

# Warwickshire and West Midlands Association of Local Councils

(Affiliated to the National Association of Local Councils)

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## GOOD PRACTICE NOTE

### GUIDANCE ON PROCEDURES FOR RESPONDING TO PLANNING APPLICATIONS

**The planning consultation process is an important power held by local councils and the procedure adopted by a council to respond to planning applications needs to be carefully minuted and not open to question.**

- 1 The Local Planning Authority (LPA), usually the District or Borough Council or Unitary Authority will consult with Parish and Town Councils about planning applications received, and ask for a response within 14 days. The County Council is responsible for applications regarding mineral extraction and waste disposal.
- 2 Often the consultation period coincides with local council meetings or a meeting of a planning committee with a delegated function to respond to applications, then there is no problem discussing the application and making the response in time. Either of these methods is by far the best practice to adopt.
- 3 The problem arises when the planning applications are received between scheduled meetings and a response is required before the next meeting. *The procedure that some councils have been known to adopt, of the Chairman or another member of the council summarising the responses of members and replying on behalf of the council is not correct and is open to challenge in the courts. Whenever possible a decision on how to reply must be taken at a properly convened committee or council meeting, or be subject to a delegation of the function as set out below.*
- 4 The function of responding to a planning application may be delegated to a planning committee, which consists of three or more councillors, (section 101 of the Local Government Act 1972 refers). This should be a subject of a Standing Order (see Orders 1 and 15 in NALC's Standing Orders for Local Councils 2010). A committee may be appointed at any time, but usually members to this committee are appointed every year at the Annual Meeting for the Parish Council.  
Minutes of committee meetings with delegated functions must be kept and all such meetings should be advertised and are open to the public and press to attend. The only decisions of the committees that need to be approved by the full council are those relating to functions that have not been delegated.

- 5 An alternative method is by delegating the function of responding to planning applications to an officer of the council, usually the Clerk (section 101 of the Local Government Act 1972 refers). The function the Clerk is undertaking is to formulate a response from the council having requested councillors' comments. The parameters of the clerk's consultation with members needs to be carefully set to ensure that all members had the desired input and clearly minuted. If an objection is received from a member of the public or a councillor, in that case a meeting of the council or planning committee should be called to discuss the response and if necessary, an extension of the time for a response allowed by the planning authority should be sought. Please note any individual comments of each councillor form part of the council's response to the planning application as they form the basis of the clerk's written submission of the council's representations to the planning authority on any planning application and are recorded information and therefore subject to FOI.

Delegation of functions to the clerk must be clearly minuted and it is good practice to keep a separate list of functions which have been delegated to the clerk.

Once the clerk has been delegated the power to respond, in practice the clerk will circulate the link to the planning application on the planning authorities web site, via the planning portal and request responses by a date to meet the planning authority deadline. A meeting should be called if any controversial or applications for large developments are received.

- 6 A report of the planning applications responded to either by the Planning Committee or the Clerk on behalf of the council should be presented to the next full council meeting.
- 7 Visiting the site that is the subject of the planning application, helps to visualise the proposals, however, any response must still be agreed by any one of the methods described above i.e. not on the site. Councillors on site are there as individuals. Of course permission to enter the site must be obtained from the owner.
- 8 It is recommended that the list of planning applications received be advertised on the Council notice boards or some other local public place, for e.g. the library if there is one.
- 9 The planning authority will only consider comments that are material planning considerations. CPRE produce a useful free booklet "How to Respond to Planning Applications", which gives guidance on the correct planning terms to use in a response, and a description of the development framework. Available from 128 Southwark Street, London SE1 0SW Tel 020 7981 2800 web site [www.cpre.org.uk/planninghelp.org.uk](http://www.cpre.org.uk/planninghelp.org.uk)
- 10 In general it is recommended that a council prepare a policy for planning issues, the preparation of a Village Appraisal, Village Design Statement, or Parish Plan can also be helpful.

## EFFECTIVE COMMENTS ON PLANNING APPLICATIONS

Comments must be based on planning matters and need to relate to the proposal. Planning Matters that the local planning authority can consider when making a decision on a planning application are known as “material considerations”.

- Is the proposal in line with the policies and/or proposals in the “Development Plan”? This includes the local development plan documents and will be the main consideration in deciding an application.
- Is the proposal in line with other policies, for example national Planning Policy Statements, regional policies and local supplementary planning documents (including design guides and site briefs)?
- How does the proposal fit in with other local strategies for example Community Strategies, Housing Strategies, Parish Plans, Town Plans and Village Design Statements?
- How does the proposal fit in, in terms of design and use, with its surroundings?
- What is the effect on sunlight and daylight on adjoining properties?
- What is the effect on the privacy for the adjoining properties?
- What is the effect on parking, traffic and road safety?
- What level of noise and general disturbance to adjoining residents will occur as a result of the completed development?
- Have there been previous planning applications on this site? If so, what were the outcomes?
- If there is a traffic assessment or an environmental impact assessment? If so, what were their findings?

### **Planning matters do not include the following:**

- Effect on property values
- Covenants affecting properties
- Nuisance caused by building work
- Land ownership disputes
- Right to a view
- Right to light

**therefore comments relating to these issues will not be taken into account when making a planning decision.**

All comments that are received by the local planning authority will be made available for public inspection.

## SUBMITTING COMMENTS ON PLANNING APPLICATIONS

- Stick to the local planning authority’s deadlines
- Look at the plans
- Contact the Case Officer to discuss the application
- Make your comments in writing
- Contact a Planning Consultant or Campaign to Protect Rural England (CPRE) to obtain independent advice on the planning application and help you write your comments,

## ADDITIONAL HELP AND ADVICE

CPRE have published an up to date version of “How to Respond to Planning Applications” Every parish and town council has been sent a copy and it is available for down loading. Visit [www.planninghelp.org.uk](http://www.planninghelp.org.uk)

The planning portal is also a good resource it provides information on plans, appeals, applications, contact details, research areas. [www.planningportal.gov.uk](http://www.planningportal.gov.uk)

Updated September 2013