

(Insert whole protocol ahead of formal Monitoring Officer advice dated March 2024)

Member Protocol for Pre-application and Pre-decision Developer Engagement

1. Purpose

The purpose of this protocol is to set out the recommended process for member engagement with developers at pre-application and pre-decision stages of the planning application process.

Regardless of the potential outcome of an application, the pre-application and pre-decision process is a collaborative process, whereby member engagement is encouraged at an early stage to ensure that local needs are understood.

This protocol specifically relates the following types of development (although the core principles apply to any size or nature of application): -

- Large scale major developments- schemes that propose more than 500 dwellings or over 10,000 sqm of non-residential floorspace, and large-scale solar parks These types of development by their nature have wider strategic implications of local importance.
- Developments meeting Environmental Impact Assessment triggers
- Significant development being brought forward by Swale Borough Council and Parish or Town Councils.
- Development which would form a significant departure from the Local Plan (excluding householder proposals).
- Decisions that need to be referred to the Secretary of State.

It is essential that the processes and procedures relating to member engagement in pre-application and pre-decisions on planning applications are clearly understood by officers, members, developers and the public and that such engagements are subject to robust governance. This is to avoid (the perception of) pre-determination which can undermine trust in the planning system (and indeed, by extension, local governance), and which could expose the Council to appeal. This protocol sets out the recommended governance for such discussions with Swale Borough Council.

2. Benefits of engaging with members

Members take decisions at the Planning Committee in the best interest of the Borough, balancing their role as community custodians and the need to keep an open mind prior to a decision being made. However, this does not mean that members should not take part in early discussions with developers. The benefits of engaging with members early on are recognised by the Council. The main benefits are as follows: -

- Helps bring about a better understanding of the key issues through open information sharing, discussion, and constructive questioning.
- Shapes proposals at an early stage.

- Develops a shared understanding of the wider planning challenges.
- The Council's Statement of Community Involvement encourages consultation with local communities and stakeholders - ward members can play an important role in promoting community aspirations.

3. Probity

Early engagement with members is an important aspect of ensuring that proposals lead to development that communities need, and contribute to the wider objectives of the Council, encompassing community aspirations.

It is, however, important to be aware that there is a risk that such discussion can become or be seen to be part of a lobbying process by the applicant. A decision taker must ensure that they have an open mind on the proposal when it comes to taking a decision. It is acceptable for a member to be pre-disposed to support or object to a scheme as a result of both their community representation and leadership roles provided they are willing to maintain an open mind and listen to views on both sides, and that they are not (perceived to be) pre-determined.

Fact-finding meetings are to be encouraged as an appropriate means for members to test their initial views and to seek clarity where required.

4. Member briefings

Pre-application and pre-decision engagement with the Planning Committee and other interested members and the developer will take place in the form of an informal briefing, which will be instigated by the Council and can be requested by the developer. A presentation will be given by the developer, and the case officer or other suitable representative of the Council will be present. Members will have the opportunity to ask questions and to seek clarification on the details of the proposal. It is not an opportunity to enter into negotiation regarding the proposal (this is an officer task) although views can be expressed.

In addition to informal member briefings, the developer or applicant will be directed to undertake appropriate pre-application consultation with the wider public, including Parish and Town Councils, in accordance with the Council's Statement of Community Involvement.

5. Member engagement process

The engagement process will be as follows: -

- a) The pre-application and pre-decision engagement between the Planning Committee and other Councillors will be determined by the Head of Planning, Chief Planning Officer or Planning Manager in line with criteria set out above.
- b) The applicant will be informed within 10 working days whether their request for pre-application or pre-decision engagement has been agreed.
- c) If agreed, the applicant will be requested to provide a presentation including relevant information such as a site plan, other relevant plans and supporting information outlining key issues.

- d) Councillors will be given 21 days' notice of the date and time of the briefing. The presentation will be circulated to Councillors at least five working days before the briefing.
- e) The briefing will be led by the Chief Planning Officer, or appropriate substitute, who will introduce the purpose of the briefing and advise as to how it will be conducted. They will reiterate that the purpose of the briefing is a fact-finding exercise and provide clarification around the main planning challenges. They will remind members of the need for probity and that Councillors must not pre-determine any matter under discussion. A record of the outcome of the meeting will be made and such record may be subject to an application for disclosure under the Freedom of Information Regulations 2004 or the Freedom of Information Act 2000.
- f) Members present will sign in their attendance and introduce themselves when they first ask a question.
- g) Planning officers will confirm that the discussions will not bind the Council to make a particular decision and that the views and opinions expressed are made without prejudice to the future consideration of the application.
- h) The applicant will present their proposal, which should include a strategy for engaging with ward members and Parish or Town councils.
- i) The Planning Officer will offer comments and advise Councillors of the planning issues or policies that need to be considered.
- j) Members will have the opportunity to ask questions and seek clarification.
- k) Notes of the meeting will be placed on the application file at the earliest possible opportunity if the meeting relates to a pre-decision presentation. If the meeting relates to pre-application advice, the notes will be added to Idox under the pre-application advice reference number but will not be made public.

Member presentations are not a substitute for a site meeting.

7. Other Engagement between Members and Developers

The Planning Advisory Service has published [guidance on lobbying](#), which is a helpful indicator as to what developers can expect from members as part of their pre-application and pre-decision engagement.

Should members wish an officer to be present at a meeting with a developer, officers will use best endeavours to attend. Priority will be given to the Leader and Deputy Leader of the Council and members of the Planning Committee / other relevant Chairs / Vice Chairs / ward members. Officers will make a written record of the meeting placing the note on the file.

Formal Monitoring Officer Advice to All Members was issued in March 2024. It remains relevant, and is included below.

Appendix 1 Item B

Proposed Change to the Constitution

Title: *(Short title for ease of reference)*

Changes to budget amendment deadline

Relevant section of the Constitution (including page/paragraph number):

3.1.16.4 amendments to motions

Description of proposed change:

(Please show the tracked changes here or attached as a separate word document)

Written notice of every amendment to a motion which has been published in a Council agenda or to a recommendation in a report on a Council agenda, signed or forwarded by email by a proposer and seconder, must be given to the proper officer not later than 4.30pm on the Monday preceding the Council meeting. These will be recorded and open to public inspection....

Notice of amendments to the budget are to be given to the proper officer not later than 4.30pm on the Thursday preceding the Council meeting. The rules on the wording of amendments set out in Council procedure rule 3.1.14.3 do not apply to budget amendments, but in proposing any changes to the budget, any amendment must ensure that the proposal achieves a balanced budget.

Reason, including referenced documents/acts, for proposed change:

The current deadline for proposals to be received on the Monday preceding the council meeting, does not give sufficient time for the s151 officer to assess the viability of the amendments and so provide advice on the deliverability of the amendment.

The above proposal will allow 3.5 days as appose to 1.5 days for the s151 officer to be able liaise with Heads of Service to assess the legality of proposals as well as the numerical assumptions required to calculate viability of budget amendments.

The final budget papers are published for Policy and resources 3 weeks before the council meeting and unless there are significant changes proposed at the P&R meeting there is sufficient time for groups to prepare amendments by the Thursday before Full Council – For example for the 2026/27 budget P&R papers will be published on 27 January for the meeting on 4 February, assuming no significant changes are proposed at that meeting, political groups will have just over 2 weeks to submit their amendments if the deadline is moved to the Thursday (12 February) before Full Council (18 February).

Timescale:

asap

Proposer:

Name:	Lisa Fillery
Title:	Director of Resources
Date:	04/12/25

Approval *(to be completed by the Monitoring Officer)*

***Changes approved by the Monitoring Officer under delegated authority**
***Proposed major changes to be submitted to Constitution Working Group**
*(*delete as appropriate)*

Signature of Monitoring Officer:**Date:**

Amendment No:	Date incorporated:
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Appendix 1 Item C

Name change and other items to be added to the functions of the Committee
(To take effect after Annual Council 13 May 2026)

- 1) The name of Area Committees should be changed to “Councillors and Residents Forum”. This will make the purpose of the meetings clearer.
- 2) For certain items, members of the public and parish/town councils have the ability to vote/express/indicate a preference. It will be agreed by the Chair in advance which item/s this applies to and be made clear on the agenda. The potential outcomes of the vote will be explained to the public before a vote is taken.
- 3) Only ward councillors to vote to refer items to Service Committee Chairs. In this context, ward councillor means a Swale Borough Councillor who is a member of the relevant Councillor and Resident Forum.
- 4) Chairs to meet before each round of meetings to review and forward plan. In particular this meeting will consider and agree future items that are suitable for the public vote/indication.

Appendix 1 Item D

Proposed Change to the Constitution

Title: *(Short title for ease of reference)*

Use of Electronic Council Seal

Relevant section of the Constitution (including page/paragraph number):

3.6.8.4 et al

Description of proposed change:

(Please show the tracked changes here or attached as a separate word document)

Amendment of existing paragraphs referencing electronic signatures to include electronic sealing.

For example:

3.6.8.4 Electronic signatures may be used by both the Council and the supplier in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Head of Legal Services and/or Monitoring Officer. The Council's seal may also be affixed electronically in any circumstance when the physical seal could be used. The Council shall use suitable, software, such as Adobe, Docusign or E-Sign to create electronic signatures and seals.

Reason, including referenced documents/acts, for proposed change:

The use of a physical seal is limiting and resource intensive. While the Council will continue to use the physical seal when appropriate and necessary, the ability to apply the Council's seal electronically will save time and resources, including carrying out more transactions without printing and enabling sealing to take place in any location, whether staff are physically present or not.

Timescale:

asap

Proposer:

Name:	Robin Harris
Title:	Monitoring Officer
Date:	23/12/2025

Approval *(to be completed by the Monitoring Officer)*

***Changes approved by the Monitoring Officer under delegated authority**
***Proposed major changes to be submitted to Constitution Working Group**
*(*delete as appropriate)*

Signature of Monitoring Officer:

Date:

Amendment No:

Date incorporated: