

Protocol for dealing with Major planning applications

1 Background

- 1.1 In recent years the Government has encouraged local authorities to improve the speed of decision making through the introduction of national performance targets.
- 1.2 Local authorities are now monitored on their performance relating to the determination of planning applications. A key measure of the Development Control performance is the percentage of major applications determined within 13 weeks.
- 1.3 The Council recognises that the scale and complexity of major applications requires a different approach from smaller scale applications. However there may be instances when the full implications of this protocol may not be necessary, due to the scale and nature of the proposals, which whilst technically a major application, has relatively little impact.
- 1.4 This protocol sets out how the Council will achieve consistency and improve the process by providing certainty for all concerned.

2 What is a major application?

- 2.1 A major application is defined by the government as any of the following:
A residential development of 10 or more houses or 0.5 hectare where no.of dwellings is not specified
For non-residential development, proposals covering a floor area of 1000 sq m or more or a site area greater than 1 hectare in size

3 Pre application discussions

- 3.1 The Council positively encourages developers submitting a major application to discuss their proposal with planning officers prior to the application being formally submitted. This will help to identify the key issues, ensure that the right information and material is submitted with the application and will assist in making sure the application is dealt with efficiently.
- 3.2 Developers are encouraged to submit as a minimum a site location plan and a description of the proposed works. A case officer will then be allocated to the project and will be available to meet for a preliminary meeting within 3 weeks of receipt of the initial contact. Where appropriate a Principal Planning Officer will also be involved at this stage to support the case officer.
- 3.3 All preliminary discussions will be treated 'in confidence' and 'without prejudice'. Discussions will include:
 - Advice on the information likely to be required to support the application
 - Informal comments such as the extent to which the proposal complies with policy
 - Suggested level of community involvement required
 - Commencement of negotiations on all issues
 - Defining issues for legal agreements, setting out requirements and issuing drafts
 - Setting out a timetable for future meetings, submission of the application and confirmation that determination will be within 13 weeks of the registration of the application.
- 3.4 For significant major applications it may be necessary to formulate a project team to pull together other council officers and appropriate outside agencies to enable advice to be sought on various issues (e.g. Conservation, Urban Design, Building Control, Wiltshire County Council Highways).

The case officer will take responsibility for this and will act as a point of contact throughout the process.

- 3.5 In certain circumstances the local ward member will be invited to represent the interests of third parties, including Town/Parish councils, during initial pre application discussions. This is on the understanding that they would not comment on the merits of the development, in order not to prejudice their future involvement in the decision making process. On occasions it may be appropriate for a representative of the Town/Parish Council to accompany the local ward member to pre-application meetings, to highlight relevant local planning issues, relating to the particular development. Officers will discuss and agree with the relevant member and the relevant Town/Parish Council, their involvement in the process, at the pre application stage or within 2 weeks of the submission of a planning application.

4 Pre application Consultation

- 4.1 Major applications are likely to generate more local interest over a wider area than smaller applications. Therefore we consider that there should be greater public involvement at an early stage in the decision making process as outlined in the approved Statement of Community Involvement and detailed in the 'Major Applications Information Pack'.
- 4.2 Whilst pre application consultation is encouraged, it is not a legislative requirement and the fact that no consultation has been undertaken is not, in itself, a reason to invalidate or refuse an application. However, failure to consult with relevant organisations or sections of the community may result in issues not being resolved which could lead to a delay in dealing with any subsequent applications or a refusal.

5 Submitting the application – What to expect

- 5.1 The Council is committed to ensuring that all relevant information for major applications is submitted at the beginning of the process. Piecemeal submission of documents leads to confusion and delay as further consultation with the local community and statutory agencies takes place. Through the pre application process we will have been able to give advice on what information is required to support the application to ensure that it is registered quickly.
- 5.2 The validation process will be carried out within 3 days of receipt of an application. The application will be checked for completeness and allocated to a case officer. The application will be allocated to the officer who conducted the pre application discussions to provide continuity.

5.3 Information to be submitted

The case officer will ensure that all necessary additional information has been submitted. The information to be submitted will depend of the nature and scope of the application but in addition to the complete application form, signed certificates and plans, it could include:

- Heads of terms of proposed Legal Agreement
- A Statement of Community Involvement (where appropriate)
- Design and Access Statement
- A Landscape Appraisal
- An Environmental Impact Assessment
- A Traffic Impact Assessment
- A Flood Risk Assessment
- An Ecological Survey
- An Archaeological Assessment
- A Contamination Report

- 5.4 You are advised to check whether the development constitutes a schedule 1 or 2 application in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999, to establish if an Environmental Impact Assessment is required or a Screening Opinion obtained from the Local Planning Authority.
- 5.5 When the application is registered a target date will be given for when a decision will be made (this will be 13 weeks from the date of registration). It is important to note that a decision will be made on or before this date so it is essential that as many issues are satisfactorily addressed in the submission documents as possible.
- 5.6 Pre application discussions will have identified how the community should be involved in the decision making process. Evidence of any consultation should be submitted with the application.

6 Processing Major Applications

- 6.1 Consultations will be undertaken by the Council to ensure that the views of local people are sought and can influence the decision. This will be in addition to any consultation that has been undertaken pre application.
- 6.2 For all major applications the Council will:
- Display a site notice (s) on or near to the site for at least 21 days
 - Notify any adjoining land owners in writing
 - Publish an advertisement in the Wiltshire Gazette and Herald and/or Wiltshire and Glos. Standard
- 6.3 Copies of plans will be sent to the relevant Town or Parish Council and the local ward member will be notified by email.
- 6.4 Local issues and 'heads of terms' for any necessary Section 106 agreements will be discussed with the local ward member within the 21 day consultation period. Members will have the opportunity to put forward the views of the Town and Parish Council and feedback they have received from local people.
- 6.5 Applicants will be encouraged to discuss the terms of Section 106 legal agreements at the start of the process (if pre application discussions have taken place this would have already been discussed). Draft 'standard' agreements will be supplied by the Council. These are available in the 'Major Applications Information Pack'. Please note that where agreements involve Highway or Education contributions applicants are advised to contact Laurie Moore, Solicitor at Wiltshire County Council on 01225 718087 or email lauriemoore@wiltshire.gov.uk
- 6.6 A timetable will be given to applicants showing critical dates in the process and where appropriate a prospective committee date will be given.
- 6.7 Amended plans will be accepted throughout the 13 week process. If the amendments are minor there is no requirement to re consult. However, if the changes are significant the Council will re consult with the local community and statutory consultees to ensure that they are given the opportunity to give their views on the changes. If the changes are so significant that the proposal is considered to be different from that originally submitted, this might mean that the application has to be re registered and the 13 weeks will start again. Example of a significant amendment would be substitution of house types and alterations to layout where it could impact on neighbouring properties, repositioning of an access to a development or adding additional floors or introducing a different use etc. Example of an insignificant amendment would be the repositioning or deletion of a first floor window to overcome an objection on overlooking. It may not be possible to take into account plans which are submitted late in the process.

- 6.8 It is important that local ward Members and Town/Parish Councils are kept informed of major planning proposals and kept updated throughout the process. The case officer will advise Members and the relevant Town/Parish Council, at the appropriate stages. Members will be encouraged to contact the case officer throughout the process.
- 6.9 To help maintain continuity throughout the process it is also necessary for the case officer to be the sole point of contact for the application.

7 Legal Agreements

- 7.1 Section 106 of the Town and Country Planning Act 1990 allows a local planning authority to enter into a legally-binding agreement or planning obligation, with a developer over a related issue. The obligation is often referred to as a 'Section 106 agreement'.
- 7.2 Matters required in an agreement must be related to the site and to the development and satisfy the tests set out in Circular 5/2005. Such off-site works or contributions cannot be used as a wish list and will need justification if challenged.
- 7.3 Core policy C2 in the Adopted North Wiltshire Local Plan sets out the provision for directly related community infrastructure costs, appropriate to the scale of development. The 'Major Applications Information Pack' includes details of the types of contributions, which may be required.
- 7.4 In the past the details of agreements have been negotiated after the planning merits of the case have been assessed and the resolution made to grant planning permission. However, the process of negotiations on the legal agreement with interested parts of the authority is time consuming and invariably the planning application is out of time when the legal agreement is completed. To improve the speed of determining major planning applications discussions and negotiations will start within three weeks of the application being registered. The Council would strongly recommend that in significant major application proposals, such discussions, in relation to legal agreements are commenced at the pre application stage.
- 7.5 Where the amount of financial or other contributions to be made through the Legal Agreement are challenged by the applicant/agent on the grounds of the viability of the overall scheme, the application/agent will be liable to pay the reasonable costs of the authority to seek separate professional advice on the particular issue.
- 7.6 The Council, will, where appropriate, refuse planning permission for applications for major development where an associated section 106 agreement has not been completed by week 13.

8 Making a Decision

- 8.1 The case officer will prepare a planning judgement and recommendation. Wherever possible, applications will be determined by officers under the Council's Scheme of Delegation. However, the Scheme requires applications to go to Development Control Committee if any of the following apply:
- The application for planning permission is considered to be a departure from the Development Plan and the recommendation is to grant permission.
 - A minimum of two district councillors (including one member of the ward where the application is sited) have requested that the application be considered by Committee.
 - Five or more letters of objection have been received about the application (excluding members of the same household) and the recommendation is to grant permission.
 - The application for planning permission involves the Council as landowner, applicant or agent.
 - The authorised Planning Officer considers the decision should be taken by Committee.

- 8.2 The Development Control Committee meets every 3 weeks but reports are completed at least 2 weeks beforehand. Agendas, including the officer's report on the application are available on the Council's website a week before the meeting.
- 8.3 The report will identify the main issues involved in determining the application. It will state the proposal and site description, planning history, consultee responses, public responses, planning considerations, issues arising and the heads of terms of any Section 106 agreements. The report will assess the issues and policy position and make a recommendation.
- 8.4 Where an application is to be determined by Development Control Committee and a Section 106 agreement has not been completed at the time the report is written alternative recommendations will be given to members. Where the development is acceptable subject to the completion of a Legal Agreement, one of the recommendations will be refusal with reference to the relevant outstanding planning issue. This will be based on the fact that adequate time has been allowed through pre application and post application discussions, to complete the agreement within the statutory time period.
- 8.5 The council will ensure that no new additional matters for Section 106 legal agreements will be introduced at a late stage. Matters, which do not pass government advice and the legal tests of acceptability, should not be introduced in any event.
- 8.6 The Council will consider using conditions rather than agreements where appropriate. This could include affordable housing conditions and Grampian conditions involving off site highways and other non-contentious issues.

Major Applications Process Chart

