

# *Peterchurch Parish Council*

## Engaging Parish Councillors and Working Groups in Pre-application Discussions

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

Why? Because:-

1. Local Ward Councillors are active civic leaders who have goals and aspirations for their area which they want to make happen. Their role in pre-application discussions gives them the opportunity to ensure that new development meets those aspirations.

2. Planning Applications for the most significant developments are mostly determined through a democratic process at a Planning Committee. These decisions are made by the elected representatives of the local community, not by officers.

3. Communities all over England are demonstrating their ability to take far reaching positive decisions about the type of development they want to see in their communities through Neighbourhood Development Plans. These communities are showing their capacity to consider development constructively and to work with developers and landowners to influence development in a way that is far removed from passive consultation.

4. The involvement of communities is critical to the success of the development planning system.

This is reinforced in the National Planning Policy Framework where it states at paragraph 66:-

“Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably”

{Article 3A of The Town and Country Planning (Development Management Procedure) (England) Order 2015 in which prospective applicants are legally required to carry out pre-application discussion with the local community for some kinds of wind turbine projects }

As in all pre-application engagement, proportionality is the key.

The arrangements that Local Planning Authorities can put in place to facilitate early discussion will vary dependant on the scale and complexity of the development and the likely impact of the development on the wider community.

The role that people play in the development process will affect the reach and timing of their involvement.

All Parish Councillors will be chiefly acting to ensure that new development delivers the greatest benefits for their communities but there are nuances to their roles that affect how they engage in pre-application discussions.

Early and proactive engagement in discussions from Ward Councillors and Planning Portfolio Holders helps developers to shape major schemes even before they get to the drawing board.

Leaders and portfolio holders in particular may need to act as managers of council assets acting as partners in the delivery of some strategic developments, balancing an asset management role with civil leadership and representing the interests of constituents. They are able to use their position as local leaders to aid important developments that will realise their aspirations for the area.

Ward Councillors generally want to be confident that they have the right information about proposals happening in their area in order to be more effective community representatives.

They want to do a job in encouraging developers to make proposed developments that their community will value and achieve benefits for their community from developments within it.

Planning Committee members will take decisions on Planning Applications but balance their community leadership role with the need to keep an open mind prior to decision making.

This does not mean that committee members should be insulated from early discussions. It will help to bring about better understanding of the issues through open exchange of information, discussion and constructive questioning.

Parish Councillors involved in early discussions have an invaluable opportunity to understand issues of viability and to explore potential contributions to local infrastructure and affordable housing.

Parish Councillors are able to provide a clear steer on what is likely to be acceptable to the community and can allow problems and opportunities to be identified and addressed as the proposals for the development are put together.

The issues raised by Statutory Consultees can be explored and alternatives assessed.

While the outcome of the Planning Application is not pre-determined by this process, the issues are better understood and the likelihood of deferrals and delays much reduced.

In the Localism Act 2011 (s25), the government made it clear that the probity rules that ensure that Parish Councillors behave with the highest standards in relation to their role in planning are not a barrier to Parish Councillors being actively involved in bringing their local knowledge, expertise and understanding of community concerns to bear in the pre-application process.

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.

It is reasonable for a local Parish Councillor to be predisposed to support or object to a proposal as a result of both the community representative and leadership roles.

The PAS/LGA guide “Probity in Planning 2013” sets out more guidance on this matter: [http://www.local.gov.uk/environment-planning-and-housing/journal\\_content/56/10180/3979541/ARTICLE](http://www.local.gov.uk/environment-planning-and-housing/journal_content/56/10180/3979541/ARTICLE)

The community in the planning context can include a multiplicity of potential players.

It is not just those living near a future development but includes all those whose live, work or responsibilities could be noticeably affected by it.

It can for example include:-

- Those potentially affected by traffic, noise or visual impact some way away from a site
- The local Parish Council or a Neighbourhood Steering Group (as even if their role is not statutory forums designated for Neighbourhood Planning will have an equal interest in representing their communities)
- People beyond a parish boundary if, for example, changes might be happening to a school, centre or open space that serves a wider area
- Amenity and Residents’ Groups, managers of local community infrastructure
- Some external people even if not local e.g. Natural England if there is a wildlife impact

It is important that a potential applicant gains a clear understanding of the ‘community’ in relation to a proposed development early in the process and for the Local Planning Authorities to help the applicant to reach this understanding.

While recognising that some aspects of it can and perhaps should, change as a project evolves, applicants are well advised to use community consultation as one of the channels through which the design of a proposal can be developed and refined.

Development of an engagement strategy, setting out how the community will have opportunities to understand and influence developments is best done as part of early discussions and included within a Planning Performance Agreement or Project Plan.

Applicants may go separately to engage with the community or may work with the Local Planning Authority, including Parish Councillors, to facilitate the discussion at the formative stages.

While in some commercial situations a potential applicant may wish to hold back on community engagement for reasons of confidentiality, the Local Planning Authority should encourage the applicant to bring the community into discussions as soon as practically possible.

Like Ward Councillors, Parish Councils, Neighbourhood Steering Groups and other community representatives also value being part of discussions and to shape proposals in their area; to understand the impact of viability, to advise on community priorities and to see that these are demonstrated in the proposals that are brought forward by applicants.

Early open discussions with local communities are unquestionably the key to effective progress in developing proposals that meet both the needs of the applicant (a faster and more cost effective passage through the planning system) and increased benefits for the community who will live with the eventual development.

They too are a key route through to the wider community.

To work well and ensure public confidence in the integrity of pre-application engagement, many Parish Councils have adopted some form of structured approach especially in regard to the involvement of Parish Councillors.

This need not be tied to formal presentations and may include more informal working or discussion arrangements, as appropriate for each Parish Council.

However for the sake of transparency and so that a prospective applicant can understand the options available, the arrangements need to be integrated into the range of pre-application services.

In considering what arrangements are appropriate, the following should be taken into account:-

1. Active discussion will facilitate the design of schemes that better meet the needs of the local community more effectively than a “consult and determine” process
2. Arrangements should be proportionate to the scale of the development and the complexity of the issues raised and therefore a range of options should be available
3. Arrangements should be sufficiently flexible to accommodate a range of circumstances including where there has been discussion at plan preparation stage, following an appeal or re-working of unimplemented permissions
4. The Local Planning Authority should have capacity to meet whatever arrangements are put in place
5. The process should be managed in such a way that a record can be kept of matters discussed and advice given
6. Parish Councillors who are not normally involved in making planning decisions, may require additional support to help understand the development plan context and the National Planning Policy Framework
7. How Ward Councillors, Parish Councillors and Neighbourhood Planning Steering Group and communities are engaged in pre-application discussions should be part of the Planning Performance Agreement Project Plan and the Planning Performance Agreement.
8. Allow for regular review of any confidentiality requirements in order to work towards inclusive open discussions.

Many Parish Councils have adopted good working models for engaging both the community and elected local authority members in pre-application discussions.

No one solution will suit all Parish Councils or all developments.

Parish Councils can adopt a combination or hybrid of these suggested options, depending on the scale of development and the stage of the development process.

As with other aspects of a good pre-application offer, all stages, options and costs involved should be clear to participants from the beginning.

Any Planning Performance Agreement should indicate the form of engagement / discussion that will be adopted and these should be identified as milestones in the project plan.

Parish Councils are increasingly working to ensure that their economic development and planning services are working in close alignment.

As part of this they are signposting a “front door” whereby potential applicants for significant new developments are encouraged to come to the Parish Council at the very earliest stages to discuss concept proposals with Parish Councillors.

Equally, whilst progressive developers have gone straight to the community to discuss proposals early in the design stages for some time, Neighbourhood Development Planning has been a catalyst for more direct approaches from developers who wish to work with communities to ensure that their proposals meet community objectives

In both cases this initial contact can set up good relations for the rest of the project or avoid costly delays in taking forward proposals that have little chance of success or community support.

Discussions may start with a blank sheet of paper to allow options to be explored openly or may build on proposals that are at an early stage of development.

While the discussions may be confidential and preliminary, it is nonetheless important that a record of advice and agreements is made, shared between the participants and kept on record should an application follow.

Formal briefings at a meeting, in some form of presentation or less formally by phone, provide an opportunity for the Parish Councillors or a prospective applicant to give an introduction to a development proposal while that proposal is still at a formative stage.

The ‘audience’ may be one or more Ward Councillors or a mixed group of people likely to be affected by the proposal and community representatives such as Parish Council or Neighbourhood Steering Group.

Such briefing can be a helpful way for Parish Councillors to stay abreast of proposals that are being discussed in their area, neighbourhood or parish.

It is also an effective means for portfolio holders to have an overview of development across the local authority.

Briefing is most appropriate at the early stages of discussions between the Parish Council and a prospective applicant.

It is envisaged more as a presentation of information than a discussion, allowing the ‘audience’ to take in the information and provide a considered response later.

Some Parish Councils allow a developer to brief Parish Councillors directly.

In all cases it is important that a record is kept alongside a copy of any written briefing or presentation material.

An Interim committee report or presentation is useful for ensuring that the Planning Committee members are given an early sight of pre-application proposals in a more formal surrounding with the public present and providing a public record.

The officers prepare a report that briefs on the scheme the issues raised in planning terms and matters discussed in informal pre-application meetings with Parish Councillors, Statutory Consultees and community groups.

The developer may be offered a chance to give a presentation to the committee members outlining the scheme including any on-going discussions such as viability and provision of community benefits.

Some Parish Councils allow Ward Councillors to also address the committee in order to raise issues that the community may have about the development.

The committee hearing the briefing have a chance to openly question and explore the proposal while keeping an open mind about the proposal.

This provides a public record of discussion and therefore high levels of transparency.

The Local Council can host a discussion forum attended by Officers, Parish Councillors, representatives of other Statutory Consultee bodies and community stakeholders.

This can effectively combine the engagement of Parish Councillors and community representatives and members of the public in a single event.

It differs from the member or community briefings in that it is not an information opportunity but a working discussion forum therefore it is important that this takes place when the scheme remains fluid and capable of change.

The prospective applicant has an opportunity to present his or her initial design and hear reactions from those present.

Statutory Consultees have an opportunity to outline any concerns, modifications or mitigation measures they consider to be required.

The Parish Councillors and community representatives can ask questions of both the applicant and Statutory Consultees about the detail of the proposal.

The design, financial viability, local impacts and contributions to infrastructure and affordable housing can all be considered, views expressed and suggestions tabled.

Such meetings will require effective chairing.

In most cases this role is taken by the Parish Council Chairman.

The task of organising and funding the events will be agreed between the Parish Council and the prospective applicant under the terms of the pre-application offer or Planning Performance Agreement.

Some Parish Councils may hold Planning Steering Group Meetings and the meeting may deal with several prospective developments in a single agenda depending on the scale and complexity of the issues and level of public interest.

This format has the advantage of keeping discussions in the open, providing an organised platform for all those with an interest in the development to gain a mutual understanding of issues and help to shape more successful schemes.

The record of discussion at such meetings should be a material consideration later in the application process.

### **Advice on Predetermination**

1. This note relates to situations where Parish Councillors have contact or information about a matter in advance of the discussion / decision at a Working Group or at the Parish Council meeting and where their pre-meeting dealings could lead to an allegation that they are biased or come to the meeting with a “closed mind” (i.e. their minds already made up). It applies only to the members of the Parish Council (whether committee, sub-committee, working group etc.) and not to other members present who cannot vote.
2. Section 25 of the Localism Act 2011 provides in essence that “a decision maker is not to be taken to have .... a closed mind when making the decision just because .... the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took or .... might take in relation to that matter ....”
3. The Localism Act 2011 therefore abolished the concept of predetermination. Under the terms of the Act the fact that a Parish Councillor may have campaigned for or against a proposal is not in itself to be taken as proof that they are not open-minded.
4. However, a Parish Councillor on a decision making Working Group (e.g. planning, financial, licensing etc.) must still have an open mind when the Parish Councillor comes to the meeting, so that all the relevant considerations presented to the meeting can be taken into account. While Parish Councillors can (probably) feel less inhibition about, say, voting at a Parish Council meeting before the matter comes to the County Council, Parish Councillors should nevertheless still try to avoid doing or saying something before the proper decision making meeting takes place that shows they have already and finally made up their minds on the issue.

*Appendix 1*