

**EXETER CITY COUNCIL****SCRUTINY COMMITTEE - ECONOMY  
20 JANUARY 2011****CONSULTATION AND THE PLANNING PROCESS****1 PURPOSE OF REPORT**

- 1.1 To provide Members with an overview of the nature and type of consultation required whilst undertaking the planning process and assess how the City Council conforms to such requirements and suggest ways forward in respect of such consultation.

**2 BACKGROUND**

- 2.1 Since the 1973 Planning Act the concept of public consultation has been explicit in the planning process. In more recent times there has been a move away from mere consultation towards active public participation and community involvement in planning. This trend might also be conveniently classified as a move from a reactive stance to a more pro active engagement with the public. It is no longer sufficient to merely place a notice in the London Gazette regarding the preparation of a Local Plan or to publish a list in the local newspaper of planning applications received and sit and await comments. The minimum level of consultation laid down by statute now requires a much more active approach from the local authority to debate with a much broader range of the "public" ranging from statutory consultees through local stakeholders and decision makers to the man (or woman) in the street in many diverse forms.

**3 FACTORS GOVERNING CONSULTATION**

- 3.1 Statute and Regulations set the minimum standards of consultation required through the planning process. All planning authorities have to follow these basic principles for their planning policies to be legally enforceable or for the decisions made on planning applications to be robust enough to withstand challenge through the courts.
- 3.2 Good practice guidance and custom and practice are also matters which can influence the amount of consultation carried out by a local authority on a proposal or plan. The 2004 Planning Act sought to make more explicit these two factors for each local authority by requiring councils to publish a "Statement of Community Involvement" (SCI) showing how the local authority intend to involve the community in preparing and revising local development documents and consulting on planning applications. The Councils' SCI; which was itself the subject of consultation, was adopted on 13 December 2005 and lays down the basic principles and action the Council will take in relation to consultation on the planning process. This document is reproduced as Appendix 1.
- 3.3 The type of planning proposal will inevitably lead to different levels of consultation and indeed response. A document such as the Core Strategy, with a preparation time of perhaps five years and an intended timescale of 20 years, will provide and indeed demand much greater levels of public consultation and participation than say a planning application for a single dwelling or an extension.

- 3.4 Resources and timescales are also often limiting factors as to how much consultation or public participation can be carried out. It is not to seek to devalue the concept to say that pro active public participation demands considerable staff and financial resources and can take up a great deal of time. One can probably never carry out full public consultation or involve a 100% of the population in the planning process; there can always be more that can be done.

#### **4 EXETERS' EXPERIENCE: FORWARD PLANNING**

- 4.1 Exeter has some distinct advantages when it comes to consultation and public participation. The City is a tight urban area with a strong sense of local identity and is covered by a daily newspaper that gives planning issues a high profile. In addition the City Council has a specialised Communications Team to provide support and the universal growth of electronic media means that access to Council policies and information is more easily and widely available than ever before. In planning terms consultation process and practice varies considerably between the two disciplines of Forward Planning and Development Management.
- 4.2 The Forward Planning function which seeks to involve the public in such diverse plans as the Core Strategy, a strategic level plan setting out the future growth of the City down to very specific topic or land use policies such as the Affordable Housing or Streatham Campus SPDs. The scale type and nature of consultation will inevitably vary with the different type of plan or proposal and the response rates from the public may also differ widely. The 2004 Planning Act introduced the concept of "Front End Loading" into the preparation of planning policies. Previously consultation on forward planning documents took the form of a draft plan being prepared and this plan being then placed before the public for comment. The front end loading concept now requires that the public are consulted at the very early stage of plan preparation as to what should be included in the plan and addresses matters such as "Vision" and "Objectives". This type of public participation has proved challenging for the majority of local planning authorities since, in essence, it is asking the public to involve themselves in general concepts and theories and can require planners to try and make understandable arcane concepts such as household formation rates or demographic projections. Much work has been done on ways to improve this process both by private and public sector bodies and future years will undoubtedly see innovative and hopefully effective ways of engaging the public in this type of early participation.
- 4.3 The minimum requirements for consultation and public participation in Forward Planning documents are specifically laid down in statute and regulations and for the higher level documents at least, such consultation can be the subject of scrutiny at independent examination into the plan. The City Council conforms to these minimum requirements and, in addition, does more than the minimum prescribed through the processes laid down in the SCI such as Wavelength feedback, workshop sessions and more informal participatory type forums of which the Planning Member Working Group is perhaps the best internal example.
- 4.4 The success or failure of consultation is notoriously difficult to assess. The simplest method is to simply count the response rate but should a 5% response rate with universal condemnation for a policy be judged a success in terms of consultation, or a failure in public participation, because an overwhelming majority find the proposal unacceptable; or indeed both. What is clear that public participation is greatest where a plan or proposal is seen to directly affect the individual responding and where the proposal is of such a scale to be readily understandable. Sometimes consultation can be confused with consensus, the local planning authority have to have regard to the views of the public it does not necessarily have to agree with

those views or formulate or adapt planning policy to accord with the majority view expressed through consultation or participation.

- 4.5 As has been said in an earlier part of this report it is almost always possible to carry out further consultation or participation. The process is however essentially a pragmatic decision governed at its least by statute and at the other end of the scale by the resources that can effectively be devoted to the task. The new Localism Bill seeks to bring about a fundamental change in which Planning and the Forward Planning functions in particular relate to the public with its emphasis on engagement at a neighbourhood level. A media background note on the Localism Bill is appended as Appendix 3.

## **5 DEVELOPMENT MANAGEMENT**

- 5.1 The process of consultation and participation on planning applications is a clearer and more precise process than that involved in Forward Planning. Once again minimum standards are laid down in statute and are exceeded by the Council. In conjunction with the preparation in 2005 of the SCI, a separate Code of Practice for Publicity and Consultation on planning applications was drawn up and is appended as Appendix 2.
- 5.2 In addition to the statutory requirements development management staff are involved on a regular basis in meetings with key stakeholders such as local developers and architects, estate agents and landlords and local business leaders. Elected Members have tried to make themselves more accessible and developers and applicants frequently make presentations to Planning Member Working Group and the public are able to speak at Planning Committee. Recent moves, including a clause in the Localism Bill, to remove the concept of “pre determination” will make it easier for Members to consult and debate more widely on planning issues.
- 5.3 A relatively recent trend is for developers themselves to actively engage in public participation exercises where a major application is envisaged the most recent example of this being the exhibition held by the potential developers of the Pinhoe Quarry site. This type of pre application discussion and participation is likely to be given statutory status should the clauses in the Localism Bill requiring developers to consult with Neighbourhood Forums be enacted in the final legislation. This participation by the development industry has triggered a growth in specialist lobbying and public consultation firms who have brought techniques from the market research industry; such as telephone surveys, visioning events and sample interviews into the planning process. Some local authorities have used such firms to also assist in the Forward Planning process but the cost of using this route can be very significant with one high profile area action plan costing the local authority in excess of £100,000 for the initial public participation exercise.

## **6 THE WAY FORWARD?**

- 6.1 Effective public participation can empower individuals and local communities, give decisions of the local authority greater legitimacy, lead to better decisions and produce a stronger sense of society. It is clear that public consultation or more properly participation, is now central to the planning process rather than an adjunct and planners, and probably elected Members, will need to be seen rather more as community facilitators and enablers. Truly effective and representative public participation is extremely difficult to achieve, often those most affected by the decisions of a local authority such as the provision of affordable housing are the least able or willing to take part in the debate. Participation is also expensive and time consuming.

- 6.2 New innovative techniques are being developed to aid participation in planning allowing planners to engage informally as well as through the more formal procedures laid down by statute. The general public seem also to be more willing and able to participate in the planning debate and to appreciate its relevance to their everyday life. The Localism Agenda amplified in the new Localism Bill will, if passed, give effect to a fundamental re positioning of public participation in the planning process.

## **7 CONCLUSION**

- 7.1 The Statement of Community Involvement is now five years old and should be revised and updated. Fundamental changes to the way public participation is carried out in relation to the planning process are set out in the new Localism Bill. At the present time it is impractical to make major changes to the Statement of Community Involvement. Rather, Members may wish to consider in detail the proposals in the Localism Bill and the implications for community engagement.
- 7.2 Such a revision to also incorporate the type and style of public consultation and participation the City Council wish to adopt for Exeter commensurate with the resources to carry out such participation.

## **8 RECOMMENDATION**

- 8.1 That Members recognise the Statement of Community Involvement is in need of revision and that the Localism Bill will have fundamental implications for Local Authorities in consulting communities and as a consequence a revision to the Council's Statement of Community Involvement should be undertaken as soon as it is practical to incorporate in the statement the concepts inherent in the Localism Bill.

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**Local Government Act 1972 (as amended)**

Background papers used in compiling this report:-

None