



## PROTOCOL ON PRE-APPLICATION MEETINGS WITH DEVELOPERS (Adopted by Chippenham Town Council on 26 September 2018)

### 1. Introduction/Aims

The aim of this Protocol is to enable open, agreed and well-structured working between communities, applicants/developers, local authorities and elected members in advance of planning applications, helping to deliver better quality development for all.

Any use of this Protocol is without prejudice to the eventual judgement of the Town Council on the merits of any application or to the determination by Wiltshire Council.

The National Planning Policy Framework (NPPF) states that:

“Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.”

Benefits of pre-application involvement

- **Applicants** can access detailed local knowledge early enough to respond to any design modifications or decide not to proceed with an application, and evidence shows that this can speed up the overall process, reduce conflicts, save money and enhance company reputation.
- **Communities** can engage from the start avoiding any last minute responses which may delay the planning process. They can share local priorities, hopes and knowledge to secure more locally relevant and distinctive projects and designs that may include any community facilities to meet local needs.
- **Local authority officers** can avoid time wasted on ‘rescuing’ projects when faced, far too late in the process, with conflicting views from the community and Applicant.
- **Local councillors** can be presented with clear evidence from all sides when making a decision.

To be as effective as possible for all parties, pre-application involvement needs to be consistently applied to common standards and procedures agreed by the Applicant, community and local authority. It also needs to be appropriate to the scale, size and nature of any proposed development, and flexible enough to be informed at a local level (e.g. by a Community Design Statement).

Chippenham Town Council places great importance on pre-planning consultations and is seeking to encourage developers/agents to consult with its Planning, Environment & Transport Committee on medium or large scale schemes at the pre-application stage. We want to work in partnership with developers/agents to achieve sustainable development for Chippenham Town for the benefit of its community, and would wish to work with all local partners and consult on their views.

The ultimate responsibility for all local planning decisions rests with Wiltshire Council. However, the Town Council is a statutory consultee, and is therefore asked for its views on behalf of the community on all planning applications. Furthermore, the Town Council may also be involved in pre-application presentations provided to Wiltshire Council, especially in respect of, but not limited to, major development schemes. The Town Council welcomes pre-application presentations for medium or large scale developments.

## **2. Pre-determination**

The Localism Act 2011 makes it clear that it is proper for Councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. In all meetings with developers Councillors are reminded of the need to abide by the Council's adopted Code of Conduct and the critical importance of not pre-determining their position on any future application. It is noted that expressing a pre-disposition, for example of either 'welcome in principle' or 'concerns', is permissible. However should a Councillor demonstrate a pre-determination of their view about a specific planning application and not approach the matter with an open mind, then they should not take part in the formal consideration of that matter at a meeting of the Council or one of its Committees.

Failure to abide by the Council's Code of Conduct could lead to Standards Committee adjudication for the individual Councillor and leave any decision made by the Council open to Judicial Review.

## **3. Purpose of Pre-Application Briefing and Consultation**

(The Protocol for Pre-application Briefing is set out in the Schedule below)

- To be positive and proactive in engaging constructively with developers, Wiltshire Council and other service providers from an early stage.
- Assist in identifying and engaging other interested local groups/organisations operating within their community.
- Help to provide information to the community by identifying local people, places or means of communication, both electronically and in paper form, that could be used by developers to publicise their proposals and related community involvement opportunities.
- Seek to understand the full range of community interests the Town Council is representing with regard to particular development proposals.

- Identify, clearly and at an early stage, the issues relating to the development proposal(s) that are a priority for the Town Council and the questions that need asking of the developer, Wiltshire Council and or other services.
- Help in establishing more detailed evidence of gaps or pressures on existing services or facilities, quantify need for local infrastructure improvements and confirm details of delivery and on-going responsibility
- Acknowledge and respect the rights of all stakeholders to express their views.
- The Town Council is only a consultee and the final decision in planning matters rests with Wiltshire Council as Local Planning Authority

#### **4. Pre-Application Briefing**

A pre-application briefing is a meeting of the Council at which a developer provides full information on their proposed planning application to the Town Council and members of the public.

Developers are invited to provide the Town Council with a Pre-Application Briefing that is:

- Without prejudice to the Town Council's response to the formal consultation.
- Held in advance of a meeting of the Planning, Environment & Transport Committee.
- Advertised on the meeting agenda.
- Open to members of the public, including neighbouring parishes, in accordance with Public Bodies (Admission to Meetings) Act 1960
- Subject to disclosure under the Freedom of Information Act 2000.
- Supported by a short written statement setting out the basis of the proposed development, including a clear map of the proposal site and/or presentation boards.
- Consideration of whether the proposal would support objectives in the Wiltshire Core Strategy and the emerging Chippenham Neighbourhood Plan

The Town Council would like the following to be open for discussion at pre-application stage, in no particular order and not applicable on every occasion:-

- Landscaping
- Overall character
- Building design
- Design of aspects such as paths, landscape, signs, street lamps
- Choice of materials
- Housing densities
- Parking standards
- Vehicular traffic impacts off-site, including safety
- Vehicular traffic impacts on-site, including safety
- Public transport links
- Accessibility e.g. consideration for the disabled and elderly
- Footpath and cycle routes around, on and across a site
- Provision of amenities such as open space, play areas, meeting rooms, etc.

- Lighting
- Wildlife and ecological impacts
- Noise and nuisance
- Sensitivity to historic buildings and conservation
- Known archaeological features
- Signage
- Views in and out
- Overshadowing and loss of light
- Planning obligations, e.g. s106 Agreement or Community Infrastructure Levy (CIL)
- Construction period impacts (e.g. site traffic through the neighbourhood and site working times). These are not a factor for pre-application agreement in themselves but can be raised during pre-application discussions. It is possible to begin to plan ahead and ensure best practice, for example by preparing for the local community and local Councillor if site management problems arise at construction stage.

## **5. Pre-Application Public Consultation**

A pre-application public consultation is a non-mandatory public exhibition of the developer's proposals, usually reserved for major schemes.

Developers are encouraged to arrange a pre-application public consultation which should be:

- Open to the public.
- Easily accessible to all in a community venue in the Town.
- Open over a range of times to suit the needs of the community.
- Widely advertised with sufficient advance notice.

The consultation should:

- Provide information about the development and any planning obligation contribution.
- Give members of the public the opportunity to make their representations.
- Include invitations to the local Ward Members.

Councillors attending any pre-application public consultation should be attending as an individual and not purporting to represent the Town Council.

## **6. Organising Pre-Application Briefing and Consultation**

Developers should contact the Administrative Services Officer – Planning to arrange pre-application briefings and for advice on pre-application consultation by telephoning 01249 446699 or emailing [enquiries@chippenham.gov.uk](mailto:enquiries@chippenham.gov.uk).

## **The Schedule (referred to above)**

### **3.1 Protocol for Pre-Application Briefing**

At the request of a prospective developer/agent and subject to the agreement of the Chair of Planning, Environment & Transport Committee arrangements will be made to present proposals to Members of the Planning, Environment & Transport Committee. These presentations will take place at 6.30pm and fall outside the main body of the council meeting.

The presentation will normally be chaired by the Chair of the Planning, Environment & Transport Committee who will explain the role of Members at the meeting.

All Town Councillors and Wiltshire Ward Members will be invited to attend and the meeting will be open to the general public unless circumstances dictate otherwise.

Developers will be given the opportunity to make a presentation that should describe their proposal and should explain how the proposal relates to both relevant national and local policy, how it meets local needs and preferences and any other material considerations that they believe Members should give weight to.

The format and length of the presentation should be agreed with the Chair of the Planning, Environment & Transport Committee beforehand and should be limited to the development proposal. They should not normally last longer than 15 minutes plus time for questions and answers. It will be made clear at the outset that discussions are not binding in respect of the formal response the Town Council will make to the planning application consultation.

The role of the Members at the meeting is to learn about the emerging proposal, identify outstanding issues to be dealt with but not to form or express a view on the proposal which would pre-determine their participation in making a representation on any formal application. In this respect Members are at liberty to identify elements which they believe the community would be likely to be supportive of or have concerns about.

Members will be able to ask questions following the presentation but must refrain from entering into debate directly with the Applicant or giving advice that indicates a pre-judging of the proposals. However, this is all about achieving a balance and there is no reason why a Member should not advise what they believe the community will be concerned about, as long as this is framed in a suitable manner.

Quite clearly statements such as 'I will never support this scheme' should be best avoided, however, advice such as 'I believe that local residents will be very concerned about the increased traffic and therefore we would want this issue to be fully explored further should you submit an application' is acceptable.

Members must maintain an impartial listening role and avoid expressing an opinion to the application which could be regarded as pre-judging the proposal. Questions and comments should focus upon clarifying aspects of the proposal or to flag up issues of concern but must not develop into negotiations. It is equally important at this stage for Members not to have closed minds as to the merits of the proposal.

It is important for the pre-planning consultation to be as open as possible therefore any comments of concern should be identified during the presentation. After all the developer is trying to establish what the Town Council feel are potential issues in order to inform their eventual planning application.

### **3.2 Additional Notes for Members**

Any member who elects to form a view, for or against the development being discussed, will pre-determine their stance to the extent that they will be required to withdraw from meetings where any subsequently submitted application is discussed or decided.

Once a formal planning application has been submitted it would be inappropriate for Members who would be considering the specific application to hold any further discussions with developers. Members could however select to have a presentation in respect of a planning application but it is better to encourage pre-planning consultations.

### **3.3 Additional Notes for Developers and/or their Agents**

The presentation can provide any relevant background information to give context to the proposal, but it should focus primarily on issues that are relevant to the planning process.

Discussions will not bind the Town Council as local Consultee. This will be made clear at the outset of each meeting. Similarly it will be made clear that views expressed are not part of the determination process and that any statements are “without prejudice” to the eventual determination of an application, in that members will have to have open mind at the point of decision making in respect of a consultation.

Once a proposal has been the subject of a presentation to Members, the Town Council will treat the proposal and related material as liable to disclosure under the Freedom of Information Act and will not seek to rely on any of the exemptions from disclosure. (Exceptionally, individual items of information may be submitted on a confidential basis, in which case they, but not the entire proposals, will be assessed against the relevant exemptions in the Act).