

Desborough Town Council Meetings With Developers Policy And Procedure

Introduction

Desborough Town Council has exercised its right to be consulted on planning matters. As such, the Council's views are heard by the Planning Authority. The Town Council does not make decisions on applications. The Planning Authority makes decisions having heard the views of applicants, consultees, and members of the community.

The Council wishes to encourage appropriate sustainable and safe development, whilst at the same time attempting to preserve and protect the environment and character of Desborough; having due regard to the duties of the Town Council in relation to conserving biodiversity and the prevention of crime and disorder.

Desborough Town Council acknowledges that developers may wish to seek the Council's views and those of the local community before applications are submitted, after submission but before consideration by the Planning Authority, or before determination of appeal against refusal.

How the Council engages with developers

As community leaders and local representatives Councillors will want to be involved in relevant pre- application discussions and public meetings. Following this policy, Councillors can involve themselves in discussions with developers and others about planning matters.

Members of the community may take a very jaundiced attitude towards any contact between developers and the Council as a whole, or individual or groups of Councillors, or even Officers of the Council, especially where contact is not in the public gaze. However, if the contact is carefully managed and details are recorded then there can be benefits to all, without tying the Council to supporting or otherwise any application or proposal (predetermination).

Under the Localism Act 2011, predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

A Member is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A Member is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

The general position, however, remains that, whatever their views, Members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

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 Town Council 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.

Where developers organise a public exhibition or display of their proposals, it is acceptable for Councillors to visit to examine the proposals and ask questions of the developers to ensure that they are fully informed of the nature of the proposals. Councillors may feed in their own and the local community's concerns and issues and engage in discussion, so long as no Councillor purports to speak on behalf of the Council (unless specifically authorised to do so by a meeting of the Council).

Pre-application meetings with developers or prospective applicants may be a positive way of engaging the developer to seek to ensure that community needs are met. However, if approached directly, Councillors must refer any requests for such a meeting to the Town Clerk. The Town Clerk can then help organise the meeting and ensure that those present are advised from the start that the discussions will not bind the authority to any particular course of action.

Developers attending meetings of the Council

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. Developers may not speak at a Council or committee meeting to present or discuss a proposed development affecting the

Town unless they are invited to address a meeting or they do so during the public participation section.

Developers may regard information about a proposed development as either confidential or “sensitive” and therefore not suitable for discussion at a meeting open to the public. However, Councillors at the Council or committee meeting will decide if there are grounds to exclude the public from the meeting when the proposed development is being discussed and considered. The Town 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).

The minutes of the Council and committee meetings which record the decisions made at them are public and therefore available to all on the Town Council’s website, in the folder in the library, and on application from the Town Clerk.

General Guidance for Councillors

- refer those who approach you seeking planning, procedural, or technical advice to the Town Clerk or the Principal Authority as appropriate;
- advise those looking for policy guidance to examine the policies in adopted local plans and the Local Development Framework;
- avoid meeting developers alone or putting yourself in a position where you appear to favour a person, company or group;
- remember that you must comply with the Members’ Code of Conduct at all times.

MEETINGS WITH DEVELOPERS PROCEDURE

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 adopt the following procedure:-

1. The Council will not seek out developers for meetings.
2. Approaches to the Council from developers should be made through the Town Clerk, and if received by any Councillor must be immediately referred to the Town Clerk who will acknowledge the communication.
3. In law, individual Councillors or a group of Councillors may not purport to speak on behalf of the Council unless specifically authorised to do so by a meeting of the Council. It follows that any meeting between a Councillor or Councillors (acting in that capacity) and developers should be attended by the Town Clerk.
4. Where a request for a meeting is received, the Town Clerk will consult with the Chair and Vice-Chair of the Council and will then determine whether or not a meeting is in the interests of the Council.
5. Where it is determined that a meeting is appropriate, the developer must provide written information about the proposed development and the developer’s desired outcome from the meeting before any meeting is arranged.
6. Developers will be made aware that information held by the Town Council about a proposed development is subject to disclosure under the Data Protection and Freedom of Information legislation.
7. If a developer considers that information provided to the Town Council is sensitive, this will not require the Council to treat it as confidential. The developer must identify information that they want to be confidential, and explain the reasons in writing. If the developer has a legitimate expectation for confidentiality about the proposed development, the Council will keep a written record of the confidential and non-confidential issues.
8. Communications (including informal and formal meetings) between a developer and the Council (or with individual Councillors, and/or the Town Clerk) about a pre-planning application development, or an appeal, will not bind the Council to making a particular decision or withdrawing any objection. Any views expressed are, at best, provisional because not all of the relevant information will be available to the Council and formal consultations will not have taken place.
9. Informal meetings and telephone conversations between a developer and individual Councillors or the Town Clerk will be documented in writing and are subject to disclosure under the Data Protection and Freedom of Information legislation. The Town Clerk will arrange and attend meetings with Councillors and send a follow-up in writing.