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## 1. **INTRODUCTION**

This booklet has been prepared by the Planning, Health and Environment Division of Wyre Forest District Council. Its aim is to explain the purpose of the planning process and the way it operates, specifically in Wyre Forest. It is envisaged that it will be used as a tool by Parish Councils to guide their consideration of planning applications.

The modern planning system as we know it came into being on the “appointed day” July 1st, 1948 when the Town and Country Planning Act 1947 came into force. 43 years later four principal new acts became law, namely the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990; this latter Act dealing purely with legislative “machinery”.

The Town and Country Planning Act 1990 is the “principal Act” and covers the bulk of planning legislation. It continued the established principles of the British Planning System namely that the development and use of land should be controlled in the interests of the general public. It has since been amended and consolidated by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004. Together these Acts comprise the Town and Country Planning code under which the development and use of all land and buildings in England and Wales is now controlled.

However this is not the end of the legislative story as European Regulations are playing a greater part in the decision making process and related legislation such as the Environmental Protection Act 1990 and the and the Human Rights Act 2000 mesh together to form a complex legislative umbrella. In addition the Government continuously updates and issues various circulars and Planning Policy Statements to assist local planning authorities in the planning process.

The Government is concerned to see that planning decisions are made on a transparent, rational and consistent basis. The Planning and Compulsory Purchase Act came into effect on the 28<sup>th</sup> September 2004 and replaced the old style development plans (County Structure Plan and District Local Plan) with a system of Regional Spatial Strategies and Local Development Frameworks. Under the new planning system, the District Council is required to prepare a Local Development Framework (a portfolio of Development Plan Documents), which will guide the development of the District up until 2026.

The District Council is about to commence the first stage of the review of the District Local Plan under this new system, which will be phased in between now and 2011. This will introduce the Core Strategy Development Plan Document – a strategic level document setting out the broad strategy and vision for the development blueprint that will guide planning and related initiatives up until 2026. It will set the context for the preparation of more detailed parts of the Local Development Framework including site allocations and development control policies.

Planning decisions are currently made in line with the saved Adopted Local Plan Policies (2004) until these are replaced by the new Local Development Framework. The West Midlands Regional Spatial Strategy overlays the District level policies and is also a material consideration when determining planning applications. This is also currently under review

A number of Parishes have produced Parish Plans such as Chaddesley Corbett, Rock and Upper Arley. These have been based on local consultation and often deal with similar issues to those in Development Plan Documents i.e. economy, social and environmental matters, in addition to more detailed issues such as and anti-social behaviour problems.

Currently no Parish Plans form part of the District's Development Plan however the parishes will have numerous opportunities to participate in the preparation of Development Plan Documents and in this way Parish Plans can help to influence the preparation of planning policy.

If, in the future, elements of Parish Plans such as Village Design Statements or land use plans are to be adopted by the Council as Supplementary Planning Documents which form part of the District's Development Plan, they will need to consider the wider framework and legislation for planning at a district, regional and national level. They would also need to be subject to consultation and sustainability appraisal requirements.

## **2. DEVELOPMENT CONTROL**

Public interest in the Development Control Process has never been greater. The Planning System is designed to seek to regularise the ambitions and intentions of the use of land by individuals against the wider interests of the community. The Planning System has a positive role to play in guiding development to the right place as well as preventing development which is not acceptable.

Development Control is designed to mediate the conflicts which exist between different customers of the service in the interests of the whole community and not necessarily those of individuals.

Therefore Development Control can be seen as the process by which Communities regulate changes to the physical environment. The consistency and timeliness with which Parish Councils both communicate the views of those whom they represent is vital to the success of this process if it is to be seen as open and fair to all.

### **3. THE NEED FOR PLANNING PERMISSION**

Generally “development” requires planning permission. The meaning of “development” lies at the heart of the Planning Acts. Section 55 of the 1990 Act defines development in the following way:-

“The carrying out of **Building Operations, Engineering Operations, Mining Operations** or other operations in, on, over or under **land**, or the making of a **material** change of **use** of any **buildings** or other **land**”

All of the words highlighted have special meanings in terms of planning and the interpretation of these definitions keeps many planning solicitors and other “experts” amply employed.

However the net result is that certain operations and activities are either development or not by definition. If it is deemed that something is not development then it is outside any planning control. However **not all** development as defined needs express planning permission. The Town and Country Planning (General Permitted Development) Order 1995 confers certain **permitted development** rights onto householders, farmers, telecom operators, industrial premises the Local Authority and other statutory undertakers. In all there are some 33 Classes of Permitted Development.

The Town and Country Planning (Use Classes) Order 1987 and The Town and Country Planning (General Permitted Development) Order 1995 also allow certain **changes of use** of land or buildings without express planning permission.

Similarly many advertisements are exempt from the need to apply for express consent. Development Control Officers are always willing to assist individuals in accessing whether or not the operations or uses which they propose are permitted without the express consent of the Local Planning Authority. Normally it is better for all concerned if this is done in writing.

### **4. TYPES OF PLANNING APPLICATION**

There are three types of Planning application:-

- i) **Full** planning applications which contain full details of the proposed development, and

- ii) Outline planning applications which seek to establish the principle of a particular land use or building operation but reserves the details for a later stage.
- iii) Reserved Matters applications are not a planning application in their own right and only submit matters reserved under an outline permission for the approval of the Local Planning Authority.

Major applications are **required** to be advertised in the press with a notice on the site, but other applications are often advertised in this way. Neighbours with a boundary adjoining the application site are always notified directly. A full copy of the Council's Policy on consultations is set out in Practice Note No. 3: Publicity and Consultation on Planning Applications.

## 5. **OTHER KINDS OF APPLICATIONS**

### **Application for Listed Building Consent**

Buildings which are of Special Architectural or Historic Interest are contained within a list compiled by the Department for Culture, Media and Sport. Such buildings are commonly referred to as being "listed" and there are approximately 1,000 Listed structures in Wyre Forest at present. There are 3 categories of listed buildings, Grade I, Grade II\* and Grade II. There are relatively few Grade I buildings in Wyre Forest. (Harvington Hall for example) and the majority are either Grade II\* or Grade II. Buildings are periodically added to the list and the District Council has powers to "spot list" buildings by serving a Building Preservation Notice. There is also a provision to 'de-list' buildings in certain circumstances.

Listed Building Consent is needed to carry out any demolition, alteration or addition to the inside or outside of listed buildings where they affect the character or appearance of that building. Repairs to listed buildings may be exempted but it is advisable for anyone thinking of carrying out any works to a listed building or anything within its curtilage to contact the Planning Health and Environment Division as soon as possible. It should also be noted that planning consent may be required in addition to listed building consent and vice-versa. When considering a planning application which affects a listed building special regard should be had to the likely effect upon the setting of that building (see PPG.15 - Planning and The Historic Environment - September 1994). Listed Building applications always have to be advertised in the press with neighbour notification the same as for planning applications.

The District Council has also designated locally listed buildings. These are buildings recognised as being of local interest, either for their historical association or their architectural style. Unlike statutory listed buildings, they are not graded and not given any protection through law but the Local Plan contains planning policies which seek to ensure that they are safeguarded. No special permission has to be sought when undertaking works, unless planning permission is required, as with any other unlisted property.

### **Application for Conservation Area Consent**

There are currently 16 Conservation Areas in Wyre Forest which are based on the following settlements:-

<b>Name of Conservation Area</b>	<b>Year Designated</b>
<b>Urban Areas</b>	
Areley Kings (Stourport on Severn)	1993
Bewdley	1968
Blakebrook (Kidderminster)	1993
Church Street (Kidderminster)	1993
Gilgal (Stourport on Severn)	1991
Stourport on Severn 1	1970
Stourport on Severn 2	1976
Vicar Street (Kidderminster)	2003

<b>Rural Areas</b>	
Broome	1990
Chaddesley Corbett	1969
Churchill	1991
Harvington	1991
Ribbesford	1991
Upper Arley	1991
Wolverley	1972
The Staffordshire and Worcestershire Canal	1978

Conservation Area Consent is required for works involving the demolition of unlisted buildings which fall within a designated Conservation Area. Where Conservation Area Consent is required it should be accompanied by a planning application for the redevelopment of the site.

In considering either planning applications or applications to demolish all of a building in a Conservation Area special regard is had to the nature of the proposal to ensure that it preserves or enhances the character of the Conservation Area and the views into and out of the area.

Development in Conservation Areas is often advertised in the press and dependent on its scale neighbours are notified the same as for planning applications.

### **Felling of Trees in a Conservation Area**

Trees are important to the character of historic areas.

Before trees of a certain size (75mm + measured at 1.5m above ground) are felled, topped or lopped in a Conservation Area it is necessary to give prior written notice to the Local Planning Authority (a Section 211 Notice). The reason is to establish whether the trees concerned are worthy of further protection by placing a Tree Preservation Order on individual specimens or groups of trees. Parish Councils are invited to comment on such Notices. If Parish Councils are aware of the indiscriminate and unauthorised removal of trees within Conservation Areas they are requested to contact the Development Control Manager immediately so that the situation can be checked.

### **Application to Display an Advertisement**

Many advertisements can be displayed without prior approval. Such advertisements benefit from a “deemed” approval under the Advertisement Regulations 1992. A guide entitled “Outdoor Advertisements and Signs” is available, free, from the Planning Health and Environment Division for anyone wishing to display an advertisement. Where “express consent” is necessary an application is submitted to the Local Planning Authority and in determining whether the advert is acceptable special regard will be had to the impact of that advertisement upon the visual amenity of the area and upon public safety (national guidance is given in PPG.19 “Outdoor advertising”).

There are no requirements to carry out consultations on advertisement applications but it is practice to advertise them locally by way of a site notice.

### **Certificate of Lawfulness for an Existing or Proposed Use or Development**

An application can be made for a Certificate of Lawfulness either for development or uses which are proposed to take place or to regularise an existing building or use.



To receive a certificate for an existing use it will be necessary to demonstrate one of the following:-

- i) Uninterrupted use of land or building(s) for 10 years prior to the time of application; or
- ii) That operations (i.e. building works) have been completed for 4 years, or
- iii) The conditions of a planning permission have been breached without enforcement action by the Local Planning Authority for at least 10 years.

The grant of such a Certificate is effectively the same as the grant of a planning permission. Limited consultation may be carried out to assist in the establishment of facts depending on the merits of each application. It is important to note that consideration of such Certificates can only be made on the legal test of evidence, i.e. 'the balance of probability' and no regard can be given to the merits or otherwise of the development.

To receive a Certificate for a proposed use or operation is largely a matter for technical and legal interpretation. Applicants will therefore either be notified that planning permission is or is not necessary for what they propose. These determinations are legally binding on the Local Planning Authority.

Applications for proposed uses or operations will not be the subject of public notification or advertisement.

### **Farming and Forestry Notifications**

Farmers continue to enjoy a large range of permitted development rights to erect buildings, make roads, quarry stone, dig ponds and move soil around etc., in the interests of their farming enterprise.

Whilst some farm buildings and operations require normal planning permission, most notably livestock buildings near to houses and development close to roads, the majority of new development is permitted. However, in most cases a simplified notification needs to be submitted to the Local Planning Authority giving them 28 days in which to consider the siting and design aspects of the development.

These notifications are not subject to public notification unless further details are sought and in such cases a site notice is displayed. Parish Councils will be notified of the Local Planning Authority's decisions on notifications on the monthly decisions list.

### **Notification of Demolition**

While demolition is now considered to be 'development' it is generally permitted without express permission. However, when someone wishes to demolish a dwelling house or a building attached to a dwelling house they have to give 28 days notice of their intent to the Local Planning Authority to enable the Council to consider the means of demolition and site restoration.

These notifications are not subject to public consultation but the applicant is required to display a site notice to advertise the demolition

Works of demolition and dangerous structures are otherwise covered by the Building Regulations.

### **Hazardous Substances Consent**

Permission is required from the Local Planning Authority for the siting and storage of certain quantities of defined hazardous substances.

### **Tree Preservation Orders**

The Council has powers to make Tree Preservation Orders in respect of individual specimens or groups of trees. It is an offence to carry out works to a protected tree without the necessary approval of the Council.

Limited consultations, including the Parish Council and Ward Members, are carried out when a request is received to carry out works or to fell a tree covered by a Tree Preservation Order.

## **6. THE PLANNING PROCESS**

The diagram attached at **Appendix 1** shows the course of a typical development proposal.

## **7. SPEED AND EFFICIENCY**

The government monitors the speed of processing planning applications as it considers this to be a good indication of the efficiency of the development control process. The Department for Communities and Local Government (DCLG) requires all Local Planning Authorities to achieve nationally set targets for handling planning applications. These are:

- 60% of major planning applications to be determined within 13 weeks;
- 65% of minor applications to be determined within 8 weeks; and
- 80% of other applications to be determined within 8 weeks

Major applications are defined as:

- residential developments of 10 or more dwellings;
- the provision of a buildings or buildings where the floorspace to be created is 1000 square metres or more; or
- where the site area is 1 hectare or more.

Minor applications include applications for less than 10 dwellings and those applications for retail, office or industrial floorspace where the floorspace does not exceed 1000 square metres.

Other applications include:

- changes of use;
- householder extensions;
- advertisement consent;
- listed building consent; and
- conservation area consent.

In the light of the above national targets the Department for Communities and Local Government (DCLG) advised Wyre Forest District Council that it had fallen below the threshold for determining major applications within the target of 13 weeks for the year commencing 1 April 2004. The Council became a Standards Authority for major applications for the year up to the end of March 2007.

In the light of this DCLG designation the Council implemented a series of steps to form a Recovery Plan to reverse this poor performance and as from April 2007 the Council is no longer a Standards Authority. Perhaps the most significant part of the Recovery Plan has been the new scheme of delegation.

The scheme of delegation governs which applications are presented to members of the Planning (Development Control) Committee. Alternatively the scheme indicates which decisions can be delegated to officers to determine. It is considered that the current scheme strikes a balance between the need to achieve a speedy decision and the public's desire to see significant applications aired at Committee.

The current scheme of delegation is at **Appendix 2**. With respect to comments submitted by the Parish it is important to note that:

1. If the Parish Council raises no objections  
All minor and other applications will be delegated to officers to determine if the application accords with the latest scheme of delegation
2. If the Parish Council objects  
The application will be reported to the Planning (Development Control) Committee should it be recommended for approval

Furthermore the Parish can also speak at the Committee meeting if:

- it is necessary to report the application to Committee; or
- the Parish Council has made a request to speak within 21 days of the validation of the application (in accordance with Practice Note No. 10: Protocol on Parish Representation at Planning (Development Control) Committee – see **Appendix 3**).

As from September 2003 the Council has allowed members of the public to speak at the Planning (Development Control) Committee should they have met certain criteria.

The Wyre Forest District Council regularly determines over 1,200 planning applications per year and as partners in this process, there is an expectation that Parish Councils will continue to contribute to this good performance both in the quality and timeliness of their consultation responses.

## **8. CONSULTATION**

Article 13 of the Town and Country Planning (General Permitted Development) Order 1995 provides the framework for notifying Parish Councils of Planning Applications and this advises that Parish Councils shall as soon as practicable notify the Local Planning Authority who are determining the application whether they propose to make any representations about the manner in which the application should be determined, and shall make any representations to that Authority within 14 days of the notification to them of the application. The District Council cannot determine an application within 14 days unless the Parish do not propose to make any representations or their representations have been received by the Council.

Parish Councils receive an electronic weekly list of all applications received throughout the District. In addition all Parish Council's receive a cd containing details for each development proposal in their Parish area either on a weekly or monthly basis. Applications which it is envisaged following initial scrutiny are likely to be delegated by officers will be marked (DEL) on the weekly list. The District Council is obliged by law to carry out certain statutory consultations and uses the display of site notices and individual letters to seek the views of local residents. Some applications are also advertised in the local press.

Parish Councils and neighbours have 21 days in which to comment upon applications but in some circumstances there is the provision for an extended period by agreement.

If an application is to be reported to Committee there is in practice often an extended period for comment as they can be received right up to the date of the Planning (Development Control) Committee meeting. This obviously means that these comments will not appear in the Officer's report but an addenda sheet is produced for circulation at the meeting. Late comments often lead to delays which can be avoided by telephoning in comments to the Development Control Officer. If the Wyre Forest District Council is to continue to deal with planning applications expeditiously the assistance of Parish Councils is required to ensure that comments are received within the specified consultation period. This is particularly important on minor applications as comments received after 21 days may not be taken account in the final decision delegated to officers.

Again in order to meet the national and local targets your co-operation is essential.

<b>Type of application</b>	<b>National Target</b>	<b>Wyre Forest Local Target</b>
Major	60%	65%
Minor	65%	80%
Other	80%	90%

## **9. QUALITY**

It is the Council's policy and practice to negotiate towards an approval unless an application is obviously unacceptable in the light of established policy. Negotiations on planning applications are designed to meet the legitimate concerns of consultees and to improve the quality of the built environment. It is government policy that, with the exception of Green Belt areas, applications will be approved unless they contradict established policy. In the Green Belt, development will not normally be permitted, unless there are good reasons to do so.

## **10. THE PLANNING DECISION**

Having reached a decision upon a planning application the Council can:-

- i) Grant planning consent without conditions (other than standard time conditions); or
- ii) Grant planning consent subject to appropriate conditions; or
- iii) Approve reserved matters (following a previous outline consent); or
- iv) Refuse planning permission

In certain circumstances, personal or temporary permissions are granted.

A full planning permission and listed building consent expires after 3 years unless the development approved has commenced.

An outline consent requires the submission of Reserved Matters for approval within 3 years and thereafter the development must start within 3 years of the original outline consent or 2 years from the date of approval of the final reserved matters.

Permissions which have been started, even partially, last forever.

Advertisement approvals last for 5 years and then a renewal is required.

All planning applications can be renewed within their life, however once the permission has lapsed a new planning application is necessary.

Article 13 of the Town and Country Planning (General Permitted Development) Order 1995 provides that the District Council shall notify the Parish Council of the terms of the decision. All Parish Councils are provided with the monthly decision list.

## **11. CONDITIONS**

It is uncommon for the Authority to grant an unconditional approval and it is normal for conditions to be attached in accordance with the requirements of Circular 11/95.

Any conditions must be:-

- a. necessary
- b. relevant to planning
- c. relevant to the development to be permitted
- d. enforceable
- e. precise
- f. reasonable

A full list of the standard conditions used in Wyre Forest District Council is available from the Development Control Manager on request.

## **12. SECTION 106 AGREEMENTS**

Sometimes planning conditions are not appropriate and a separate legal agreement is necessary. Section 106 (of the Town and Country Planning Act) provides for Obligations (or Agreements) to secure both on and off site improvements.

In February 2007 the Council adopted a Supplementary Planning Document on Planning Obligations which sets out the Council's expectations with respect to different types of development. Such agreements are able to secure specific improvements or the payment of monies towards improvements if they are relevant to planning and directly related to the proposed development. The types of improvements include:

- the provision of affordable housing;
- contributions towards biodiversity or open space;
- the provision of public art; and
- off site highway works

### **13. WHO MAKES THE DECISIONS?**

The planning decision will be made by either:-

- i) The Planning (Development Control) Committee
- ii) The Development Control Manager, on behalf of the Head of Planning, Health and Environment if in accordance with the scheme of delegation. Applications which are likely to be delegated are marked (DEL) on the weekly list.
- iii) Where the proposal is for a departure from the Development Plan and Members of the Planning (Development Control) Committee are minded to approve the application against officer recommendation the application is deferred for one cycle to allow consideration by all Members prior to final determination. This is in accordance with Practice Note No. 8: Dealing With Departure Applications
- iv) Where a planning application raises issues of "more than local significance" the Secretary of State may decide that he should determine the application himself and "call in" the application.

The Planning (Development Control) Committee meets on one Tuesday evening every month at 6.00 p.m. in the Earl Baldwin Suite, Duke House, Kidderminster. These meetings are advertised and open to the public. The Council's Officers prepare an agenda for the meeting which contains reports pertaining to each application under consideration including a précis of the consultation responses received. A verbal report is also made at the meeting on the major applications and for those applications where there are public speakers in order to assist in the discussion of the proposals. Practice Note No. 13: Public Speaking at Planning (Development Control) Committee explains the public speaking procedure.

Furthermore, since April 2001 Parish Council representations may be heard subject to the agreed protocol on representations (see the attached Practice Note No. 10: Protocol on Parish Representation at Planning (Development Control) Committee at **Appendix 3**).

Sometimes Members consider it appropriate to view a proposal on site before reaching a decision and they will therefore defer a decision until they have had an opportunity to visit the site. The Applicant will be asked to allow access to the site itself. Parish Councils are generally invited to attend this fact finding visit. A decision is not made at these meetings and a further report is made to the next available meeting of the Committee.

#### **14. AFTER THE DECISION**

Unless the decision is subject to a Section 106 the decision will generally be issued before the end of the week following the Committee meeting. Parish Councils will receive a copy of the monthly decision list so that they can keep abreast of the developments and inform their Parishioners accordingly.

#### **15. SUBSEQUENT CHANGES**

Should a developer change his mind about the design or other details of the approved scheme then he should notify the Local Planning Authority of these changes.

Major changes require a fresh planning application. If this is submitted within 12 months of the decision then there may be an opportunity to submit without the payment of another planning fee; after 12 months a fee will be necessary.

Minor changes or insubstantial amendments to plans do not necessarily require a fresh application. If these relate to uncontroversial proposals then it is at the discretion of the Development Control Manager to approve the details as a 'minor amendment' to the original consent. However, where these relatively minor changes affect a development which received objections, relating say to the element of the scheme to be changed, it is usual to reconsult the Parish Council and/or local residents affected.

The matter will only be decided upon by the Planning (Development Control) Committee where objectors have indicated their wish to speak in accordance with the Council's Practice Note No. 13 – Public Speaking at Planning (Development Control) Committee. There is no right of appeal where these amendments are refused.



## 16. **APPEALS**

Within 6 months of receiving a planning decision (6 weeks for an advertisement consent or refusal) an applicant may appeal to the Secretary of State for the Environment against the refusal, or about a condition imposed upon a permission.

The appeal is passed to the Planning Inspectorate, based in Bristol.

Appeals can be dealt with in 3 ways, by:

- i) Written Representations,
- ii) An Informal Hearing, or
- iii) A Public Inquiry

The majority of appeals are determined by Inspectors who consider written submissions by the Local Planning Authority and the Appellant. In most cases the inspector visits the site. In a few cases involving major or important proposals the inspector first reports to the Secretary of State who will make the final decision. Inspector's decisions are given in writing.

There is no further right of appeal and the Inspectors decision is binding unless he has "erred in law" in which case there may be reason to go to the high court for a ruling, but this does not change the planning decision.

Further information on planning appeals can be obtained in the free Planning Inspectorate booklet 'Guide to taking part in planning appeals' which is available on request from Duke House.

## 17. **MONITORING AND ENFORCEMENT**

Once planning permission has been granted the development can only be carried out in accordance with the approved plans and the planning conditions. If there is a deviation from the plan which has not been agreed, or conditions are not complied with, then there is considered to be a "breach of the planning approval".

Similarly if someone carries out development without planning approval then this is considered to be a "breach of planning control". To carry out development without planning permission is not however a criminal offence but it does expose the owner of the land to possible Enforcement Action. Carrying out unauthorised works to a Listed Building or the unauthorised display of an advertisement is a criminal offence and can result in immediate prosecution action.

The Council has signed up to the Government's *'Enforcement Concordat'* and has an approved proactive Enforcement Policy which was updated in May 2006. All investigations follow this policy and copies can be obtained from the Development Control Manager. When a breach of planning control is reported to the Local Planning Authority, or otherwise discovered, it is investigated and a report is made to the Planning (Enforcement) Committee. The Committee can either resolve to take no further action if the development is acceptable and would have been given planning permission if an application had been made, or it can decide on Enforcement Action. There is a right of appeal to the Planning Inspectorate against an Enforcement Notice within one month of the service of that notice.

If there are planning conditions which are not being complied with the Planning (Enforcement) Committee can resolve to serve a "Breach of Condition Notice". There is no right of appeal against such a notice and the matter goes to the Magistrates Court, where fines can be imposed.

If the Council fails to receive a response from a landowner to reasonable requests for information in conjunction with a suspected breach of planning control then it can serve a "Planning Contravention Notice" to request certain information. This is also a matter for the Magistrates and there are fines for not replying or for giving false or misleading information.

It should be stressed that enforcement action is taken as a last resort and only after negotiations have failed but nevertheless it is an essential part of the development control process for it ensures that everyone is treated evenly and fairly in the interests of the wider community (government guidance is given in Circular 10/97 and PPG 18 'Enforcing Planning Control').

## **18. THE OMBUDSMAN**

Where anyone feels that they have been treated unfairly by the Local planning Authority then they can make a complaint to the "Ombudsman" (the Commissioner for Local Administration in England). He is able to investigate these complaints and can find 'no maladministration; or 'maladministration' by the Council and, in the latter case, with or without injustice to the complainant. The "Ombudsman" can suggest, but not enforce, remedies in the case of maladministration. The "Ombudsman" cannot question the policies of the Council nor decisions taken, only their administration.

The address of the Ombudsman is:-

The Local Government Ombudsman,  
The Oaks, No 2  
Westwood Way,  
Westwood Business Park,  
Coventry CV4 8JB      Tel: (0247) 6820000  
Fax: (0247) 6820001

e-mail: enquiries.coventry@lgo.org.uk

## **19. MAKING YOUR VIEWS COUNT**

Parish Councils are consulted on every application in their area. The views of Parish Councils are invaluable to the Local Planning Authority and are one measure of expressing local feeling and opinions.

For these views to be registered they must reach the Council on time and if you feel that you cannot meet the 21 day deadline due, for example, to the arrangement of your meetings and you wish to comment upon an application then please let the Planning Officers know why you are having problems and when your comments will be available. Some Councils overcome the difficulty of monthly meetings by delegating the duty of reply to a small number of Council Members who can act between meetings on relatively minor matters, such as domestic extensions. Others hold regular briefing meetings with the Planning Officers which is always a good source of information on both sides.

It is also useful to nominate a spokes-person, perhaps the Chairman or Vice Chairman, or Clerk to speak directly to the Planning Officers to discuss the applications, particularly if you feel that you have insufficient information to make a sound judgement on the acceptability of a proposal. We always have one Development Control Officer available during office hours to answer your enquiries and are always willing to assist you in reaching an early decision.

In 2006 following consultation the Council introduced a new consultation sheet for Parish council comments to assist with the new scheme of delegation as part of the Recovery Plan. It requires the Parish to make a clear indication as to whether they recommend approval or raise objection to each application.

Parish Councils are particularly helpful in drawing attention to local circumstances which may not be immediately apparent to the Planning Officer dealing with an application but the planning decision will always be based on the individual planning merits of the application which must accord with the development plan and other material issues.

The Development Plan at present is the Regional Spatial Strategy, the County Structure Plan, and Local Plan, and the planning policies contained in these plans have been produced in accordance with Government guidance following public consultation. Consequently the Planning (Development Control) Committee is bound to place considerable weight upon the provisions of these plans and there will need to be very good planning reasons to set them aside in a specific case.

Parish Councils have in the past complained that their views are not given enough weight in the final analysis which leads to the making of a decision whether or not to grant planning permission. This is not the case. However a Parish Representative is permitted to make a short presentation direct to the Planning (Development Control) Committee to explain the reasons for their views. This is providing that the Parish notify the Development Control Manager within 21 days of the application being validated as highlighted in Practice Note No. 10: Protocol on Parish Representations at Planning (Development Control) Committee (see **Appendix 3**). They should not be unduly disappointed if the Committee, with its broader perspective, does not always agree.

## **20. WHAT ARE CONSIDERED TO BE RELEVANT MATTERS TO A PLANNING DECISION?**

In deciding whether to grant planning permission the Council and the Parish Council must refer to **central government advice**, the provisions of Regional Spatial Strategy the **Structure Plan, the Local Plan** and all other **material considerations**. Whilst the Government remains largely in favour of development it must be within the context of these plans and policies.

Planning Policy Guidance notes (PPG's) and Planning Policy Statements (PPS's) produced by the government play an important part in the determination of planning applications. These cover many areas of planning policy and are materials considerations.

### General Comments

The plans and policies referred to above are fundamental to all planning control. Planning decisions will be strongly influenced by adopted plans. Therefore there is little point in objecting to the principle of building houses in an area specifically allocated for that purpose in the Structure Plan and Local Plan. The time to do this is when the District Local Plan is reviewed as part of the emerging Local Development Framework. Active participation in the consultation phases is the best way of ensuring the future development of your Town or Village is as you wish to see it.

### Other Material Considerations

Listed below are some of the more important matters which are taken into account when considering an application.

### Buildings and Structures

- a. Siting:  
Including relationship with other buildings and spaces.
- b. Design and external appearance:  
Including colour and texture of external materials, architectural details such as windows and doors; the overall size, shape and proportion of the building and its appropriateness to the locality.
- c. Whether the proposed use of the building is appropriate to the area.
- d. Effect on existing buildings in the immediate area, particularly listed buildings, ancient monuments and building in Conservation Areas.

### Environment and Amenity

- a. The effect on the landscape and environmental quality of the surrounding area.
- b. The affect upon the privacy and amenity of residents of existing or proposed development.
- c. The provision of landscaping.
- d. General environmental consideration such as peace and quiet, amenity of neighbourhood, generation of litter, smell and vibration.
- e. The protection of existing natural features where they are of visual or scientific importance.
- f. Requirements for restoration or reclamation of land following temporary uses.
- g. The effect of developments on the quantity and quality of water.
- h. The effects on the safety of individuals and property from any development involving the use or storage of hazardous materials, including hazardous wastes.
- j. The stability of the land and whether the soil is contaminated.

### Highway and Traffic

- a. The effects of a development on speed, safety, and free flow of existing traffic and vehicular/pedestrian conflict.
- b. The means and design of access to a development.
- c. The capacity of existing highways to safely carry increased traffic volumes.
- d. Parking facilities both for delivery vehicles and others.
- e. Provision of turning areas.
- f. The effect of development on the line of proposed new roads and proposed road improvements.
- g. The blocking of public footpaths and bridleways.

### General Considerations

There are other general matters which may be taken into consideration including:

- a. The potential for the development to cause flooding.
- b. Provision of facilities for the disabled.
- c. The establishment of precedent which would adversely prejudice the Committee's freedom to determine future cases.
- d. In certain cases, the overall effects on the economic, social or cultural life of an area:
  - \* the introduction of large scale housing growth in a small village
  - \* the effects on a town centre of out of town retail developments
  - \* the introduction of a holiday caravan development into a quiet rural area
- e. The economic effect of providing public services e.g. power lines and refuse collection
- f. Means of surface water and foul water drainage.

- g. Retaining the existing use of land and buildings beneficial to the community as a whole.

**21. MATTERS NOT CONSIDERED RELEVANT TO A PLANNING DECISION**

Listed below are some of the matters which are not to be taken into account when considering an application:-

1. Matters Controlled under Alternative Legislation
  - a. Including public health, consumer protection and health and safety.
  - b. The quantity and quality of the water supply. However the effect of the water supply to other consumers is a proper consideration.
2. Effects on Other Properties
  - a. Effect on private rights.
  - b. Values of neighbouring properties.
  - c. The retention or protection of an individual's view.
  - d. The direct effects of competition on similar or other business premises.
3. Circumstances of the Applicant
  - a. The personal character, health, origin of the owner, occupant, applicant or developer, including their financial situation.
  - b. The cost of the site to the applicant - i.e. there is no valid planning argument that one site is cheaper to develop than another.
4. Ownership of Land
  - a. Ownership of land or buildings is not generally relevant to a decision. An application can be made by someone who does not own a site, providing they notify the owner.
  - b. The fact that the applicant does own the site (and, perhaps, no other site) is not a valid factor in a decision.

5. General

- a. Moral issues e.g. in relation to public houses, amusement arcades, betting shops. (There may be valid objections to these on grounds of noise etc., but not their existence per se).

**22. FURTHER INFORMATION**

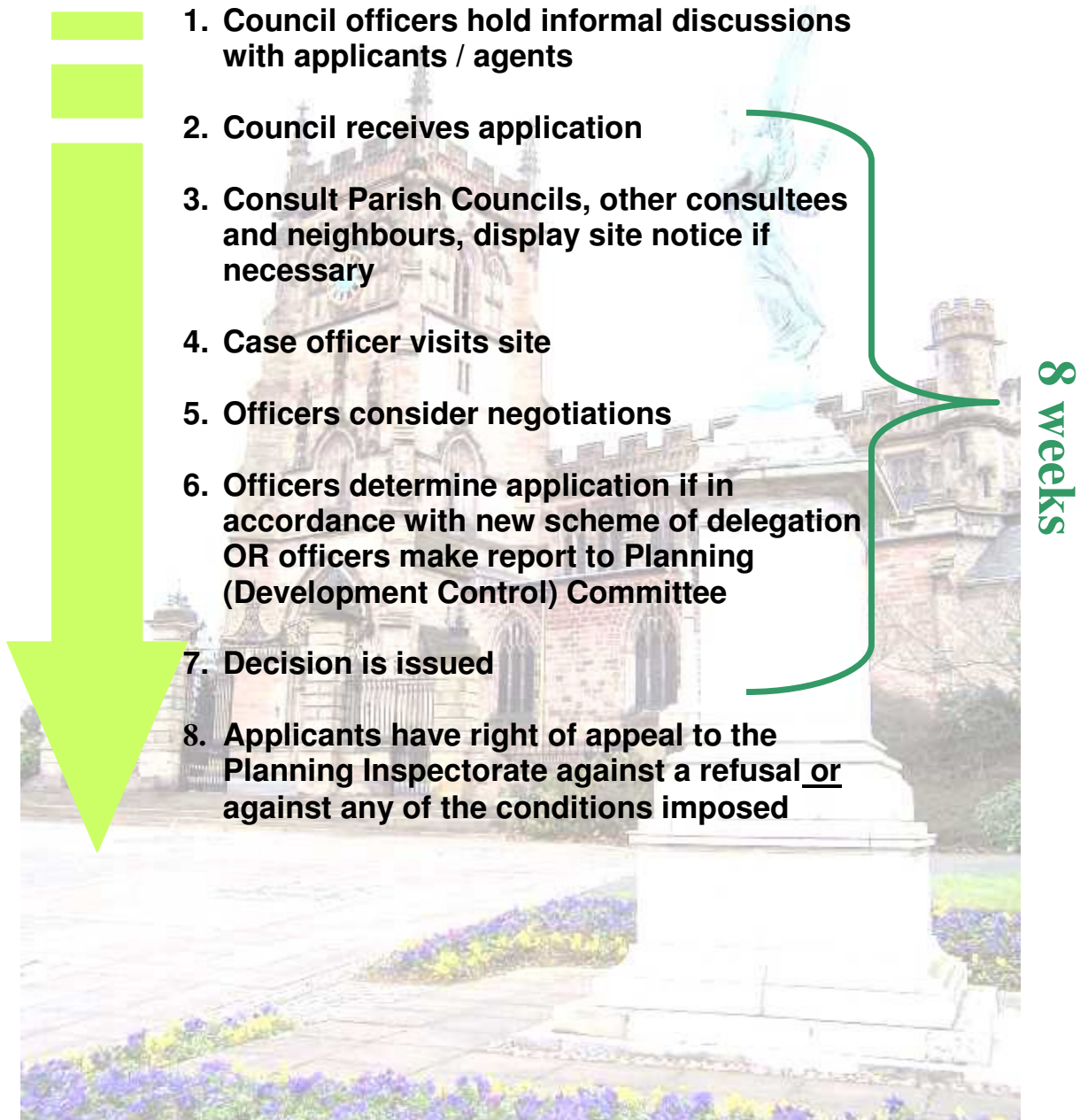
We hope this guide has helped you.

If you require further information or wish to discuss this document or any other planning related matter then do not hesitate to contact the Development Control Manager, direct dial 01562 732515.

Wyre Forest District Council,  
Planning, Health and Environment Division,  
Duke House,  
Clensmore Street,  
Kidderminster,  
Worcs. DY10 2JX  
Telephone No: (01562) 732928 / Fax No: (01562) 732556



## The Development Control Process



WYRE FOREST DISTRICT COUNCIL

**Scheme of Delegation to Officers**  
**Planning (Development Control) Committee**  
**Planning (Enforcement) Committee**

This Scheme of Delegation is to delegate to the Heads of Planning, Health & Environment and Legal & Democratic Services, or their nominated officers, authority in respect of all applications, notifications, service of notices and orders or other matters requiring a decision by the Council under the Council's published policy and practice notes and the following legislation, regulations and guidance (and to any re-enactment or replacement of the statutes, or regulations or guidance or any modifications thereof):

- Town & Country Planning Act 1990 (as amended)
- Town & Country Planning (General Permitted Development) Order 1995
- Town & Country Planning (General Development Procedure) Order 1995
- Planning (Listed Buildings & Conservation Areas) Act 1990 (as amended)
- Building Act 1984
- Circular 5/2000: Planning Appeals: Procedures (including Inquiries into Called in Planning Applications)
- Circular 18/1984: Crown Land & Crown Development
- Town & Country Planning (Environmental Effects Impact Assessment) Regulations 1999
- Highways Act 1980
- Planning (Hazardous Substances) Act 1990
- Hedgerow Regulations 1997
- Anti-Social Behaviour Act 2003 (Part 8)
- Goods Vehicles (Licensing of Operators) Act 1995
- Goods Vehicles (Licensing of Operators) Regulations 1995
- Town & Country Planning (Control of Advertisements) Regulations 1992
- National Parks and Access to the Countryside Act 1949
- Wildlife and Countryside Act 1981
- Caravan Sites and Control of Development Act 1960
- Acquisition of Land Act 1981
- Telecommunications Act 1991
- Electricity Act 1989
- Planning and Compensation Act 1991
- Land Drainage Act 1991

- Ancient Monuments and Archaeological Areas Act 1979
- Local Government Planning and Land Act 1980
- Planning and Compulsory Purchase Act 2004
- Clean Neighbourhoods and Environment Act 2005

Except in the following:

1. A Wyre Forest District Councillor makes a written request for an application to be considered by the Planning (DC) Committee within 21 days of the date of validation of the application.
2. A Parish Council makes a request to speak on an application to be considered by the Planning (DC) Committee within 21 days of the date of validation of the application.
3. The Head of Planning, Health & Environment or his/her nominated officer considers that an application should be considered by the Planning (DC) Committee.
4. The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council.
5. The applicant is a serving Wyre Forest District Council Councillor or is a serving Councillor representing Wyre Forest District on Worcestershire County Council.
6. The applicant is a serving Wyre Forest District Council Officer or is an immediate family member of a serving Wyre Forest District Council officer as defined in the Officers' Planning Code of Good Practice.
7. Any 'major' planning application as defined by the Town & Country Planning (General Development Procedure) Order 1995.
8. Any planning application representing a departure from the Development Plan which is recommended for approval.
9. Any application where a statutory or non-statutory Consultee (including Parish Councils) has responded to the application in writing with a clearly made planning objection and the application is recommended for approval.
10. Any application where a request by a third party has been made to speak at the Planning (DC) Committee, within 21 days of the date of the neighbour notification letter or the site/press notice, and the request accords with the Council's published policy and procedure for speaking at Planning (DC) Committee.

11. Applications and notifications for telecommunications and other satellite equipment made by or on behalf of a recognised telecommunications operator, where the recommendation is to approve.
12. Applications involving proposed S106 obligations (except where the only provision relates to a payment for education facilities agreed under the adopted Supplementary Planning Guidance).
13. The service of Enforcement and Stop Notices (but not including Temporary Stop Notices or Enforcement Notices relating to retrospective developments where planning permission has been refused)

and subject to:

- A All delegated decisions being in accordance with the Development Plan policies.
- B The following being first agreed with the Chairman or in his/her absence, the Vice Chairman of the Planning (DC) or Planning (Enforcement) Committees as appropriate:
  - Service of Building Preservation Notices
  - Service of Listed Building Enforcement Notices
  - Service of Temporary Stop Notices
- C The following consultation and/or notification (in addition to statutory or published requirements) having first been carried out:
  - The relevant Parish Council and Ward Members in respect of the removal of hedgerows under the Hedgerow Regulations 1997.
  - The relevant Parish Council, neighbours and other interested parties (at the discretion of the Head of Planning, Health & Environment) in respect of 'minor' amendments made to applications previously approved.
  - The relevant Ward Members in respect of notifications made by statutory undertakers under Part 17 of the Schedule to the General Permitted Development Order 1995.
  - The relevant Ward Members and Parish Councils in respect of applications for works to trees subject to Tree Preservation Orders and S211 Notices for works to trees in Conservation Areas.

**PRACTICE NOTE NO. 10: Protocol on Parish Representation at Planning  
(Development Control) Committee**

**INTRODUCTION**

**LEGAL POSITION**

**WYRE FOREST PROCEDURES**

## INTRODUCTION

The Wyre Forest District Council is continuously reviewing and seeking to improve service delivery and aims to modernise the way that it handles the decision making process on planning applications. In particular, wishing to increase public representation in the open and democratic process by which planning applications are determined, it has been agreed that Parish Councils (term to include Town Councils and Kidderminster Charter Trustees) be invited to attend Planning (Development Control) meetings and to speak on applications of interest to them. This protocol is drawn up in pursuance of the Parish Charter which seeks partnership and closer working relations at all levels of Local Government.

## LEGAL POSITIONS

Article 13 of the Town and Country Planning (General Development Procedure) Order 1995 requires that *“where the Council of a Parish or Community are given information in relation to an application ... they shall, as soon as practicable, notify the Local Planning Authority determining the application whether they propose to make any representations about the manner in which the application should be determined”*

Normally, such responses take the form of a written recommendation by the Parish or Community Council, but many Local Planning Authorities have adopted the good practice of enabling representations to be made in person at Committee.

Statutorily 14 days needs to be given to Parish and Community Councils to respond; however, Wyre Forest District Council has extended that to 21 days to afford more time for meaningful comment.

Planning Applications where Parish and Community Council comments have been sought will not be determined until:

- a) the Parish or Community Council inform the Local Planning Authority that they do not intend to make representations;
- b) representations are made by that Council; or
- c) the period of 21 days for responses to be made has elapsed.

Parish or Community Councils are all notified of the final decision made on applications.

## WYRE FOREST PROCEDURES

Participating Parish Councils shall have signed up to this protocol before exercising their rights to be heard.

One Member of a participating Parish Council or/or the Mayor of Kidderminster or his/her representative shall represent the Parish and shall be permitted to address the Planning (Development Control) Committee on any application upon which they have formally been consulted subject to:-

- Notification in writing to the Development Control Manager, or by telephone [direct line 01562 732515] no later than 21 days after the Valid date as specified on the consultation sheet for the application.
- The presentation shall take place immediately after the Officer comments, unless there are third party speakers when the Member will speak after the objector and the supporter/applicant/agent.
- The presentation shall be confined to the matters raised in the written consultation response made by the Parish Council and no new arguments or factual information shall be introduced.
- A time limit of up to five minutes being placed on the presentation.
- No questions being addressed to the Officers or Members of Planning (Development Control) Committee at the meeting.
- Members being able to put questions to Parish Councillors
- The Parish Councillor, having been heard shall take no further part in the debate and shall not have right of reply or to sum up.
- The Parish Councillor shall not be entitled to vote on the applications to be decided.
- A Wyre Forest District Council Member may represent a Parish Council or the Mayor of Kidderminster under this protocol or they may speak to the Planning (Development Control) Committee as a Member of that Committee but they may not do both on the same item.
- No Parish Councillor or Mayor of Kidderminster may speak to the Planning (Development Control) Committee if they have an 'interest' in that application. Any such interest shall be declared at the beginning of the meeting.
- The Chairman's ruling on any matter affecting this protocol shall be final.

Background Documents:

1. TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

Produced by the  
DEVELOPMENT CONTROL MANAGER  
PLANNING, HEALTH AND ENVIRONMENT DIVISION  
WYRE FOREST DISTRICT COUNCIL  
DUKE HOUSE  
CLENSMORE STREET  
KIDDERMINSTER  
WORCS. DY10 2JX



<p style="text-align: center;"><b>DEVELOPMENT CONTROL INDEX FOR PRACTICE NOTES NOS. 1-18</b></p>
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2. Officer Site Visits, Meetings and Good Housekeeping
3. Publicity and Consultation on Planning Application and Amendments
4. The Registration and Validation of Planning Applications
5. Dealing with Trees and Hedgerows
6. Charging for Planning Advice and Enquiries
7. Dealing with Pre-application Enquiries
8. Dealing with Departure Applications
9. Dealing with Planning Obligations
10. Protocol on Parish Representations at Planning (Development Control) Committee
11. The Provision of Affordable Housing – A Guide for Officers and Developers
12. Protocol for planning (Development Control) Committee Site Visits
13. Public Speaking at Planning (Development Control) Committee
14. Protocol on Consideration of Delegated Planning Applications by Ward Members
15. The Development Team Approach for Major Applications
16. High Hedges
17. Guidance for Developers submitting Major Planning Applications
18. Guidance for Producing Design and Access Statements