

## **HARRINGWORTH PARISH COUNCIL**

### **Councillors' Guide To Consideration of Planning Applications**

1. Under the relevant planning legislation, we are entitled to be notified of every planning application. The Unitary Authority have to inform us of the application, indicating the nature of the development and identifying the land to which it relates. If we wish to make any representations we must do so within the deadline given by the Unitary Authority.
2. Many of the complaints considered by the Standards Board for England relate to councillors' involvement in planning applications and it is therefore very important that councillors are scrupulous in their adherence to the code of conduct, for example in declaring personal interests; leaving the room if the interest is prejudicial and not using their position as a member to improperly confer on themselves or any other person, an advantage or disadvantage.
3. If a member of the parish council is also a member of the Unitary Authority planning committee which is considering a planning application, the member will need to be careful that they have not pre-determined an application as a result of any prior involvement of the parish council. If in doubt, the Councillor should consult their Monitoring Officer.

### **How to Respond to Planning Applications**

4. Comments made by us are sent to the Local Planning Authority (LPA), which is North Northamptonshire Council (NNC). The comments are published on the LPA's web site.
5. When the case officer receives the comments, they need to be able to determine quickly whether the comments support the application, or object to it. This should be very clearly stated. Generally speaking every response should either support or object. If the parish council submits a comment "no objection" it has the same effect as if no comments had been submitted. The case officer has an imaginary set of scales, comments of support go on one side, objections go on the other. "No objection" goes in the middle, so doesn't affect the outcome at all.
6. It is good practice to include the reason for supporting or objecting to a planning application, based on material considerations. For example, "RESOLVED: To object to the application on the grounds that the proposed development will overshadow the adjacent property at 4 Main Street", or "RESOLVED: To support the application, which is in conformity with North Northampton Core Strategy 2011-2031.
7. If sound material considerations are given with the comments of support or objection, they will be given more "weight" in the determination of the planning application. Comments of support can be absolute or caveated. For example, a parish or town council might support an application but ask for details of the proposed development to be reconsidered and changed before it is granted permission.
8. Similarly with objections, they can be absolute (the proposed development could never be acceptable) or caveated with a suggested action that could be taken to address the objection, such as amending the proposal or attaching planning conditions or a planning obligation to mitigate the impact.
9. Explain what other planning issues you believe should affect the decision. Comments can be strengthened by considering the public interest. Explain how the proposed development affects the local community as a whole. Avoid focusing on issues such as land ownership, the effects of the proposal on the

value of neighbouring property, or the personal circumstances of the applicant. Be clear and courteous, avoid personal issues, and concentrate on the facts of the case. Separate out each point you want to make. Explain what you want to happen and, where appropriate, suggest conditions you want to see put on the application to improve the sustainability of the proposal. Try to be concise.

10. High quality comments will be considered more seriously, and the council will gain a reputation with the LPA's planning officers as a council that should be listened to. Conversely, if we rarely respond to applications, always asks for more time to respond, and often submit comments that are not based on material consideration, we will gain a different sort of reputation.

### **What is a Material Planning Consideration?**

11. The primacy of the development plan has been with us for some time. This is currently expounded through S38 of The Planning and Compulsory Purchase Act 2004, which states

*'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination is to be made in accordance with the plan unless material considerations indicate otherwise.'*

12. Policy documents within the plan change from time to time. Current advice is that if a policy in the development plan conflicts with any other policy in the development plan the conflict must be resolved in favour of the document most recently adopted, approved, or published.
13. So what is a material planning consideration that has the ability to overturn the development plan? In short, it is relevant elements of policy (national, regional and local), the views of consultees and factors on the ground.
14. In terms of consultees, there are statutory and non-statutory consultees. The parish council is a non-statutory consultee but its views and those of local residents are always considered, but local opposition or support on its own is not a reason for refusing or granting planning permission. Opposition or support must be backed up by valid planning reasons.
15. Whether or not a factor is capable of being a material planning consideration is a matter of law. Beyond that, it is a matter of fact whether a factor capable of being a material consideration is a material consideration in any particular case. Once the existence of the material consideration is established, the "weight" given to it in the eventual decision is a matter of judgement for the local planning authority.
16. In responding to planning applications submitted to the Unitary Authority in the parish council's area, it is important to differentiate between material and non-material considerations. In short, the former can legitimately be considered and the latter cannot.
17. Examples of issues the local planning authority can normally consider as a material planning consideration:
  - Loss of light or overshadowing;
  - Overlooking and loss of privacy;

- Adequate parking and servicing;
- Overbearing nature of proposal;
- Loss of trees;
- Loss of ecological habitats;
- Design and appearance and materials;
- Layout and density of buildings;
- Effect on listed building(s) and conservation areas;
- Access and highways safety;
- Traffic generation;
- Noise and disturbance from the scheme;
- Disturbance from smells;
- Public visual amenity (not loss of private individual's view);
- Flood risk.

18. Examples of issues the local planning authority cannot normally consider as a material planning consideration:

- Loss of value to private individual property;
- Loss of view;
- Boundary disputes including encroachment of foundations or gutters;
- Private covenants or agreements;
- The applicant's personal conduct or history;
- The applicant's motives;
- Potential profit for the applicant or from the application;
- Private rights to light;
- Private rights of way;
- Damage to property;
- Disruption during any construction phase;
- Loss of trade and competitors;
- Age, health, status, background and work patterns of objector;
- Time taken to do the work;

- Capacity of private drains;
- Building and structural techniques;
- Alcohol or gaming licences.

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