

Title of meeting: Planning, Regeneration and Economic Development

Date of meeting: 10 March 2015

Subject: Development Consultation forum

Report by: City Development Manager

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

This report seeks approval to set up a Development Consultation Forum and introduce an associated charging schedule. The Forum would be set and operationally would become effective from June 2015.

2. Recommendations

2.1 That the Cabinet Member for Planning Regeneration and Economic Development authorises the City Development Manager, to finalise working arrangements for the introduction of a Development Consultation Forum to commence in June 2015.

2.2 To introduce a charging schedule at a rate set out in the report.

3. Background

3.1 The City Development teams provide pre-application advice as an integral part of the overall service to a host of customers wishing to carry out different types of development within the city. Although engagement / discussions prior to the submission of a planning application are not a statutory requirement, it is generally considered best practice to enable opportunity to provide such advice, as it contributes to higher quality development, reduces risk and uncertainty for developers / applicants and helps promote growth and inward investment.

3.2 The practice of pre-application engagement is now also firmly encouraged in the National Planning Policy Framework (NPPF). Pre-application engagement is considered by the government to be an essential requirement on both planning departments and developers in order to secure developments that improve the economic, social and environmental conditions of an area.

- 3.3 The provision of pre-application advice is a discretionary service and whilst the Council has always provided a pre application advice service, until May 2014 the applicant/developer had not been charged for this service. Due to the significant benefit that can be achieved from this early engagement, considerable time is currently spent on discussing pre-application advice. However following a review of the way that pre application advice has been delivered it is considered that the service could be further improved by the introduction of a Developers' Consultation forum.
- 3.4 Whilst developers have been giving pre-application presentations to Councillors for some time the Forum is a more formal, transparent and accountable process and involves the public in a structured process.
- 3.5 A similar service has been run by Havant and East Hampshire Councils and is proving to be a very useful forum for developers to explain their schemes to councillors, key stakeholders and the public prior to the submission of an application. Selection of applications to be referred to the Forum would be focused on significant development schemes, though in some cases it may be considered appropriate to introduce schemes of a smaller scale for consideration by the Forum

4. Proposal details

- 4.1 Forum dates would be set for a date each month, and the Forum would be chaired by the PRED Cabinet Portfolio holder, all Councillors would be invited to the meeting. At the meeting the City Development Manager would outline planning policies and planning history relating to the site. The developer would be given the opportunity to explain the scheme, speakers would be invited to speak and the planning case officer would present comments from other consultees. The developer would be given the opportunity to respond to any matters raised and then Councillors would be given the opportunity to ask questions. At the end of the session the planning officer would summarise the key points raised.
- 4.2 The purpose of the Forum is to allow the developer the opportunity to explain his scheme and for councillors to have the opportunity to ask questions. It would enable the developer to shape an application to address community issues.
- 4.3 The Forum would not be a place where the scheme is negotiated in public and would not commit the Council to a view. It also would not be possible to ensure that all issues are addressed and identified. It is not intended to take the place of structured pre application discussions and negotiations and could not take the role of the Planning Committee, or delegated officer decisions, which have the regulatory function of determining planning applications after submission.
- 4.4 The outcomes of a Forum consultation would be that the developer will have a list of the main points to consider, and an opportunity to address such points before formal submission of the application. Stakeholders, Councillors and the public will

have an awareness of the development proposed and will have had the opportunity to raise concerns at this early stage. Planning officers will have better understanding of the concerns of the developers, statutory consultees and the community prior to a formal application.

- 4.5 The council has the ability, through the Local Government Act 2000, to apply a charge for this service and it is considered that it would be reasonable to adopt the same charging schedule as the adjoining authorities of Havant and East Hampshire at £1500 per developer per session.
- 4.6 Further work is required on the details of how these meetings would be run and managed. Accordingly authority is sought to enable the City Development Manager to work up these details further, to identify criteria for the City Development Manager to select applications which could be referred to a Forum, and put a protocol in place prior to the introduction of the first meeting in June. The protocol would be displayed on the Council Website and all members would have a copy of the protocol prior to publication.

5. Equality impact assessment (EIA)

- 5.1 An equality impact assessment is not required as the recommendations do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

6. Legal Implications

- 6.1 It will be essential to have a procedural framework for setting up each Forum, and for conduct of the Forum sessions (protocols), to ensure that the Council can adhere to the standards of openness and accountability set out in the Councillors' Code of Conduct, and so that there is clarity of the purpose of the Forums for developers, residents, local businesses, consultees and other stakeholders. Having protocols established and adhered to will enable all interested parties to have assurances that all development proposals referred to the Forum are treated in the same way by the Council at the pre-application stage.
- 6.2 The opportunity for this form of pre-application discussion has been enhanced by the provisions of Section 25 (2) of the Localism Act 2011, which has provided that "*A decision-maker 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
- 6.3 However, it should be noted that (pursuant to the Local Government Act 2000) development management is a regulatory function of the Council that must be conducted in accordance with the norms of regulatory decision making. The provisions of s.25 set out above are not a "blanket" protection, because from inclusion of the words "*just because*" it must be understood that in some

circumstances where there was an undeniable pre-determination of an application, it could still be a basis of challenge to the relevant decision (either to grant permission or refuse it when the application had to be determined).

- 6.4 It is essential to avoid any opportunity for allegations that applications have been pre-determined by the Council through pre-application discussions, by comments from individual members at the Forum, and also to demonstrate that the separation of executive (Cabinet) and regulatory functions is maintained, and that neither developers nor other stakeholders can seek to lobby to refer applications inappropriately to a Forum. Once the selection criteria for applications to be referred to the Forum (e.g. on the basis of numbers of housing units in residential development proposals) have been set out and agreed through a further consideration of draft protocols by the Cabinet Member, it is recommended that the selection of applications that are subsequently referred to a Forum should be at the absolute discretion of the City Development Manager.

7. Finance Comments

- 7.1 It is proposed that a charge of £1,500 is made to the developers of larger projects for the opportunity to present and explain their potential scheme to the Development Consultation Forum. This is comparable with the charge made by both Havant and East Hampshire local authorities for a similar opportunity and recovers the full cost of providing the service.

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Signed by:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: