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## **GUIDANCE ON THE ROLE OF COUNCILLORS IN PRE-APPLICATION PROCEDURES**

Report by Head of Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of the recommended procedures for Councillors in the pre-application process.

### **2 BACKGROUND**

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 27 May 2014. The guidance clarifies the position with regard Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 The Development Management section of the Communities and Economy Service manages the process of applying for planning permission, and offers an advice service to anyone considering making an application. Giving pre-application advice helps applicants to gain clear, impartial and professional advice at an early stage regarding any key issues that needs to be addressed prior to submitting a formal development proposal. Advice can be provided for developments requiring planning permission, advertisement consent, conservation area consent or listed building consent.
- 2.3 With regard to the role of Councillors in the pre-application process, the Councillors' Code of Conduct states the following at paragraph 7.8:

*'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 a 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.'*

- 2.4 It is reasonable for constituents to expect their local elected representatives to have a provisional view on a major planning application proposal within their locality. The above guidance provides for this within specific terms. The further guidance and recommended procedures identified below seek to enable Members to be confident about expressing a provisional view whilst being safeguarded from challenge on grounds of partiality. It also remains the case that Members can at any time; contact the Council's planning officers for advice and guidance.

### **3 PROCEDURES**

- 3.1 The Councillors Code of Conduct enables Councillors to express a 'without prejudice' view and to raise material considerations with regard to a major application.

#### Report Pre-Application Consultations to Committee

- 3.2 To enable Councillors to express an early view on a major application it is proposed to report to the Planning Committee details of formal pre-application consultations by prospective applicants. The report will outline the proposal, identify the key development plan policies and material considerations and state a provisional without prejudice planning view regarding the principle of development.
- 3.3 Reports on individual sites will supplement the existing major developments report which updates the Committee on applications being assessed and other developments at pre-application consultation stage.
- 3.4 The Committee will be invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.

#### Meetings and Site Visits

- 3.5 Outwith the Committee process elected members may be invited to attend meetings or site visits with prospective applicants as part of the pre-application consultation process. When attending a meeting or site visit in connection to a major application, it is recommended that the elected member request a planning officer to attend. Any planning issues raised at the meeting can then be noted by officers.
- 3.6 Prior to the submission of a major planning application it is a statutory requirement on the prospective applicants to undertake public consultation in the locality including at least one 'public event' (usually a public exhibition). It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance) not

offer views, as the forum for doing so will be at the meeting of the Planning Committee referred to in paragraph 3.2 to 3.4 above.

- 3.7 Members will be aware that from time to time they are approached unsolicited by phone, e-mail or face to face contact (e.g. at surgeries), by applicants, supporters and objectors to applications. Clearly, a planning officer will not be present on such occasions but it would be reasonable for the Elected Member to note that s/he had raised (or was intending to raise) the following material considerations at the appropriate meeting of the Planning Committee.

#### Determining a Subsequent Application

- 3.8 In terms of handling individual applications once they have been submitted, the Councillors' Code of Conduct seeks to reinforce the principles of fairness and impartiality in relation to the determination of any statutory application including planning applications. Councillors must not be, or be seen to be biased, predetermined or have a closed mind or to have been influenced by improper or irrelevant considerations.
- 3.9 Councillors are expected to approach their decision-making with an open mind in the sense that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.
- 3.10 In reporting a major application to the Committee for consideration, reference will be made to any pre-application advice given.

## **4 RECOMMENDATION**

- 4.1 It is recommended that the Committee:
- a) agrees to the more detailed guidance and extension to Committee procedures set out in this report;
  - b) receives a regular report regarding any formal pre-application consultations by prospective applicants submitted after 1 October 2014; and
  - c) a properly formatted statement of the guidance is distributed to all Members, and a copy placed on the Council's web site.

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