

WHIMPLE PARISH COUNCIL MEETING WITH DEVELOPERS PROTOCOL

Introduction

Whimble Parish Council (WPC) acknowledges that developers may wish to present proposals at different planning application stages to seek its views and recognises that discussions play an important role in major developments.

WPC welcomes the desire of developers to consult both the council and the local community more widely. However, WPC is aware of the importance of public perception in planning and the need to avoid any appearance that they are conducting secretive negotiations or colluding with developers. To avoid improper lobbying by a developer or creating a perception that WPC has a predetermined position about a proposed development, it will follow this protocol.

Scope

This document applies to all councillors, committees, employees of WPC, contractual third parties and agents who work and act on behalf of WPC.

This document applies to all developers, landowners, their employees and agents that act on their behalf.

Procedure

The developer must provide information about the proposed development in writing.

If the developer considers that any information provided to WPC is sensitive, this will not require it to be treated as confidential. The developer must identify information that they want to be treated as confidential and explain the reasons in writing. If the developer has a legitimate expectation for confidentiality about the proposed development, WPC will keep a written record of the confidential and non-confidential issues.

Information held by WPC about a proposed development is subject to disclosure under the Data Protection and Freedom of Information legislation.

Communications (including informal and formal meetings) between the developer and WPC (or with individual councillors and/or the Parish Clerk) about a pre-planning application development will not bind WPC to making a particular decision. Any views expressed will be provisional, because not all the relevant information will be available and formal consultations will not have taken place.

Informal meetings and telephone conversations between a developer and individual councillors and/or the Parish Clerk will be documented in writing and are subject to disclosure under Data Protection and Freedom of Information legislation. The Parish Clerk may arrange and attend meetings with councillors and send a follow-up in writing.

Official meetings of the council and its committees are open to the public and developers may attend.

The developer may not speak at any meeting of WPC unless they are invited to address the meeting 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 will consider if there are grounds to exclude the public from the meeting when the proposed development is being discussed and considered. WPC 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.

The minutes of all council meetings which record decisions made are available on the WPC website or by request to the Parish Clerk.

It is an offence for a developer or their agent to promise or give a financial or other advantage to a council with the expectation of an improper consideration of a planning application. If the developer is an organisation, such as a charity or company, WPC may request sight of the developer’s anti-bribery policy.

Context of protocol within existing legislation

Within existing legislation, a developer must consult with a local authority if the land to be developed is in the local authority's area before the submission of a planning application.

Before the submission of a planning application, a developer is required to liaise with a range of bodies. 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 latest version of the National Planning Policy Framework (NPPF), published in December 2023, encourages developers to liaise with the local planning authority (and others but with NO specific reference to Town/Parish councils) before the submission of a planning application.

Below are extracts from the NPPF:

‘Pre-application engagement and front loading’:

39. 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.

40. 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 do 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.

41. 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.

42. 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.'

There are circumstances when a developer may consult with a town/parish council before the developer has submitted a planning application to the local planning authority and the town/parish council is asked by the planning authority to make representations about the application.

A developer may also want to consult with a town/parish council if a proposed development relates to the development or submission of proposals within a Neighbourhood Development Plan (NDP) or Neighbourhood Development Order (NDO). Town/Parish Councils are required to advertise its proposals for a NPO or a NDO with its local community and to consult with certain bodies to ascertain their views on the proposals 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 NDP or NDO order to be submitted.

The Localism Act 2011 restricts the impact of the acts of, or verbal or written statements or views expressed by members prior to a decision that might suggest pre-determination. A decision-maker (i.e. a member) 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.