



# **THE PLANNING PROCESS A GUIDE FOR PARISH COUNCILS AND COMMUNITY GROUPS**

**The Planning Delivery Service  
Peterborough City Council**

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# The Planning Process – A Guide for Parish Councils and Community Groups

## Introduction

The Council's Planning Service wishes to encourage a productive and efficient relationship with parish councils and community groups. It is vital local views are given full consideration in the determination of planning and related applications and that there is good communication and an understanding of the decision making process.

The purpose of this Guide is to describe the role of parish councils and community groups in the planning application process, and to promote an understanding of how planning decisions are made.

A separate Code of Practice confirms procedures for the exchange of information between parish councils, community groups and Peterborough City Council on planning applications.

## How we consult

There is a requirement for the Council to notify parish councils of all planning applications in their area and we also consult community groups on request.

When consulted, you should let us have your written comments within 21 days. We cannot decide an application until this 21 day period has expired. In most cases the Council has to decide planning applications within 8 weeks and it is not normally possible to extend the consultation period. If you are having difficulty in submitting representations on time you should discuss the particular case with the Council's case officer.

When consulting we provide either a hard copy of all the information accompanying the planning application including forms, plans and supporting reports and / or access to the same information via our web site.

[http://www.peterborough.gov.uk/planning\\_and\\_building/planning\\_and\\_building\\_online.aspx](http://www.peterborough.gov.uk/planning_and_building/planning_and_building_online.aspx)

We also consult on amendments to planning applications where these are of more than a minor nature. Generally, and where possible, we give a minimum of 14 further days for making representations on amendments.

If the comments are made within the time allowed, we must take them into account when deciding the application. We will notify you of the decision we make.

There is no legal requirement for us to notify you of applications in an adjoining area. We recognise however that some developments could have a significant impact on an adjoining area or parish and we will consult you in these circumstances.

Further details on how we consult on planning applications can be found in our Statement of Community Involvement 2008 which is on our website.

[http://www.peterborough.gov.uk/planning\\_and\\_building/planning\\_policy/local\\_development\\_framework/statement\\_of\\_community\\_involve.aspx](http://www.peterborough.gov.uk/planning_and_building/planning_policy/local_development_framework/statement_of_community_involve.aspx)

## **The purpose of consultation**

There are a number of mutual advantages to consultation:

- The proposed development may be of particular significance locally and the views of the parish council or community group would be a helpful indication of local feeling
- It gives advance warning to you of development that may take place in your area.
- Your local knowledge, can alert us to potential problems that we and other statutory agencies may not be aware of (for example, a site may have historically have been prone to flooding)
- It enables you to let local people know about development proposals
- It enables you to alert us about development that may be taking place without planning permission or not in accordance with approved plans
- It provides an opportunity for people to inspect plans locally without having to travel to our offices

## **How we make planning decisions and take community group's comments into account**

We must take into account representations in making decisions on planning applications. However, this does not mean that we will necessarily decide an application completely in accordance with your views. It is not the role of a parish council or community group to duplicate or replicate the role of the City Council as 'Local Planning Authority'. There are several reasons for this:

- We are only able to take into account what are called 'material planning considerations' (further advice on what these are is set out later in this guide). If your comments do not relate to legitimate planning issues they cannot be taken into account
- We employ qualified and experienced planning staff to assess planning applications in accordance with local and national planning policy. This resource is not normally available within parish councils or community groups
- We must take into account the representations of others including statutory consultees (for example the Environment Agency), neighbours, and the applicant, together with the planning history of the site, previous appeal decisions and planning policy considerations. You may not always have this information when making comments on applications

We must consider all representations when making a planning decision. Sometimes the views of a statutory consultee may contradict the view of the parish council or community group. For example, local concern may be raised about the safety of a road access to a site but the City Council's highway engineers may advise that the access meets their design requirements in terms of visibility and would be safe. In these circumstances we would advise our highway engineers of local concerns but if their view remains that the access would be safe then it would be unreasonable for us to refuse planning permission on these grounds. There would be a significant risk of costs being awarded against the City Council at appeal if we were to do so.

This does not mean that we override local views, but we have a more rounded picture to consider. We must follow a specific and objective decision-making process.

The law requires that:

*“While in making any determination under the Planning Acts, regard is to be had to the Development Plan, the determination shall be in accordance with the plan unless material considerations indicate otherwise.”*

This means that planning applications must be considered against the planning policies of what is collectively known as the ‘Development Plan’ (The Peterborough Local Plan 2005 and the East of England Plan 2001-2021). An application that conflicts with any policy within these plans should not be allowed ‘*unless material considerations indicate otherwise*’. In other words, there have to be very sound planning reasons to be able to approve an application that is in conflict with the Development Plan.

Planning policies in the Development Plan are therefore the starting point for assessing planning applications. We must then identify and weigh any other material planning considerations against those policies in reaching a decision.

When Members of the City Council’s Planning and Environmental Protection Committee are determining planning applications they are acting in a quasi-judicial capacity. Decisions must be objective and made within the rules of the planning system. The planning merits of the case rather than the weight of public opinion inform the decision.

Sometimes your comments, when weighed in the balance, may have insufficient weight to enable the application to be determined as you might wish.

It is important to remember that the City Council has to defend a decision to refuse planning permission if an appeal is lodged. If the appellant chooses to have the appeal heard at a public inquiry and we cannot show that the development would cause demonstrable harm, not only could the development be approved on appeal with less stringent conditions than we might have wished, but we could be faced with paying the appellant’s costs if our own case is considered to be weak or unreasonable. Even a relatively small case can run up costs of several thousand pounds and this risk cannot be taken lightly.

## **What are ‘material planning considerations’?**

Representations on a planning application can only be taken into account if they relate to material planning considerations.

### **Planning considerations do NOT include the following:**

- **The fact that an application is made retrospectively.** Carrying out development without first obtaining planning permission is not an offence and planning law makes provision for planning applications to be made retrospectively. If the development is acceptable on its merits we cannot withhold planning permission simply to punish a preemptive development. We do not condone developing without permission. Anyone doing this is at serious risk of having enforcement action taken against them.
- **Trade objections.** It is not the role of planning to interfere in matters of competition between businesses other than at strategic level such as where an out of town

supermarket may threaten a town centre. An example of a 'trade objection' might be "We don't need another electrical shop as there's been one in this street for years".

- **Moral and social objections.** The planning system cannot resist uses such as betting shops, adult entertainment shops, lottery kiosks or amusement arcades on social or moral grounds.
- **Loss of private views.** The loss of private views is not a planning consideration.
- **Property values.** Fears about loss of property value as a result of nearby development are not a planning matter.
- **Ownership.** Some planning applications are submitted by developers who do not own the application site or by prospective purchasers of land or property. Who owns the land is not a planning consideration.
- **Restrictive covenants and access rights.** Land and property may be subject to restrictive covenants or parties may have a right of access across an application site but these are a private matter and cannot be taken into account in the planning process.
- **Personal circumstances.** Matters of a personal nature relating to the associations, financial circumstances or ethnic origin of the applicant are not normally a planning consideration.
- **Other legislation.** The planning system cannot duplicate other regulatory systems such as the Building or Fire Regulations, or Health and Safety law.
- **More appropriate development or use.** Planning permission cannot be withheld on the basis that a site could be put to a better use. For example, if a light industrial use would meet Development Plan policy then planning permission could not be refused on the grounds that local residents would prefer to see a play area.
- **Change from a previous scheme.** Sometimes applicants seek to make amendments to an approved scheme through a new planning application. For example, on a large housing estate that is partly built the developer may submit plans for a later phase to change some of the approved bungalows to houses or to change the road layout. This planning application must be considered on its merits afresh and cannot be resisted solely on the grounds that it is different.

The above list is not comprehensive and other issues may be raised that are not material planning considerations.

**Planning considerations DO include the following:**

- **Government Planning Policy Guidance Notes and Statement and their drafts**
- **The City Council's emerging Local Development Framework**
- **Impacts on residential amenity.** This is an important consideration at the local level. Planning permission can be refused if a new development or change of use would cause noise nuisance, overlooking, overshadowing, loss of daylight or sunlight, smell nuisance, or loss of privacy. Planning officers will make a detailed assessment of these issues to determine if there would be 'material harm' to residential amenity. For example, a new

house on an infill plot in a village street may have views across the street to a property opposite but this may not necessarily constitute overlooking to the extent that planning permission could be refused. Officers will always visit the site to make this judgement.

- **The character of an area.** Many areas have a distinctive local character that the planning system can help to protect.
- **Highway safety and traffic generation.** It is important that new development does not prejudice highway safety. Planning considerations include visibility from an access, pedestrian safety, car parking and the amount of traffic that a proposal would generate. We may require that proposals for large developments are accompanied by a transport assessment.
- **Flood risk and drainage.** Flood risk is an important issue. Many planning applications have to be accompanied by a flood risk assessment and we consider how new development will affect local drainage systems.
- **Loss of trees.** The planning system has powers to protect trees that make a valuable contribution to the amenity of a local area or where they are particularly important specimens.
- **Ecology.** We often require planning applications for vacant land or the re-use of old buildings to be accompanied by an ecological survey. The planning system can seek to protect valuable habitat or species.
- **Loss of open space.** Open space is often an important community asset that the planning system can protect.
- **Economic and employment issues.** New and existing businesses are important to the local economy and their needs are considered in the planning process. For example, planning permission for the residential development of an industrial site could be refused on the grounds that it would lead to the loss of employment land and buildings. Alternatively, planning permission could be granted for the diversification of an existing business in the countryside such as a farm proposing holiday accommodation.
- **The design and layout of development.** New development should be of a high standard of design whether this is modern or traditional. The planning process should result in attractive development that has a local identity. Issues such as scale, form, architectural detailing, materials, landscaping, and road layout are all planning considerations.
- **Loss of important public views.** Sometimes development may result in the loss of an important public view such as the view of a church from a main shopping street. This can be a planning consideration.
- **Crime and disorder.** New development should be designed to reduce crime and the fear of crime and disorder.
- **Previous planning decisions.** When assessing planning applications it is important to consider the planning history of a site. For example, a planning application to change the house types on an approved residential development could not be resisted on the grounds that the principle of residential development is unacceptable as it has already been established.

- **Cumulative impact.** This can sometimes be a planning matter. For example, the character of a main shopping street could be eroded through the cumulative impact of changes of use of shops to hot-food take-aways.

The list is not comprehensive and other planning considerations may be identified in the case of a particular planning application.

### **Tips on making representations on planning applications**

There is no obligation to submit representations on every planning application. We will not have less regard for planning considerations or assess proposals less rigorously if you do not comment on an application.

- Consider submitting comments on proposals that raise issues of genuine community interest rather than on all applications.
- Stick to the material planning issues that an application raises. If in doubt about what the planning issues are the planning case officer might be able to help.
- Use Development Plan policies to support your views. Representations that simply say 'support' or 'object' will carry less weight as it will be unclear how that view has been reached.
- Respond to any Development Plan policies that do not support your views explaining what planning issues you think should outweigh those policies.
- Do not refer to issues that are dealt with under separate legislation such as Building Control, land drainage byelaws or restrictive covenants.
- Restrict your comments to what the application proposes rather than what might happen on the site in the future as each planning application has to be considered on its individual merits.

### **How does the City Council deal with a planning application?**

It is important that you appreciate the relationship between the City Council and the applicant.

- It is the applicant, and not the City Council, who decides what proposal to submit. We then have to determine that application on its planning merits.
- The applicant has a right to approval unless the application is contrary to the Development Plan or unless the proposal would cause demonstrable harm to interests of acknowledged importance. In some cases, for example an application for an agricultural worker's dwellinghouse in open countryside, there is an onus on the applicant to prove a need for a proposed development.
- We have 8 weeks to determine most planning applications and 13 weeks for major applications. Our performance in meeting these targets is closely monitored by Government.

- The applicant has a right of appeal to the Secretary of State on the grounds of 'non-determination' if the application is not determined within the 8 or 13 week target weeks. The applicant can also appeal against the refusal of planning permission or against planning conditions imposed on a planning permission.
- If an objection can be overcome by imposing a planning condition, that is the appropriate course of action rather than a refusal. Conditions have to be reasonable, enforceable, and have to relate to the development in question. If the development would be acceptable without the conditions, then those conditions are unlikely to be regarded as reasonable if the applicant decided to appeal against them.

## **Pre-application discussion and consultation**

Many prospective developers have pre-application discussions with the City Council. This is encouraged by Government and results in better quality planning submissions that address planning considerations. A planning application may have been subject to several pre-application meetings over a number of months and subject to informal consultation with statutory consultees before it is submitted. Pre-application meetings are confidential as often they involve commercially sensitive information. The advice that planning officers give is not legally binding on the Council but it is given in good faith and prospective applicants expect a degree of certainty if they follow advice unless new issues arise during the formal application process.

We encourage developers to seek the views of parish councils and community groups before submitting their applications so that they can take into account local views when designing their proposals, but we cannot demand that they undertake this type of consultation.

## **Amendments to applications**

It is not always necessary to reconsult on amendments to a planning application. Amendments can be very minor in nature, for example the repositioning of a window or a minor change to a roof design. Often the amendment results directly from the suggestions of neighbours or parish council. The case officer dealing with an application will make a judgement about the need for reconsultation and this judgement must be recorded. Where amendments are more significant, for example changing the area of the application site or the scale of development proposed, then this is likely to require the submission of a new planning application

Sometimes we receive requests to make amendments to plans that have already received planning permission. If these are very minor and would have no adverse affect they will normally dealt with by planning officers without further consultation. In practice, something that makes a proposal less satisfactory will require a new planning application

## **Conservation Areas**

There are 29 Conservation Areas in the area:

Ailsworth, Bainton, Barnack, Castor, City Centre, Deeping Gate, Etton, Eye, Glinton, Great Northern Railway Cottages, Helpston, Longthorpe, Marholm, Maxey, Northborough, Orton



Longueville, Orton Waterville, Park (The), Peakirk, Pilsgate, Queens Road Fletton, Southorpe, Stanground, Sutton, Thorney, Thornough, Ufford, Wansford and Werrington

There are fewer permitted development rights in Conservation Areas and more stringent controls over development. We must pay special regard to the desirability of preserving or enhancing the character and appearance of the Area in making our planning decisions.

Planning permission is required for most extensions, all dormer windows, external wall cladding and many satellite dishes. Throughout the City and surrounding villages, 'Article 4 Directions' are also in place. These mean that planning permission is required for changes to roof materials, changes to the type, size and materials of windows and doors, new porches, and new walls and fences next to a street or footpath.

Anyone proposing to prune or fell a tree within a Conservation Area should contact us for advice. In most cases six weeks written notice is required before work is carried and we may make a Tree Preservation Order to protect the tree

Conservation Area consent is also required for the demolition of many structures and buildings in a Conservation Area.

We consult parish councils, and community groups when requested, on applications in Conservation Areas.

## Listed Buildings

We consult on applications for Listed Building consent. Often these will be submitted in conjunction with a planning application, but in many cases works that require Listed Building consent will not require planning permission. For example, consent is required for internal work such as removing a fireplace or subdividing a room.

Different criteria apply to the assessment Listed Building applications. We must take into account the acceptability or otherwise of the works in terms of the character and integrity of the building as one of Special Architectural or Historic Interest.

Matters such as means of access, drainage or loss of daylight cannot be considered unless the proposed works also require planning permission.

Unauthorised alterations to Listed Buildings and demolition within a Conservation Area are a criminal offence.

## Signs

Many signs can be displayed without the need for permission through 'deemed consent' and are important for local businesses. Other signs require 'express consent' which is a form of planning permission. The unauthorised display of signs can lead to prosecution if the signs cause road safety problems or harm the character of an area.

## Prior approval notifications

Some types of development do not need full planning permission but what is known as 'prior approval'. This applies to some types of agricultural and forestry buildings (subject to size limits and proximity to roads and houses) and operations, some development by

telecommunications code system operators, for example mobile phone companies, and to the demolition of some buildings.

In these cases, the principle of the development has permission but the applicant is required to notify us of the proposal so that we can determine if 'prior approval' is required. For example, in the case of a proposal for an agricultural building we would be notified and would determine if prior approval is required for its siting and design. We have either 28 days or 56 days (depending on the type of notification) to decide prior approval notifications. These will normally be dealt with under powers delegated to officers and in view of the short timescale the opportunities for consultation are limited.

## **Planning enforcement**

Carrying out development without permission is not an offence except in the case of Listed buildings and demolition in conservation areas, but those undertaking development without first obtaining permission are taking a significant risk of the City Council taking enforcement action. This could result in the demolition of unauthorised structures and buildings or the owner being unable to sell their land or property as enforcement notices are registered as a local land charge that a solicitor would pick up through the search process.

When we are made aware of a breach of planning control we have to make a judgement about whether what has taken place would be likely to receive planning permission if an application were to be submitted. If the answer is yes then it may not be expedient for us to take enforcement action. Government advises that planning enforcement should not be used just to regularise unauthorised development that is otherwise acceptable. Enforcement action could be taken to ensure that planning conditions are imposed to control the development. For example, the commercial use of a site or building may be acceptable in principle but controls are needed to restrict hours of use or noise levels to protect neighbours.

In relation to development not carried out in accordance with a planning permission the same judgement has to be made. There may be several ways in which a development could be carried out without harm, but only one of these has permission.

Enforcement is a legal process that may ultimately result in prosecution in the courts. Sound evidence is needed to pursue a case and there are only a limited number of circumstances where rapid action is possible. These might include unauthorised works to protected trees or the breach of a planning condition relating to highway safety.

In many cases the appropriate action is the service of an Enforcement Notice. This will state the alleged breach of control and set a reasonable period within which the breach is to be remedied. There is a right of appeal to the Secretary of State, in the same way as the refusal of, or imposition of conditions on, a planning application. Planning enforcement appeals are determined by the Planning Inspectorate and can take several months, or longer if a public inquiry is involved.

The majority of breaches of planning control are successfully dealt with informally through the co-operation of the owner or developer who often may not be aware of the need for planning permission.

We treat all complaints made about unauthorised development in strictest confidence. A guidance note with information on how unauthorised development can be reported and an online enquiry form are available on our website [www.peterborough.gov.uk](http://www.peterborough.gov.uk)

## **The Scheme of Delegation and the Planning and Environmental Protection Committee**

Under the terms of its Constitution, Peterborough City Council delegates responsibility for the determination of most planning and related applications to the Head of Planning Services. The Planning and Environmental Protection Committee considers applications where:

- The recommendation is to approve an application that is contrary to the Development Plan and/or raises significant issues not covered by specific Council policy
- The application has been 'called-in' to Planning Committee by a City Councillor or a parish council within 28 days of the application being published on the relevant 'weekly list' of planning applications. Sound planning reasons must be given for 'call-in'
- The recommendation is to approve and there are significant local objections made on planning grounds
- The Head of Service considers that the application is potentially controversial, of significant public interest, or has a significant impact on the environment

At the Planning and Environmental Protection Committee we operate a public speaking scheme whereby one person in support of an application may speak for 5 minutes and persons objecting may collectively speak for 5 minutes. Parish councils also have a right to speak. Further details are available on our website [www.peterborough.gov.uk](http://www.peterborough.gov.uk)

### **Planning appeals**

Planning appeals are determined by the Planning Inspectorate and not by the City Council. An appeal can be lodged in the following circumstances:

- Where planning permission is refused
- Where we fail to decide an application in 8 weeks, or 13 weeks in the case on a 'major' application. This is referred to as an appeal on the grounds of 'non-determination'
- Against a planning condition imposed on a planning permission
- Against a planning Enforcement Notice

There is no third party right of appeal but planning decisions made by the City Council and appeal decisions made by the Planning Inspectorate can be legally challenged in the High Court.

Appeals are considered in three different ways:

- Exchange of written statements
- Informal hearing
- Public inquiry

In most cases appeals are dealt with by an exchange of written statements between the City Council and the appellant with third parties given an opportunity to submit their comments direct to the Planning Inspectorate. The Planning Inspector will also visit the appeal site. If it can be clearly seen from the public highway the visit will normally be unaccompanied. If the Inspector needs to enter the site then he/she will be accompanied by a representative of the City Council and the appellant. Third parties will also be invited to attend the site visit but no party is allowed to give evidence to the Inspector.

Informal hearings involve the Planning Inspector chairing a structured round table discussion between all interested parties, followed by a visit to the appeal site. This process does not normally involve legal representatives.

Complex cases are dealt with at public inquiries. These are more like a court of law where witnesses give evidence and are cross-examined, often by barristers.

Planning appeals take several months to determine. More information about the appeal process can be found on the Planning Inspectorate website [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk).

## **Contact details and further sources of information**

### **Peterborough City Council (PCC)**

Planning Services, Stuart House East Wing, St John's Street, Peterborough, PE1 5DD  
[www.peterborough.gov.uk](http://www.peterborough.gov.uk)

- Comprehensive planning advice
- View planning applications on line
- Enforcement, building control, conservation and natural environment sections

### **The Planning Portal**

[www.planningportal.gov.uk](http://www.planningportal.gov.uk)

- Advice and tools

### **The Planning Inspectorate**

The Planning Inspectorate, Room 3/01 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN  
[www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

- Appeals

### **Planning Aid**

15 Wheeler Gate, Nottingham NG1 2NA Tel: 0115 852 4266  
[www.planningaid.rtpi.org.uk](http://www.planningaid.rtpi.org.uk)

- Free planning advice for communities and individuals

**Peterborough City Council**

**The Planning Delivery Service – Our Code of Practice**

1. We undertake to send parish councils, and democratically elected community groups where requested, a hard copy of every planning application or application for Listed building or conservation area consent, advertisement consent and applications for work to protected trees within their boundary and / or an electronic notification and access to the information on line. The planning application will be in the form as contained in Part 1 of the register of applications.
2. We will undertake 1. above within 5 days of the registration of a valid application.
3. The parish council or community group will be given a minimum of 21 days in which to respond to a planning application.
4. We will notify the parish council or community group of amendments to planning applications, unless we consider the amendments to be minor in nature.
5. We can only accept a united or majority view from a parish council or community group in response to a planning application.
6. Our Planning and Environmental Protection Committee meetings are open to the public and members of parish councils and community groups may attend all or part of these meetings (except for confidential items where the public are excluded) as observers.
7. We will write to the parish council or community group to explain our planning decision if it is contrary to their recommendation.
8. We undertake to send the parish council, or community group on request, notification of all planning decisions made within their area.
9. We undertake to notify the parish council, or community group on request, of all planning or related appeals within their area.
10. This Code of Practice is subject to review no more than 3 years from the date of its adoption.



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