

## **APPLICANT / AGENT PROTOCOL – A GOOD PRACTICE GUIDE FOR PROCESSING PLANNING APPLICATIONS**

### **Introduction**

Fermanagh and Omagh District Council has developed this Guide to provide advice and guidance to applicants and agents involved in the planning process to help deliver an efficient development management system, making best use of the Council's limited resources. The Guide has been updated following the introduction of the new online Planning Portal and the Council's new Validation Checklist.

### **The Need for this Guide**

Experience to date is that applicants and agents are not 'front loading' the application process as required and considerable time and resources is spent on seeking additional information in order to process the application to a positive conclusion. This has implications both in terms of the resources available to deal with other planning matters, additional costs added to the processing of the application because of the need to re-advertise and re notify proposals, the time taken to process the application and the Council's ability to meet the challenging application processing targets set by the Department.

The guide sets out how best to actively manage the progress of applications through the development management system and identifies the role/ responsibilities of Council planning staff and applicants / agents at each stage of the process in order to deliver good quality planning decisions in an efficient manner and at least cost.

## **ROLES AND RESPONSIBILITIES**

### **What applicants / agents need to do:**

#### **Before submitting a planning application an agent / applicant must:**

- Visit the site and carry out a full survey, including, where necessary, site levels;
- Speak to any adjacent neighbouring properties and advise them of the proposal. Anticipate neighbour / community concerns and take appropriate action to resolve potential issues before submitting the application;
- Consider the policies set out in the Local Development Plan, Regional Policy and any supplementary planning guidance;
- Consider the advice provided in this guide and on the Planning Portal, particularly the Northern Ireland Environment Agency practice guides and Standing Advice, including the Biodiversity Checklist;
- Gather any information needed to address policy issues;
- Avail of pre application advice, when necessary;
- Submit the application online using the Planning Portal; and
- Frontload all applications with the correct information and all necessary drawings and reports which are essential to allow the application to be determined.

### **What Council planning staff will do:**

- Respond positively to requests for pre-application advice for major planning applications and more complex local planning applications;
- Ensure that all stages of the development management process are completed within the timescales set out, to ensure that applications are processed efficiently and applicants have a greater degree of certainty about the outcome of their proposal;
- Ensure that all information is uploaded on the Planning Portal in a timely manner;
- Carry out meaningful public consultation in accordance with the Statement of Community Involvement;
- Actively manage consultations regarding the need to consult and the assessment of responses;
- Consider applications on the basis of the information submitted and only request further information in exceptional circumstances where the need for the information would not have been anticipated by the applicant / agent or to address consultee responses;
- Request amendments / additional information, where appropriate, as early as possible to avoid unnecessary delay;
- Provide an initial planning opinion as early as possible in the application process, particularly when a proposal is fundamentally unacceptable;
- Assess applications to form a corporate opinion for presentation to Planning Committee for decision or for issuing in the case of delegated applications not 'called in' by the Committee;
- Issue decisions promptly.

### **Stages in processing an application**

#### **Stage 1 - Validation**

When an application is received by the Council on the Planning Portal, Officers will check the application and confirm that the correct information and all necessary drawings and reports which are essential to allow the application to be determined, has been submitted to ensure a valid planning application. This includes information required under the Council's Validation Checklist.

If information is missing or incorrect, Officers will contact Applicants/Agents and any further information or changes to the application, must be provided **within 2 days**. If further time is needed to enable submission of information, then Officers will return the application and fee so that a complete application, with all the information needed to determine the application, can be submitted when ready.

If the information is not submitted within 2 days, then the application will be returned.

#### **Stage 2 - Consultation with Statutory Bodies**

In view of their impact on timescales it is essential that consultations are carefully managed. Consultations will be issued on a 'need to consult' basis and only when necessary to inform a planning decision. The Council will therefore normally only consult in accordance with the requirements of Schedule 3 to the Planning (General Development Procedure) Order (Northern Ireland) 2015 and having regard to any existing standing advice from consultees on when to consult.

Consultations will normally be issued within **three working days** of the file being made valid. Statutory consultees have a duty to respond within 21 days from the date of consultation.

Consultation responses will be critically examined to ensure that any further information requested is essential to inform a planning assessment of development proposals and ultimately the decision making process. Consultees will be informed when their advice is considered to be inappropriate in the context of the development management process. This will be documented in the Professional Planning Report (PPR).

Requests for further information/amended plans will be issued to applicants/agents as soon as possible following the receipt of a consultee response. The request letter will specify a timescale for the submission of information and, where appropriate, will explain why the amendment/information is required to enable the application to be processed. The timescale will reflect the complexity of the information required.

The request letter will advise applicants/agents that reminders will not be issued and that information must be submitted within the specified timescale unless there is a justifiable reason to extend the stipulated period for submission. An extension will only be agreed in exceptional circumstances. If not received within the timescale stated, the application will be determined on the basis of the information received.

On receipt of amended plans/information, Case Officers will avoid unnecessary repeat consultations. For example, where the information submitted clearly addresses the issues raised by a consultee, further consultation may not be necessary. In these circumstances, where a further consultation is not deemed necessary, the Case Officer will contact the consultee to agree draft planning conditions and/or informatives (if necessary).

### **Stage 3 - Public Consultation (Advertising and Neighbour Notification)**

Neighbour notification will be carried out in accordance with the legislation, normally within **three working days** of validation (at the same time as consultations are issued).

Once accepted as valid, applications will be advertised in the local papers as soon as possible.

### **Stage 4 - Allocation**

Applications will normally be allocated to the validating officer. The allocating officer, normally a Senior Planner, will offer initial guidance at this stage to Case Officers, when necessary, on any key issues and ensure that the extent of consultation with statutory bodies is proportional to the type of development proposed. This will avoid omission or unnecessary consultation which could lead to delays and place an unnecessary burden on consultees.

### **Stage 5 - Site Inspection and Early Assessment**

Site inspections will be carried out if required. Prior to going on site, Case Officers will identify and confirm all relevant planning history. Normally a site inspection will be carried out within **five working days** of allocation.

The Case Officer will:

- Make a full assessment of the site and its context;
- Identify key planning issues;
- Confirm that the site address is correct and neighbour notification has been completed in accordance with established procedure;
- Confirm that no further consultations need to be issued because of site specific factors.

As soon as possible after completing their site visit and subject to any discussions that are necessary within Stage 6, Case Officers will record details of the site visit, record relevant policies and consideration of the proposal against the policy, so far as possible pending receipt of consultee response and any 3rd party representations.

### **Stage 6 - Initial Planning View**

Line managers will review applications with Case Officers normally within **five working days** of a site inspection to confirm the basis for assessing each proposal in terms of planning policy and to form an initial planning view.

An electronic note of the issues discussed and actions agreed will be recorded on the Portal. The need for this level of guidance will vary depending on the nature of the proposal and the experience of the Case Officer.

When an initial planning view is formed, applications will normally fall into one of three categories:

- (1) Proposal is acceptable** – applications which can be recommended for approval with no or minor amendment (without requiring negotiation); or
- (2) Proposal requires substantial amendment and/or additional information needed** – applications where it is judged that negotiation and amendment could lead to approval; or
- (3) Proposal is unacceptable and likely to be refused** – applications where negotiation is unlikely to lead to an acceptable proposal.

#### **(1) Proposal is acceptable.**

When it is established that a proposal is acceptable in planning terms, the Case Officer will complete the PPR, as far as possible taking account of representations and consultation responses. Requests for minor amendments/additional information arising from consultation responses and/or representations will be assessed as described at Stage 2 above. Where appropriate, the Case Officer will consider the use of planning conditions, including negative conditions, as an alternative to amended plans/additional information e.g. in relation to access details, archaeological surveys or materials/finishes.

#### **(2) Proposal requires amendment and/or additional information.**

Where proposals are deemed to be acceptable in principle on the basis of an initial planning assessment, subject to the submission of amended plans/additional information, Case Officers will contact the agent/applicant normally within **five working days** to request the information required. It is the responsibility of the Case Officer to state clearly the amendments/information required with supporting planning reasons as necessary. This will be communicated to the agent/applicant by letter, e-mail, telephone or meeting, whichever is appropriate, depending on the complexity of the issues to be resolved. The guidance outlined at Stage 2 will be followed in relation to timescales for submission of information and the approach to be adopted regarding repeat consultations. Deadlines for submission of

amendments or further information will take into account whether any further consultation is likely to be required.

Following the request for the information, the application will be actively managed in the workflow case list to ensure the information is submitted.

Minor amendment resulting from the applicant responding positively to comments from consultees and/or third party representations will proceed to decision without further consultation, where possible.

Re-consultation will be carried out where there is likely to be a greater or significantly different impact resulting from the amended proposal.

When information is not received within the specified timescale, the Case Officer will complete the PRR and include reference to the information requested and the Applicant/Agent's failure to provide it within the timescale.

A decision refusing planning permission on the basis of insufficient information will clearly identify the information required and the "interests of acknowledged importance" that would be harmed if planning permission was granted in the absence of additional information.

The Council will not request information again that should have been submitted with the application at the beginning or following a reasonable request and which is clearly set out in guidance within this document and any further guidance issued by the Council. In such circumstances the Council will proceed to determine the application on the basis of the information submitted.

Where a proposal requires significant amendment, which wholly changes the nature of the proposal or the site or raises new issues which would require further consultation, a new planning application will be required.

Planning applications which are recommended for refusal because information needed to determine the application has not been submitted with the application or information needed by a consultee to determine the application has not been submitted following a reasonable request for the information, cannot be called in for decision by the Planning Committee.

### **(3) Proposal is unacceptable**

A proposal that is fundamentally unacceptable in planning terms, taking account of the Development Plan and all other material considerations, will be progressed to an opinion to refuse planning permission. Consultee responses will be critically assessed to ensure that requests are not issued for amendments/additional information that will not alter a planning view to refuse planning permission.

Applications in this category will be considered at the earliest opportunity and Case Officers will contact Applicants/Agents at the earliest opportunity and advise them of the recommendation and allow opportunity to withdraw the application.

The Council's opinion to refuse planning permission will be placed on, at the earliest appropriate opportunity, the weekly list of notifications for delegated applications or the monthly Planning Committee Agenda at the earliest appropriate opportunity. This early indication of the Councils' opinion should avoid unnecessary work by applicants/agents in preparing amendments/additional information when there is no prospect of planning permission being granted.

### **Stage 7 - Professional Planning Report (PPR)**

The Case Officer will complete the assessment of the application and the PPR as soon as possible after discussions with a Senior Officer. This must include a Case Officer recommendation and include any conditions or reasons for refusal.

### **Stage 8 - Development Management Group (DMG)**

The SPTO and Case Officers will carefully manage the progress of all applications to ensure an efficient and effective delivery of service to the public and to ensure the statutory targets are met. Applications will therefore be discussed on a regular basis and will not be held pending a formal group meeting particularly where the recommendation is to approve and there are no representations or objections from consultees.

A formal monthly meeting will be held when all live planning applications will be reviewed to ensure there is no undue delay in processing them.

Applications which are delegated and where the recommendation is to grant planning permission and there are no objections, will be issued following discussions with an Authorised Officer. An Authorised Officer is an officer nominated by the Lead Planner and includes the Principal or Senior Planners.

Where the recommendation is to refuse planning permission or there are objections, Councillors on the Planning Committee will be notified of the decision and will have the opportunity to 'call in' the application in accordance with the Planning Committee Protocol. Where an application is 'called in' the application will be presented to the next available Planning Committee meeting. Where there is no 'call in' the application will issue.

### **Stage 9 – Planning Committee Meeting**

The Planning Committee normally meets on the third Wednesday of each month (with the exception of August). All applications for consideration by Planning Committee will appear on the Agenda which is normally published on the Council's website ([www.fermanaghmagh.com](http://www.fermanaghmagh.com)) on the Thursday prior to the meeting. All details submitted with the application, including the Officer's report and recommendation will be uploaded on the Planning Portal at the same time as the agenda is published.

Agents will not be notified that their application is on the Committee agenda. It is expected that applicants / agents will track the process of their application on the Planning Portal and refer to the Council's website each month.

Applicants/agents should not lobby Councillors who are on the Planning Committee to seek to influence the outcome of a proposal prior to the Planning Committee Meeting. A decision on a planning application cannot be made before the Planning Committee meeting has been held when all relevant information relating to the application is available and has been considered. Lobbying can lead to the impartiality and integrity of a Councillor being called into question. However, other Councillors who are not Members of the Planning Committee can make representations and address the relevant committee on behalf of an Agent/Applicant.

Requests for speaking rights should be made in accordance with the Planning Committee protocol and should be submitted by 5pm on the Monday prior to the meeting.

## **Stage 10 - Issuing Decisions**

Decisions will issue as soon as possible after the Committee meeting.

### **What information should I enclose with my planning application?**

All applications must be submitted online using the new Planning Portal.

There is a host of information online including the NI Planning Portal, NIEA Map Viewer, Department for Communities Map Viewer, DFI Rivers Map Viewer along with Standing Advice and Guidance from statutory consultees (e.g. DAERA NIEA) to assist applicant and agents in the submission of planning applications. It is also clear from the Strategic Planning Policy Statement, and the Local Development Plan and their accompanying guidance documents, the type of information needed to assess an application.

The Council's Validation Checklist provides advice on the information which must accompany types of applications.

The Council will expect all essential information to be included when the application is initially submitted. It is not possible for Council to determine all the information required with a particular application since it will not be familiar with the site. Neither is it the role of consultees to advise on the information required in support of an application. However, both the Council and consultees will provide advice and guidance where relevant. Applicants/agents should contact the planning office if they have any particular query.

All applications **must** be frontloaded with all of the information essential to determine the application.