

**WYRE FOREST
DISTRICT COUNCIL**

THE CABINET

A G E N D A

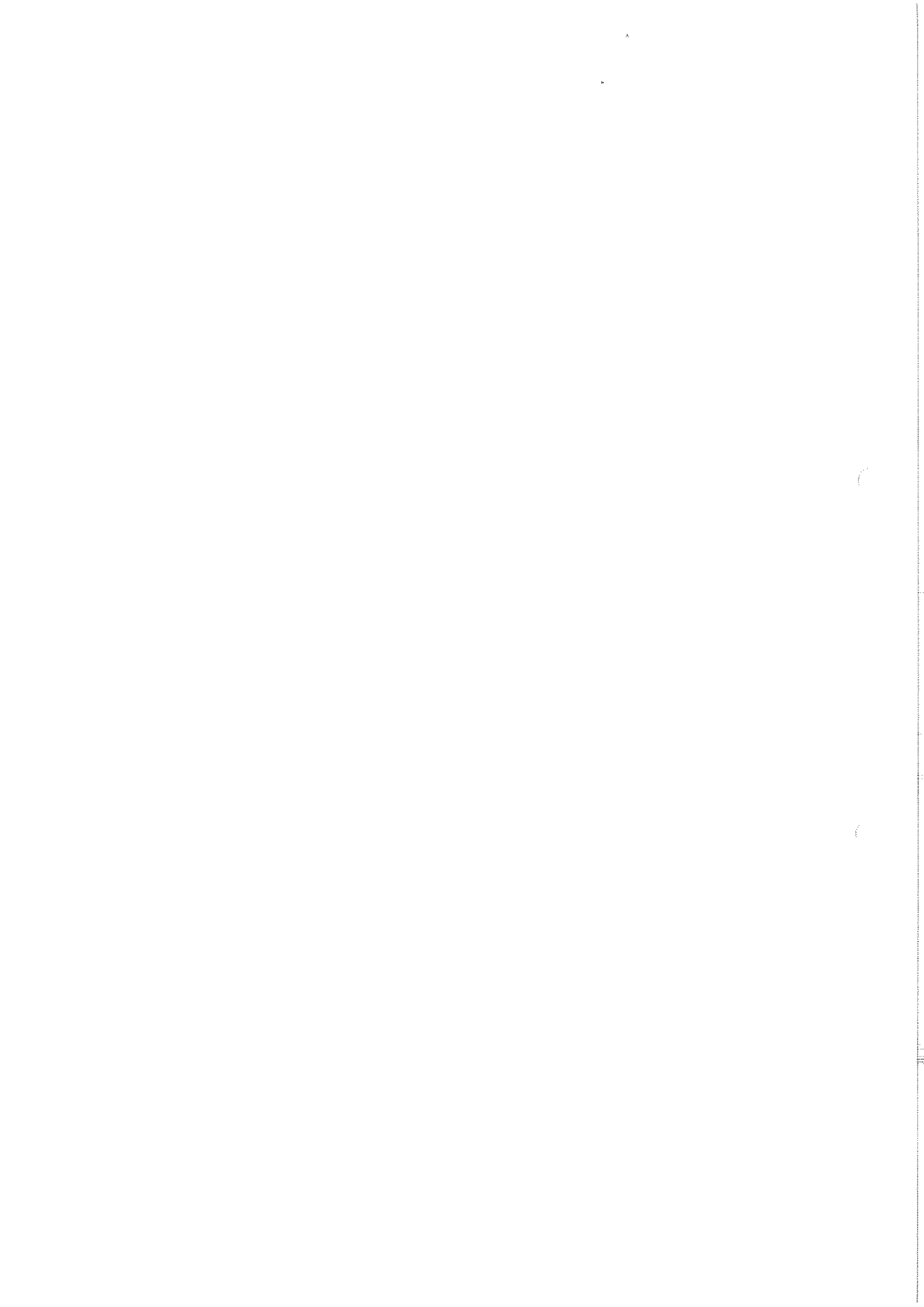
Date: Thursday 28th July 2005

Time: 6.00 p.m.

**Venue: The Earl Baldwin Suite
Duke House
Clensmore Street, Kidderminster**

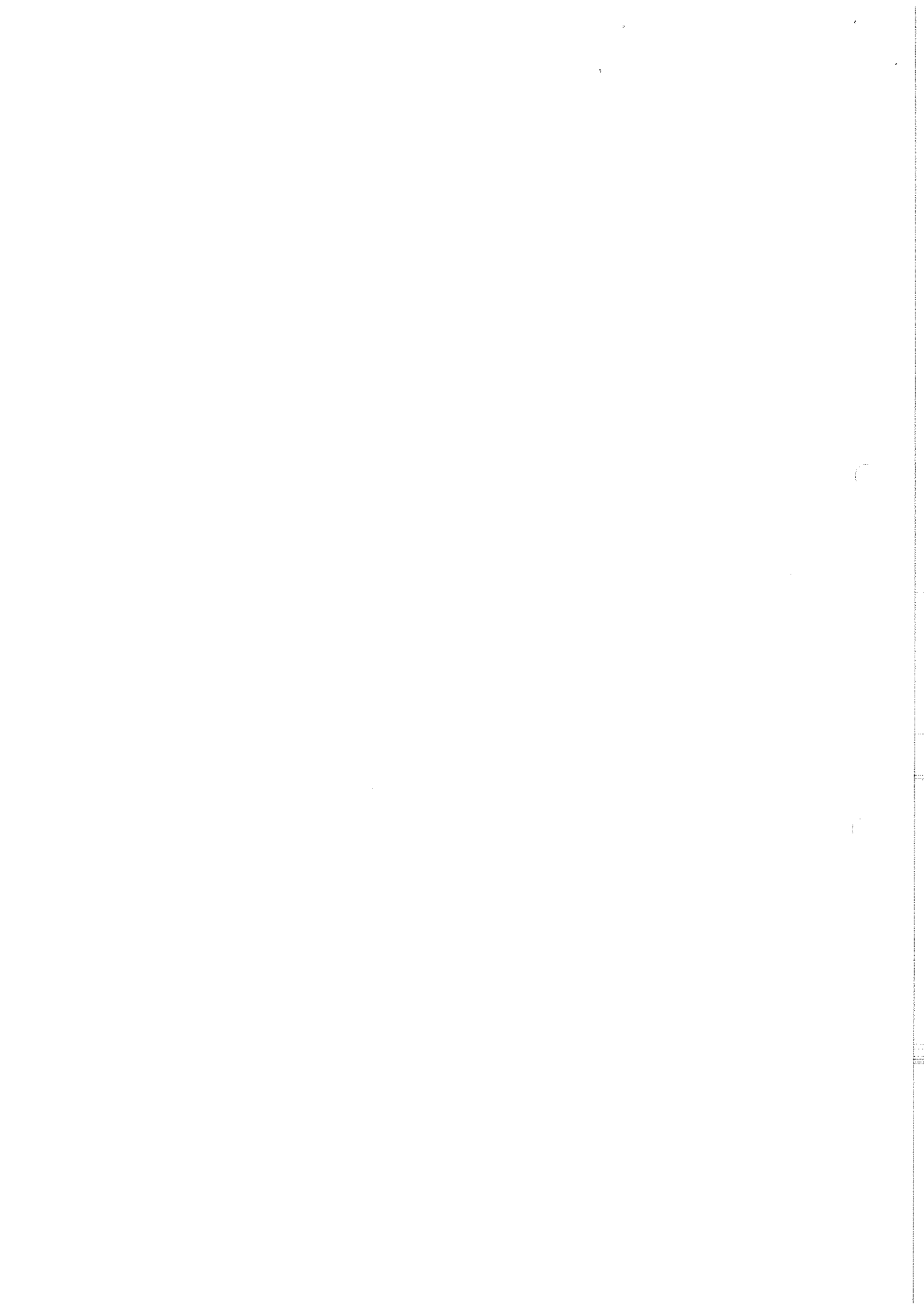
APPENDIX - ITEM 9.2.

**PROPOSED CHANGES TO DEVELOPMENT CONTROL PRACTICE NOTE
3 - PUBLICITY AND CONSULTATION ON PLANNING APPLICATIONS
AND AMENDMENTS**



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INTRODUCTION

Development Control is principally concerned with processing planning applications.

If the Council is to be effective, it is important that the public are aware of planning applications in their area and that they are able to have their say to influence the decision reached by the Local Planning Authority.

The Government places a number of statutory minimum requirements upon the Council for publicity. It is the Council's policy to adhere to these statutory requirements and our practice to consult neighbours who share a common boundary with an application site directly, and to use site notices, press notices and additional letters as appropriate to inform others of a local development proposal.

In addition to the statutory publicity requirements, the Council has adopted further provisions for notification and consultation which are set out below.

The Planning, Health and Environment Division seeks to be consultative, open and transparent in dealing with planning applications.

The aim of this Practice Note is to both publicise our approach and to ensure consistency of action. Feedback is always welcome.

LEGAL POSITION

Through the Town and Country Planning (General Development Procedure) Order 1995, Local Planning Authorities have a duty to publicise certain applications.

The following types of applications are advertised in the Kidderminster Times and Shuttle weekly Newspaper **and** by way of a notice on site:

- Applications accompanied by an Environmental Impact Statement
- Major developments, which includes
 - the erection of 10 or more dwellings or where the site exceeds .5 ha;
 - the erection of buildings where 1,000 sq. m. of floor space is to be created or where the site to be developed exceeds 1 ha.
- Applications affecting a Listed Building
- Applications affecting a Conservation Area
- Applications affecting a public right of way

- Applications which depart from the Development Plan where the Council is minded to approve them

All other applications must be publicised by the Local Planning Authority by way of a site notice or by direct notification to neighbours (SEE SUMMARY TABLE ON APPENDIX 1).

Certain **Statutory Consultees** such as the Environment Agency, English Nature and the Highways Partnership Unit will be consulted directly on certain applications where they may have an interest. Such consultations before the grant of planning permission are set out in Article 10 of the Town and Country Planning (General Development Procedure) Order 1995.

From January 2006 the Council will be looking at moving forward Electronic Service Delivery and consulting Statutory Consultees by email and providing the facility to view plans on the Council's website.

In addition to the statutory publicity requirements, it may be appropriate to advertise in a newspaper to supplement site notices and neighbour letters for the following types of development which may be of wider concern:

- those affecting nearby property by virtue of noise, smell, vibration, dust or other nuisance
- those attracting crowds, traffic or noise into a generally quiet area
- those creating activity or noise during unsociable hours
- those developments which extend an influence beyond adjacent properties
- proposals affecting an ancient monument, archaeological site or a protected tree

Further guidance on 'Publicity for Planning Applications' is provided by Circular 15/92.

The development control officer, in validating an application, will exercise judgement in these circumstances weighing the additional cost of a public notice against the perceived benefits in each case. The Council has adopted many of the good practices suggested in the DETR report 'Statutory and Non-statutory Consultation Report' 2001.

WYRE FOREST PROCEDURES

Publicity

In all cases relating to a fresh planning application **21 days** is given for responding to a press notice, a site notice or a neighbour consultation letter (but see 'amended plans'). In some cases the dates may differ and 21 days shall be taken from the latest date appearing on a notice or on a letter. Planning applications will only be determined within this period where all relevant interested parties, such as

neighbours have commented on an application. Wyre Forest District Council will consult **non-statutory consultees** such as the Worcestershire Wildlife Trust, Ramblers Association, local Civic Societies etc. where their expertise or local knowledge would clearly be helpful in judging the merits of a particular planning application.

All Parish and Town Councils in the Wyre Forest District Council area have opted to be notified of planning applications in their areas in accordance with Article 13 of the Town and Country Planning (General Development Procedure) Order 1995. Parish Council consultations are batched together and sent on a weekly basis (Monday) to reduce costs.

For those applications within the district which straddle a Parish boundary both the relevant Parish Councils will be consulted. In addition for those sites which are within 50m of the Parish boundary, the neighbouring Parish Council will also be consulted. However this will not apply to minor applications as defined by the Town and Country Planning (General Development Procedure) Order 1995, nor for agricultural development, advertisements, listed building consent, tree applications or householder applications.

The Council intends to undertake consultations electronically from January 2006 and expects consultees to view plans via the Council's website. Where possible the Council wishes to receive consultation responses electronically.

Where applications are received near to or adjoining the district boundary the relevant neighbouring Local Planning Authority will be consulted if the proposed development is likely to affect land in that District. This decision will be based on the scale and nature of the proposed development. The neighbouring authority will be given 21 days to make representations.

In some cases an application site may fall within the boundary of more than one Local Planning Authority. In such cases the applicant must submit the application to both planning authorities. However, the fee is payable only to the authority in which the largest part of the site is located. Each authority can only determine the application relating to the part of the site in its own area and will also be responsible for carrying out the necessary consultation for the application that falls within their area.

Neighbour Consultation

As a minimum, in **all** cases it is our policy and practice to consult those neighbours directly, either by mail or by hand, who have a contiguous (shared) boundary with the application site. However, in some instances where contiguous land ownership is unclear, it may not be possible to consult directly. In addition, because of their often controversial nature, all applications for Telecommunication Masts will give rise to the following properties being consulted:

- within urban or otherwise 'built up' settings: all properties within a 50m – 100m radius of the proposal

- within rural or sparsely populated areas: all properties within 250m radius of the proposal.

In addition, Governing bodies of schools falling within these radii will be consulted.

As all sites are inspected shortly after an application is received (the target is 10 days), checks will be made to see whether any additional properties will need to be consulted to those identified from the Ordnance Survey maps when the application is validated. We will not notify additional neighbours by letter where it is the opinion of the Case Officer that the proposed development would not have an effect which might reasonably give rise to valid representations on planning grounds.

Site Notices

In addition, to informing neighbours with a shared boundary directly - and where there is any doubt as to who the likely interested parties are, or when other, or site specific, circumstances dictate, **site notices** will be used. These shall be clearly displayed on the site. Our (purple) notices will be clearly visible and legible to passers-by without the need for them to enter the site. It is not the responsibility of the Local Planning Authority to safeguard the site notice or to replace damaged or lost notices. Applicants are requested to remove old notices and officers, Parish Councils and Civic Societies etc. are also asked to be watchful for old notices and to remove them.

Ward Members

Ward Members (elected Councillors) will receive a copy of the initial neighbour notification letter and a copy of the weekly lists of all new planning applications so that they may be kept informed of proposals within their areas. They also receive notification, by way of a plan, of all the properties initially consulted on an application. Where there are no neighbour letters, a copy of the site notice will be sent to Members. Member requests for additional consultation should be made to the planning Case Officer as soon as possible but always within 10 days of being notified of the original consultees.

INSPECTING THE PLANS AND COMMENTING

Plans

Copies of the application and plans are available for inspection at our Duke House offices where you may also speak to an officer who will be happy to explain the plans.

A duty officer will always be available to assist but if you are travelling a long way and wish to speak to the Case Officer specifically, you are advised to ring first and to make an appointment.

Representations

Anyone may comment on an application whether or not they receive a personal letter. All views expressed, will, where they are relevant to planning, be taken into account in reaching a decision. Where the views expressed are unclear or ambiguous, it will be for the Case Officer and the Development Control Manager to decide how they are dealt with.

If you are notified in writing, you will receive advice on how to comment upon the application and what constitutes relevant grounds of objection (SEE 'MAKING MY VIEWS COUNT').

All representations received will be open to public inspection and may be copied.

Acknowledgement

All letters received will be acknowledged and the first name on a petition will also receive an acknowledgement of the petition.

Notification of Decision

Every individual who makes a comment upon a planning application (or the first named person on a petition) will be notified of the decision shortly after the Decision is issued.

Parish Councils will be notified of all decisions by way of the monthly decision list but they will also receive a copy of the planning decision relating to their area. Members are notified by way of the monthly decision list.

Copies of individual decisions and monthly decision lists are available for inspection and may be purchased from the Planning, Health and Environment Division.

AMENDED PLANS

- Where amended plans are received on a **current** application which addresses fully the concerns of interested parties or where they are judged to have no consequences for neighbours (e.g. certain internal alterations or minor elevational changes), there will usually be no need to reconsult neighbours etc. on these changes.

- Where amended plans are received on a **current** application which do not fully address the concerns expressed, then those individuals who have expressed an opinion will be notified of the revisions and given a further limited period (usually 14 days) to assess and comment upon the amendments.
- Where a substantially different scheme is submitted with significant changes to the current application or where important new information is submitted by the agent/applicant, full re-notification will take place duplicating the original consultation arrangements to the application and taking account of all other correspondence received on the application in the meantime. Alternatively, the application may be withdrawn and submitted afresh.
- Where amendments are received **following** a planning approval, these will be treated as minor only where they do not materially change the character of the development. Amendments which are substantially different or seek to materially extend or alter the original approval will require the submission of a fresh application. A 'free go' application can be made within 12 months of the planning decision or, in the case of a withdrawn application, the date when it was originally submitted.
- Where minor changes are requested, limited consultation with immediate neighbours and/or other interested parties such as the Parish Councils may be appropriate prior to them being treated as 'minor'. In these circumstances, there is usually no need to carry out a full re-consultation and 10 - 14 days is an appropriate period to allow for further comment. This will be at the discretion of the Case Officer.
- If the matter is so minor not to warrant further limited consultation, i.e. a change to materials or fenestration, or no objections are received with the specified consultation period, then the revisions may be approved under existing delegated powers to approve minor changes.
- If, however, objections are received which are sustained following negotiations, there are no delegated powers to approve an amendment in the face of such objections and the matter shall be reported to the Planning (Development Control) Committee for determination. If such a revised scheme is subsequently rejected, there is no appeal against this decision and the applicant will either have to comply with the original plans or submit a further planning application for which there would be a right of appeal against any subsequent refusal.

OTHER APPLICATIONS

County Matters and General Regulations Applications

The District Council is itself only a consultee on such applications as waste and minerals and there is no requirement on the District Council to undertake additional consultations or publicity.

Advertisement Applications

These are publicised in the same way as planning applications.

Determinations

Certain types of development such as some **agricultural** buildings are permitted development and, therefore, do not require formal planning permission. However, before development can commence, developers first have to notify the Local Planning Authority of the proposal. The Council then has 28 days to comment on the siting and external appearance of a proposed building. The Council cannot control the principle of the development proposed and must have good reasons to refuse or seek an amendment to the particular siting or appearance. Because of the tight time-scale and the restricted grounds for comment, the Council does not consult neighbours on these proposals.

Decisions on such applications are, however, contained within the monthly decision list to ensure that Parish Councils in particular can see what work is intended in their area.

Many **telecommunication** proposals are also permitted development and, some, once again, only offer the Council has 28 days to respond. No consultation is necessary or practical in these cases. Masts up to 15 metres high however are now subject to a 56 day period of consultation and this offers the potential to inform the public and Parish Councils of such developments. Consultations on these Mast Notifications will follow the same neighbour consultation procedures as for planning applications (see page 3). Parish Councils will be consulted on Mast Notifications. It is, however, the duty of the applicant in these cases to display a Site Notice.

Certificates of Lawfulness

These applications are matters of fact and are determined by the Council's Planning and Litigation Solicitor based on facts presented by the applicant together with any other information available to the Council. Consultations will only be carried out with neighbours or the Parish Council if the Case Officer considers that they may be able to assist in establishing the facts of the case. The procedure note for processing these applications is attached as Appendix 2.

Tree Matters

Publicity for applications for works to Tree Preservation Order trees is not mandatory and it will be for the Case Officer to determine whether neighbour notification/site notice is required. Ward Members and Parish Councils will be consulted. Similarly for works to trees in Conservation Areas submitted as Section 211 Notices.

MAKING YOUR VIEWS COUNT

Matters relevant to a Planning Decision

In determining planning and other applications, the Council must refer to **Central Government Advice**, the provisions of **Regional Planning Guidance**, the **Structure Plan**, **Local Plans** and all other **material considerations**.

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 Local Plan. Active participation in the consultation phases of the drawing up of the Local Plan is the best way of ensuring the future development of your Town or Village is as you wish to see it.

Other Material Considerations

Planning Policy Guidance notes (PPG's) produced by the Government play an important part in the determination of planning applications. These cover many areas of planning policy.

Listed below are some of the more important, but not exhaustive, 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 buildings 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 buildings in Conservation Areas.

● Environment and Amenity

- a The effect on the landscape and environmental quality of the surrounding area.
- b The effect 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.
- k The safeguarding of the natural habitats of protected species of animals/plants.
- l The protection of flood plains from development which may reduce flood storage capacity.

● 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 Provisions 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 Planning (Development Control) 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.

Matters Not considered Relevant to a Planning Decision

Listed below are some of the matters which are not 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 from their property.
 - d The direct effects of competition on similar or other business premises.

3. Aspects of the Applicant
 - a The personal character, 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

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).

Produced by the
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