



# **HEAD OF REGULATORY SERVICES** **REPORT TO THE PLANNING COMMITTEE**

## **1. INTRODUCTION**

This agenda considers planning applications submitted to the Council, as the Local Planning Authority, for determination

## **2. STATUS OF OFFICER'S RECOMMENDATIONS AND COMMITTEE'S DECISIONS**

All information, advice, and recommendations contained in this agenda are understood to be correct at the time of preparation, which is approximately two weeks in advance of the Committee meeting. Because of the time constraints, some reports may have been prepared before the final date for consultee responses or neighbour comment. Where a recommendation is either altered or substantially amended between preparing the report and the Committee meeting or where additional information has been received, a separate "Planning Addendum" paper will be circulated at the meeting to assist Councillors. This paper will be available to members of the public.

## **3. THE DEBATE AT THE MEETING**

The Chairman of the Committee will introduce the item to be discussed. A Planning Officer will then give a short presentation and, if applicable, public speaking will take place (see below). The Committee will then debate the application with the starting point being the officer recommendation.

## **4. SITE VISITS**

A Panel of Members visits some sites on the day before the Committee meeting. This can be useful to assess the effect of the proposal on matters that are not clear from the plans or from the report. The Panel does not discuss the application or receive representations although applicants and Town/Parish Councils are advised of the arrangements. These are not public meetings. A summary of what was viewed is given on the Planning Addendum.

## **5. THE COUNCIL'S APPROACH TO THE DETERMINATION OF PLANNING APPLICATIONS**

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF).

It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. This means that any discussions with applicants and developers at both pre-application and application stage will be positively framed as both parties work together to find solutions to problems. This does not necessarily mean that development that is unacceptable in principle or which causes harm to an interest of acknowledged importance, will be allowed.

The development plan is the starting point for decision making. Proposals that accord with the development plan will be approved without delay. Development that conflicts with the development plan will be refused unless other material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date the Council will seek to grant permission unless material considerations indicate otherwise – taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Local Plan taken as a whole; or
- Specific policies in the development plan indicate that development should be restricted.

Unsatisfactory applications will however, be refused without discussion where:

- The proposal is unacceptable in principle and there are no clear material considerations that indicate otherwise; or
- A completely new design would be needed to overcome objections; or
- Clear pre-application advice has been given, but the applicant has not followed that advice; or
- No pre-application advice has been sought.

## **6. PLANNING POLICY**

The relevant development plans are, the Saved policies Hart District Council Local Plan Replacement and First Alterations 1996 – 2006, Policy NRM6 South East Plan, Hampshire, Portsmouth, Southampton, New Forest National Park and South Downs National Park Minerals and Waste Local Plan 2013, Dogmersfield Neighbourhood Plan, Odiham and North Warnborough Neighbourhood Plan, Rotherwick Neighbourhood Plan, Winchfield Neighbourhood Plan, Fleet Neighbourhood Plan, Hartley Wintney Neighbourhood Plan.

Although not necessarily specifically referred to in the Committee report, the relevant development plan will have been used as a background document and the relevant policies taken into account in the preparation of the report on each item.

## **7. THE NATIONAL PLANNING POLICY FRAMEWORK AND PLANNING PRACTICE GUIDANCE**

Government statements of planning policy are material considerations that must be taken into account in deciding planning applications. Where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them.

The Government has also published the Planning Practice Guidance which provides information on a number of topic areas. Again these comments, where applicable, are a material consideration which need to be given due weight.

## **8. OTHER MATERIAL CONSIDERATIONS**

Material planning considerations must be genuine planning considerations, i.e. they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest. Relevant considerations will vary from circumstance to circumstance and from application to application.

Within or in the settings of Conservation Areas or where development affects a listed building or its setting there are a number of statutory tests that must be given great weight in the decision making process. In no case does this prevent development rather than particular emphasis should be given to the significance of the heritage asset.

The Council will base its decisions on planning applications on planning grounds alone. It will not use its planning powers to secure objectives achievable under non-planning legislation,

such as the Building Regulations or the Water Industries Act. The grant of planning permission does not remove the need for any other consents, nor does it imply that such consents will necessarily be forthcoming.

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
- or 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 like public houses or betting shops
- competition between firms,

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## **9. PLANNING CONDITIONS AND OBLIGATIONS**

When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. Planning conditions should only be imposed where they are:

- necessary;
- relevant to planning and;
- to the development to be permitted;
- enforceable;
- precise and;
- reasonable in all other respects."

It may be possible to overcome a planning objection to a development proposal equally well by imposing a condition on the planning permission or by entering into a planning obligation. In such cases the Council will use a condition rather than seeking to deal with the matter by means of a planning obligation.

Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are

- necessary to make the development acceptable in planning terms,
- directly related to the development, and
- fairly and reasonably related in scale and kind.

These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010. There are also legal restrictions as to the number of planning obligations that can provide funds towards a particular item of infrastructure.

## **10. PLANNING APPEALS**

If an application for planning permission is refused by the Council, or if it is granted with conditions, an appeal can be made to the Secretary of State against the decision, or the

conditions. Reasons for refusal must be

- Complete,
- Precise,
- Specific
- Relevant to the application, and
- Supported by substantiated evidence.

The Council is at risk of an award of costs against it if it behaves “unreasonably” with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- Preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
- Failure to produce evidence to substantiate each reason for refusal on appeal
- Vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis.
- Refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead
- Acting contrary to, or not following, well-established case law
- Persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable
- Not determining similar cases in a consistent manner
- Failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances
- Refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage
- Imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the NPPF on planning conditions and obligations
- Requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the NPPF, on planning conditions and obligations
- Refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal
- Not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management.
- If the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn

Statutory consultees (and this includes Parish Council’s) play an important role in the planning system: local authorities often give significant weight to the technical advice of the key statutory consultees. Where the Council has relied on the advice of the statutory consultee in refusing an application, there is a clear expectation that the consultee in question will substantiate its advice at any appeal. Where the statutory consultee is a party to the appeal, they may be liable to an award of costs to or against them.

## **11. PROPRIETY**

Members of the Planning Committee are obliged to represent the interests of the **whole** community in planning matters and not simply their individual Wards. When determining planning applications they must take into account planning considerations only. This can include views expressed on relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons.

## **12. PRIVATE INTERESTS**

The planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases. It can be difficult to distinguish between public and private interests, but this may be necessary on occasion. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Covenants or the maintenance/protection of private property are therefore not material planning consideration.

## **13. OTHER LEGISLATION**

Non-planning legislation may place statutory requirements on planning authorities, or may set out controls that need to be taken into account (for example, environmental legislation, or water resources legislation). The Council, in exercising its functions, also must have regard to the general requirements of other legislation, in particular:

- The Human Rights Act 1998,
- The Equality Act 2010.

## **14. PUBLIC SPEAKING**

The Council has a public speaking scheme, which allows a representative of the relevant Parish Council, objectors and applicants to address the Planning Committee. Full details of the scheme are on the Council's website and are sent to all applicants and objectors where the scheme applies. Speaking is only available to those who have made representations within the relevant period or the applicant. It is not possible to arrange to speak to the Committee at the Committee meeting itself.

Speakers are limited to a total of three minutes each per item for the Parish Council, those speaking against the application and for the applicant/agent. Speakers are not permitted to ask questions of others or to join in the debate, although the Committee may ask questions of the speaker to clarify representations made or facts after they have spoken. For probity reasons associated with advance disclosure of information under the Access to Information Act, nobody will be allowed to circulate, show or display further material at, or just before, the Committee meeting.

## **15. LATE REPRESENTATIONS**

To make sure that all documentation is placed in the public domain and to ensure that the Planning Committee, applicants, objectors, and any other party has had a proper opportunity to consider further or new representations no new additional information will be allowed to be submitted less than 48 hours before the Committee meeting, except where to correct an error of fact in the report. Copies of individual representations will not be circulated to Members.

## **16. INSPECTION OF DRAWINGS**

All drawings are available for inspection on the internet at [www.hart.gov.uk](http://www.hart.gov.uk)