should help to promote community engagement and assist with the achievement of the community strategy for the area.

6. **POLICY FRAMEWORK**

- 6.1 The involvement of Councillors in the formulation of emerging development proposals within a structured framework is considered to be consistent with the objectives of the Corporate Strategy 2008- 2011 which inter alia aim to deliver responsive services in an open and transparent manner and a sustainable and quality environment

7. BACKGROUND

- 7.1 Constructive pre-application discussions between potential applicants and planning officers have long been recognised as helping to ensure all relevant considerations are addressed when an application is submitted, and to potentially speed up the determination of an application and bring more certainty into the process. The holding of such discussions is encouraged by central government (PPS 1 “ Delivering Sustainable Development”) and the national planning application forms mandatory from June 2008 contain specific questions about any pre-application advice the applicant may have obtained and also any neighbour or community consultation undertaken prior to submitting their application. The recently published Killian Pretty review takes this forward with a specific recommendation aimed at improving the “critically important” pre-application stage of the application process. Recommendation 4 states (inter alia) :
- “Government should strengthen and clarify national policy and guidance, so as to set out clearly its key expectations from applicants, statutory consultees and representatives of the local community;
This policy and guidance should be based on the presumption that, for major developments, there will be formal pre-application discussions involving, where appropriate, all relevant parties, including elected members, statutory consultees and representatives of the local community.*
- 7.2. Major applications are costly to prepare in terms of plans, documents and the often voluminous specialist reports which are required to accompany them to meet an authority’s validation criteria.
- 7.3 The Council’s approved “Statement of Community Involvement “contains guidance in respect of planning applications and states that at pre- application stage, officers will discuss with prospective applicants the options for pre-application consultation with affected parties.
- 7.4. The Audit Commission study “The Planning System-Matching Expectations and Capacity” stresses the importance of well structured pre-application processes in providing useful advice and the opportunity for key issues to be identified and considered at an early stage in the design process, which can avoid wasting time and money later. The study contains the following paragraph about councillor involvement at pre-application stage:-
- “Private sector stakeholders and others identified that the current lack of councillor involvement at the pre-application stage is a drawback in the system. Local authorities are often understandably anxious about engaging councillors at early stages as they feel this may compromise them once a planning application goes to committee for decision. However, this approach is at odds with the current emphasis on the councillors’ roles as advocates for their areas and as community leaders. Both ward councillors and portfolio holders have roles to play in pre-application discussions. Local authorities need to ensure this happens by including councillors but being clear about which role they assume during pre-application discussions. This also needs to be set out in a transparent way for applicants.”*
- 7.5 The Planning Advisory Service (PAS) have recently published a useful guide to pre-application discussions and this also emphasises the need for constructive working at pre-application stage and states “good pre-application processes also involve statutory consultees, and offer the opportunity to introduce the views of councillors and the local community at an early stage”. The PAS report further advises that it is

advisable for members to be introduced to a major project “*well before they are asked to take their formal decision on the application*”.

- 7.6 The Planning Officers Society (POS) practice guidance note lists the benefits of councillor involvement as:
- Keeping councillors informed on major applications
 - Engaging members on issues to be dealt with in a formal submission
 - Taking account of emerging or existing community concerns at a formative stage
 - Obtaining initial member guidance for officer negotiations on major applications
 - Reinforcing councillors roles in their communities
- 7.7 Potential drawbacks are that early engagement could lead to an appearance or suspicion of member “pre-determination” and the difficulty of keeping separate any negotiations from any briefing type session.
- 7.8 Since the report to Planning Committee in March, the LGA have published “Probity in Planning: the role of councillors and officers- revised guidance note on good planning practice for councillors and officers dealing with planning matters”. This highlights the “positive and proactive” role planning plays at the heart of local government which is a “powerful tool that helps achieve the ambitions of local communities”. It recognises councillors’ ability to participate in discussions prior to receipt of a planning application on behalf of their communities and advises on how to avoid predetermination or bias in decision making. The document notes the Audit Commission recommendation that an effective approach to pre-application discussion should involve councillors to ensure that issues relating to proposed planning applications are identified and addressed early in the process and “not identified for the first time when the application was presented to the committee for decision, causing delay and frustration”.
- 7.9 The whole thrust of the emerging advice and practice is that a clear framework for pre-application discussion needs to be put in place, within which the roles and responsibilities of both councillors and officers are clearly set out. For councillors, the primary purpose of the process would be to gain understanding of the proposals, find out how emerging schemes address Council policies, ask questions, and raise issues warranting further examination by the developer. For officers, the process would assist in any ongoing negotiation on emerging schemes as developers would have a clearer picture of issues of community concern and could respond to them more effectively before they finalise their schemes.
- 7.10 In the event of the “Proposed Development Review Forum” concept being implemented, it will be important for the key points made at any established Forum meeting to be minuted and retained as a record and submitted with any eventual planning application. Any forum held involving councillors would not preclude any wider public/ community consultation at pre-application stage which developers would be encouraged to undertake before a proposal was presented to the forum.
- 7.11 A recent communication from the Planning Officers Society has highlighted the fact that specific training sessions are available for councillors on the topic of pre-application engagement, exploring the issues of “pre-determination” and how this can be avoided. It is considered appropriate for councillors to undertake such training before any protocol is adopted by this council.