

COUNCILLOR INVOLVEMENT IN LARGE SCALE AND COMPLEX PLANNING APPLICATIONS

Probity and Planning June 2013



1. The purpose of this note is to support the West of England Local Enterprise Partnership 'Protocol for early councillor engagement in the planning application process' and to provide a single, simple, set of guidelines which can apply across the West of England authorities for elected members who are on committees that decide planning applications on getting involved in the planning application process in relation to large scale and complex planning proposals.

2. The guidance covers involvement from the earliest opportunity and at the various stages of the application, i.e. from project inception to pre application and to considering the application at a planning committee.

3. Whilst the guidance is focused on large scale schemes, it is also relevant for other less strategic cases.

4. There are two key messages:

- That councillors who are on the committees that will make the decision on a planning application by following this guidance are able to get involved with developers and comment on the principles and details of a scheme without affecting their role in making the decision.
- That involving councillors early and throughout the process leads to collaborative working and in turn leads to better decisions and better developments

'Pre-determination' v 'Pre-disposition'

5. The main reason often given for members not to get involved in planning proposals and applications before they consider the application at a committee is that they need to avoid any bias, or the appearance of bias or having a closed mind.

6. This is sometimes referred to as pre-determination i.e. approaching the meeting with a closed mind and having decided in advance which way to vote.

7. The Localism Act 2011 Section 25(2) has provisions which clarify that committee members are able to campaign for or against applications and to get involved in discussions with applicants

West of England

and represent the views of their constituents, as long as they can show that they have an open mind and are going to make their decisions at the decision making committee meeting on the basis of all the information before them, including statements made at committee and officer and other member comments.

8. This is 'predisposition' and means that as long as a councillor is clear they will listen to all material considerations presented at the committee meeting before deciding how to vote, there would be no bias (i.e. pre-determination), just a legitimate comment on the planning proposal/application before it has been determined.

The benefits of early member involvement

9. The starting point is that it is good practice for members to have formal contact with applicants (i.e. the 'developers') throughout the planning process, and the earlier the better.

10. This is beneficial as:

Developers can

- hear first hand what the members as community leaders are looking for from the site and/or development
- understand if there are any non negotiable issues

Members can

- hear first hand what's being considered for a site, and the reasoning behind it, and
- challenge/ask questions about the development proposal
- identify community issues/requirements/benefits sought from the development

Safeguards

11. Members – In discussions with applicants, it is always good practice to:
- if expressing a view, explain that it is your initial view and that this may change after taking all valid considerations into account; and
 - record your involvement, e.g. a file note; and
 - for formal meetings, ask for an officer to attend the discussion/meeting as well
 - be aware of and comply with your council's Code of Conduct
 - if in doubt, seek officer advice first
12. Developers – in discussions with members:
- be aware of and have regard to the council's code of conduct¹
 - avoid putting Members into a position where there could be the perception of 'pre-determination'
 - seek to agree a note of the discussion

¹ Codes of conduct are prepared to guide Officers and Councillors in their dealings with planning matters. The aim of the codes is to ensure that there will be no grounds for suggesting that a planning decision has been biased, partial or not well founded in any way.

More information – click to follow link

Codes of Conduct:

- Bath & North East Somerset – September 1998
- Bristol – November 2012
- South Gloucestershire – May 2012 (pages 272 – 292)
- North Somerset – July 2012

Planning Advisory Service/Local Government Association

- How planning works – an introductory guide for councillors May 2012
- Probity in planning April 2013

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