

**AGENDA MANAGEMENT SHEET**

**Name of Committee**

**Regulatory Committee**

**Date of Committee**

**24 July 2007**

**Report Title**

**Development Control Forums**

**Summary**

This report proposes guidelines for a scheme for development control forums within which detailed processes and techniques can be developed and trialled during a pilot period. The Committee first received this report at their meeting on the 8<sup>th</sup> May 2007 when they deferred a decision to give members the opportunity to see a webcast of a typical forum run by Waverley Borough Council. Now members have had that opportunity, the report is brought back to this meeting as requested by the Committee at their meeting on the 12<sup>th</sup> June 2007.

**For further information please contact**

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**Would the recommended decision be contrary to the Budget and Policy Framework?**

No

**Background Papers**

None

**CONSULTATION ALREADY UNDERTAKEN:-**

*Details to be specified*

Other Committees

Local Member(s) (With brief comments, if appropriate)

Other Elected Members

Councillor Mrs Lea – no comment  
Councillor Barnes – report agreed.  
Councillor Chattaway – suggestion of independent chair should be approached with caution – at the meeting on the 8<sup>th</sup> May 2007 Councillor Chattaway clarified his position about independent chairs and said that he was not against the proposal but considered that it was important to have the right person. Planning issues were often complex and sometimes the best person for the

job was a senior elected member with experience of chairing meetings.

Cabinet Member (Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

Councillor Saint - This scheme to pilot the concept of a development control forum should be supported

Chief Executive

Legal

Finance

Other Chief Officers

District Councils

Health Authority

Police

Other Bodies/Individuals

**FINAL DECISION**

**NO**

***SUGGESTED NEXT STEPS :***

*Details to be specified*

Further consideration by this Committee

Review of scheme to be undertaken after 12 month pilot period

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

## Regulatory Committee – 24 July 2007

### Development Control Forums

#### Report of the Strategic Directors for Performance and Development and Environment and Economy

##### **Recommendation**

To approve the piloting of development control forums in accordance with the guidelines appended to this report.

#### **1. Introduction**

- 1.1 At your meeting in November, you received a presentation on the development control forums pioneered in a small number of other authorities as a way of allowing early engagement by Members and interested parties in the process of preparing an application for determination. At your meeting in January, you requested a report proposing a scheme to be implemented in Warwickshire.
- 1.2 This report proposes guidelines for a scheme within which detailed processes and techniques can be developed and trialled during a pilot period. A controversial application concerning shale extraction at Baddesley is thought to be a suitable case for the first forum. If the recommendations in this report are accepted, your Officers will arrange a forum for this application in consultation with your Chair and Group Spokespersons. The management of later forums would be refined in light of feedback from participants. The pilot period would end next April and be followed by a review.

#### **2. Planning Forums**

- 2.1 Forums in other authorities share the following common features:
  - the forums take place after the application has been submitted and before it is decided by the planning committee
  - the forum is an informal but structured discussion taking place in public
  - Members, officers, applicants and objectors all participate

- other stakeholders such as statutory consultees and interest groups may also participate
- the forum is exploratory and Members do not express views on the merits of the application or attempt to negotiate
- after the forum the applicant might amend the application or supply additional information and the officers may pursue additional enquiries.

2.2 The limited evidence from experience so far indicates that forums improve the quality of decision-making and enhance user satisfaction with the planning system. Indeed, they are recommended in a recent DCLG report called “Councillors’ Involvement in Planning Decisions”, having first been recommended by the National Planning Forum in 2005. A forum enables those who will decide the application and those who are potentially affected by it to receive early information and identify the important issues. The majority of the time is made available for applicants, officers, consultees and the public to provide and seek information and raise their concerns. The role of Members is more passive than usual and focuses on listening and questioning.

2.3 Authorities which have pioneered these forums report that participants have higher levels of satisfaction with the fairness of the system and more confidence in the eventual outcome whether or not it is in their favour. Forums can encourage a more civilised debate and clear away red herrings and misunderstandings. Members are better informed and have more time to consider the issues. People from the community have the opportunity to hear different perspectives from other members of the community rather than debate being polarised as an opposition between developers and neighbours. Applicants and officers have the chance to respond to emerging issues and concerns by improving the application or the information and advice offered to the committee when it comes to make its decision.

2.3 There is a cost, principally in officer time and, potentially, the cost of employing an independent Chair. It is not possible at this stage to predict the cost with any accuracy and this will need to be monitored during the pilot period. The cost of a typical forum will be significant (in excess of £2000) but this “front loading” should be offset by improved speed and efficiency at the decision-making stage. An important advantage of forums is that Members and participants are not ambushed by new issues and evidence arising at the meeting at which the Committee attempts to decide the application (this is a particular risk with public speaking schemes). Because issues and information needs are flushed out at an early stage, they can be investigated before the committee is asked to decide the application. This not only makes for sounder decision-making

but also reduces the likelihood of adjournments.

- 2.4 The Strategic Director of Performance and Development is satisfied that forums are (if managed properly) consistent with the duty of Members to avoid predetermination and bias. The essence of the process is exploratory and Members will not be called upon to offer views on the application beyond identifying the main issues needing to be addressed. Provided that Members are mindful of the guidance given to them about maintaining impartiality and an open mind, and all discussion with external participants takes place in public, there should be no cause even for the suspicion of predetermination or bias.

### **3. The Proposed Guidelines**

- 3.1 Appended to this report is a suggested scheme for development control forums. The provisions should be regarded as guidelines and not rigid rules, so as to allow flexibility. There is not enough experience of forums elsewhere to be confident as to the best format and your officers feel that the scheme should be developed through experience and with the benefit of feedback from Members and other participants over a pilot period lasting until April 2008. Even then, it may well be that the scheme should remain flexible so that each forum has a bespoke element responding to the circumstances of the particular application.
- 3.2 A number of choices have been made when designing the guidelines. Members are asked to note the following features.
- (i) Officers will make key documentation and a briefing paper available in advance of the forum. This will increase the burden on both officers and Members but should allow a better informed and more penetrating discussion.
  - (ii) Documentation will generally only be made available to external participants in electronic form in order to keep down financial and environmental costs.
  - (iii) Forums would be chaired either by an officer or, possibly, by an external, independent chair. Independent chairs can bring expertise and a fresh perspective as well as increasing trust in the process. However, the decision whether to pursue this option would be one for your Chair and Group Spokespersons in any particular case. Having a meeting chaired by a non-Member means that all members of the Committee can “take a back seat” in a way that emphasises the fact that they are not in a decision-making mode.

- (iv) There is not automatic threshold for convening a forum. Instead, this is a criteria-based decision at the discretion of officers and lead Members.
- (v) Members will be allowed to take part in deciding the application even if they do not attend the Forum. Members will have the benefit of minutes as well as the additional information and advice incorporated in the report to the decision-making meeting. It is thought that the importance of having decisions taken by the fullest range of elected representatives available outweighs the desirability of full attendance at forums.
- (vi) The public speaking scheme will operate as normal at the decision-making meeting. This is in part because it is enshrined in the Planning Code of Practice adopted by full Council. However, it is also considered that public speaking is likely to serve a useful purpose given the developments that will probably have taken place between the Forum and the decision-making meeting.
- (vii) Only in the most exceptional circumstances will there be more than one Forum for an application.
- (viii) Local Councillors will not have a “right to speak”. The Forums aim not to be Councillor-led. The traditional advocacy role of local councillors is preserved through the public speaking scheme at the decision-making meeting. Interested parties will be encouraged to choose their own representatives and it is anticipated that this will very often be or include a local Councillor. However, if they do not choose a Councillor, allowing all local Councillors to speak in addition to other parties will impair the balance and focus of the Forum.

3.3. All these features and the guidelines generally can be changed during the pilot period if the Committee so chooses. It is suggested that the pilot period should run until next April, to be followed by a review and further report to the first meeting of the Committee in the new municipal year.

DAVID CARTER  
Strategic Director of Performance and Development

JOHN DEEGAN  
Strategic Director of Environment and Economy

Shire Hall  
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14 March 2007

APPENDIX  
DEVELOPMENT CONTROL FORUM GUIDELINES  
WARWICKSHIRE COUNTY COUNCIL  
REGULATORY COMMITTEE

1. Only an application for planning permission can be the subject of a Forum and a Forum will not take place before an application is submitted.
2. The Strategic Directors of Performance and Development and Environment and Economy shall decide in consultation with the Chair and the Group Spokespersons whether to hold a Forum (whether or not one has been requested) having regard to:
  - the scale, nature and likely impacts of the proposed development
  - the level of public interest and controversy
  - the complexity of the evidence and issues
  - the wishes of interested parties
  - the likelihood that a Forum will enhance the speed and quality of decision-making.
3. The purpose of a Forum will be to explore the facts of the application and identify what information and advice will assist the Committee when it determines the application. There will be no negotiation and Members will not express their view of the merits of the application.
4. All Members of the Regulatory Committee (and any substitute member likely to participate in determining the application) and the applicant will be invited to participate in the Forum.
5. The applicant may have a professional representative and expert advisers in attendance.
6. The Strategic Directors of Performance and Development and the Strategic Director of Environment and Economy shall ensure suitable officer support.
7. Residents and local businesses who have made written

representations will choose their representatives, subject to a maximum of three representatives for and three against an application. If they cannot agree, the Strategic Director for Environment and Economy will decide.

8. Other participants (such as statutory consultees, end users and interest groups) will be invited to participate at the discretion of the Strategic Director for Environment and Economy, having regard to the contribution they can make and their interest in the application.
9. All participants and anyone else who was notified of the application will be informed of the decision to hold a Forum and of the date, time and place for the Forum. The Forum will also be advertised on the County Council's website.
10. The officers will aim to hold the Forum approximately three weeks after first notifying interested parties of the decision to hold it and to give at least ten days' notice of the date, time and place.
11. Participants will be provided with a briefing pack in advance of the Forum, normally in an electronic format. This will comprise a briefing note prepared by a planning officer which describes the application, lists relevant plan policies, summarizes representations made up to that point and identifies the emerging planning issues. The note will be accompanied by a location plan and list of participants and their contact details. The note will identify a contact planning officer who will be available to assist participants with information and advice. The briefing note may be accompanied by key documents such as statements accompanying the application.
12. A Forum is not a meeting of the Committee, although Members will follow the rules on interests and bias/predetermination as if it were.
13. The Forum may be chaired by an independent Chair and particular consideration will be given to this option if the application is made by the County Council. In other cases, the Forum will be chaired by a senior County Council officer.
14. All Forums are open throughout to the press and public as well as the participants.
15. Members of the Regulatory Committee will be seated separately from, and will not enter into private conversations with, participants and the public.
16. The proceedings are at the discretion of the Chair.



17. A typical order of events is as follows:
- introduction and explanation of rules by the Chair (5 minutes)
  - the applicant presents the application (20 minutes)
  - opponents make a presentation (20 minutes)
  - supporters make a presentation (10 minutes)
  - statutory consultees and expert advisers to the County Council offer advice (20 minutes)
  - commentary by planning officer (10 minutes)
  - questions from the Committee to any other participants (30 minutes)
  - summary of issues and suggested next steps by planning officer (5 minutes)
  - participants may suggest additional information and advice to be obtained (5 minutes)
  - final comments of the Chair (5 minutes).
18. The clerk will circulate minutes of the Forum to all participants and anyone who has requested a copy, normally in electronic format. The clerk will prepare the minutes and circulate them for agreement by the legal officer, the planning officer and the Chair of the Forum with the aim of finalising and circulating the minutes within five days of the Forum. The minutes will also be published on the website and appended to the report for the meeting at which the Regulatory Committee determines the application.
19. Unless there are very exceptional circumstances, no more than one Forum will be held in respect of any development proposal. This will be the case even if the application is subsequently amended or new issues and evidence arise.
20. Nothing said or done at a Forum should be taken as any indication of how the application will be determined, or as giving rise to any expectation as to the procedures that will be followed and the information and evidence that will be obtained before determining the application.