

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

6 April 2016.

**LEAD OFFICER:** Director of Planning and New Communities.

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### **Pre-application and Technical Briefing Protocol**

#### **Purpose**

1. To support all parties in dealing with increasing numbers and complexity of planning applications.

#### **Recommendations**

2. That Members agree the pre-application and technical briefing practice and protocol

#### **Reasons for Recommendations**

3. To provide guidance for all parties on how to manage pre-application engagement and increase knowledge of complex technical issues for relevant applications.

#### **Background**

4. The Planning Committee has an increasing number of complex and major planning applications to consider. This is due to a range of factors including planning applications arising from the lack of a five year land supply and also from applications from allocated strategic sites. This guidance is intended to provide additional advice to all parties in the light of these circumstances.
5. In order to assist the Planning Committee and local Members, it has been agreed that briefings will be arranged to allow presentation and exploration of planning proposals at pre-application stage, and also post-submission to consider specific technical aspects as they relate to particular applications.

#### **Pre-application Engagement**

6. South Cambridgeshire has encouraged planning applicants to seek pre-application advice for over five years, this is provided by planning officers. A number of options are offered within this service and costs are recouped through fees.
7. National guidance strongly encourages this practice and in addition for major applications advises applicants to engage with the local community. This practice is established in the District.

8. The benefits of pre-application engagement and involvement of Members in the process has been widely promoted by central government and national guidance

*'Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.'* (NPPF)

And

*"The Engagement of local Councillors as leaders and representatives of the community is vital in the delivery of the positive outcomes from the planning process"* (LGA: positive engagement a guide for planning councillors)

### **Technical issues**

9. Sometimes applications presented to Committee raise complex technical issues. It has been felt in the past that the time allowed to present the technical elements of some applications at the Committee meeting has not always been sufficient. This in some instances has resulted in applications being deferred for further information. The subsequent delay reduces the level of service to applicants but also impacts on the efficiency of the planning team.

### **Proposals**

10. Members are being asked to agree two practice and procedure protocols. The first relates to the holding of pre-application briefings for all Members, including Planning Committee Members, attended by applicants/developers and also pre-application engagement with the local community. The second relates to Technical briefings for Planning Committee Members and the public, prior to the determination of planning applications where there are complex technical issues requiring clarification before a decision at Planning Committee is made.

### **Pre-application Practice and Protocol**

11. The Pre-application Practice and Protocol is included in Appendix A this sets out the local authority's approach to pre-application engagement with Members including planning committee and also the Public.
12. It provides the opportunity for developers to present a scheme to local Members and the public at an early stage in the process. Allowing the environment for them to raise any questions and concerns and also positively shape development prior to it being presented as a planning application.

13. Planning Committee Members who will ultimately make decisions on planning applications can take part in pre-engagement meetings; the protocol provides advice on what they should and should do during pre-application engagement. This should be read with the LGA guidance "*Positive engagement a guide for planning Councillors updated version*" (See Appendix C)
14. Local Members and Parish Councils can also attend pre-application briefings for Planning Committee and there will be an opportunity for them all to ask the developer questions, following a presentation of the scheme. The meeting will also be a public meeting in accordance with good practice in terms of transparency.
15. In addition, we currently encourage developers to liaise with the case officers and the Parish Council to agree how best to engage with the local community. This usually involves attendance and presentations at Parish Council meetings and local exhibition or drop-in, or public forums. We encourage planning officers attendance at these to ensure that everyone has a shared understanding of issues. It is also useful for Planning Committee Members to also attend these meetings and when they wish ask questions of clarification to the developer. Planning Committee Members should not express a view on whether an application would be supported or not prior to the application being considered at committee.

#### **Technical Practice and Protocol**

16. Planning Committee Members will be provided with an ongoing training programme, which will include technical planning subjects. Local Members are invited to attend training. Parish Council training will also be provided. A separate paper is presented to Planning Committee on this matter.
17. However, certain applications may present complex technical issues, which require specific briefings, as there would not be sufficient time to fully explore the depth of the issues at normal Planning Committee meetings.
18. In these instances a separate briefing on the issue will be organised prior to Planning Committee. Whilst these meetings are open to the public, the focus will purely be on providing the opportunity for Committee Members to ask any questions of officers following a presentation of the technical issue. Given the nature of the meeting no debate or discussion on the merits of the case should take place. (See Appendix B)

#### **Financial Implications**

19. Officer and Member time to attend the meetings, which can be met from within existing budgets.

#### **Legal Implications**

20. Section 25 of the Localism Act 2011 makes it clear that Councillors can both campaign and represent the views of their constituents without compromising

their ability to take part in the actual decision-making process should they form part of a Planning Committee determining planning applications. As such there are opportunities for Members to get involved at the pre-application stage through the formal planning process.

## **Appendix A: Pre-application Practice and Protocol**

This Protocol aims to ensure an open and transparent process by clearly outlining the arrangements in place and how presentations will be conducted, ensuring there is a consistent approach and setting out actions and behaviours to be adhered to by all parties

### **Members Responsibilities**

Existing responsibilities for Members involved in the planning process may be found in the Council's Constitution. Additionally, Members may refer to other national publications including:

- Member Engagement in Planning Matters (Local Government Association)
- Positive Engagement – a guide for Planning Councillors (CLG, PAS, POS, LGA)

### **Why we have Pre-Application Briefings:**

- Improve Members' awareness of forthcoming proposals
- Can result in better quality applications
- Ensure that community views are represented
- Improves decision making.

### **The Process**

Developers will be provided with the opportunity to brief Members before an application is submitted for the following:

- Major applications (1000 m<sup>2</sup>, 10 or more houses)
- Other applications raising contentious, significant and unusual issues as agreed by the Head of Development Management and Chair of Planning Committee.

Pre-application briefings are not compulsory and developers do not have to agree to one. However, officers will actively encourage them to do so where a pre-application submission has been made.

### **Briefings**

Pre-application briefings will be public meetings, generally lasting 45-60 minutes, and will be attended by Members of Planning Committee, Local Members and Parish representatives as well as two senior Planning Officers (one to chair the meeting) and the Applicant/Agent/ Developer and their associates.

### **Roles & Responsibilities of Members**

The briefing will generally be chaired by the Head of Development Management or other appropriate senior planning officer who will explain the role of Members at the briefing.

The objective is for all Members to learn about the emerging development proposal by asking the developer or case officer questions and identifying any outstanding issues to be dealt with.

**Planning Committee Members should not** indicate any view in relation to the prospective grant or refusal of any planning application. When the application is considered at planning committee this is the time they need to balance all material considerations before reaching a view on the application.

Non Planning Committee Members (i.e. local members) can express initial views on behalf of local communities.

### **Notification and Format of meetings**

Members of the public can attend the pre-application briefings so they can listen to questions.

The meetings will be held on the same day as planning committee and will be advertised five days in advance with the planning committee agenda.

The meeting will be chaired by the Head of Development Management or an appropriate senior planning officer, who will remind Members of the protocol and roles and responsibilities and introduce the developer and the scheme.

The applicant/agent/developer will present the scheme and explain any constraints which have influenced the design process to date and when appropriate their timelines for bringing forward the application. They may also decide to summarise how they have addressed any concerns raised by the Community to date in their proposal.

Committee Members can then ask the applicant/agent/developer any questions. Local Members and Parish Councils will then be invited to ask questions and raise any concerns or views. The applicant/agent/developer should only answer questions raised.

This order is to draw the distinction between the ability of local Members and Parish Councils to ask questions on behalf of the local community and express views on the scheme. Whereas Planning Committee members questions should be on points of clarification relating to the proposals.

The senior planning officer will conclude the meeting and at this point may also clarify or comment on particular aspects or draw a consensus on important issues which may help the developer on how to proceed.

Notes of the Questions and Answers and views raised will be taken. This will be circulated to all attendees and published on the Councils website. Officers may write separately to the developer following the meetings giving their professional advice on planning policy and the weight that may be given to different matters.

We will actively encourage Developer participation in the Members pre-application

and preferably this should be undertaken in addition to actively public engagement at a similarly early stage.

### **When and frequency of pre- application Member briefings**

The pre- application Briefings can take place at any time prior to planning committee. However there are advantages to these taking place as early in the process as possible to maximise the potential for community engagement and proposals to reflect local views.

In some instances it may be useful to have more than one Member pre-application briefing to inform Members how a scheme has evolved during the pre-application stage and the applicant/agent/developer has responded to public engagement.

### **Pre-application Engagement at Public Forums**

We encourage developers to engage with Parish Councils and where possible arrange to present schemes at an early stage. The operation of this meeting is at the discretion of the Parish Council. It is preferable for the planning officer to attend this meeting in order to take notes of questions and views expressed so this can be put on the pre-application case file. Where a planning officer is not present it would be useful for the Parish Council to make notes and provide them to the planning authority.

In addition for some large and/or complex applications a developer in consultation with the case officer may feel it appropriate to carry out further and wider public consultation prior to an application being submitted. In this instance a public forum could be held.

No decision on proposals will be taken at a public forum, this is the role of the planning committee following submission of an application.

Process:

The senior planning officer in consultation with the Chair of Planning committee will generally make a recommendation to the Developer where pre-applications might benefit from a public forum. These could include:

- Applications which involve more than 10 residential units or over 1,000 sq m of floor space;
- Those applications that involve a departure from the Council's planning policy; or
- Applications which have significant local interest and material planning reasons.
- Applications where there will be a recommendation for refusal.

Pre-application briefings are not compulsory and developers do not have to agree to one.

## **Who can attend?**

Public Forum meetings are open to all Members, stakeholders, local businesses and residents.

## **Format of Public Forum meeting**

- The meeting is chaired by the Chair of Planning Committee
- A senior planning officer will remind those attending of the protocol and there should be no debate on the merits of the case. They will introduce the case officer to summarise the application process to date and key planning considerations.
- The applicant/agent/developer is invited to make a presentation of the proposal
- Local residents and organisations have an opportunity to present their views either for or against the proposal.
- The applicant/agent/developer responds to questions from Members the Parish Council, stakeholders, local businesses and residents.
- The senior officer will summarise issues raised
- An attendance record is kept, the discussion is recorded and a note of the meeting is made which is reported to the Planning Committee when any subsequent proposal is submitted for determination. The record will also be put on the Councils website.

## **Roles and responsibilities of Members**

As above Members should adhere to the code of conduct as outlined in the Councils constitution. And may also wish to refer to the relevant LGA guidelines referred to above.

Planning Committee Members can attend public forum meetings and ask questions but should not express a view in relation to the likely acceptability or not of a proposal

Local Members can use the meeting to understand the development, the issues important to local people and to the developers,

At Planning committee when making a decision on an application, Members should clarify when then have attended public forums and confirm they did not express a view at this time in relation to the proposal subject to the application.

## **Role and responsibilities of others attending**

There is an opportunity for members of the public who wish to submit questions to raise at the Public Forum.

In addition, local residents, businesses, stakeholders and Parish Councils can use the meeting to understand the development, the issues important to local people and to the developers, and how the relevant policies are being applied by asking questions;



It is important that all those attending the meeting should conduct themselves in a respectful manner. The meeting will be stopped if there are any instances of repeated unacceptable behaviour and/or comments

### **Advertising/notification of the Public Forum**

The Parish chair and local members will be notified of the Public Forum meeting as well as immediate neighbours surrounding the site, there will also be a site notice advertising the meeting. Notification will be undertaken at least 10 days prior to the meeting.

## **Appendix B: Protocol for Technical Briefings**

This Protocol aims to support high quality decision making on relevant applications by providing additional briefings for Members on specific technical matters. It will also increase knowledge of important technical issues for members of the public who attend the briefing, supporting them in contributing to the process at subsequent Planning Committee meetings.

These Briefings are normally required when there are technical issues associated with an application, due to their complexity, where there would not be sufficient time at Planning Committee to explore the detail of the issue alongside other matters and other committee items.

### **Members Responsibilities**

Existing responsibilities for Members involved in the planning process may be found in the Council's Constitution. Additionally, Members may refer to other national publications including:

- Member Engagement in Planning Matters (Local Government Association)
- Positive Engagement – a guide for Planning Councillors (CLG, PAS, POS, LGA)

### **Process**

The opportunity to brief Planning Committee Members on specific technical issues before an application is considered at Planning Committee will be provided for applications raising significant technical issues as agreed by the Senior Planning officer and Chair of Planning Committee.

Briefings will consist of a session of up to 60 minutes, and attended by Members of Planning Committee. At least two senior Planning Officers (one to chair the meeting and the Applicant/Agent/ Developer will also attend.

This is a public meeting therefore the following may attend to listen to the Technical Briefing. Local Members and the Parish Council will also be given the opportunity to ask any questions.

- Local members (including members from neighbouring wards if the development affects those)
- Parish Council representative
- Members of the public

### **Meeting Format**

- The meeting will be chaired by the senior planning officer who will confirm the purpose of the meeting and protocol. That is to understand specific technical

issues raised by the application, which would be best dealt with in advance of the Planning Committee meeting

- The case officer will provide Members with an overview of the facts relating to the technical issue and may defer to an SCDC or County Council colleague with specific technical expertise for further explanation if required
- The applicant/developer will be asked to provide details of the technical aspects of the scheme including any specific mitigation measures proposed.
- Planning Committee Members will be provided the opportunity to ask questions in relation to the technical matter. These will be responded to by the senior planning officer and/or applicant/developer.
- The senior officer will then ask other Members and parish Council whether they wish to ask any questions. These will be responded to by the senior planning officer and/or applicant/developer.
- The senior planning officer will then summarise issues raised and will close the meeting
- A Planning Officer will record the briefing and take a note of all persons present, the issues discussed and the follow up actions. This will be placed on the file by the officer involved, and a copy will be made available on the Council's website.
- The involvement of members will be recorded in any subsequent Committee Report.

### **Roles and Responsibilities**

- Technical briefings are not compulsory and applicants/developers do not have to attend. Should this be the case the case officer only will present the technical facts of the application.
- The Applicant/developers presentation will focus purely on the facts associated with the technical detail of the application and will not include a general presentation of the application
- Planning Committee Members should not enter into any debate on the application or indicate any view in relation to the subsequent grant or refusal of Planning permission at this meeting.
- Planning Committee Members must maintain an impartial listening role.
- Planning Committee Members should restrict themselves to questions of clarification in respect of the technical aspects of the application only and not more general questions on other aspects of the application.
- The briefing will be open to the public, to enable them to gain as much knowledge about the technical elements of the application as the Planning Committee Members.

Other Useful guidance

[http://www.local.gov.uk/c/document\\_library/get\\_file?uuid=1e064236-6ba6-4ea5-8e96-db4a07c226f7&groupId=10180](http://www.local.gov.uk/c/document_library/get_file?uuid=1e064236-6ba6-4ea5-8e96-db4a07c226f7&groupId=10180)

<http://www.rtpi.org.uk/media/6312/Good-Practice-Guide-to-Public-Engagement-in-Development-Scheme-High-Res.pdf>