
PROTOCOL FOR THE ROLE OF COUNCILLORS IN PRE-APPLICATION PROCEDURES

1. INTRODUCTION

The purpose of this report is to inform Members of the intention to formally advise the PPSL Committee of Proposal of Application Notices (PANs) received by the planning service.

Proposal of Application Notices only relate to Major applications and are a statutory requirement prior to the submission of the planning application. The PAN heralds the start of a minimum 12 week period to allow for a period of community consultation before an application can be lodged.

It is proposed that following the submission of a PAN, a short report would be presented to committee advising on the application along with details of Local Development Plan Policy position, supplementary guidance, planning history, and potential material planning considerations and key issues. Any issues raised by Members would then be minuted.

Since the introduction of the 2009 Regulations, 51 Proposal of Application Notices have been submitted to the Council although not all of these have been followed up by planning applications.

2. RESPONSIBILITIES IN TERMS OF THE CODE OF CONDUCT

The Scottish Government has provided guidance on the role of Councillors in Pre-Application procedures. This guidance note which is dated February 2014 has been endorsed by both COSLA and the Commissioner for Ethical Standards in Public Life in Scotland.

This document seeks to encourage elected members to highlight issues with proposed developments at the pre-application stage which they would wish to see addressed in the planning application submission. It is stated that “Early engagement in the process is intended to better inform councillors of proposals that may subsequently come before them, support a degree of certainty by enabling an early exchange of views and discussion of key issues that Councillors want to see addressed, and assist officers of the authority in negotiating on those issues.”

Councillors are required to make proper and reasoned planning decisions on planning matters in terms of the Councillors’ Code of Conduct. Paragraph 7.14 of the Code makes it clear that it is entirely appropriate for Councillors, to attend public meetings / events (including those relating to statutory pre-application consultation). Within paragraph 7.8 the Councillors’ Code of Conduct states that:

“7.8 You may also be asked to comment on requests to the planning authority for a provisional view as to whether – in respect of a proposal for a major development the authority might be minded, in principle, to consider granting planning permission. This may occur in cases where developers are seeking the planning authority’s view in advance of committing to expensive and lengthy technical appraisals. As part of any such request and only as part of the planning authority considering and forming such a provisional view, you are entitled to express an opinion in advance of the statutory application for planning permission being submitted to the planning authority formally for determination.”

Any opinions or views expressed by Councillors at the pre application stage must be made mindful of the overarching requirements of fairness and impartiality and of keeping an open mind.

Whilst Scottish Government guidance states that in certain circumstances it is acceptable to form a provisional view and express an opinion in advance of the application being determined, officers would suggest that Members should refrain from giving a view at this stage as there is a danger that this may introduce tensions with the requirement for Members to have an open mind when determining a planning application.

It is therefore recommended that, at the PAN stage, Members restrict their comments to issues relating to the material considerations which may be relevant in the determination of the proposed development. It is the aspiration that matters raised by Members will give added value to the process as it will allow officers to give feedback to the prospective applicant on issues which Members would wish to see addressed within the planning application submission.

3. PROTOCOL FOR ADVISING MEMBERS OF PRE APPLICATION CONSULTATION FOR MAJOR APPLICATIONS

The key points of the new protocol would be as follows:

- Pre-application reports will be distinguished on the agenda in order to separate them from items requiring a decision;
- The reports will be heard in public in order to ensure transparency;
- The reports will be supported by a presentation by the planning officer and will include visual material provided by the developer;
- Members will have the opportunity to ask questions and to indicate key issues for consideration by the developer;
- Non PPSL councillors will also be free to attend, observe and make representation to the presentation and discussion;
- The minutes of the meeting will record the issues to be passed back to the developer and dealt with by planning officers after the discussion.

RECOMMENDATION

It is recommended that;

- a) the Committee agree to the proposal for Member engagement at the pre-application stage by means of the protocol identified in this report.
- b) that the new procedure will be implemented with effect from the PPSL Committee meeting in September 2017.

3. IMPLICATIONS

3.1	Policy	Nil
3.2	Financial	Nil
3.3	Personnel	Nil
3.4	Equalities Impact Assessment	Nil
3.5	Legal	Nil

Author of Report: Sandra Davies

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Angus J Gilmour
Head of Planning & Regulatory Services