

Planning - A Guide for Councillors

RESPONSIBLE COMMITTEE: P&L

This is a policy/procedure document of Saltash Town Council to be followed by both Council Members and Employees.

Current Document Status

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Document Retention Period

Until superseded

This handbook brings together protocols and guidance for Councillors to use when considering planning applications.

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1. Planning Applications – Guide for Town Councils (Cornwall Council)

Planning Application Consultations

A Guide for Parish/Town Councils by
Application Type

Date 02/05/2019

Planning and Sustainable Development

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Introduction

This document has been produced for the use of Parish/Town Council and indicates consultations with Parish/Town Councils by planning application type.

In accordance with the Planning and Compulsory Purchase Act 2004 Planning have adopted a [Statement of Community Involvement \(SCI\)](#) which outlines how the Cornwall Council will involve local communities, businesses and other interested parties when preparing planning policies and determining planning applications. Information regarding how this document was prepared along with the previous version can be view on the [Statement of Community Involvement web page](#).

Information regarding consultations on planning applications as well as guidance on the planning process as a whole can be found in the [Day in the life of a Planning Application](#) interactive on-line planning tool.

Information regarding prior notification/approval use classes indicated below can be found in The Town and Country Planning (General Permitted Development) (England) Order 2015

http://www.legislation.gov.uk/ukxi/2015/596/pdfs/ukxi_20150596_en.pdf - Please note that this order was updated in 2018 and changes can be viewed here <http://www.legislation.gov.uk/ukxi/2018/343/made> however the information regarding what each class relates remains the same.

Table 1 Consultations by Application Type

Consultations by Application Type			
Application Type	Consulted	Self-Serve	No Consultations Required
<u>Prior Notifications</u>			
Prior notification of agricultural or forestry development - proposed building (AF)			✓
Prior notification of agricultural or forestry development – proposed building (AF2)	✓		
Prior notification of agricultural or forestry development - proposed road			1
Prior notification of agricultural or forestry development - excavation/waste material			1
Prior notification of agricultural or forestry development - proposed fish tank (cage)			1
Prior notification of proposed demolition			1

Prior notification of proposed development by telecommunications code system operators	✓		
Prior Approval within Part 3 classes C,J,M,N,O,P,Q,R,S, and T		2	
Prior Approval within Part 4 class E		2	
Prior Approval within Part 7 class C		2	
Prior Approval within Part 14 class J		2	
Prior approval within Part 17 (all classes)			✓
Prior Approval of a Proposed Larger Home Extension		2	
Prior approval for proposed mining and mineral exploration development	✓		
<u>Lawful Development Certificates</u>			
Application for a Lawful Development Certificate for a Proposed use or development			✓

Application for a Lawful Development Certificate for an Existing use or operation or activity including those in breach of a planning condition	✓		
<u>All other application types</u>			
Application for a non-material amendment following a grant of permission	✓		
Application for discharge of a condition		✓	
Application for approval of reserved matters following outline approval	✓		
Application for Certificate Of Appropriate Alternative Development Land Compensation Act 1961, Section 17 as Substituted by Section 64 of the Planning Compensation Act 1991			✓
Application for consent to display an advertisement(s)	✓		
Application for hedgerow removal notice	*		
Application for listed building consent for alterations, extension or demolition of a listed building	✓		
Application for Outline Planning Permission	✓		

Application for Planning Permission	✓		
Application for Permission in Principle (PiP)	✓		
Technical Details Consent	✓		
Householder Application for Planning Permission for works or extension to a dwelling	✓		
Application for Planning Permission for Mineral Extraction and Ancillary Operations/Developments	✓		
Application for removal or variation of a condition following grant of planning permission	✓		
Application for tree works: works to trees subject to a tree preservation order (TPO) and/or notification of proposed works to trees in a Conservation area	✓		
Environment Act 1995 (Section 96 and Paragraph 9 of Schedule 13, Paragraph 6 of Schedule 14) Initial and Periodic Reviews Application for Determination of Conditions for Mineral Site / Mining Site	✓		
Modification and Discharge of Planning Obligations (VS106 less than 5 years old)	✓		

Modification and Discharge of Planning Obligations (VS106 more than 5 years old)	✓		
Modification and Discharge of Planning Obligations (V52)			✓
Dead or Dangerous Tree Notice Form (Exception Notices)		✓	
EIA Screening Opinion Requests			✓
EIA Scoping Opinion Requests			✓
<u>Additional Services Requests</u>			
Pre-Apps (Publically Available)		✓	
Pre-Apps (Confidential)			✓
Do I Needs			✓

*At the discretion of the Case Officer

1 These prior notifications are publically available however as they are notifications to take up permitted development rights no consultations are required.

2 These prior approvals are publically available however only consultations with neighbours are required. Comments can be received regarding the effect on the amenity of neighbours as and accuracy of information submitted.

Enquiries and Contact Information

Any queries relating to individual application should be directed to the Case Officer in the first instance.

For any general planning enquires please contact Planning General Enquiries on 0300 1234 151 or email planning@cornwall.gov.uk.

For any enquiries regarding information contained in this document or consultation arrangements please contact Donna Moore on 01872 224423 or email donna.moore@cornwall.gov.uk.

Prepared by:

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Planning and Sustainable Development 2
May 2019

If you would like this information in another format please contact:

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1234 100 www.cornwall.gov.uk

2. Planning: Guiding Principles – Pre-Application Discussions

Saltash Town Council

Policy/Procedure:

Planning: Pre-application Discussions

Date of Adoption:

April 2018

This is a Policy or Procedure document of Saltash Town Council to be followed by both Councillors and employees.

Current Status			
Version	1	Approved by	P&R
Date	April 2018	Date of approval	10.04.2018
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Responsible Committee	P&R	Review date	Start of new council term or if change in advice from CALC

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April	1	AJT/CALC	

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Guiding Principles for Pre-Application Discussions

Pre-application discussions have an important role in all types of planning applications. Local Councils are particularly aware of the importance of public perception in planning and the need for transparency in the relationships with developers.

Pre-application meeting

In considering a request to meet with the developer prior to formal submission of a planning application, Saltash Town Council would expect that:

1. The meeting is open to the public to attend and has been reasonably advertised.
2. The developer meets all reasonable costs of hosting of the public meeting including the provision of large-scale paper plans display purposes.
3. A public consultation or engagement event is either already scheduled, or firmly planned.

Saltash Town Council may wish to combine public engagement events with a scheduled council meeting rather than a separate event. Whilst for large developments and initial pre-app meeting and community engagement event may be far apart in time, the small applications, these could effectively be undertaken at the same meeting.

Saltash Town Council will not normally hold private meetings with developers unless there is a necessary and compelling reason which could be justified to the public (for example a strong commercial sensitivity, where a developer wishes to receive an initial steer before deciding whether to progress).

Pre-application community engagement (PACE)

Saltash Town Council will encourage developers to carry out engagement with the local community before submitting plans for significant or complex developments. Any PACE meeting must meet the following expectations:

1. The venue is convenient and accessible in the community.
2. Sufficient and timely publicity within the community and to likely interested parties. The timing of the meeting should be appropriate to allow as wide a range of people as possible to attend.
3. That there is a genuinely open mind and willingness to adapt planned in response to community feedback.
4. The developer meets all reasonable costs of hosting a public meeting including the provision of large-scale paper plans for display purposes.

Saltash Town Councillors are advised not to attend separate private briefings as part of public consultation, but instead to attend a public event.

As well as working with the Town Council on a public engagement events, developers also have the option of a formal pre-application community engagement forum facilitated by Cornwall Council for more significant or complex applications. Developers should contact Cornwall Council for further details on these options.

Pre-application process and the Code of Conduct for local councils

It is noted that some Town Councils are concerned about potential issues with encouraging early conversations with developers on pre-application proposals. These include requests for meetings with individual councillors and how feedback on the proposal could be viewed as predetermination.

It is recommended:

Individual Councillor’s discussions

- a. Councillors must be aware of their obligations under the Council’s code of conduct.
- b. Individual Councillors must not enter into informal discussions of possible future applications with the developer; to do so may lead to a complaint for a potential breach of the code.
- c. Where a site meeting is needed, the Town Council will nominate at least two representatives to attend.

A developer should not attempt to lobby individuals; if this occurs, the Town Council reserves the right to withdraw from any pre-application process.

Pre-determination

Councillors should avoid expressing any detailed opinion or prior view which might be viewed as predetermination. To this end, a formal meeting arranged by the Town Council could include the following suggested wording on the meeting agenda or invitation:

While I/Members may express an opinion for or against the proposal at this meeting, my/our mind(s) is/are not closed and I/we will only come to a conclusion on whether are you/we should support the scheme or offer an objection after I/we have listened to the full debate.

A similar statement could also be read out and clearly stated at the start of an informal meeting, to make it clear that the members of the Town Council attending are not pre-determining the position on a proposal. Local councillors could also include the words “in principle” or “subject to” when expressing their views to further emphasise that any opinions given at this stage are not prejudging a proposal in advance of a formal planning application.

Version History

Date	Details
September 2018	Note: Words importing the masculine gender only shall include all other genders and vice versa.

3. Protocol for Considering Planning Applications

Saltash Town Council

Policy/Procedure:

Protocol for considering planning applications

Date of Adoption:

05.04.2012

This is a Policy or Procedure document of Saltash Town Council to be followed by both Councillors and employees.

Current Status			
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Responsible Committee	P&R	Review date	As required

Version History			
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April 2012	1	AK	

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Date	Type of Review	Minute number	Summary of actions	Completed by

Protocol for considering Planning Applications

This protocol relates specifically to the consideration of plans at the Planning and Licensing Committee. Subsequent consideration in relation to an officer response is covered in another protocol.

1. Expectations of councillors

It is an expectation of Saltash Town Council that:

- a. All Councillors should be familiar with the basic details of all planning applications on the agenda.
- b. All Ward Members should be familiar with the details of all planning application on the agenda and within their ward, including having closely examined the paper or electronic plans.
- c. The Ward Members should have arranged for at least one ward member to have carried out a site visit and to report verbally, in writing, or via another councillor or member of staff, to the council.
- d. In the case of a potentially contentious application, the Ward Members should have arranged for at least two ward members to have carried out a site visit, albeit not necessarily at the same time, and to report to the council as above.

2. Potentially contentious applications

An application will be considered to be 'potentially contentious' within the meaning of this protocol where:

- a. It is on a site on which the council has, within the previous year, considered an application that was subsequently refused or
- b. It is on a site relating to an extant application for a Public Right of Way or Town Green or
- c. Councillors are otherwise aware, for example via press coverage or a number of communications from members of the public, that the application generates strong feelings.

These only apply where the councillor(s) involved is/are aware that the definition applies, but it is expected that councillors will share this information by email.

3. Site visits

- a. All site visits carried out by ward members, by other councillors or by staff, are considered official business of the council, and members and staff are acting as representatives and not in an individual capacity, provided that:
- b.
- i. In the case of a potentially contentious application (see above) councillors are accompanied on any visit by another member of the council, or by a member of staff of the council.
 - ii. Members take a form of ID - preferably but not necessarily an official Town Council ID. They must show this on request to any members of the public involved in the visit who may not be aware that they are councillors. This includes if they speak to them about the application or go onto their property.
- c. There are no specific requirements for the contents of a site visit – in some cases it will be appropriate to go onto one or more properties or to speak to one or more members of the public. However, it for the member(s) visiting to judge the necessary steps to take.

Version History

Date	Details
September 2018	Note: Words importing the masculine gender only shall include all other genders and vice versa.

4. Planning Poll Protocol

Saltash Town Council

Policy/Procedure: Planning Poll Protocol

Date of Adoption: n/a

This is a Policy or Procedure document of Saltash Town Council to be followed by both Councillors and employees.

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Planning Poll Protocol

This outlines a protocol to take into account the recent situation where the planning application was called-in by a Cornwall Councillor, and some Councillors wished to reevaluate the original STC position. It will also include officer referral of an application.

It is based on the principles that:

1. The council may wish to reevaluate its original position given new information;
2. This should be done in such a manner that there is no confusion as to individual opinions (e.g. a clear yes/no poll);
3. This should not prevent email discussion of the merits of differing positions;
4. There should be a clear majority of those voting in order to overturn any previous decision;
5. The results of any deliberations in this manner should be placed on public record.

The protocol will operate with the following in mind:

1. Councillors will be free to debate the planning application by email, but only votes cast by poll will count towards the decision. No public statements of dissent or malicious briefings should be made.
2. Members of the public will still be entitled to be copied in on any correspondence, if so requested.
3. Councillors will always have at least 72 hours from the email notifying a poll to vote in it. If this includes a Sunday it will be 96 hours.
4. Quorum for a poll to be effective is one third of councillors (including registered abstentions).
5. In the event of any tied or inquorate vote the town council's original position will stand.
6. Cornwall Councillors will vote on the information before them, but in light of further information received at Planning committee might vote differently at that meeting.
7. All Councillors will be responsible for ensuring that their vote is informed and based on proper planning guidance and application information.
8. The planning application number and description and the nature/result of the poll will be read into the record of the next full council meeting under an item 'report on planning applications considered further by email.'

The agenda will read:

'To note that in the event that the Cornwall Council officer wishes to recommend opposite to the Town Council's view they will contact the Town Council by email. In light of time constraints, the Town Council will then hold an online poll of Councillors to determine whether to accept the officers' view

or to ask for the application to be called into committee. The results of these polls will be read into the record at the next town council meeting. Members of the public may request, via the Town Clerk, to be copied into any correspondence.'

Version History

Date	Details
September 2018	Note: Words importing the masculine gender only shall include all other genders and vice versa.

5. Protocol: Pre-application Meetings with Developers

Saltash Town Council

Policy/Procedure:

Protocol on pre application meetings for major developments

Date of Adoption:

15.07.2014

This is a Policy or Procedure document of Saltash Town Council to be followed by both Councillors and employees.

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Responsible Committee	Planning & Licensing	Review date	

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Protocol on pre application meetings for major developments Guidance for councillors and developers

Preamble

Saltash Town Council recognises that pre-application discussions play an important role in major planning applications and welcomes the desire of many developers to consult both the council and the public more widely. However, the Town Council is also aware of the importance of public perception in planning and the critical need to avoid any appearance that the Town Council is conducting secretive negotiations or colluding with developers.

Pre-determination

In all meetings with developers members are reminded of the critical importance of not pre-determining their position on any future application, as this could require them to take no part in the discussion or leave them open to referral to the standards board. It is noted however that expressing a pre-disposition, for example of either 'welcome in principle' or 'concerns', is permissible.

Cornwall Councillors

It is understood that 'dual-hatted' Councillors may on occasion take part in meetings with developers in their capacity as Cornwall Councillors. In such cases councillors must be clear to distinguish, to both the developers and the public, their role as a Cornwall Councillor from that of a Town Councillor.

Individual members' discussions

Individual members may be approached by developers for informal discussions of possible future applications. Whilst it is left to the individual judgement of members whether to take part in such discussions, based on the nature and likely level of controversy of the application, they are advised:

- i. To carefully consider the public perception of such meetings.
- ii. To avoid any appearance of collusion in applications likely to cause controversy.
- iii. To avoid accepting hospitality in connection with such meetings.
- iv. To advise the Mayor, Chair of Planning and Licensing and where possible the council, of such meetings.

Members must not purport to be representing the Town Council at such meetings, unless expressly authorised to do so by the Town Council.

Pre application briefings

1. The council is, in general, willing to hold meetings with developers prior to public consultation on the following two conditions:
 - i. Full public consultation is either already scheduled or firmly planned.
 - ii. The meeting is open to the public to attend and has been reasonably advertised.
 - iii. These meetings should take place at the Guildhall as they are briefings to the Town Council.

2. The general policy of the Town Council is not to hold private meetings with developers.

Exceptions to the above two rules may be agreed if:

- i. there is a necessary and compelling reason for a developer to receive an initial steer before deciding whether to progress. This may include a strong commercial sensitivity requiring private discussion, or significant pre-application cost requiring a steer before deciding whether to proceed with public consultation. Such meetings would be subject to agreement that if the developer did decide to proceed public consultation would be carried out)
OR
- ii. there is a strong public consensus in favour of the principle of development and such discussions are likely to focus around the details of draft proposals prior to submission.

These exceptions do not negate the aspects of this protocol in relation to pre-determination or Cornwall Councillors.

Pre application public consultations

The Town Council strongly encourages developers to carry out full public consultation before submitting plans for major developments, on the following basis:

- i. An accessible and convenient venue.
- ii. Sufficient publicity to likely interested parties, in good time.
- iii. Appropriate timings to allow as wide a range of people as possible to attend.
- iv. A genuinely open mind and willingness to adapt plans in response to feedback.

The Town Council does not allow such consultations to be held at the Guildhall, due to potential public confusion as to the position of the Town Council as both 'host' and 'authority'.

In general, members are advised not to attend separate private briefings as part of public consultation, but instead to attend with the public.

Interpretation

This initial decision as to how these rules apply to a particular case shall be made by the Town Clerk in consultation with the Mayor and emailed to councillors. Any councillor may then choose to submit a motion, proposed and seconded under Standing Orders, to discuss the matter at Full Council and consider departing from the initial decision.