



Kenilworth Town Council

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PROCEDURES FOR THE OPERATION OF BRIEFINGS AND CONSULTATIONS WITH THE COUNCIL

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This is a Procedural Guideline that has been applied (as updated) since 2010, and, whilst mainly orientated towards planning aspects, includes such matters as briefings to the Town Council, Committees and Working Groups.

Introduction

1. **Summary.** Briefing requests, when permitted by current Council policy and not subject to any temporary limitation(s), fall within two main categories:
 - a. Developers and related agencies preparing development or associated schemes.
 - b. Other requests and consultations, typically seeking support or agreement and perhaps funding support, for an event or proposed course of action or an update report by an activity supported or endorsed by this Council These are usually straightforward, but may be of an interim nature and require subsequent action.

Issues to be aware of

2. **Expression of Opinion or View.** Particularly with developers' submissions, but also with other requests where legal and other constraints may not yet have been fully explored, Members must guard against acting in a manner which would indicate a pre-disposition either to support or be against any matter until such time as it is formally presented to Full Council. This can pose particular issues for 'dual' or 'triple-hatted' members. In certain cases, the matter may be considered as an agenda item later in the same meeting, but might involve a substantial waiting period of several months or more..

3. Possession of Full Facts. Those presenting a briefing may not be in possession of the full facts, slew the scope of their review or omit material that is later identified as pertinent, or elect only to insert such information as supports their case. Special care must be taken as legislative, legal or other factors and sensitivities may apply that Members are unaware of at the time of the presentation, but may be identified because of further study. Members must therefore guard against unintentionally causing offence or distress and inadvertently breaching regulation.

Development Requests

4. Proposals. Developers' requests are potentially contentious, involve a number of pitfalls and require careful consideration before agreement to meet is given, especially where the request is in advance of any formal consultation or submission of planning application to the relevant authority (usually Warwick District Council WDC but may include Warwickshire County Council and other parties).

4.1. Particular caution must be exercised where the developer seeks to give a private brief and/or when the matter is not in the public domain, as an inappropriate perception of the Councils intentions or behaviour could occur. An instance might be where the developers subsequently state that a 'consultation' has taken place but the event from the Council's perspective was of a lower status, being heard purely as a statement of intent or interest without any feedback being provided. Great care must be taken to ensure that the Council is not perceived as giving precedence to any party or being partisan. Any briefing must also be considered against the legislative background and planning rules.

4.2. Applicants preparing major development schemes are encouraged by WDC to undertake a separate public consultation on their prospective application. The public consultation process is discussed as part of the usual pre-application discussions with District Planning Officers.

4.3. In addition, WDC operates a Development Review Forum, which examines any major proposed developments that are submitted for its consideration. The scheme is discretionary, as there are no requirements for applicants to put their scheme forward if they do not wish to do so, but will typically occur *after* the public consultation process. Typically, all interested parties will also be invited to the Forum, including statutory consultees such as this Council. Developers may well therefore include Kenilworth Town Council (KTC) as a consultee in their preliminary and public consultation processes.

4.4. Where the developer undertakes a pre-application consultation and approaches the Town Council with a view to holding a briefing or consultation, the procedures set out from paragraph 5 below are normally to be followed.

5. Scope. As with the WDC Forum, the informal briefing/consultation process is voluntary to assist Councillors to appreciate the scope and rationale of the intended application. There is currently no stipulation requiring applicants to place their pre-application scheme(s) before this Council if they do not wish to do so.

5.1. Where an approach is made to KTC, the following types of development schemes, which would normally be still at the pre-application stage, will be considered:

- a. Proposed developments of 50 units or more of housing.

- b. Proposed developments of 2,500 or more square metres of industrial, commercial, leisure or retail floor space.
- c. Other proposed large-scale developments where early discussion of issues is considered beneficial.
- d. Developments, which, whilst not falling within the above criteria, are deemed to be of special interest, for example, when employment land is sought for alternative usage, when substantial employment prospects (typically 50 or more posts) are suggested and if the application would fill a perceived need (such as educational and medical facilities), or of concern.

6. Consideration of Requests. When not debarred by current policy, the Chair of Planning and/or the Town Clerk will decide normally which schemes are suitable for the briefing/consultation process; the Mayor, Leaders and other Members then will be consulted where the nature of the proposal indicates such action to be required or where there is any question of compliance with Council policy.

7. Notification. Unless held in closed session, public notice will be issued advising of the briefing at least three clear working days prior to the event. Closed sessions will be notified to Members at least three clear working days prior to the event. No formal invitations to attend will be sent out routinely other than the foregoing.

8. Location and Start Time. The briefing/consultation meeting will normally be held in the Council Chamber. A start time of 7.00 pm is normally envisaged, but this will be adjusted depending on other meetings being held and when schemes come forward for consideration; **no public briefing will start before 6.00 pm.** Private briefing timings will be varied to suit the circumstances.

9. Attendance by Members. The briefing/consultation is intended to give Town Councillors early notice of a major development proposal so that they can be apprised of the scope of the scheme, raise issues, ask questions, and ascertain how planning policies and issues have been addressed by the developer in formulating their scheme. All KTC Councillors will therefore be notified although additional guidance will be issued as required.

10. Authority. The briefing/consultation process has no powers of decision.

11. Right to Speak. The right to speak at a public briefing/consultation covers KTC Members only. Exceptionally, the Chair may, subject to Standing Orders, invite other attendees to speak or ask questions where this will be of benefit to all parties present.

12. Operation of Briefing/Consultation Sessions. Unlike the WDC Development Review Forums, it is not envisaged that a District Planning officer will attend although, if time and circumstances permit, guidance may be obtained prior to the meeting regarding any specific policies and issues. Accordingly, except where linked to a Planning Committee meeting:

- a. The briefing/consultation constitutes an informal meeting chaired by the Chair of the Planning Committee or designated representative.
- b. In addition to the notification, an agenda/short briefing note or supporting papers may be issued if required by the circumstances; in the majority of cases it is expected that the bulk of the material will be furnished by the developer.

c. Normally, only one development proposal will be considered at a briefing/consultation meeting, with total length normally limited to 20 - 25 minutes unless exceptional factors apply. If the scope of the supporting papers so requires, additional time will normally be pre-agreed so an indication of the anticipated timescale can be advised as part of the calling notification. Where, exceptionally, two proposals are considered in one session there will be a break between each presentation to ensure that those involved are segregated.

d. The briefing/consultation will be directed at establishing an understanding of the developer's proposals and to establish how they address planning policies along with issues of local concern.

e. The standard *modus operandi* (with approximate timings for each element) will be as follows:

i. Introduction by Chair of Planning.

(a). **The Chair is to formally remind Members that they may only ask questions of fact relating to the proposals and the presentation, and no discussion by the Town Council of the proposals will take place at the briefing session.**

(b). Following the personal introductions, and *if required*, a short introductory brief will take place. If included, it would typically encompass a short summary of any relevant planning history of the site, outline details of planning policies and guidance relevant to the proposal, plus key physical characteristics of the site and its surroundings: 2 - 5 minutes.

ii. Presentation by the applicant/agent: 10 - 15 minutes (normally supplementing the pre-circulated briefing papers).

iii. Questions and views from KTC Members: 5 - 10 minutes.

iv. Chair concludes with final comments: up to 2 minutes.

The average session will therefore be expected to be of 20 minutes duration.

13. Consultations Post the Submission of a Planning Application (Including Outline Applications) Should the following situations arise, the principles and procedures outlined above are to be followed, varied as required to suit the circumstances:

a. Formal Consultation with KTC. On those occasions where an applicant is required by WDC or other authority to consult formally with this Council, as a condition of processing the prescribed application processes.

b. Post Application Briefings. Exceptionally, post application briefings may be considered if demanded by the situation.

In a Working Party Meeting of 6 December 2018 (P.711 refers), ratified by the Planning Committee on 18 December 2018, Members agreed the following protocol for meetings with developers:

- Any such Meeting should be held with the Planning Committee (not Kenilworth Town Council)
- At least one Officer should be present, to make any appropriate written public record.
- Any such Meeting should take place as part of the normal Planning Meeting cycle.
- No such Meeting will take place after any relevant live Planning Application has been submitted.
- Members will express no opinion. They will ask questions as appropriate.
- The Kenilworth Neighbourhood Plan will form the basis of any discussion, with developers invited to seek any clarification.

Other Requests for Briefings and Consultations

14. Where a briefing/consultation is offered on aspects outside of the planning area, or where the Council seeks a briefing/consultation or like gathering, the principles and procedures outlined in the paragraphs above are to be followed, varied as required to suit the specific circumstances.

15. The introduction by the Chair may be varied as required, notably where the briefing is by the County or District Councils, or made by a support/community group and of a nature that would not otherwise be formally presented to the Council or otherwise be considered as an agenda item. Otherwise, the formal reminder to Members that they may only ask questions of fact relating to the proposals and the presentation, and no discussion by the Town Council of the proposals will take place at the briefing session, is to be incorporated.

16. Usually such briefings will be of a nature such that they will go before the Town Council (including as a stand-alone item where required by constraints), although briefings specifically orientated at the Planning or Finance and General Services Committees may arise. Such gatherings will be chaired by the Mayor or Chair of the relevant Committee as appropriate, with the related procedures detailed in paragraphs 4 - 13 above, amended accordingly.

17. Exceptionally, where a specialist group or working party is undertaking a delegated task on behalf of either the Town Council or the Planning Committees, the briefing or presentation may be given to such a group or working party; normally, all Town Council Members will be invited to be in attendance if they so desire.

Record of Events and Post Briefing Action.

18. Where the briefing forms part of a public meeting, a note, or minute of record will be kept, normally including the briefing documents that were circulated and/or issued/supplemented at the venue. It will also be presented for approval if part of a formal Committee meeting for permanent record purposes and subsequent consultation. Material from other meetings, especially non-development orientated matters of an informal nature, will be retained subject to space and any constraints that apply, but will not be subject to long-term retention (over 6 months) unless so designated.

19. The extent and scope of the record made will vary upon the type of brief and whether

the matter was handled separately or as an agenda item. Any informal or private briefing will not normally be serviced by the Council staff and the record will vary according to the circumstances, but will typically include the briefing note/papers and a record by the Chair of the main points stated at the meeting and any course(s) of future action that were concurred (agreement to a further meeting for example). Some records may only be kept in electronic format, with hardcopies available upon request. All material will normally be available for public scrutiny unless caveated. See also paragraph 21 below.

20. Unless the subject of a formal motion subsequent to the briefing, no formal note will be sent to the presenter(s) after the meeting unless specifically requested and then normally only in a neutral tone.

Freedom of Information Act and Open and Accountable Local Government Procedures

21. Freedom of Information Act. Those seeking to give presentations should be reminded that the Freedom of Information Act will apply to the material unless one of the exemptions applies. *Material will normally be treated by the Authorizing officers as being open to the public.* If material is commercially or otherwise sensitive then it should be so endorsed and any validity period, condition or other caveat included. This Council does not hold material subject to any of the national security marking standards or caveats but is registered under the Data Protection Act.

22. Open and Accountable Local Government Procedures. Since 2014 the Open and Accountable Local Government rules have, with specified constraints, permitted the media to record meetings in most formats. Those seeking to give presentations should also be reminded of this situation, which are detailed in Part 4.

Exclusions.

23. This procedure cannot cater for every eventuality, but kindred matters will normally function using these standards and procedures as a guide.

24. This policy is not intended to cover major public briefings or consultation with electors under the Localism provisions, which will operate as agreed by the Council to suit the nature of the session, venue, subject matter and the relevant statutory provision.