

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Planning Committee **DATE:** 7<sup>th</sup> September 2016  
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**WARD(S):** All

### **PART I** **FOR DECISION**

#### **PROPOSED MEMBER ENGAGEMENT IN PRE-APPLICATION SUBMISSIONS AND AMENDMENTS TO THE PUBLIC PARTICIPATION SCHEME**

##### **1 Purpose of Report**

The purpose of the report is for Members approval to amend the Council's Ethical Framework of the Council's Constitution in order to enable Planning Committee/ relevant Ward Members to participate in pre-application submissions.

It also recommends a change to the Ethical Framework in terms of involvement of applicants during Planning Committee meetings.

##### **2 Recommendation(s)/Proposed Action**

The Committee is requested to resolve that:

- (a) The Member Panel on the Constitution be recommended to endorse the amendment of the Council's Constitution to enable Member involvement during formal pre-application submissions to the Local Planning Authority (LPA).
- (b) The Member Panel on the Constitution be recommended to endorse the amendment of the Council's Constitution to enable applicants to address the Planning Committee, regardless of whether or not an objector has registered to address the Planning Committee.

##### **3 The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

###### **3a. Slough Joint Wellbeing Strategy Priorities**

Ensuring that the planning application process is operating more efficient will have an impact upon the following SJWS priorities:

- *Economy and Skills*
- *Regeneration and Environment*
- *Housing*
- *Safer Communities*

### 3b. **Five Year Plan Outcomes**

Ensuring that planning applications are properly assessed will contribute to the following Outcomes:

- 1 *Slough will be the premier location in the South East for businesses of all sizes to locate, start, grow and stay.*
- 2 *There will be more homes in the borough with the quality improving across all tenures to support our ambition for Slough.*
- 3 *The centre of Slough will be vibrant, providing business, living and cultural opportunities.*

## 4 **Other Implications**

### (a) Financial

There are no financial implications of the proposed action in this report which can be achieved within existing budgets.

### (b) Risk Management

It is considered that the risks can be managed as follows:

<i>Recommendation</i>	<i>Risk/Threat/Opportunity</i>	<i>Mitigation(s)</i>
That a pre-application engagement protocol is prepared in order to bring Slough in line with the Government Guidance.	Improved pre-application involvement by Members would reduce uncertainty for applicants and potential delays during the planning application process.	Agree the recommendations.

### (c) Human Rights Act and Other Legal Implications

There are no Human Rights Act Implications as a result of this report.

### (d) Equalities Impact Assessment

There are no equality impact issues.

## 5 **Supporting Information**

### Introduction

- 5.1 The Planning Service has undertaken a review of the planning application process, by engaging a wide spectrum of customers of the planning service during extensive workshops, facilitated by an external company that specialises in customer engagement. It was clear from the subsequent report that customer needs have changed and that we have to react positively in order to ensure that Slough remains a destination of choice for developers, but also that the needs of residents are met.
- 5.2 Member involvement in the planning application was specifically raised as a matter of concern by applicants and developers. There have been changes in legislation and policy documents in recent years, which encourage early member involvement in the planning process and it can therefore be considered that the current approach in the Council's Ethical Framework of the Constitution to exclude members, is dated.

- 5.3 A further matter of concern that was raised by applicants during the consultation process is the fact that they are only allowed to address the Planning Committee, if an objector has registered to speak against the proposal. It is also worth noting that a Ward Councillor can speak under Rule 30, without any time restriction and the applicant is not permitted to respond. This approach is also out of line with the procedures of most other Planning Authorities.

### **Member involvement in the pre-application process**

- 5.4 The National Planning Policy Framework (NPPF) states that: *“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.”* It also states that: *“The more issues that can be resolved at pre-application stage, the greater the benefits.”*

The 2006 Audit Commission study ‘The Planning System – Matching Expectations and Capacity’ found that lack of councillor involvement in the pre-application stage of dealing with planning proposals was a drawback in the system. It was found to lead to frustration when elected members took a different approach to officers.

- 5.5 The study ‘Rules of Engagement: Working Together Effectively’ undertaken by South East Excellence in 2009 acknowledged the risk of planning committee members pre-determining their views. However, the question was raised how could members act as community champions if not engaged in pre-application discussions for major proposals affecting their communities? In a more recent study by the Planning Advisory Service, the same issue was raised in that early discussion during the pre-application process will help to bring about better understanding of the issues through open exchange of information, discussion and constructive questioning. Members should therefore not be insulated from early discussions. The introduction of Section 25 of the Localism Bill, has assisted by making it clear that views expressed prior to a decision making meeting, should not be regarded as predetermination. It is therefore important that Members should be confident enough to give a preliminary view on a proposal, without undermining their ability to determine the application when presented to them for a decision. Members should therefore see this as a positive opportunity to understand issues relating to the proposal for instance viability and to explore potential contributions to local infrastructure and affordable housing. Members will also be able to provide a clear steer on what is likely to be acceptable to the community and can allow problems and opportunities to be identified and addressed, as the proposals for the development are put together. Members should also not fear that the planning application is pre-determined by this process, but rather that the issues are better understood and the likelihood of deferrals and delays much reduced.

- 5.6 In light of the above and the clear steer from applicants and developers that Slough Borough Council should bring the pre-application process in line with national guidance, it is suggested that members should be enabled to participate in this process. The current ‘Code of Conduct for Councillors and Officers in relation to Planning and Licensing matters’ (Part 5.2, paragraph 5.4) states that: *“To ensure professional advice and maintain impartiality it is highly desirable that Committee members do not take part in pre-application discussions other than in cases of minor development. If there are other occasions when Committee members are involved they must be accompanied and advised by professional officers of the Council including a Senior Planning/Licensing Officer.”* Due to the lack of clarity in this section, it is believed that it would be beneficial to provide clear guidance of the

Council's protocol for the pre-application process and the involvement of the Members of the Planning Committee.

- 5.7 The Planning Advisory Service has proposed several options in their 'Pre-application Suite' document. Officers have also looked at models adopted by other LPA's and based on this research can recommend that the Council adopt a process of formal pre-application presentation and interaction with applicants, as an item during the monthly Planning Committee meetings. In this manner, the Council would ensure that the meeting takes a formal structure, which ensures good governance and public confidence are achieved and avoids any accusations of bias towards developers. In brief, the process could involve the following:
- Introduction by officer
  - Presentation by applicant / developer
  - Response by Ward Councillor as a registered speaker
  - Questions and answer session (Ward Councillor and residents to observe)
- 5.8 The above process is a suggested protocol, which will have to be finalised by the 'Member Panel for the Constitution' as part of the process of amending the Constitution. It is also worth noting that some pre-application submissions are treated as confidential and on those occasions the above procedure will be presented as a Part 2 report to the Planning Committee. The LPA receives between 40 to 50 major applications per year and not all are preceded by pre-application submission. It is not necessary that all pre-application submissions for major developments will need to be presented to the Planning Committee and therefore a threshold for the scale of development will have to be set. Another matter that needs to be addressed is the fact that Ward Councillors can speak at any Council Meeting under Rule 30, for any length of time. In order to ensure that the above process does not become too time consuming and remains a focussed discussion, it might be necessary to investigate the possibility of restricting the time that Ward Councillors have to address the Committee. It is however recognised by all the previously mentioned studies that Ward Members undertake an important role in representing the views of local constituents and therefore should therefore not be excluded from this process.

### **Applicant addressing Planning Committee**

- 5.9 The Council Constitution presently includes a 'Public Participation Scheme' (Appendix B, Part 5.2) which sets out the right of objectors and other individuals to address the Planning Committee. In the section 'What is the order of speaking for each application', it is stated that the Chair will invite the applicant or agent to respond after an objector has spoken. It is further clarified under 'Rules, Procedures and Guidelines for Public Speaking at Planning Committee' that "*an objector, a representative or the Parish Council and the applicant (where an objector has registered to speak) may each speak on a planning application*". As Members are aware some very large developments do sometimes not attract any opposition from residents and therefore the applicant does not have the opportunity to address the Planning Committee. This approach is outdated and not consistent with current Government guidance and with procedures of other planning authorities. This, in combination with the lack of Member involvement in the pre-application process, means that the Planning Committee is not fully engaged in the application process.

5.10 It is therefore recommended that applicants should be given the opportunity to address the Planning Committee, even where no objectors have registered to speak against the proposed development. This would require very minor amendments to Ethical Framework - Part 5.2 of the Constitution.

## **6 Conclusion**

- 6.1 In order to respond positively to the changes in Government Guidance and also the needs of our customers, which clearly has changed, it is considered appropriate to amend the Constitution accordingly as outlined above. It is believed that early Member involvement would avoid any possible miss-alignment of opinions between officers and members, which would mean that there is less likelihood of applications being deferred by the Planning Committee. This will also demonstrate the Slough is truly 'open for business' by positively engaging with applicants and developers.
- 6.2 Officers will prepare detailed amendments to the constitution for consideration by the Member Panel on the Constitution at its next meeting.

## **7 Background Papers**

- '1' Part 5 Ethical Framework, Slough Borough Council, Constitution 2016
- '2' Planning Officers Society: Development Management Practice Project Guidance Note 3, Councillor Involvement in pre application discussions, Revised January 2014
- '3' South East Excellence: Rules of engagement working together for effective delivery
- '4' The Audit Commission: The Planning System: Matching expectations and capacity