

Powers granted by the Council to the Head of Planning Services to deal with Planning Matters.

1. To determine or decline to determine all applications made, deemed to be made or referred to the Council under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and any statutory instruments made under those Acts, together with applications for certificates of Appropriate Alternative Development, together with determinations that it is not expedient to take enforcement action except an application where
 - 1a a. within four weeks of its registration by the Council, or
 - b. within five working days of being notified that it is intended to grant permission where:
 - i). the parish/town council (within the 21 day parish/town council notification period) has raised material planning objection^{1, 2} that cannot be overcome by reasonable amendment to the application or by the imposition of planning conditions; or
 - ii). more than 3 letters of objection from independent sources³ have been received (within the 21 day published notification period) each raising substantive material planning objections^{1, 2} that cannot be overcome by reasonable amendment to the application or by the imposition of planning conditionsany one of the local Ward Councillor (or in the absence of a local Ward Councillor another previously nominated District Councillor) requests in writing to the Head of Planning Services, giving relevant substantive material planning reasons, that the application be determined by the Planning Committee and the referral is agreed by the Chairman of the Committee
- 1b The Head of Planning Services considers that the application/notice/order should be considered by Committee
- 1c The approval of the application would represent a material departure from the policies of the statutory development plan
- 1d The proposal involves the District Council as applicant or land owner or as interested party

¹ To be material the objection must be related to the development and use of land in the public interest and must fairly and reasonably relate to the application concerned.

² In the case of applications for the approval of reserved matters following the grant of outline planning permission representations from third parties will not be treated as objections when they raise issues that are, in the opinion of the Head of Planning Services, not material to the determination of such applications in accordance with the relevant statutory provisions.

³ To be independent each letter must be written so that it is unique to the objector. Letters based upon a common template or proforma shall not be treated as individual letters. Letters which state that the author objects but do not give reasons will not be counted. Signatures on petitions will not be counted as individual objections.

- 1e Submitted by (including acting as an agent) or on behalf of a District Councillor (or his/her spouse or partner or immediate family) or where a District Councillor lives in the adjoining property, a property opposite the application site or a property either side
 - 1f The applicant or agent is an officer who is a Member of the Council's Management Team, a Service Unit Head, or a member of staff within Planning Services or any member of staff within the Authority who could be seen as having a direct input to, and therefore influence on, application decisions
 - 1g Where an officer who is a Member of the Council's Management Team, a Service Unit Head, or a member of staff within Planning Services or any member of staff within the Authority who could be seen as having a direct input to, and therefore influence on, application decisions, lives in the adjoining property, a property opposite the application site or a property either side
- 2. In respect of agreements under the Town and Country Planning Act 1990 s106 (as amended):
 - a. to determine when to seek such agreements and the terms of them in conjunction with a planning application or enforcement matter being dealt with under the scheme of delegation; and
 - b. to make reasonable amendments to the heads of terms or detailed terms of such agreements if necessary after they have been approved by the Planning Committee or the Council.
 - 3. To determine applications made under the Environmental Assessment Regulations as to whether or not an Environmental Statement (including screening and scoping opinions) is required in respect of proposed developments.
 - 4. To carry out appropriate assessments under the Conservation (Natural Habitats etc.) Regulations 1994.
 - 5. To add, delete, or amend the conditions to be attached to the grant of planning permission authorised by the Planning Committee or Council.
 - 6. To determine the reasons for which planning permission would have been refused where this is relevant to appeals against the non-determination of applications.
 - 7. On a without prejudice basis in relation to appeals in the event that the Secretary of State or the appointed Inspector is minded to grant planning permission:
 - a. to suggest appropriate conditions to be imposed on planning permissions;

and

- b. to approve/make comments on the terms of Section 106 Agreements or unilateral undertakings
8. To authorise the service of Building Preservation Notices.
9. To determine applications for the installation of overhead electricity cables under the Electricity Acts.
10. To make applications to the Secretary of State or to his Inspector for awards of costs in favour of the Council in respect of appeals under the Town and Country Planning Acts and to settle claims awarded against the Council.
11. To determine:
 - a. minor amendments to approved plans.
 - b. the discharge of conditions to approved plans and amendments to any matters approved thereby.
 - c. variation or rescinding of conditions on approved plans.
 - d. minor variations to or the waiver of conditions attached to deemed consents(subject to a report being submitted to the following meeting of the Committee)
12. To determine “policy refusals” for any application contrary to the Development Plan.
13. To determine Certificates of Lawfulness under the Town and Country Planning Act 1990 ss191 or 192 (as amended).
14. To make Tree Preservation Orders and to determine applications made under the Order, but not to determine Objections to Orders.
15. To authorise the issue of Enforcement Notices, Stop Notices, Temporary Stop Notices, Breach of Condition Notices, and Listed Building Enforcement Notices in respect of breaches of conditions imposed on planning permissions and Listed Building consents and Hazardous Substances Contravention Notices after consultation with the Chief Solicitor to the Council.
16. To take action in respect of unauthorised placards or posters under the Town and Country Planning Act 1990 s225.
17. After consultation with the Chief Solicitor, to authorise the institution of legal proceedings in respect of unauthorised advertisements, breaches of listed building control and non-compliance with Discontinuance Notices, Enforcement Notices, Stop Notices, Temporary Stop Notices and Breach of Condition Notices or in respect of any other matter within the terms of reference of the Planning Committee.

18. To accept or reject as is felt fit such offers to remedy a breach of control as are made under the Town and Country Planning Act 1990 s171C(4) (as amended).
19. To designate authorised officers and to serve Notices of Entry for the purposes of the planning acts.
20. To serve Requisitions for Information as to ownership, occupation or other interests in land.
21. To serve Planning Contravention Notices on owners and occupiers of land where it appears that a breach of planning control has taken place.
22. Shall settle claims of awards of costs awarded against the Council following successful application against the Council in respect of its Planning function.
23. Make applications to the Secretary of State or to his Inspector, for awards of costs in favour of the Council, in respect of applications and appeals under the Town and Country Planning Acts.
24. After consultation with the local Ward Members representing the area affected, may lodge objections against applications for heavy goods vehicle operators' licences.
25. After consultation with the Chief Solicitor may authorise the institution of legal proceedings for failure to respond to, or to give satisfactory information required by Requisitions for Information, or Planning Contravention Notices.
26. After consultation with the Chief Solicitor may determine who shall be called to give evidence at planning inquiries
27. After consultation with the Chief Solicitor may make decisions to withdraw or modify any notices or legal proceedings having regard to circumstances, which become known after the original decision of the Planning Committee to take such action.

Material and Non Material Planning Considerations

The planning presumption is that planning permission will always be granted unless the development would give rise to a material harm to a matter of public planning interest.

Material considerations must be genuine planning considerations, i.e. they must be related to the development and use of land in the public interest. They must also fairly and reasonably relate to the application concerned. The Courts are the arbiters of what constitutes a material consideration. All the fundamental factors involved in land-use planning are included, such as the number, size, layout, siting, design, and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood, and the availability of infrastructure provided that there is substantive evidence to support such a claim.

Matters that should **not** be taken into account are:

- loss of property value
- land and boundary disputes
- the impact of construction work
- need for development (save in certain defined circumstances)
- ownership of land or rights of way
- change to previous scheme – each application must be determined on its own particular merits
- that the work or change in use may have been carried out in advance without planning permission – the essential test is not that the works have been carried out but whether those works in themselves have caused a planning harm to a matter of public interest
- matters that are dealt with by other legislation, such as the Building Regulations (e.g. structural safety, fire risks, means of escape in the event of fire etc). - The fact that a development may conflict with other legislation is not a reason to refuse planning permission or defer a decision. It is the applicant's responsibility to ensure compliance with all relevant legislation
- loss of view
- matters covered by leases or covenants
- property maintenance issues
- the identity or personal characteristics of the applicant
- moral objections to development such as amusement arcades or betting shops
- competition between firms and uses
- the weight of public opposition or support – it is not the number of public representation made that is relevant but rather the material planning issues raised that is important
- personal preferences – applications have to be determined on the basis as submitted by the applicant. Changes should only be made where there are overriding material planning objections

Government statements of planning policy are material considerations that must be taken into account in deciding planning applications. These statements cannot make irrelevant any matter that is a material consideration in a particular case.

Nevertheless, where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them.

In those cases where the development plan is not relevant, for example because there are no relevant policies, the planning application should be determined on its merits in the light of all the material considerations.