



## DEVELOPER ENGAGEMENT POLICY

### 1. Policy Statement

This policy is designed to clarify how **Stradbroke Parish Council** (the Council) will engage with developers and/or their agents, both prior to, and following, the submission of a planning application within the parish. This policy will inform Councillors and Officers when arranging discussions with developers.

### 2. Policy Scope

The Council has looked at the National Association of Local Councils for guidance in this matter and has chosen to adopt a protocol for pre-application planning advice based on the NALC pre-planning application engagement advice document issued in March 2015 (see Appendix), and has updated the specific references to reflect the revised NPPF published in 2019. This guidance is also supported by advice from the Society of Local Council Clerks (SLCC). This policy applies to all Councillors and Officers of the Council. This policy also applies to all stages of the development cycle including speculative queries. The Council will not be offering advice on Planning Policy or a formal view at such presentations.

### 3. Responsibility for implementation of the policy

3.1 The Council has overall responsibility for the effective operation of this policy.

3.2 All Councillors and Officers should ensure that they take the time to read and understand it. Any breach of this policy should be reported to the Clerk.

3.3 Questions regarding the content or application of this policy should be directed to the Clerk.

### 4. Pre Planning Application Developer Meeting Guidelines

4.1 The Council recognises that pre-application discussions play an important role in major planning applications and welcomes the desire of developers to consult both the Council and the wider community. The Council is also aware of the importance of public perception in planning and the need to avoid any appearance that the Council is conducting secretive negotiations or is colluding with developers. It is important therefore that such pre-application discussions are undertaken appropriately and transparently.

4.2 Any information provided cannot be treated as confidential and will be subject to disclosure under the Freedom of Information Act 2000. From the outset the developer must identify information which the Council cannot share or make public and give reasons for this. Confidentiality of communications about the development will rarely be justified even if the developer's interest is sensitive.

4.3 Individual Councillors may be approached by developers for informal discussion and this is to be approached with caution and, in all instances, notified to the Clerk. Councillors must make it clear they are not representing the Council at any time except in the appropriate meeting, unless expressly authorised to do so.

4.4 Informal meetings and telephone conversations between a developer and Councillors or the Clerk will be documented in writing and are subject to disclosure under the Freedom of Information Act 2000.

4.3 The Council will, where possible, accommodate requests from developers to present their pre-application proposals at a Council or other arranged meeting prior to public consultation on the following three conditions:

4.3.1 Pre-application planning discussions, communications and any comment given by the Council will not bind the Council to making a particular decision and any views expressed will be without prejudice and on the basis of the information available at that time.

4.3.2 Where possible, meetings will normally be at a meeting of the full Council or the Planning Committee, and as a preference be open to the public. A record of meetings with developers on site and/or outside of a meeting of the Council will be made and reported to the next Council meeting. Should developers not wish to attend a meeting open to the public, a closed meeting may be arranged; however, the meeting would need to ascertain why the developer considers it necessary to communicate with the Council in closed session and it will be for Councillors at the meeting to decide if there are grounds to exclude the public from the meeting.

4.3.3 Developer will be sent a copy and asked to acknowledge receipt and their understanding of this Policy.

4.4 All pre-application requests must:

- Be made in writing to the Clerk
- Give details of the site plan
- Describe the proposal
- Include an existing and proposed layout plan

**5. Post submission of a Planning Application**

Following the submission of an application to Mid Suffolk District Council, any discussions with developers will be held as open sessions during, or prior to, a parish council or committee meeting.

**6. Advertising of meetings with developers**

The Council will use the publication of Agendas, social media and the parish council website and Facebook page to notify local residents of such open meetings and encourage their attendance. Where a meeting is closed, the appropriate Agenda will still state the meeting time and date and developer/agent name.

**In summary:**

Subject to the detail of the policy described above, where an applicant/developer seeks to discuss a proposed development with the Council, any such discussion will take place as part of a Parish Council meeting which is open to the public and minuted.

## APPENDIX:

### NALC Pre-Planning Application Protocol Advice and the National Planning Policy Framework

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 February 2019, 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.

#### ***'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 do 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 house, 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.'*

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).

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.

The Parish Council has been advised that it would be possible for a parish council to give a “minded to” indication to a pre-planning application development as long as such a decision made express reference to the following matters:

- the view is preliminary;
- the view has not been reached in accordance with the documents and procedures that will accompany any formal decision under the Planning Acts;
- the view should not and cannot be relied on as the basis of a legitimate expectation as the council’s view may well change when the full material is available to it and decision is taken in accordance with the council’s standing orders;
- the council’s view should not be taken to be or be reported to be in support of or in opposition to a formal application and
- the view is subject to a formal decision being made in accordance with the Planning Acts, the regulations made under them, the council’s procedures and input from third parties

The consideration of a proposed development at council meeting or by councillor(s) who meet with the developer outside of a council meeting, may risk claims that the informal and or provisional views expressed by the councillor(s) in relation to pre-planning application developments amount to bias or predetermination in their later decision making. A decision of a parish council is likely to be quashed, if there is an appearance of bias. Decisions made by parish councillors are required to be made with an open mind. Predetermination is, however, to be distinguished from pre-disposition towards a particular position, which is acceptable. s.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.