



## **Policy for Pre-Planning Application Meetings with Developers**

Adopted 2 <sup>nd</sup> December 2019	K Graddock	Min No: 1912/13
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## **1 BACKGROUND**

**The term pre-application discussions include any discussions which take place before a decision is taken on an application.**

- 1.1 Fremington Parish Council (the 'Council') acknowledge that developers may wish to present proposals at different planning application stages to the Council and that pre-application discussions play an important role in major developments. The Council welcomes the desire of developers to consult both the Council and the local community more widely. However, the Council is also aware of the importance of public perception in planning and the critical need to avoid any appearance that the Council is conducting secretive negotiations or, colluding with developers. In order to avoid improper lobbying by a developer or creating a perception that the Council have a predetermined position about a proposed development and will follow the policy guidance notes below.
- 1.2 The Council will not express any views at pre-application stage.

## **2 SCOPE**

- 2.1 This document applies to all Councillors, Committees, Employees of the Council, contractual third parties and agents of the Council who work and act on behalf of the Council.
- 2.2 This document applies to all developers, landowners, their employees and agents that act on their behalf.

## **3 PROCEDURE**

- 3.1 To ensure full transparency the Parish Council will only permit developers to make a presentation at a Council meeting once a planning application has been submitted to the Local Planning Authority. If a developer wishes to engage the community at pre-application stage then they should arrange a public consultation which individual Cllrs can attend.
- 3.2 Any information about public consultation or proposed development affecting the parish must be received in writing.
- 3.3 If the developer considers that information provided to the Parish Council is sensitive, this will not require the council to treat it as confidential. The developer must identify information that they want to be confidential and explain the reasons in writing. If the developer has a legitimate expectation for confidentiality about the proposed development, the Council will keep a written record of the confidential and nonconfidential issues.
- 3.4 Information held by Parish Council about proposed development is subject to disclosure under the Data Protection and Information legislation.
- 3.5 Communication (including informal and formal meetings) between the developer and the Council (or with individual councillors and staff) about a pre-planning application development will not bind the council to making a particular decision. Any views expressed are, at best, provisional because not all of the relevant

information will be available to the Council and formal consultation will not have taken place.

- 3.6 Informal meetings and telephone conversation between developer and individual councillors or staff will be documented in writing and are subject to disclosure under the Data Protection and Information legislation. Council staff may or will arrange and attend meetings with councillors and send follow-up in writing.
- 3.7 Official meetings of the Council and its committees are open to the public (Section 1(1) Public Bodies (Admission to Meeting) Act 1990) and developers may attend.
- 3.8 The developer may not speak at a Council or committee meeting unless they are invited to address the meeting by the Council or do so during public participation. The developer may regard information about the proposed development as either confidential or “sensitive” and therefore not suitable for discussion at a meeting open to the public. However, Councillors at the Council or committee meeting will decide if there are grounds to exclude the public from the meeting when the proposed development is being discussed and considered. The Council may do this if the matter being considered at the meeting would prejudice the public interest due to its confidentiality or for other special reasons (Section 1(2) Public Bodies (Admissions to meetings) Act 1960).
- 3.9 The minutes of the Council and committee meetings which record the decisions made at them are available to all on the Parish Council Website or on application from the Council Clerk/Office/Officer.
- 3.10 The Council may invite developers to attend an assembly of the Parish meeting, which is also open to the public (Section 1(1) Public Bodies (Admission to Meetings) Act 1960), to present or discuss their proposals for a proposed development affecting the Parish.
- 3.11 It is an offence under section 1 of the Bribery Act 2010 for a developer or their agent to promise or give a financial or other advantage to the Parish council with the expectation of an improper consideration of a planning application. If the developer is an organisation, such as a charity or company, the council may request sight of the developer’s anti-bribery policy.
- 3.12 Councillors must be aware of their obligations under the Council’s Code of Conduct. Individual Councillors must not enter into informal discussions of possible future applications with a developer; to do so may lead to a complaint for a potential breach of the code.
- 3.13 If it is considered that a site meeting is needed with the developer then individual Councillors are strongly advised to attend with other agencies (i.e. highways, officers from the Local Planning Authority) and/or the Clerk and not on their own.

#### 4 THE NATIONAL PLANNING POLICY FRAMEWORK

In so far as the Council's policy applies, it has been confirmed that a developer must, under s. 42 of the Planning Act 2008 (the 2008 Act), consult with a local authority (which by virtue of s. 43 does not include a parish council) if the land to be developed is in the local authority's area before the submission of a planning application. S. 42 of the 2008 Act also provides that before the submission of a planning application, a developer must consult with the persons listed in s. 44. These are persons whom the developer, after 'making diligent inquiry', knows to be the owner, lessee, tenant (whatever the tenancy period) or occupier of the land and a person who (a) is interested in the land, or (b) has power (i) to sell and convey the land, or (ii) to release the land. The persons caught by s.44 of the 2008 Act may include a parish council.

The National Planning Policy Framework encourages developers to liaise with the local planning authority (and others but with no specific reference to parish councils) before the submission of a planning application.

Below is an extract from the National Planning Policy Framework:

***'Pre-application engagement and front loading': (NPPF:13:2019)***

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

*Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications.*

*The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure and affordable housing, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.*

*The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle, even where other consents relating to how a development is built or operated are needed at a later stage. Wherever possible, parallel processing of other consents*

*should be encouraged to help speed up the process and resolve any issues as early as possible. The right information is crucial to good decision-making, particularly where formal assessments are required.*

A developer may also want to consult with a parish council if the proposed development relates to the parish council's development or submission of proposals for a neighbourhood development plan or neighbourhood development order.

The Neighbourhood Planning (General) Regulations 2012 require a parish council to publicise its proposals for a neighbourhood development plan or a neighbourhood development order with its local community and to consult with certain bodies to ascertain their views on the proposals of the parish council before these are submitted to the planning authority.

In the periods when such proposals are being developed and before such proposals are submitted to the local planning authority, it is anticipated that developers in the private or public sector may wish to disclose or discuss a proposed development so that this may be accounted for in the proposals for a neighbourhood development plan or neighbourhood development order to be submitted by the parish council.

Section 25 of the Localism 2011 Act (the 2011 Act) restricts the impact of the acts of, or verbal or written statements or views expressed by councillors prior to a decision that might suggest pre-determination. s. 25(2) of the 2011 Act provides that:

A decision-maker (i.e. a councillor) is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
- (b) the matter was relevant to the decision.