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PROTOCOL FOR PRE-PLANNING APPLICATION DEVELOPMENTS

This Protocol applies to: Informal views regarding Pre-Planning Applications

The Parish Council recognises that there are circumstances when a developer may consult with a parish council before the developer has submitted a planning application to the local planning authority and the parish council is asked by the planning authority to make representations about the application (Paragraph 8 of Schedule 1 to the Town and Country Planning Act 1990).

It is recognised under the National Planning Policy Framework that developers are often interested in ascertaining a parish council's response to their pre-planning application proposals. And that some developers will wish to attend the meeting(s) of a parish council and wish to address the council about their pre-planning application proposals.

It is confirmed that a developer must, under s.42 of the Planning Act 2008 (the 2008 Act), consult with a local authority (which by virtue of s.43 does not include a parish council) if the land to be developed is in the local authority's area before the submission of a planning application. S.42 of the 2008 Act also provides that before the submission of a planning application a developer must consult with the persons listed in s.44. These are persons whom the developer, after 'making diligent inquiry', knows to be the owner, lessee, tenant (whatever the tenancy period) or occupier of the land and a person who (a) is interested in the land, or (b) has power (i) to sell and convey the land, or (ii) to release the land. The persons caught by s.44 of the 2008 Act may include a parish council.

In order to avoid perceptions that Councillors have predetermined their position about a proposed development, Thurston Parish Council has adopted the following written protocol for dealing with developers in respect of pre-planning application developments:

- The developer should provide information about the proposed development which is relevant to the parish council/ its area in writing.
- If the developer considers the information provided to a parish council is sensitive, this will not require the council to treat it as confidential.
- Information held by a parish council is subject to disclosure under the Freedom of Information Act 2000. From the outset the developer must identify information which the parish council cannot share or make public and give reasons for this. Confidentiality of communications about the development will rarely be justified even if the developer's interest is sensitive.

- Communications (including informal and formal meetings) between the developer with the parish council (or individual councillors and staff) about a pre-planning application development will not bind the council to making a particular decision and that any views expressed are provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- Informal meetings and telephone conversations between a developer and individual councillors or staff will be documented in writing and are subject to disclosure under the Freedom of Information Act 2000. Council staff will make the arrangements for any meetings with councillors, attend and write a follow-up letter. If there is a legitimate reason for confidentiality regarding the proposal, the council will keep a written record of the confidential and non-confidential issues.
- The meetings of a parish council and its committees are open to the public and the minutes of such meetings are available to all via the council's publication scheme. The parish council may invite developers to attend either a parish council or committee meeting at which the public are present or discuss their proposal because this will allow the developer's communications with the council to be transparent. The developer may not speak at it unless he is invited to address the meeting or he has an opportunity to do so during the public participation session. If the developer does not wish to discuss the proposed development when the public are present, the meeting would need to ascertain why the developer considers that he needs to communicate with the council/committee in closed session. A proposed development may be regarded by the developer as either confidential or 'sensitive' and in his view it may unsuitable for discussion at a meeting when the public is present but it is the councillors at the council or committee meeting who will decide if there are grounds to exclude the public from the meeting when the proposed development is being considered. A parish council or committee meeting may exclude the public if publicity for agenda item(s) would prejudice the public interest due to its confidentiality or for other special reasons. (s.1(2) Public Bodies (Admissions to Meetings) Act 1960).
- The parish council may invite developers to attend an assembly of the parish meeting, which is open to the wider public, to present or discuss their proposals.
- It is an offence under s. 1 Bribery Act 2010 for a developer or his agent to promise or give a financial or other advantage to a parish council with the expectation of an improper consideration of a planning application. If the developer or his agent is an incorporated body, the parish council may request sight of their anti-bribery policy.