



Leicester
City Council

WARDS AFFECTED
All

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Standards Committee	30th June 2010
Planning & Development Control Committee	10th August 2010

Member involvement in pre-application discussions

Report of the Director, Planning & Economic Development

1. Purpose of Report

- 1.1 To inform Members of good practice advice about their involvement in pre application discussion about major developments, set out proposed changes to the Code of Practice for Member Involvement in Development Control Decisions, to reflect this advice, and to enable the committee to give their views, if any, for me to take into account when considering whether to approve the changes to the code.

2. Recommendations

- 2.1 Members of the committee give their views for the Director, Planning and Economic Development to take into account when considering whether to amend The Code of practice for Member involvement in development control decisions as set out in the report.
- 2.2 The Director finalises the changes to the code set out in this report.

3. Summary

- 3.1 Member involvement in pre-application discussions can help to provide certainty in the development management process, enable early community input, and anticipate issues that might be raised at committee, and so speed the formal planning application process. There are risks, however, of public suspicion and of members of the committee being prevented from taking part in the decision. The proposed amendments to the code of practice are intended to minimise these risks.

4. Report

- 4.1 Current advice from the government and the Audit Commission is that lack of Member

involvement in pre-application discussions is a draw back with the planning system, leading to frustration on the part of developers when issues are raised at application decision stage and reducing the opportunity for Members to act as champions or advocates for the communities they represent. The restrictions included in codes of practice such as that adopted in Leicester after the Nolan Report on standards in public life, designed to ensure transparency and reduce the risk of planning committee members being accused of predetermination, are a limitation on this involvement.

4.2 The benefits of Member involvement are:

- keeping councillors better informed on major applications
- engaging members on issues to be dealt with at the formal application stage
- taking account of existing or emerging community concerns at a formative stage
- obtaining initial member guidance for officers negotiating on major applications
- reinforcing councillor's roles in their communities.

4.3 Advice from DCLG, LGA, Planning Advisory Service and others all supports Member involvement subject to safeguards to protect the integrity of Members and the organisation in relation to the formal application process. Openness and transparency, and a structured approach are key aspects of the advice from all these organisations.

4.4 Reflecting this advice, and the local arrangements in Leicester, I recommend that the Code of practice for Member involvement in development control decisions be amended as follows:

- 1.7 As a reminder, the basis of the planning decision-making is the consideration of private proposals against the wider public interest. Often much is at stake and conflicting views may be held by relevant parties. While Ward Members may take account of such views, Committee Members should not favour one person, company, group or locality or put themselves in a position where this may arise so they can freely consider the wider public interest. (unchanged).

Pre-application discussions with Applicants/Developers

2.1 Member engagement in pre application discussions on major developments, that is 10 or more dwellings or 1000 sq metres commercial or other floor space, is encouraged to allow members to champion their local communities. However, there are dangers, for example, pre-determination, particularly for Members who serve on the Planning & Development Control Committee, so the following procedure must be followed. General requirements about the need to make any subsequent declaration of prejudicial interests will apply to pre-application discussions should a planning application result that is reported to committee.

2.2 An officer must always be present at meetings, who will explain the constraints on Members, and will prepare a written note of the meeting for the public file. Where an applicant/developer asks for their proposal to be treated as confidential, the note will refer to non-confidential issues raised and advice given.

2.3 Discussions will not bind the council to make a particular decision, and any views expressed by Members will be personal and provisional.

2.4 Advice on material planning considerations, and interpretation of relevant planning policies, will be given by the officer(s) present in the meeting, not by the Member(s).

2.5 Members may ask questions and comment on the proposals (but see paras 1.7 and 2.7), but not negotiate on behalf of the council. Any negotiations should be by officers.

2.6 If Members wish to involve the local community at pre-application stage, and the applicant/developer agrees, this will be arranged if possible through a scheduled ward meeting at which a planning officer will be present.

2.7 The Head of Planning Management and Delivery will arrange for appropriate presentations to be made in respect of significant planning applications, which will be open to all Members. Such presentations will be of a fact-finding nature to enable Committee and Ward Members to become familiar with development proposals and to ask questions. Provided Committee Members do not at such presentations express a view about the proposals, they will be able to participate in any subsequent committee meeting when the planning application is discussed. Committee Members, however, will be required to declare, in accordance with paragraph 6.1, that they have attended a presentation. (unchanged: renumbered 2.1).

4.5 When Council agreed amendments to the Code in September 2009 it resolved to: 'delegate to the Director Planning and Economic Development, in consultation with the chair and vice chair of Planning & Development Control Committee and Director Legal Services, preparation and finalisation of councillor guidelines to cover the situation where Members, as part of their community role, engage in pre application discussions in relation to major applications linked to regeneration issues or any significant ward applications'.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

No significant financial implications.

Martin Judson, Financial Services

5.2 Legal Implications

The Government commissioned a review (Killian Pretty) to look at the issue of planning reform. The final report was issued in 2008 and the Government responded by indicating that there was a requirement to improve engagement in the planning process by the community involving Members. This report follows on from a specific recommendation that guidance be provided to support Members to encourage them to be more actively involved at the pre-application stage of significant developments without prejudicing any future decisions they might be involved in or compromising the Council.

As a result, the proposed amendments to the Council's Code of Practice for Member Involvement in Development Control Decisions suggested by this report accords with advice now available including 'Positive Engagement: A Guide for Planning Councillors and Probity in Planning.

Anthony Cross, Legal Services

5.3 Climate Change Implications

None

6. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within Supporting information
Equal Opportunities	No	
Policy	Yes	The report recommends a new approach to to Members involvement in pre application discussions.
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

7. Risk Assessment Matrix

Delete if not required and renumber paragraphs.

This only needs to be included if appropriate with regard to the Council's Risk Management Strategy

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
1 members of P&DC committee unable to take part in committee decisions	M	L	Code of practice advice on avoiding pre-determination.
2 decisions challenged on grounds of 'secret' negotiations	L	H	Code of practice advice on transparency

8. Background Papers – Local Government Act 1972

Code of Practice for Member Involvement in Development Control Decisions. Planning & Development Control Committee, 4th January 2010.

Positive engagement: a guide for councillors, updated version. DCLG, LGA, Planning Advisory Service.

Councillor involvement in planning decisions, DCLG January 2007

Probity in planning: the role of councillors and officers, LGA May 2009

9. Consultations

Director, Legal Services

10. Report Author

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