

## CODE OF PRACTICE FOR PUBLICITY AND CONSULTATION ON ALL PLANNING AND OTHER APPLICATIONS

### Introduction

This Code of Practice sets out practical guidance for officers organizing publicity and consultation on planning applications. It is based on statutory requirements and the principles set out in the Statement of Community Involvement (SCI). As a practice guide Planning Services will update it from time to time, if statutory requirements change, local issues arise or new national best practice advice is issued.

Legal requirements are principally set out in The Town and Country Planning (General Development Procedure) Order which should be referred to for clarification where appropriate.

### Responsibilities of officers

The Technical Officer registering a planning application will initially assess the level of publicity required by statute, the SCI and this Code of Practice. This will include identification of the properties that will receive a notification letter. These properties will be marked on the Publicity Plan, addresses input into ACOLAID and the list of addresses notified printed out as part of the Consultation Sheet. The Consultation Sheet will be signed and dated by the Technical Officer on the day the letters are dispatched.

Case officers will take lead responsibility for managing the publicity and consultation process for applications allocated to them. On receipt of the application file case officers will check that all statutory consultation has been undertaken and assess the need for wider neighbour notification taking into account the nature of the application and any local knowledge. If necessary the file should be returned to the Administration Team for additional consultation. The Case Officer should also check on site that all neighbour notification has been carried out correctly, including ensuring that any newly constructed/occupied properties have been correctly identified. The site visit should ordinarily be undertaken within 3 working days of receiving the file and certainly no later than 5 working days. Once the Case Officer has undertaken his/her desktop and site checks the Consultation Sheet should be signed and dated.

## 1. APPLICATION REQUIREMENTS

### NEIGHBOUR NOTIFICATION AND COMMUNITY CONSULTATION

#### A. Neighbour notification letters

These remain the most effective method of notification. Letters should be sent to owners and/or occupiers adjoining the proposed development *whether they are perceived to be affected by the development or not*. The period for responding is 21 days.

**'Adjoining'** – for the purposes of neighbour notification, land within 4 metres of the land on which the development is proposed will be regarded as

adjoining. Similarly, a road or similar intervening obstacle up to 20 metres wide shall be disregarded, and properties beyond shall be regarded as 'adjoining'.

**Open Land** - where adjoining land is open (e.g school playing field, sports pitch or farmland) every effort should be made to identify the owner or organization responsible for its management and ensure that they are notified.

**Blocks of flats** – If an adjoining property is a multi-storey block of flats or similar, a practical judgment based on the nature of the development proposal and the size of the block has to be made as to whether it is most appropriate to use a site notice in the lobby or nearby, to notify any known tenants group or consult addresses individually.

**Buildings under construction** – Every effort should be made to notify at least the builder (may still be the owner) and, if close to occupation, the occupier/new owner, by posting a letter, if possible without any health and safety risk.

#### **B. Wider neighbour notification and community consultation**

For applications likely to generate wider interest, neighbour notification should be extended beyond those directly adjoining. Examples of applications likely to generate a wider interest are:

- planning applications for development involving uses within Use Class A3 (Food and Drink Outlets);
- telecommunications masts and apparatus;
- large traffic generators, especially if through residential streets; and
- potential polluters, such as an incinerator.
- proposals with the potential to change the character of an area, for example particularly tall buildings

In these circumstances judgement is required as to who might be affected, or might believe themselves to be affected, and what is the right balance between individual letters and other forms of publicity, such as extra statutory site notices.

The Council's commitment is not open ended, because of resource constraints. Wider notification can also be achieved through consulting community groups and media coverage. A discussion with the Development Control Manger will generally be required.

There may be some other cases, such as a proposal involving a chimney with polluting emissions, where it might be useful to use a fixed radius circle. This could help with consistency. The problem of deciding what the distance should be would be a balance between the significance of the issue and the resource implications. It is vital to be consistent, as the level of publicity given to applications is often under community and Member scrutiny. Being more generous or adopting different criteria in one or more applications will create an expectation of similar practices being repeated in other applications. It

should therefore be generally be avoided. However, the main consideration will always be to ensure that publicity is effective.

### ***Previous applications***

If there has been a recent similar application in the last five years, this will be examined and any other interested parties, which might possibly still have an interest, such as the secretary of an action group, the organizer of a petition or an elected representative, will also be notified.

### ***Retrospective Applications***

In circumstances where an application has resulted from an enforcement investigation all of the original complainants *regardless of whether or not they meet the normal criteria for consultation* should be consulted.

## **C. Notification of Amended Proposals**

The case officer will judge when substantial amendments or amendments which may impact upon or add new areas of concern for neighbours merit an additional round of individual neighbour notification by letter. In such cases the neighbours should normally be allowed a consultation period of 7 days although in exceptional cases this can be adjusted upwards or downwards according to the details of the proposal. Significant amendments to major applications will also be publicised by press advertisement and, at the discretion of the Case Officer by site notice.

## ***SITE NOTICES AND ADVERTISEMENTS***

### **Site notice practice**

Site notices should be displayed in a public place immediately adjacent to the site wherever possible. On corner sites it may be appropriate to issue two notices, one for each frontage. On sites with more than one road frontage, one notice should be issued for each road the site fronts. For major developments where multiple notices are necessary, the Case Officer will make a judgment on how many notices are required to provide effective coverage of the area of likely community interest.

The Planning Technician or Case Officer should mark on the Publicity Plan the location(s) of any Statutory Site Notices posted and sign and date the Consultation Sheet.

### **Statutory Requirements**

A statutory site notice (in at least one location) on or near the land for a period of 21 days and an advertisement in a local newspaper (the Express and

Echo) giving 14 days in which to comment are required for the following categories of development.

- (i) Applications falling within Schedule 1 or 2 of the Environmental Assessment Regulations and accompanied by an Environmental Assessment.

*The site notice should include details of where the Environmental statement and Non—Technical Summary may be inspected, from where copies may be obtained and at what charge.*

- (ii) Applications; which do not accord with the provisions of the development plan.
- (iii) Applications that would affect a right of way.

*N.B. A right of way is a public path or highway over which the public have a right of way for vehicular and all other kinds of traffic but which is used by the public mainly for a footpath or bridleway.*

- (iv) Applications for Major Developments.

*The provision of dwelling houses where the number to be provided is 10 or more or, where the number is not known, with a site area of 0.5 hectares or more.*

*The provision of building(s) where the floor space to be created by the development is 1000 sq.m. or more.*

*Development carried out on a site having an area of 1 hectare or more.*

- (v) Applications for Listed Building Consent (21 day period for Press Notice).
- (vi) Applications for Conservation Area Consent (21 day period for Press Notice).
- (vii) Applications for development affecting the character and appearance of a conservation area.
- (viii) Applications for development which affects the setting of a listed building.

### **Discretionary Site Notices**

These may be appropriate either instead of or as well as neighbour notifications in situations where;

- it is not possible to identify or notify every owner and/or occupier adjoining the proposed development (see above).
- where the development is significant but there are few immediate

- neighbours
- the adjoining land or premises are vacant
- small scale developments in large commercial or industrial complexes where it is difficult to identify occupiers or where the cost of individual notification would be disproportionate to the scale of the development.

A 21-day period is allowed for responses.

### ***CRITERIA FOR PARTICULAR APPLICATION TYPES***

#### **Telecommunications Development**

All properties within a 100 metre radius of the application site to be consulted. Publicity will be given to 56 day prior approval applications as for full applications. To meet the requirement to consult nearby schools on telecommunications applications, Heads of schools will be consulted where any part of a school's grounds falls within 250 metres of a mast or apparatus.

#### **Advertisement Applications**

Publicity for advertisements will be limited to cases which are judged by the Case Officer to have a significant direct impact on adjoining people and where the time allowed for the Council's decision permits it.

#### **Demolition Prior Approvals**

For applications to establish whether the prior approval of the Local Planning Authority will be required for the proposed method of demolition of a dwelling house and any proposed restoration of the site, the applicant shall:

- (i) Post a site notice easily visible and legible by members of the public, on or near the land on which the building to be demolished is sited.
- (ii) The notice shall be left in place for not less than 21 days during the period of 28 days from the date on which the application is submitted to the Local Planning Authority.
- (iii) The site notice should give; the name of the applicant, a description and address of the building(s) to be demolished, a statement that there has been an application made to the Local Planning Authority for a determination as to whether prior approval will be required, the date on which the applicant proposes to carry out the demolition and the name and address of the Local Planning Authority. The site notice should be signed and dated by or on behalf of the applicant.
- (iv) A copy of the notice should accompany the application.

#### **Agricultural and Forestry Prior Approvals**

Applicant to display site notice for period of not less than 21 days out of 28 days from date of Local Planning Authority's notice of such to applicant.

### **Certificates of Lawful Use or Development**

There is no statutory requirement to publicise these applications but discretionary publicity may be helpful on occasions especially where the history of the site is relevant (eg where the application is seeking to establish a lawful use or prove that a use has taken place without compliance with a condition).

### **Hazardous Substances Consent**

Most of the obligations in respect of publicity for Hazardous Substance Consent lies with the applicant. Before submitting an application the applicant must publish in a local newspaper a notice of the application, in accordance with prescribed Form 3, which can be obtained from the HSA. The newspaper notice must be published at some time within the period of 21 days immediately preceding the date on which the application is made. It will state when and where the application will be available for public inspection and it is the applicant's responsibility for arranging for the documents to be available for inspection at a suitable place within the locality. The applicant must also post a copy of the same notice on the application site, displayed in such a way as to be easily legible to members of the public without their needing to go onto the land. This site notice must be left in position for not less than 7 days in the period of 21 days immediately preceding the making of the application.

When the application is subsequently made it should be accompanied by a copy of the newspaper notice, certified as having been published and specifying the name of the newspaper and date of publication. A certificate should confirm that the site notice requirements have been complied with or, an explanation of why not.

The Council's consultation requirements are to consult the Health and Safety Executive, the Environment Agency and the other bodies set out in Regulation 10 of the Hazardous Substance Regulations. These include fire and civil defence authorities, other relevant planning authorities and public utilities. Where it appears to the hazardous substances authority that an area of particular natural sensitivity or interest may be affected, the Nature Conservancy Council for England must be also consulted. The Council must give consultees not less than 28 days to comment.

*n.b The requirement for hazardous substances consent does not override the need for planning permission to be obtained where development of land is also involved. This may arise, for instance, where it is proposed to erect buildings for the storage or processing of hazardous substances. Where both planning permission and hazardous substances consent are required, two separate applications will be necessary and the respective statutory requirements must be followed. It may not be possible, or practicable, to act upon one authorisation without having obtained the other. Developers and local authorities are advised that insofar as is possible related applications for hazardous substances consent and for planning permission are dealt with together.*

When the Council has reached a decision, it is required to notify it to the applicant, the Health and Safety Executive, the Environment Agency, owners who have made representations, any other consultees who have made representations to it, and the appropriate district or county council where that council is not also the hazardous substances authority

## **2. POST-DECISION NOTIFICATION**

### **A. Application decisions**

Once a decision has been made, the following must be informed of the decision.

- (i) Applicants (via their agent where applicable) *by decision notice*.
- (ii) Supporters and objectors who have made representations and included a stamped addressed envelope *by letter to each party*.
- (iii) Signatories of petitions *by a letter to the organiser of the petition*.
- (iii) Consultees who requested notification of the decision *by copy of the decision notice*.

### **B. Appeals**

Names and addresses of all interested parties, including adjoining neighbours, must be passed to the Appeals Officer who will write, advising of the appeal, how to make representations and of arrangements for any Informal Hearings or Public Inquiries.

### **C. MISCELLANEOUS**

#### **Representations received after the expiry consultation period**

Representations received after the expiry of the 14 or 21 day consultation period should not be disregarded, they may after all provide important information relevant to the assessment of the proposal. However there is no requirement that these should lead to an application being considered by a Working Party although in some cases it may be prudent to do so especially where they raise important new issues. It may be appropriate to seek guidance from the Development Control Manager.

#### **Racist or Discriminatory Representations**

In accordance with Council policy any correspondence including such material should be disregarded. Please see the Intranet for further information concerning the Council's policy on recording and monitoring racist incidents.

**Established Resident's/Commercial Groups**

These should be consulted on the more strategic and /or significant applications within an area. The Area Planner or Development Control Manger will provide advice as appropriate.

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