



## **IHBC GUIDANCE NOTES**

### **Negotiating Skills**

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*This is one of a series of occasional Guidance Notes published by The Institute of Historic Building Conservation (IHBC). IHBC Guidance Notes offer current and recent guidance into topics that we consider crucial to the promotion of good built and historic environment conservation policy and practice. The Notes necessarily reflect knowledge and practice at the time they were developed, while the IHBC always welcomes new case examples, feedback and comment to [research@ihbc.org.uk](mailto:research@ihbc.org.uk) for future revisions and updates.*

### **Introduction**

1. An ability to negotiate is a fundamental requirement that invariably appears in advertisements for public sector conservation posts but as part of the job application process, candidates are rarely, if ever, requested to demonstrate this proficiency, nor if they are appointed are they asked to do so in any formal sense subsequently.
2. Whether a practitioner is recently qualified or an 'old hand', there is often nothing more daunting, particularly for a single individual in an under-resourced public sector organisation, than to be faced by a large team of expensively assembled 'experts' on the opposite side of the negotiating table. Discussing the merits of proposals on site with an owner who knows their property intimately and what they want to do much better than the visitor can be equally fraught. Some negotiating skills to address such scenarios can be learnt on the job and be developed with experience but they are skills that are not normally taught.
3. Many IHBC members will be well aware of the often-quoted joke at their expense: Question: 'What is the difference between a Conservation Officer and a Terrorist?' Answer: 'You can negotiate with a Terrorist.'

Although this is deeply insulting about the competence of professional conservation specialists, there will always be a grain of truth behind this description. The implication is that the default response to any proposal will invariably be 'No', but it should be borne in mind that saying 'No' with conviction and sound justification to ignorant, ill-informed, ill-thought-out and inappropriate proposals can be viewed as a positive rather than a negative, where clear principles, a need to maintain standards and set a high level of quality assurance to the protection of the historic environment are necessary.

4. Negotiating skills are as important in professional roles as they are valuable in everyday life. Even before becoming involved in negotiations with professional colleagues, building owners, agents and the general public there is the small matter of being successfully appointed to a professional post. As referred to paragraph 1 above, for most jobs in the public sector, it is usually necessary to respond appropriately to professional competency-based interview questions and provide evidence that these skills have been developed and perhaps that they also have value under other circumstances.

5. This Guidance Note looks at some aspects of negotiating which may assist in achieving the most appropriate outcomes; and that attaining a degree of understanding on both sides will usually ensue, even if there may not always be consensus. The Note may also be helpful in meeting the needs of the conservation professionals preparing for an appointment interview.

## **The skills of persuasion**

### **Be prepared**

6. Although the time of a conservation professional time will often be at a premium, try to prepare in advance as, for example, applicants for consent may like to reveal as little of their intentions as possible to maintain an advantage in pre-application negotiations.

7. Ensure a good understanding of what is at stake ('the significance of the heritage asset'). This may mean familiarity not only the building or site, but also the area, the planning history and the relevant local and national policies and how these might be applied with good purpose to the project. Also aim to anticipate the generic philosophical questions or technical issues that might emerge. Preparation will help project your competence and professionalism and ensure that any advice being offered can be subsequently verified.

8. The significance of the components of the historic environment are your forte, nevertheless while empathy with a developer's ambitions can also be a valuable attribute, do not lose sight of the value of challenging key aspects of projects where good negotiations will almost always result in improved schemes completed to everyone's satisfaction.

### **Argue your case with clarity and logic.**

9. Where all the key issues cannot be anticipated in advance and where discussions take on a more general or wide ranging basis ('While you're here I wonder if you can also give an opinion on...'); it is quite reasonable to make clear the limits of the scope of the negotiations; especially if these start to stray towards issues beyond your competence (for example an owner's concerns about excessive nearby noise).

10. Some matters may need to be referred, for example, to English Heritage, and will require a response in writing at a later date. Explain why some additional investigation of some issues will be required before a definitive opinion can be confirmed.

11. Try to avoid hesitant language. The more you use: ('...isn't it?', 'you know...', 'um mm...' and 'I mean...' the less convincing your arguments may seem and the more intimidated you may become.

12. Heritage management has its own technical terms and its own acronyms. Be adaptable and sensitive to the negotiating situation. Try to tailor your language, for example, by not referring to 'EH' rather than English Heritage, or 'SPAB' when you mean the Society for the Protection of Ancient Buildings. Some but not all professionals will know the terms and the abbreviations but some agents, surprisingly, and many owners, may not.

13. As an acknowledged 'expert', explain any technical terms and try to avoid condescension or obfuscation. The use of some technical or professional language can rarely be avoided completely but try not to sound so simplistic that this implies on the one hand that you lack sufficient expertise, or underestimate the intelligence of the recipient on the other.

### **Focus on the needs of the other party**

14. Try to establish a rapport. Although high workload pressures may preclude extended, informal, general pleasantries; taking time to listen carefully to an owner or agent can pay dividends by calmly finding out about their aspirations, general objectives and expectations. Taking a

genuine interest in the people involved as well as in the proposals themselves is more likely to foster a spirit of trust, engender a sense that your own views will be respected, and make it easier to outline the heritage arguments in terms that will be understood.

15. As time pressures are likely to be important on both sides, establish a timeframe for discussions at the start. This will help to concentrate minds. The local authority may be charging a fee for the time taken for pre-application advice and the client will be paying professional advisors to obtain clear unequivocal opinions before proceeding further with a project.

16. Be sensitive to cultural and linguistic issues among agents and clients with an ethnic minority background. Consider whether interpretation facilities might be required so that legal, professional and technical issues can be correctly understood.

17. Remember also that for some large schemes, agents or clients originating from outside the UK may be more familiar with relatively unequivocal overseas zoning compliance than with the nuances of the UK heritage and land-use planning system and so an explanation of how this operates may be required at the outset.

### **Use positive rather than negative language**

18. The aim of negotiation is to problem solve not to reject proposals outright without valid arguments. This is especially true for those cases where such lack of rigour might be unpicked should the scheme ultimately be the subject of a planning appeal. Government guidance is in favour of sustainable development, but not at the cost of protecting the historic environment.

19. There are different ways of saying: 'Your approach to these issues is wrong...' and you may prefer to say 'While what you say is true, it is also necessary to consider...'. Similarly '...the proposals have merits but if we look more deeply into...' or 'I agree with what you say but have you considered the following matters...' may present a more reasonable stance.

20. It is important to remember, however, that under certain circumstances, a clear immediate authoritative, reasoned rejection of proposals may be the best course.

21. Trying to be helpful and constructive in negotiations under some situations may actually be counterproductive. Proponents can take attempts to be reasonable or equivocation as a green light to modify or

develop further, unsuitable proposals when clear advice to abandon a scheme, completely change course, or use more competent consultants, would have benefited all parties had this been made explicit at the outset.

### **Compliments can be helpful**

22. Praise during negotiations need not be obsequious, for example: 'I see that you've done some thorough research on this...' or 'I'm sure you have already considered this but...' can show a subtle appreciation that while the proponent may have a solution in mind, it will give an opening will be made for a better one to be advanced.

### **Try to remember the names of all those involved**

23. Recollection can be difficult when, for example, the proponent fields a large team of consultants; or there are individuals at a site meeting who appear to have an involvement but hang-back and don't engage in the discussions.

24. It is helpful if you clearly state who you are, and anyone else who is with you in support. Then ask and note down who is present from the other side and what their role in the negotiations is. An exchange of business cards may help. Don't be afraid to ask more than once if the name and role of a participant is unclear. If a large round-table meeting is held consider a quick sketch location plan of all the participants. Preparation and correct identification indicates that their role is valued by treating them as individuals and creates a better atmosphere for the negotiations.

### **Negotiating for success**

25. If you have prepared in advance, without pre-judging the situation, you should usually have an outcome in mind. This may be mutually beneficial to both sides but it is likely to involve pursuing the authority's approved policies and procedures to the exclusion of those of the proponent: (I win: you lose!). Be sure that when negotiating in conjunction with Development Management and other professional colleagues that common objectives have already been established.

26. Day-to-day negotiation has to the responsibility of professional officers. Certain decision making powers may be the subject of a Scheme of Delegations giving a wide range of discretion, but negotiators should know not only the limits of what they can agree, but also what level of

other professional input may be required (for example, from building control, environmental health). When in doubt the matter should be referred upwards to a more senior colleague either for authorisation by the relevant Council committee or as an informative safeguard. Failure to be clear about the limits of what can and cannot be agreed may open later decisions to subsequent legal challenge or Ombudsman investigation.

27. Persuading proponents to do what you want them to do by completely ignoring their interests and concerns could be described as 'keeping your cards hidden'. This is rarely the best course of action and it needs to be remembered that while this tactic may produce a short-term advantage, a longer-term resentment can build up which can be damaging if there is a need to work with these people again. This can create what is termed reputational damage to the negotiator and the authority.

### **Negotiating jointly**

28. This involves coming to an agreement where both sides get what they want, but which may or may not involve trade-offs, that is reaching a mutually satisfactory - but less than optimum - outcome, which would still be a win-win situation.

29. A strong degree of mutual trust needs to be established on both sides requiring honesty, integrity and professional competence. If negotiations take place with agents, for example, on a regular basis this will be more straightforward than in one-off situations and/or with unfamiliar participants with a less obvious track record of delivery.

30. It is usually possible for both sides working together to come up with a compromise solution to suit everyone's best interests, but the caveat above about attempting to be overly-helpful resulting in 'false' encouragement (paragraph 21) should be borne in mind.

31. No matter how unpalatable the other party's track record or initial negotiating tactics may be, it is essential to look at the issues from their perspective as this may also generate potential alternative solutions while still meeting the objectives. Being assertive is the best course of action. Being passive or aggressive (however much provoked) does not help find solutions.

32. Consistency is a desirable attribute in negotiations as it is associated with honesty, stability and logic. Inconsistent negotiators are almost as bad as non-committal ones in that the former are seen indecisive and unable to commit themselves for long enough to conclude an issue; while the latter are unable to make any kind of professional decision without

seeking higher authority. Inconsistency in negotiations will quickly be exposed by agents in regular contact with the same local authority officers and is an unfortunate but preventable characteristic that sometimes manifests itself, irrespective of years of working experience.

33. Finally, remember that you are the 'expert', with perceived specialist knowledge and with influence within the local authority (if with this status comes the attendant responsibility). The opposite side of the negotiations may be just as nervous and apprehensive about the negotiating process and the eventual outcome as you.

### **Tactics for successful negotiation**

34. It can be difficult to think calmly under pressure during negotiations, but the following preparations and tactics can be useful:

- Whenever possible do advance preparation. Think about the significance of the asset. Try to anticipate the questions likely to arise and how best to respond. While this will not be possible on every issue, being caught unawares is less likely to foster a perception of indecisiveness or a lack of professionalism.
- To focus on the matters in hand, try to set a realistic time limit for the discussions and a verbal or written agenda. The axiom 'Time-is-money' now applies to both sides particularly where fees for pre-application advice are involved.
- Proponents or their agents will almost always outline their case first rather than seek an opinion, so it is important to listen carefully to the arguments and assess the substance and logic of their reasoning. If a lot of separate issues are conflated try to separate these out, asking for a pause to take notes if necessary and ensuring all the essential points have been recorded and are then addressed.
- Occasionally an offer will be made by the other side to make notes of the meeting and although this is often welcome when resources are stretched or time is short, these must always be scrutinised closely for accuracy and an absence of 'spin'. If there is evidence of bias the notes must be formally corrected.
- Before negotiations commence, if possible try to list all the issues likely to be important and, if practicable, at the end of each stage of negotiations try to summarise which key issues emerged that mattered to both sides and set out any areas of common ground.

- Take a proportionate view. Don't overstate the relative significance of the heritage asset[s] and be aware that national planning policy addresses not only such matters such as degrees of harm but also the balance of heritage protection with other social, economic and environmental benefits.
- On complex projects, start by discussing the principles before getting stuck into the detail. If issues seem complex or become diffuse, do not hesitate to clarify by asking the 'how, why, where, when and what' questions.
- If possible try to note any personal agendas; be sure to question generalisations and challenge assumptions. Notes of discussions are invaluable, especially if negotiations get into difficulties. They provide an audit trail later if it is required.
- Agents quite often negotiate without their clients being present (especially on smaller schemes) and there needs to be awareness that under some circumstance they may be under particular instructions not to divulge certain information about their proposals.
- It is also not uncommon for agents to intimate that they are looking for a particular steer or direction from local authority as a means of conveying an unpalatable message to a client that they lack the expertise or courage to express them. ('Can you say that please? We can't'). It is in this way that unjustified negativity about the local authority's advice can sometimes be cited.
- Be aware of cultural issues in terms of the potential ethnic background and customs of agents and their clients and anticipate if, for example, interpretation facilities would be of assistance.
- At all times it is essential to keep calm, be as assertive as possible without being aggressive and if situations become tense, use tact and diplomacy to diffuse the situation.
- As outlined in 31 and 32 above, remember that 'No' is a powerful word used promptly under the right circumstances.
- Although this Note does not specifically deal with the matter of body language, there can be non-verbal as well as verbal persuasion skills, so remember to adopt open, encouraging body language such as an initial, firm (but not bone-crunching) handshake, regular eye-contact and an occasional empathetic nod of the head. Try not to appear defensive or closed such as folding your arms in front of you or when being addressed, look distractedly in a different direction.



- Knowing when to compromise takes experience. It may be possible to determine if concessions should be made in advance and by how much. Offer compromises where appropriate (and where there is the statutory, policy or personal discretion to do so) but make minor ones only initially.
- It is crucial to be clear about the difference between fundamentals on which professionally you and the authority (as a matter of local or national policy) cannot compromise and the issues where ground can be conceded and why. Allowing the other party to save face if necessary via small concessions is an essential aspect good negotiation. It is worthwhile maintaining good will for the subsequent implementation of proposals or future professional relationships.
- Ensure that in coming to any clear-cut decision or agreement there is a deadline by which matters will be resolved or actions will be triggered, and that this is summarised and written down at the conclusion of the negotiations.
- Not all negotiations conclude successfully and when this happens be sure to plan for alternative actions or outcomes.

### **The power of authority**

35. Psychologists state that people are more likely to comply with the views of someone in authority than not, that is that people prefer to take advice from 'experts'. This is why in many heritage cases a professional agent is involved in negotiations rather than the client. Conservation professionals are obviously also experts and their mix of expertise and experience in negotiation, backed up by written national and local policy and guidance, should also carry compelling weight.

36. Professionalism during negotiations with agents has to apply to both sides and as the old saying states, proper preparation prevents poor performance. The historic environment is extensive and the issues relating to its appropriate management are complex. It is unlikely that both sides in a negotiation will be equally familiar with or expert concerning the issues in question and there will be no loss of respect if opinion is deferred for a time, for further mature reflection, before coming to a final view. The answer may be 'Yes', usually with reasoned provisos, but nothing is gained by saying 'No' without well-argued explanation.

## A summary of negotiation skills characteristics

<b>Basic Skills: Using ideas persuasively.</b>	<b>Intermediate Skills: Winning the argument.</b>	<b>Advanced Skills: Developing strategies.</b>
<ul style="list-style-type: none"> <li>▪ Become thoroughly engaged with whoever you are in negotiation.</li> <li>▪ Allow the proposals to be explained.</li> <li>▪ Set out clearly the advantages of your argument.</li> <li>▪ Try not to impose unreasoned solutions.</li> <li>▪ Enumerate your points clearly and concisely.</li> <li>▪ Tailor you language to avoid acronyms.</li> <li>▪ Understand the other side of the argument and the concerns expressed.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Emphasise the aims are problem solving, capitalising on appropriate opportunities, avoiding damage to significance, acting sustainably and cost-effectiveness.</li> <li>▪ Handle objections calmly.</li> <li>▪ Challenge unsound points of view.</li> <li>▪ Develop a line of clear reasoning.</li> <li>▪ Ensure your views are supported by evidence, policy, guidance and/or technical competence.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Consider a range of approaches and strategies to win support.</li> <li>▪ Provide examples of solutions used elsewhere in a similar context.</li> <li>▪ Know when to concede and the limitations to reaching agreement.</li> <li>▪ Try finding mutually beneficial solutions.</li> <li>▪ Good initial negotiation may be vital for trustworthy long-term professional relationships.</li> </ul>

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