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VOiCE Case Studies

Pre-application Consultation for Planning Development Proposals

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Pre-application Consultation for Planning Development Proposals

Overview

Since August 2009, under the terms of the Planning etc (Scotland) Act 2006, developers initiating national and major development proposals have been required to conduct community consultation prior to the submission of a formal planning application. Planning authorities must be satisfied that the quality of this pre application consultation meets the requirements of the Act or they must decline to determine the subsequent planning application. In this context City of Edinburgh Council Planning has used VOiCE as a means of recording and evaluating the proposals for, and conduct of, pre-application consultation by developers. This approach to using VOiCE is unusual in that it is applied to what other parties are doing rather than to the work of the agency creating the record.

The context

In 2009 the Scottish Community Development Centre was commissioned by the Improvement Service to conduct a programme of training focusing on community engagement in planning. The pilot programme for this was conducted with the City of Edinburgh Council. The context was the implementation of the Planning Act (Scotland) 2006 and its associated guidance, particularly Planning Advice Note 81 (Community engagement 'Planning with People') that had stated:

'Scotland's planning system is undergoing its most radical overhaul in 60 years. Scottish Ministers are determined to make the planning system more inclusive and accessible to people, with greater openness and accountability in the decision-making process. This cannot be achieved without reforming how planning involves people - but more importantly how people are involved in planning. It also requires real culture change - from everyone involved in the planning process.'

The cultural challenge to developers seeking planning permission for national or major proposals, related particularly to their legal obligation to conduct pre-application consultation. One of the challenges for planning authorities was how to monitor and assess the quality of that consultation. It was in the context of this challenge that planning staff in the City of Edinburgh Council chose to experiment with the potential use of VOiCE to which they had been introduced during the training programme.

The process within which VOiCE was applied is as follows. Where a pre-application consultation is required the applicant must submit a Proposal of Application Notice (PAN) at least 12 weeks prior to the submission of the planning application. This must detail the consultation that the applicant will undertake, when, how and with whom. The statutory minimum requirement is that an applicant must, firstly, consult every community council whose area is within or adjoins the application site and secondly, include at least one advertised public event where members of the public can comment on the development proposal. Within 21 days of the submission of the PAN the planning authority must confirm whether the proposed consultation is sufficient or whether additional consultation is needed.

To accompany the subsequent planning application, the developer must also submit a Pre-Application Consultation Report detailing the consultation undertaken and how the applicant has responded to comments made, including if, and to what extent, changes to the proposals have resulted. The planning authority must assess whether the consultation carried out and detailed in the report, complies with the statutory requirements and any requirements set out in planning's response to the proposal of application notice. Planning must decline to determine an application only where PAC requirements apply and in their view compliance with these has not been demonstrated. Further to this Planning use VOiCE to measure whether the consultation exercise not only met statutory minimum requirements but also to measure how many applicants undertook additional methods of consultation, how and in what circumstances they felt this was necessary.

The application of VOiCE

In the context of the process described in the previous section, it is vital that a planning authority has a robust system for assessing pre-application consultation requirements and for determining whether what has been done meets statutory requirements. VOiCE has been used both for tracking and to support evaluation of consultation practice.

It is essential to appreciate that in this case the record is not being kept by the developer who will conduct the engagement (though a developer might well benefit by using VOiCE themselves) but by the planning authority that is assessing performance against set criteria. Given the statutory framework and standard procedure, for many elements of the VOiCE records common statements of purpose have therefore been adopted. For example the reason for engagement is always: 'To ensure that communities are made aware of and have an opportunity to comment on the proposal before a planning application is submitted'. Similarly the level of engagement is expressed as a minimum expectation that is required of developers and focuses specifically on consultation (though this would not restrict a developer from adopting more open forms of engagement with communities).

Outcome statements and indicators and methods are also standardised to reflect the necessary requirement for satisfactory pre- application consultation. Outcomes are set in relation to different stages of the process. Some are applied at the time of the Proposal of Application Notice and used to assess the suitability of what is proposed. For example:

'Outcome 2: The form and delivery of engagement is in a manner, location and at a time suitable for the community.

Indicators:

- Date and time suitable for majority, e.g. evening or weekend? Agreed in advance of PAN?
- Venue accessible to all, e.g. near site, on bus route etc.
- Good quality materials/information provided by the developer, i.e. plans/ visuals of proposals and alternatives available and clear.
- Alternative method of commenting apparent if cannot attend meeting – advert.
- Type of people attended, e.g. only CC members or wide range, e.g. people from different social backgrounds.
- Type of comments received, e.g. knowledge of planning system.
- Feedback to community engagement technician/planning officer from Community Council/members of public following the event'.

Other outcomes and indicators relate to the application stage and are used to assess whether the intended consultation has been conducted appropriately e.g.

‘Outcome 5: The community feel they had the opportunity to express their views and have an input to the application at pre-application stage’.

Indicators:

- Number and content of comments received at PAC stage – PAC report.
- Number and content of material objections received at application stage.
- Consultation responses from Community Council at application stage.
- Feedback from PAC to community engagement technician/planning officer
- Survey questionnaire’.

The outcome statements also set criteria that can be used by City of Edinburgh Council to assess long term satisfaction of communities after the development, if approved, has been completed.

In terms of methods, those set for developers are the ones that meet minimum requirements for pre-application consultation. They are: to send the PAN to City of Edinburgh Council, relevant community councils and additional persons as relevant; to place an advert in a local newspaper, and to hold a public meeting/event. Other methods are set that are required by planning including: recording the PAN publicly in its weekly list and on its planning portal and contacting community councils/neighbourhood partnerships and seeking their views on the proposed consultation exercise (within 7 -21days).

The ‘Do’ section of VOiCE is used to monitor and record activities relating to the prescribed methods. This includes both the actions that the developer has committed themselves to and the actions that the planners need to take themselves. It enables the planners to identify what actions have been taken, to identify any issues and necessary remedial actions. For example a record may indicate that despite agreement to do so a Neighbourhood Partnership has not been contacted.

Clearly to be able to maintain a record in the ‘Do’ section, the relevant officer (the Community Engagement Technician), needs to maintain an active relationship both with the process of consultation set out by the developer and with the community interests who should be involved. This means that in effect the officer is herself engaging with community interests, in particular the community councils and Neighbourhood Partnerships. The officer is also a member of the City of Edinburgh Council Neighbourhood Partnerships’ Community Engagement Implementation Group. Along with colleagues and working with Planning Aid Scotland she has also been involved in training on community engagement in planning for local community groups.

It is these active relationships with the developer's consultation activity and with community networks, and the knowledge acquired through them, that enables the 'Review' section of VOiCE to be completed. It is this section that is used to determine whether the pre-application consultation proposed and actually applied has met minimum requirements. The National Standards for Community Engagement element of the review is used to assess the quality of the proposed consultation set out by the developer in the Proposal of Application Notice. The Outcomes element of the review is used to assess the quality of the implementation of the consultation. This needs to demonstrate that intent to meet the standards has been followed through in practice. If the consultation process is judged to be adequate this aspect of the statutory requirements of applicants is deemed to have been met.

Benefits of using VOiCE

The planners have identified a range of benefits of using VOiCE as described. In particular capacity to:

- Monitor the conduct of community engagement
- Review and evaluate community engagement being conducted by others
- Support engagement being conducted by others
- Be consistent in the conduct and assessment of community engagement
- Store and retrieve information about community engagement
- Report on community engagement

Outstanding Issues

Whilst it is clear that the use of VOiCE has been very positive it is also the case that doing so in this particular context has required some adaptation of it. Further improvements could therefore be made, in particular:

- A version that already contains all the pre-determined statements of purpose, outcomes, indicators and methods would be easier to use.
- At the time of writing, only 2 developments have reached the full application stage. So the capacity to draw on the summary records contained in VOiCE to enable analysis of patterns of pre-application consultation has yet to be tested. Currently there is potential to do so in terms of who is being consulted where and when but it is apparent that further development of the summary recording categories would be beneficial. In particular this might include recording the final assessment of each pre-application consultation process,
- Rather than simply using the terms active, continuing or complete, making changes to the terminology to enable records to be searched in relation to the specific stages of development defined in the planning process would be beneficial.
- The scoring system in the 'Review' section needs to clearly identify what score is treated as meeting the minimum requirements. The planning authority has to decide what is good enough though it may still be very helpful, by retaining a rating scale, to be able to identify how good particular consultation procedures have been

Together these issues point to the possibility of a specific version of the tool designed solely for use in relation to the pre-application consultation requirements of planning legislation. For other aspects of planning for example community engagement in development planning the original version of VOICE would remain appropriate.

