

**PLANNING APPLICATION REVIEW GUIDE**

**Councillor’s aid to assessing planning applications.**

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Purpose

The parish council does not have the power to take decisions about planning applications, but it does make recommendations to the district council. If a planning application is made to the district council, it is forwarded to the parish council for councillors to carefully review each application. At parish council meetings, councillors listen to all comments submitted by the member/s of the village, discuss, and then vote on the application. The purpose of this guide is to assist parish councillors to review and impartially evaluate planning applications.

Governments Toolkit for Parish and Town Councils, Part 5, item 7, Guide to Probity and Planning item 7. Guide to Probity and Planning

Under the relevant planning legislation, parish councils are entitled to be notified of every planning application unless they have waived the requirement. The district council have to inform the parish council in writing of the application, including the nature of the development and identifying the land to which it relates. If the parish council wishes to make any representation it must do so within 14 days of the notification date to it. However, local protocols may exist, and it is always advisable to check with the relevant district/unity council was arrangements have been put in place.

Many of the complaints considered by Standards for England relate to member’s involvement in planning applications and is therefore very important that members are scrupulous in their adherence to the code of conduct, or example in declaring personal interests (paragraphs 8 and 9 of the code); leaving the room if the interest is prejudicial (paragraph 12) and not using their position as a member to improperly confer on themselves or any other person, and advantage or disadvantage (paragraph 6).

What is a Material Planning Consideration?

The primacy of the development plan has been with us for some time. It is currently expounded through S38 of The Planning Anchors Compulsory Purchase Act 2004, which states: -

"If regard is to be had for 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".

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.

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 use of consultees and factors on the ground.

In terms of consultees, there are statutory and non-statutory consultees. The council is a non-statutory consultee but its views and those of local residents are always considered, local opposition or support on its own is not a reason refusing or granting planning permission. Opposition or support must be backed up by valid planning reasons.

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 a material consideration is established, the "weight" given to it in the eventual decision is a matter of judgement for the local planning authority.

In responding to planning applications submitted in the 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.

See attached sheet (appendix)

Examples of issues the local planning authority can normally consider as material planning considerations:

• overshadowing

• overshadowing and loss of privacy

• adequate parking and servicing

• overbearing nature of proposal

• loss of trees

• loss of ecological habitats

• design and appearance

• layout and density of buildings

• effect on listed building (S) and conservation areas

• access and highway safety

• traffic generation

• noise and disturbance from the scheme

• disturbance from smells

• Public visual amenity (not loss of private individual’s view)

• Flood risk

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 applicants personal conduct or history

• the applicant's motives

• potential profit for the applicant 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 objectors

• time taken to do the work

• capacity of private drains

• building structural techniques

• alcohol or gaming licences

Material Planning Considerations – Definitions

1. Overshadowing – A loss of daylight or sunlight to a neighbour's homes and gardens that is overshadowed by a new development. An extension should not cause any significant loss of daylight or sunlight to habitable rooms or gardens in neighbouring properties and there should be adequate daylight within the extension and to adjacent rooms in the existing dwelling.

2. Overlooking – The privacy of a home or garden has been breached, due to the construction of a nearby structure, allowing strangers to see in. The prevent overlooking, windows should either be a high level or omitted from any wall directly facing a neighbouring house or garden. Using the roof of an extension as a balcony will normally be unacceptable. Where houses are terraced or have small gardens the construction of a large dormer window in the roof can seriously reduce privacy. Minimise overlooking, by restricting the size of window or setting it back from the eaves.

3. Adequate parking – Residential development should provide the required minimum number of car parking spaces: 1 bed unit 1 space, 2 & 3 bed unit 2 spaces, 4+ bed unit 3 spaces.

4. Overbearing nature – A term used to describe the impact of a development or building on surroundings, particularly a neighbouring property, in terms of its scale, massing and general dominating affect.

5. Loss of trees – Any development which includes cutting down of trees, whether subject to preservation order or not.

6. Loss of ecological habitats – Planning authorities have a duty to consider biodiversity when assessing planning applications. Where there is a reasonable likelihood that a planning proposal might affect important protected species or habitats, the council will require information on the species and habitat likely to be affected, and an assessment of the impacts of the proposals.

7. Design and appearance – Changes are in keeping with or enhance both the original dwelling and the character of the local area.

8. Layout and density of buildings – A proposal should relate well inform and pattern to its surroundings. Extension should not lead to a substantial percentage reduction in garden area and with small gardens to size and extension may be restricted to retain the usable open space.

9. Effect on listed buildings – Section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990. States that "no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character [emphasis added] as a building or special architectural or historic interest, unless the works are authorised”.

10. Access and highways safety – For domestic vehicular accesses from adopted highway into privately owned the property (serving up to 3 dwellings) the arrangement must comply with the county council’s highways in residential and commercial estates design guide.

Private drives may serve up to 3 dwellings provided there is adequate provision for parking and turning private vehicles including vehicles up to 3.5 tonnes maximum laden weight. If more than three dwellings are served of a private drive, problems are likely to be created for future residents: therefore, private drives serving more than three dwellings are not acceptable. (Note that highways matters relating to planning applications for more than three dwellings will be considered by the county council). Residents should not be inconvenienced by awkward or substandard layout that have been devised to avoid extending the length of adoptable roads. Commercial and shared vehicle turning and servicing areas should be paved in a contrasting material to the individual private access drives and parking spaces.

11. Traffic generation – Impact on the road network is taken into account access to local facilities, and the possible effects of development on road safety and congestion.

12. Noise and disturbance – Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment.

13. Disturbance from smells – The development should not create a smell disturbance to neighbours.

14. Public visual amenity – Visual amenity is usually understood to mean the effect on the visual and aural amenity in the immediate neighbourhood. Additionally, extensions should not lead to a substantial percentage reduction in garden area and with small gardens size extensions may be restricted to retain a usable open space.

15. Flood risk – Account must be taken whereby developments increase the probability of flooding from all sources – coastal, fluvial (watercourse), pluvial (surface water), groundwater, sewers, and blocked culverts.

This section contains extracts from Northwest Leicestershire Local Plan Adopted 2021 most relevant to the rural situation that should also be considered when the parish council decides whether to support a development or not.

Objective 14 p21 Delivering green sustainable development.

S1 p24 future Housing & Economic needs.

Donisthorpe & Oakthorpe are classed as sustainable villages.

Acresford is not named but would fall un ‘Hamlet – development is considered in the context of the countryside policy (S3 p28)

Development and change will be planned for and managed in accordance with the following principles of sustainable development:

6.22 p36 the sustainable design and construction of new buildings and extensions to existing buildings has an important role to play in reducing running costs and improving energy efficiency and the reduction of greenhouse gas emissions (notably CO2). Improving the energy efficiency of buildings is an essential part of achieving targets for a reduction in

carbon emissions as almost half of the UK’s current carbon emissions come from domestic (27%) and non-domestic buildings (17%).

6.23 The creation of buildings and spaces with a reduced environmental impact and that offer people opportunities to live lower carbon lifestyles, are suitable for future adaptation, conversion, or expansion, and as such designed to stand the test of time will be encouraged.

6.24 The Council encourages developers to consider the integration of environmental ‘optional extras’ for residential led developments, i.e., features that would enable a development to exceed the environmental performance of new homes required by Building Regulations.

6.25 The following measures are examples of what could be incorporated into new developments to mitigate and adapt to the effects of climate change:

• Planting, shading and advanced glazing systems to reduce solar heat gain

during the summer.

• Using materials to prevent penetration of heat, including the use of cool

building materials, green roofs and walls and using flood resilient materials.

• Increasing natural ventilation and the removal of heat by using fresh air.

• Orientating windows of habitable rooms within 30 degrees of south and

utilising southern slopes.

• Locating windows at heights that maximise heating from lower sun angles

during the winter.

• Incorporating flood-resilient measures such as raising floor levels, electrical

fittings and rainproofing and overhangs to prevent infiltration of heavy rain.

around doors and windows.

• Integrating water management into the design of new development through a

network of attractive and functional features such as swales, rills, rainwater

harvesting/storage (such as water butts and underground water storage) and

rain gardens.

• Incorporating waste reduction and recycling measures through the design of

the development to ensure there are appropriate storage and segregation.

facilities.

• Incorporating small scale renewables into the design of new developments

where there would be no significant adverse impacts on landscape, ecology,

heritage assets and amenity.

• Incorporating car charging points where viable and appropriate to do so.

• Providing sufficient, safe, and sheltered cycle storage in locations were the

use of bicycles is closer to the front door of buildings than car parking spaces,

where it is practical to do so.

• Connect to an existing or approved district energy scheme where available.

Major development proposals should utilise opportunities to incorporate a

district energy network.

9.22 p92 It is recognised that access to new development by private car will remain essential.

Whilst the District Council is not the highway authority, the impact of development upon the highway network is an important consideration in determining proposals for new development. For motorways and trunk roads the highway authority is Highways England, whilst for all other roads Leicestershire County Council is the highway authority. As part of the preparation of this Local Plan and in determining planning applications we consult and work with the two authorities.

9.23 Leicestershire County Council’s third Local Transport Plan (LTP3) provides the transport policy framework for Northwest Leicestershire. This sets out how they will seek to ensure that transport continues to play its important role in helping Leicestershire to continue to be a prosperous, safe, and attractive County and covers the period 2011-2026.

AREAS OF SEPARATION

10.42 It is important to ensure that individual settlements retain their own character and identity. This is recognised in the Countryside policy (policy S3) where the potential impact upon the separation between settlements is an important consideration in determining proposals for development.

12.4 This Local Plan includes a number of policies which are designed to help tackle climate change including:

• Ensuring a sustainable pattern of development, including improvements to the self-containment levels of the principal town, key service centres and local

service centres and a reduction in the need to travel (see Policy S2).

• Supporting the supply of energy and heat from renewable and low carbon

sources (Policy Cc1).

• Ensuring that new development incorporates sustainable building practices

and where possible will contribute to improving the existing building stock.

(Policy Cc2).

• Ensuring that new development incorporates water efficiency measures

(Policy Cc2).

• Ensuring the incorporation of high energy efficiency into new development.

• Ensuring that new developments incorporate appropriate adaptation and

mitigation for climate change, particularly risk from flooding and rising sea

levels (Policy Cc3).

Policy Cc3 – Sustainable Drainage Systems

(1) When assessing development proposals where it is necessary to manage

surface water drainage, Sustainable Drainage Systems (SuDS) should be.

incorporated into developments in accordance with national and local.

standards unless it can be clearly demonstrated.

a) That SuDS are not technically, operationally, or financially deliverable or

viable and that surface water drainage issues from the development can

be alternatively mitigated; or

b) That the SuDS scheme will itself adversely affect the environment or

safety.

(2) Where appropriate, every effort should be made to link SuDS into wider

initiatives to enhance green infrastructure, improve water quality and benefit.

wildlife or contribute to the provision of the ecosystem service.

(3) Arrangements in accordance with national policy will need to be put in place for the management and maintenance of the SuDS over the whole period during which they are needed.

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| version number | Purpose/change | Author | Date |
| 0.1 | Initial draft | KG | 10.23 |
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| **MATERIAL PLANNING CONSIDERATIONS?**  **Local Planning Authorities can only take into account 'material planning considerations' when looking at comments and objections to a development proposal. The most common of these (although not an exhaustive list) are shown below:** | |
| **Application reference No:** |  |
| **Explain the main grounds on which it is considered the application should be approved/objected** |  |
| **Consideration** | **Explanation of concerns** |
| • Loss of light or overshadowing |  |
| • Overlooking/loss of privacy/overbearing nature of proposal |  |
| • Public Visual amenity (but not loss of private view) |  |
| • Adequacy of  parking/loading/turning/servicing |  |
| • Highway safety |  |
| • Traffic generation |  |
| • Noise and disturbance resulting from use |  |
| • Hazardous materials, contaminated land |  |
| • Smells and fumes |  |
| • Loss of trees |  |
| • Effect on listed building, conservation area or archaeological interest |  |
| • Layout and density of building |  |
| • Design, appearance, and materials |  |
| • Landscaping |  |
| • Road access |  |
| • Local, strategic, regional, and national planning policies, including emerging policies |  |
| • Government circulars, orders, and statutory instruments |  |
| • Previous planning decisions  (including appeal decisions) |  |
| • Nature conservation, biodiversity, ecological issues |  |
| • Deficiencies in community, social facilities i.e., spaces in schools, public transport |  |
| • Capacity of local infrastructure i.e., public drainage or water systems.  Flood risk |  |
| The economy, including job creation, retention |  |
| • Incompatible or unacceptable uses |  |

**Local Planning Authorities cannot take into account matters which are sometimes raised but are not normally planning considerations such as:**

* The perceived loss of property value • Restrictive covenants
* Private disputes between neighbours • Ownerships disputes
* The loss of a view • Personal morals or views about the applicant
* Boundary disputes • The impact of construction work or competition between firms

**Generally greater weight is given to issues raised which are supported by evidence rather than by assertion.**