

FRADLEY PARISH COUNCIL

Protocol and Guidance on Meetings with Developers

PURPOSE

Fradley Parish Council (the “Council”) acknowledges that discussions with developers at different stages of the planning process (including pre-application and in-application) can play a positive role in planning applications. As a statutory consultee in the planning process, it is desirable for the Council to be involved in the planning process for the following reasons:

- It has a good understanding of the local area and community meaning that there is an early opportunity for the Council to influence proposals for the benefit of the Parish;
- It provides an advocacy role for its residents, giving an opportunity to represent the views of residents directly affected by a proposed planning application;
- The Council is keen to ensure that growth in the area is sustainable and results in the necessary improvements in infrastructure; and
- The Council may be a party to Section 106 negotiations on community assets required for the Parish.

Pre-application discussions play an important role in major developments. The Council welcomes the desire of developers to seek views and consult on its proposals with the Council and the local community more widely.

However, the Council is also aware of the importance of public perception in planning and the critical need to avoid any appearance that the Council is conducting secretive negotiations or colluding with developers or their agents. To that end, Councillors will follow this protocol guidance.

This protocol has been prepared to ensure that there are no grounds for suggesting that a decision taken by the Council has been improper, biased, or not well founded and that the Councillors are aware of their role within the planning process.

SCOPE

This document applies to all Parish Councillors, its Committees, Employees and contractual third parties and agents of the Council who work and act on behalf of the Council.

This policy applies to all stages of the development cycle including speculative queries and during the construction phase.

THE NATIONAL PLANNING POLICY FRAMEWORK

In so far as the Council’s protocol applies, it has been confirmed that a developer must, under s.42 of the Planning Act 2008 (the “2008 Act”), consult with a local authority (which by virtue of s.43 does NOT include a parish council) if the land to be developed is in the local authority’s area before the submission of a planning application. S.42 of the 2008 Act also provides that before the submission of a planning application, a developer must consult with the persons listed in s.44. 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 persons caught by s.44 of the 2008 Act may include a Parish Council.

The National Planning Policy Framework, published in March 2012, encourages developers to liaise with the local planning authority and others (although there is no specific reference to Parish Councils) before the submission of a planning application.

Therefore, there are circumstances when a developer may consult with a Parish Council before the developer has submitted a planning application to the local planning authority and the Parish Council is asked by the planning authority to make representations about the application (Paragraph 8 of Schedule 1 to the Town and Country Planning Act 1990).

PROTOCOL & GUIDANCE – Parish Council

Pre-determination

In all meetings with developers, Councillors, Employees and Professionals working on the Council's behalf are reminded of the critical importance of not pre-determining any possible future planning application.

For individual Parish Councillors in particular, this could require them to take no part in the discussion/decision making when an application becomes live and appears on the Parish Council agenda for consideration. It is noted, however, that expressing a pre-disposition, for example of either 'welcome in principle' or 'concerns because of x, y or z', is permissible (section 25 of the Localism Act 2011).

Councillors Code of Conduct

Parish Councillors will, when having meetings with developers:

- 1) Always comply with the rules of the Code of Conduct.
- 2) Always apply the guidance in this Protocol, which seeks to explain and supplement the Code of Conduct for the purposes of making impartial decisions.

If a Councillor does not abide by this Protocol and the Code of Conduct, they may:

- a. Put the Council at risk of proceedings on the legality or maladministration of any decisions made; and
- b. Put themselves at risk of being challenged with an allegation of misconduct in not complying with the Protocol and/or Code of Conduct.

A Parish Council's role as a consultee is for Councillors collectively to make planning decisions openly, impartially, with sound judgement and for justifiable reasons during Parish Council Meetings.

The Code of Conduct sets out the requirements and guidance for Councillors on declaring personal and prejudicial interests and the consequences of those interests. If a Councillor is in any doubt, or if they think they may be required to declare any personal or pecuniary interests, they should seek early advice. Initially they can ask for guidance from the Parish Clerk. Alternatively, they can contact the LDC Monitoring Officer for further guidance.

Pre application briefings with Parish Councillors

The Council is, in general, willing to hold meetings with developers/agents where this is considered desirable.

Developers are invited to provide the Council with a development briefing that is:

- Without prejudice and non-binding;
- Held in advance of a meeting of the Planning Committee of the District Council;
- Appears on the Council's website as a 'private meeting'; and
- Appears as a note on the full Council meeting agenda.

Communications (including informal and formal meetings) between the developer and the Council about a pre-planning application development must take place through the Clerk.

If the Clerk receives a request from a developer/agent to meet with the Council to discuss a pre application, the Clerk will inform the full Council.

The Clerk will ask the developer/agent in advance of any meeting to provide information (in writing, and preferably via email) about the proposed development affecting the Parish. Any information received will be forwarded to the Councillors. Information held by the Council about a proposed development is subject to disclosure under the Data Protection and Freedom of Information legislation.

Developers should note that any communications or meetings cannot bind the Council into making any decision. Any views expressed are, at best, provisional because not all the relevant information will be available to the Council and formal consultations will not have taken place at this stage.

The Council will typically hold pre-application meetings with developers and their agents in private to enable developers to discuss matters which may have some commercial sensitivity, or to allow a developer to seek an initial steer on a proposal before deciding whether to proceed. However, on occasions, a public meeting may be required where councillors consider this necessary.

Meetings of this nature with developers are important to ensure information about potential new sites and their impact on the village can be understood from a very early stage. Early intervention can steer developers to acknowledge local issues and plan their developments accordingly.

The Council may grant delegated authority for 2 or more Councillors to attend meetings (with the Clerk) on behalf of the Council. The Clerk will take minutes of the meeting and the full Council will be updated at the next opportunity. Meetings or communications (whether written or verbal) between individual Councillors and developers are prohibited due to the likely negative public perception that this would attract.

Councillors are reminded that a presentation by a developer or their agent at this stage is not part of the formal planning process. A presentation is a form of lobbying, and therefore, Councillors must not express any strong view or state how they might vote if a planning application is submitted in the future.

Construction Phase

There are many issues that arise during the construction phase, including amendments to plans, health and safety, maintenance, repairs, disputes with neighbours and highways.

To assist with such issues, one or more Councillors (together with the Clerk) may, on the instruction of the full Council, act as a representative of the Council to engage and feed back to the developer. The Clerk will summarise for the developer and the councillor(s) the scope of the discussions at the start of the meeting and that decisions cannot be made without full

Council approval. The Clerk must take full minutes of the meeting and report back to the full Council.

There may also be circumstances when delegated authority has been given to two or more Councillors to hold discussions with developers and make certain decisions. In that event, the Clerk must attend such meetings and report back to the full Council at the next available opportunity.

All communications with developers should again be conducted through the Clerk.

Individual Councillor discussions/meetings

Individual Councillors may not attend meetings or hold discussions with developers or their agents unless they are: (i) attending in a personal capacity and are not in any way purporting or holding themselves out to be representing the Council; or (ii) authorised by the Council to act as its representative during the Construction phase of a development (subject to the conditions in the 'Construction Phase' section above being complied with).

Developer/Agents attending Public Parish Council Meetings

Official meetings of the Council and its committees are open to the public (Section 1(1) Public Bodies (Admission to Meetings) Act 1960) and developers may attend.

The developer may not speak at a Council or Committee Meeting unless the item is on the agenda and they are invited to address the meeting by the Chair. They may only speak during the public participation section at the start of the meeting for five minutes. 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 at the Council or Committee Meeting will decide if there are grounds to exclude the public from the meeting when the proposed development is being discussed and considered. The Council may do this if the matter being considered at the meeting would prejudice the public interest due to its confidentiality.

The minutes of the Council and Committee Meetings which record the decisions made at them are available to all on the Parish Council Website or on application from the Council Clerk.

The Council may invite developers to attend an Assembly of the Parish Meeting, which is also open to the public (Section 1(1) Public Bodies (Admission to Meetings) Act 1960), to present or discuss their proposals for a proposed development affecting the Parish.

It is an offence under section 1 of the Bribery Act 2010 for a developer or their agent to promise or give a financial or other advantage to the Council with the expectation of an improper consideration of a planning application. The Council may request sight of the developer's anti-bribery policy.

Pre-Application Public Consultations

The Council strongly encourages developers to carry out full public consultation before submitting any plans for major developments with Lichfield District Council, on the following basis:

- 1) An accessible and convenient venue can be found to hold such a meeting.
- 2) Enough publicity carried out, giving people enough notice to attend.
- 3) Appropriate timings to allow as wide a range of people as possible to attend.
- 4) A genuinely open mind and willingness to adapt plans in response to

feedback from the Parish Council and the wider community.

Post submission of a Planning Application

Following the submission of a planning application becoming live on the Lichfield District Council website, any discussions the Council has with developers at this stage, will only be held during a Parish Council Meeting or another arranged meeting that is open to the public.

[Reviewed December 2023.](#)

[Next Review December 2026](#)