



ENGAGEMENT WITH DEVELOPERS POLICY

As adopted at a meeting of Meppershall Parish Council on Monday 11th March 2019

Table of Contents

| | |
|--|---|
| Document Control | 3 |
| Document Amendment History | 3 |
| Introduction | 4 |
| Purpose | 4 |
| Scope | 4 |
| Policy | 4 |
| Council guidance | 5 |
| Councillor guidance | 6 |
| Developer guidance | 6 |
| The National Planning Policy Framework | 7 |

Document Control

| | |
|---------------------------|--|
| Organisation | Meppershall Parish Council |
| Title | MPC Engagement with Developers Policy |
| Creator | Alessandra Marabese - Clerk |
| Source | Procedures Working Group |
| Approvals | 11 th March 2019 |
| Distribution | Internal and External |
| Filename | MPC Engagement with Developers Policy v1.1 2019© |
| Owner | Clerk |
| Subject | Planning |
| Protective Marking | None |
| Review date | Annually after adoption |

Document Amendment History

| Revision No. | Originator of change | Date of change | Change Description |
|--------------|----------------------|----------------|--------------------|
| 1.0 | Clerk | 23/07/18 | Adoption |
| 1.1 | Clerk | 11/03/19 | Minor amendments |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

1. INTRODUCTION

- 1.1 The Council recognises that pre-application decisions play an important role in major development and that developers calculate their costings at a very early stage of the pre-application process. In order to influence those major expenditure decisions, it is desirable that developers should be aware of the Council's views at the earliest possible stage.
- 1.2 Meppershall Parish Council ("the Council") recognises that the preferred way of communicating to potential developers what the village would and would not want to see in future developments is via an approved Neighbourhood Plan. To this end, a Meppershall Neighbourhood Plan is in the process of being created for the Council by a working group.
- 1.3 Both pre and post Neighbourhood Plan approval, the Council will endeavour to communicate our views to potential developers by making them known to the Planning Department of Central Bedfordshire Council ("CBC"), in writing, both in response to planning applications and prior to that when possible (this will include the Council's views on preferred projects for section 106 /CIL monies).

2. PURPOSE

- 2.1. The purpose of this Policy is to set out the conditions under which the Council may engage with a potential developer in a clear and unambiguous way, so as to avoid any future misunderstandings.
- 2.2. The Council recognises that developers may wish to present proposals to the Council, at different planning application stages, in order to seek its views on both the details of the proposed development and the application of any section 106 or CIL funds arising.
- 2.3. The Council will avail itself of any approach from developers to consult both the Council and the local community more widely. However, the Council is rightly aware of the importance of public perception in planning activities and the need to avoid the appearance that it is conducting secretive negotiations or colluding with developers. In order to avoid improper lobbying by a developer or creating a perception that the Council has a predetermined position about a proposed development, the Council will follow this policy guidance.

3. SCOPE

- 3.1. This document applies to all councillors, committees, employees of the Council, contracted third parties and agents of the Council, who work and act on its behalf.
- 3.2. This document applies to all approaches and consultations with developers, landowners, their employees and agents that act on their behalf.
- 3.3. This policy will be reviewed annually and additionally following the approval of the Meppershall Neighbourhood Plan.

4. POLICY

4.1. Council Guidance

- 4.1.1. The Council will create and maintain a list of desired developer-funded projects. Updates to the list will be notified to the relevant departments of CBC e.g. planning.
- 4.1.2. The Council may hold meetings with developers prior to public consultations and planning applications, subject to the following conditions:
 - Full public consultation is either already scheduled, or firmly planned.
 - The developer has provided information, in writing at least seven days in advance of any meeting taking place, for the Clerk to circulate to Councillors, including plans, supporting information and any guidance given by the Planning Authority about the proposed development.
- 4.1.3. Information provided to the Council about a proposed development is subject to disclosure under Data Protection and Freedom of Information legislation.
- 4.1.4. Communications of any kind between the developer (including any agent acting on their behalf) and the Council (including councillors, employees, contracted third parties and agents) about a pre-planning application will not bind the Council to making any decision in support or otherwise, in connection with any proposed development. Any views expressed, in writing or verbally will not be binding, nor imply support or opposition to a particular development.
- 4.1.5. Communications of any kind between a developer and any individual councillor or the Clerk, will be documented and reported to the Council at the earliest opportunity.
- 4.1.6. 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.
- 4.1.7. The minutes of Council meetings which record the decisions made at them are available on the Parish Council Website, or on application to the Clerk. A 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. In this case, the developer must give their reasons to the Council in writing, via the Clerk and the Council will decide if there are grounds to exclude the public from any meeting when the proposed development is being considered. The Council may do this if the matter being considered at the meeting would prejudice the public interest due to its confidentiality, or for other special reasons (Section 1(2) Public Bodies (Admissions to meetings) Act 1960). Where the Council accepts that there are grounds for confidentiality, the proceedings of all such closed meetings will be minuted separately from the minutes of any open Council meeting.
- 4.1.8. The Council may invite developers to attend an assembly of the Parish which is open to the public (Section 1(1) Public Bodies (Admission to Meetings) Act 1960), to present or discuss their proposals for a development affecting the Parish.
- 4.1.9. 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, or Councillor, with the expectation of an improper consideration of a planning application. If the developer is an organisation, such as a charity or company, the Council may request sight of the developer’s anti-bribery policy.

- 4.1.10. The Council expects developers to carry out full public consultation, before submitting plans for major developments, such that consultation takes place:
- At an accessible and convenient venue.
 - With sufficient publicity made regarding the consultation to interested parties, in good time.
 - With appropriate timings, to facilitate as wide a range of people as possible to attend.
 - With a backdrop that developers will be genuinely open mind and willing to adapt plans in response to feedback received at the consultation event.

4.2. Councillor Guidance

- 4.2.1. Councillors must be aware of the Council's position as set out in this policy and of their obligations under the Council's Code of Conduct. Individual councillors must not enter into informal discussions with a developer concerning possible future planning applications/developments; to do so may lead to disciplinary action for a potential breach of the Council's Code of Conduct.
- 4.2.2. Where it is considered that a meeting with a developer is needed, then individual Councillors should attend in the company of other agencies (e.g. highways, officers from the Local Planning Authority) or the Clerk and not on their own, unless otherwise directed by the full Council.
- 4.2.3. In all communications and meetings with developers, Councillors are reminded of the critical importance of this policy and not prejudicing the Council's position on any future application/development. Councillors must note that expressing a personal view or predisposition is only permissible so long as it is made clear that the view is personal, is not that of the Council and does not commit the Council to any particular decision. However, Councillors must note that any personal view so expressed, may be viewed as predetermination by the Council, rendering the Councillor concerned ineligible to vote on the matter when it comes before the Council.
- 4.2.4. Any Councillor who is the subject of any attempts by a developer at private lobbying must report such activities to the Council at the first available opportunity. Under no circumstances should a Councillor engage in private lobbying in contravention of the Council's Code of Conduct.

4.3. Developer Guidance

- 4.3.1. Developers should research the area of the proposed development, in order to understand local factors before approaching the Council to engage in any pre-application communication. Such research to include; Village Plan, Green Infrastructure Plan and relevant documents held by CBC.
- 4.3.2. Developers must provide information in writing to the Clerk about the proposed development affecting the parish. In particular, they should share plans, supporting information and any guidance given by CBC with the Council before attending meetings and should allow any supporting information to be left with the Council's for its future reference.

- 4.3.3. Where developers consider that information provided to the Council is confidential, the developer must identify such information that they require to be confidential and explain the reasons in writing. Where the Council accepts that the developer has a legitimate expectation of confidentiality, the Council will keep separate written records of any confidential and non-confidential issues.
- 4.3.4. Developers accept that any views expressed by any individual councillor during the pre-application process are personal and may not be represented as “consultation” with the Council, unless otherwise agreed, in writing with the Clerk.
- 4.3.5. Developers accept that any engagement with the Council at any stage of the pre-planning application process does not imply either support for, nor opposition to, a particular development and must not be included in a Statement of Community Involvement.
- 4.3.6. Developers will respect the role of the Council during the pre-application process; private lobbying of individual Councillors is strictly prohibited.
- 4.3.7. Developers are expected by the Council to hold a public consultation event, to discuss proposals for a development in the village. Developers will meet all reasonable costs of hiring local facilities to hold public meetings.

5. THE NATIONAL PLANNING POLICY FRAMEWORK

- 5.1.1 In so far as the Council’s policy 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.
- 5.1.2 The National Planning Policy Framework, published in July 2018 (superseding the March 2012 version), encourages developers to liaise with the local planning authority (and others but with NO specific reference to parish councils) before the submission of a planning application. Below is an extract from the National Planning Policy Framework (July 2018):

‘Pre-application engagement and front loading’:

39. Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

40. Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications.

41. The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure and affordable housing, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.

42. The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle, even where other consents relating to how a development is built or operated are needed at a later stage. Wherever possible, parallel processing of other consents should be encouraged to help speed up the process and resolve any issues as early as possible. Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

As highlighted above, 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) as a statutory consultee.

5.1.3 A developer may also want to consult with a parish council if his proposed development relates to the parish council's development or submission of proposals for a neighbourhood development plan or neighbourhood development order. The Neighbourhood Planning (General) Regulations 2012 require a parish council to publicise its proposals for a neighbourhood development plan or a neighbourhood development order with its local community and to consult with certain bodies to ascertain their views on the proposals of the parish council before these are submitted to the planning authority. In the periods when such proposals are being developed and before such proposals are submitted to the local planning authority, it is anticipated that developers in the private or public sector may wish to disclose or discuss a proposed development so that this may be accounted for in the proposals for a neighbourhood development plan or neighbourhood development order to be submitted by the parish council.

5.1.4 Section 25 of the Localism 2011 Act (the 2011 Act) restricts the impact of the acts of, or verbal or written statements or views expressed by councillors prior to a decision that might suggest pre-determination. s. 25(2) of the 2011 Act provides that:

A decision-maker (i.e. a councillor) is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
- (b) the matter was relevant to the decision.