Members’ Guide to the Planning System and Planning Law

Introduction

Since the advent of the ‘modern’ planning system in the 1940s, extensive legislation has been passed to attempt to balance the often competing needs of expanding infrastructure and protecting the natural environment.

The following guide has been produced to assist Members in understanding the context in which they may take decisions at Planning Committee. It also provides assistance in understanding the planning system as it impacts on the County Council in general, from the policy context to the effects of a refusal on third parties and the applicant.

Purpose

The purpose of this document is to provide a guide to members of the County Council on the law relating to Planning. Every effort will be made to ensure that the information provided in this Guide is current. The date on the front page indicates when the document was last updated.

Legal Services

June 2013
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Update – National Park

The South Downs National Park Authority (SDNPA) is the statutory Planning Authority for the National Park area, including the mineral and waste planning authority. The role of the SDNPA is to control and influence the development of land and buildings within its boundaries.

The SDNPA has implemented a unique partnership with 11 of the Local Planning Authorities (LPAs) within the National Park for dealing with planning applications, including West Sussex County Council. The vast majority of planning applications are dealt with by the LPAs under a legal agreement making them responsible for the day to day processing and determination of applications. The SDNPA deal with applications for more significant development which could potentially generate particular, special or major issues for the National Park and which are “called in” to be dealt with by them. For the four other LPAs within the National Park, including Arun, Brighton and Hove, Eastbourne and Wealden, all planning applications are dealt with by the SDNPA directly.

Background to the Planning System

Members need to be aware of the basic structure of the planning system. The summary below sets out the context within which the Planning Committee takes its decisions.

National Context

The previous, two-tiered system which consisted of Regional Spatial Strategies (RSS) and Local Development Frameworks (LDF) has now been replaced.

There is now the National Planning Policy Framework (see page XX) which sets out policy at the national level. There is no longer statutory planning policy at the regional level because the RSS for this region, the South East Plan (March 2009), was abolished as of 25 March 2013.

At the local level, there is now a requirement for local planning authorities to prepare local plans (rather than development plan documents as part of an LDF). In addition, town and parish councils can also prepare neighbourhood plans that have to be in conformity with the NPPF and local plans. Once adopted, a neighbourhood plan forms part of the statutory ‘development plan’ (see page XX) and used for decision-making.

Local Context

Under the previous system, local planning authorities were required to prepare development plan documents (DPD) as part of a LDF (or a Minerals and Waste Development Framework - MWDF – for mineral and waste planning authorities, such as the County Council). There had to be a Core Strategy DPD and there could also be other types of DPD including site allocations documents and Area Action Plan. The DPD that have been adopted as still part of the statutory development plan.
Local Plans

Under the new system, local planning authorities have to prepare a local plan that accords with the NPPF and sets out how the development and infrastructure needs of their area can be met over a 15 year period. Mineral and waste planning authorities have to prepare mineral local plans and waste local plans.

A local plan should indicate the broad locations for strategic development and allocate specific sites for development. It should also indicate where there may be restrictions on certain types of forms of development.

Once adopted, a local plan will replace any previously-adopted local plans or DPD and it will become part of the statutory development plan for that area.

Other Statutory Documents

- Local Development Scheme (LDS) – a public ‘project plan’ identifying which plans will be produced, in what order, and when. It outlines the timetable for production of all policy documents. The County Council prepares a Minerals and Waste Development Scheme (MWDS);
- Annual Monitoring Report (AMR) – report to assess the progress on local plan preparation and the effectiveness of the policies; and
- Statement of Community Involvement (SCI) – details how and when the local community and interested stakeholders will be consulted when local plans are prepared. It also outlines how they will be involved in the processing of planning applications.

Optional Documents

- Supplementary Planning Documents (SPD) – these expand or add details to policies set out in an adopted plan.

The County Council’s Role

The County Council is the Waste Planning Authority (WPA) and Mineral Planning Authority (MPA) for those areas of West Sussex which are not included in the National Park.

The SDNPA is the WPA and MPA for those areas of West Sussex which are included in the National Park.

This means that the County Council and SDNPA are responsible for preparing a mineral and waste local plans and for determining planning applications which relate to waste and minerals (also known as ‘County Matters’).

The County Council also determines ‘Regulation 3’ applications which relate to the County Council’s own development (e.g. the construction of a new school building or library).

The County Council is also responsible for controlling development that is permitted and for investigating ‘unauthorised’ development and taking appropriate enforcement action (see section on Compliance and Enforcement).

For applications that will not be determined by the County Council, the District and Borough Councils in West Sussex and/or the SDNPA must consult the County Council before determining the application.
**County Council Documents and Policies**

The adopted West Sussex Minerals Local Plan (MLP) expired on 27 September 2007 with the exception of those policies that the Government decided to ‘save’ until they were replaced by new development plan documents (DPD). The saved policies of the Minerals Local Plan still form part of the development plan.

A new MLP will be prepared jointly with the SDNP and the plan will run until 2031. It will set out a county wide vision, strategic objectives, a strategy for minerals planning and a monitoring and implementation framework. Until the new MLP is prepared, the current MLP saved policies forms part of the development plan.

The County Council and the SDNPA have produced a joint draft Waste Local Plan. The draft Plan sets out four key areas which will help shape plans for managing waste in West Sussex in the future. It was submitted to the Secretary of State in March 2013 and an examination in public will be held in July 2013. If the plan is found to be sound by the inspector, it is anticipated that it will be formally adopted by the County Council and SDNP in early 2014. The plan will run until 2031. The draft plan is currently being used for development management purposes as a material consideration. However, the weight to be afforded it is less than when will have been through public examination and formal adoption.

The current approved Minerals and Waste Development Scheme (MWDS) covers the period 2013-16 and details the consultation procedures that the County Council will undertake when fulfilling its planning functions, together with the timetable for the preparation and adoption of the new local plans and other key documents.

**The ‘Development Plan’**

The ‘development plan’ is an umbrella term for the adopted or approved plans and policies that are in place at the time that a planning application is determined. It will include ‘saved’ local plan policies (until they are replaced), and any adopted DPD.

In West Sussex, this includes the saved policies of the adopted West Sussex Minerals Local Plan which will continue to form part of the development plan until replaced by a new Minerals Local Plan that will cover the period to 2031.

**National Planning Policy Framework**

Government planning policy is now contained in the National Planning Policy Framework (NPPF). The document was published on 27 March 2012 and took immediate effect. It sets out the Government’s planning policies for England and how they should be applied. The only issues not covered are planning for waste and some parts of planning for minerals extraction, which are covered in separate planning policy statements (PPS).

The policies within the NPPF must be taken into account in the preparation of local and neighbourhood plans and the NPPF is a material consideration in planning decisions.

**Presumption in favour of Sustainable Development**
The golden thread running through the NPPF is the new presumption in favour of sustainable development. The presumption is subject to two exceptions. First, it will not apply where any adverse impacts of allowing development would "significantly and demonstrably" outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Secondly, the presumption will not apply where specific policies in the NPPF, such as those relating to the green belt or national parks, indicate that development should be restricted.

For plan-making, the presumption means that LPAs should positively seek opportunities to meet the development needs of their area and local plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change.

The weight to be given to policies should be based upon their degree of consistency with the NPPF.

LPAs may give weight to relevant policies in emerging plans. The weight they may give will depend on the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.

For decision-taking, the presumption means that LPAs should approve development proposals that accord with the development plan without delay and LPAs should grant permission where the development plan is absent or silent or where relevant policies are out of date.
Planning Applications

The Need for Planning Permission

There is a standard approach used to determine if a planning application needs to be submitted to secure planning permission for an activity.

The first question to be asked is whether the operation in question constitutes ‘development’. For the purposes of the Town and Country Planning Act 1990 (‘the 1990 Act’), there are two types of ‘development’:

- operational development: an act that changes the physical characteristics of the land i.e. physical alteration that has some degree of permanence to it e.g. the installation of a waste site; and
- material change of use: e.g. the change from use of land at an airfield to a waste recycling centre.

If the activity is ‘development’, it is possible that planning permission will be required to undertake the activity. Therefore, the next question that should be asked is whether the operation is ‘permitted development’. This means that the operation in question is still development but that they are permitted under the General Permitted Development Order 1995 and, therefore, an application for permission is not required.

If the operations are not permitted development, planning permission is likely to be needed.

Certificates of Lawfulness of Existing Use or Development (CLEUD)

Applicants can apply to the County Council to establish whether an existing use or operation is lawful or whether failure to comply with any conditions or limitation imposed on a planning permission, is lawful. The County Council can either issue a CLEUD, if satisfied as to the lawfulness of use, or it can refuse.

Certificates of Lawfulness of Proposed Use or Development (CLOPUD)

Anyone wishing to ascertain whether any proposed use or operation would be lawful, can apply to the County Council for a CLOPUD. This will establish whether any proposed use or operation would constitute development and require planning permission.

Outline or Full Planning Permission?

The applicant may decide to submit an application either for ‘outline’ planning permission’ or for ‘full’ planning permission.

An application for outline planning permission is only permitted when the application is for the erection of a building. All other forms of development require an application for full planning permission.

The purpose of outline planning permission is to allow the developer to find out at an early stage whether or not a proposal is to be permitted by the County Council. When an application is made, the applicant does not need to submit any details of what is known as ‘reserved matters’ which include the following:
No development can commence until all reserved matters have been approved.

Applications to the County Council are unlikely to be outline applications. The nature of waste and minerals sites means that only an application for full planning permission can realistically be considered.

**Types of Planning Applications**

**Minerals and Waste Applications**

For *most* waste and minerals operations, they will constitute either operational development or a material change of use and, therefore, require planning permission from the County Council.

An application may be made by anyone to the County Council for the determination of minerals or waste development.

Mineral working is a very specialised area and, as a result, the Government has decreed that particular controls are exercised over such development, in particular with regard to the environmental effects of such workings.

Every planning permission for mineral working is subject to a time limit. If the Mineral Planning Authority (‘MPA’) does not impose a time limit, a 60 year time limit is automatically imposed. The 60 year time limit is also made to apply to existing planning permissions granted before 22 February 1982 and to run from that date.¹

There is a duty on each MPA to review every site in its area, after specified periods, to determine whether the permission should be revoked or modified, or discontinued. Under legislation², an initial review of mineral permissions (ROMP) granted between 1948 and 1982 was carried out, and periodic reviews of all minerals permissions will take place or have taken place.

Operators are required to submit applications, known as ‘ROMP applications’, within a specified period to allow the County Council to review the permission.

**Regulation 3 Applications**

Applications for ‘County Council’ development such as schools, libraries and care homes can be dealt with under Regulation 3 of the 1992 ‘General’ Regulations.³ Regulation 3 permits a local authority to make an application to itself for planning permission to develop land within its area and to then also determine the application

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¹ Paras 1-6 of Sch 5 to the 1990 TCPA
³ Regulation 3 of the Town and Country Planning General Regulations 1992 SI 1492
A ‘Regulation 3’ application may be made by the Executive Director Finance and Performance.

The Planning Committee will be able to determine a Regulation 3 application if the County Council’s interest in the development is ‘significant’. Guidance provides that when establishing if the County Council’s interest is ‘significant’, the level of financial interest in the matter is a key test. If the County Council has a large financial interest in the proposed development, the County Council, through its Planning Committee acting as an independent body, will be able to determine the application itself.

A Regulation 3 planning permission will be personal to the County Council and, therefore, will not run with the land as other planning permissions generally do. This means that if the County Council does not develop the land in accordance with the permission, the permission will fall as it cannot be transferred to anyone else. The County Council cannot, therefore, sell the land on with the benefit of planning permission.

**Regulation 4 Applications**

Regulation 4 applications are where the County Council owns the land but it does not intend to develop the land in question itself (either on its own or jointly with another party). In such cases, if the land was not owned by the County Council, the application would fall to be determined by the relevant District or Borough Council or where applicable the SDNPA.

This means that, for example, if the County Council wanted to make an application for housing on land that it owns, and did not want to develop the land itself or with another party, the application would have to go to the appropriate District or Borough Council or where applicable the SDNPA for determination.

A Regulation 4 application will run with the land. This enables the County Council to dispose of land for private development (such as for housing) with the benefit of planning permission.

**Section 73 Applications**

Applications can be made under Section 73 of the Town and Country Planning Act 1990 to develop the land without compliance with conditions previously attached to a planning permission. An application may be to vary existing conditions either by removing them (discharging them) or by amending them in some way. This can apply to minerals or waste development and to the County Council’s own development.

It is important to note, however, that the effect of such an application is not merely an amendment to the existing permission. If such an application is granted, the effect is to grant a new permission. The applicant, therefore, could have two or more permissions and they can choose which one to implement. This is because an application under Section 73 does not change the existing permission.  

The County Council can grant permission subject to conditions that are different to those to which the previous permission was granted. However, it may not re-write the permission altogether. In the case of a refusal, the planning permission stands

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4 Powergen UK Plc v Leicester City Council (Court of Appeal May 19, 2000); R v East Sussex County Council ex p Reprotech (Pebsham ltd) (Court of Appeal; June 16, 2000).
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with the conditions as previously attached but the applicant can appeal against the decision.

If the County Council opt to grant permission, it is advisable to re-state all the other conditions under the previous permission that are not being altered under the s73 application. This is because the new permission stands alone and it is arguable that the conditions under the old permission are not automatically carried over to the new permission unless expressly re-stated.

Section 73A Applications

An application for planning permission under Section 73A of the Town and Country Planning Act 1990 is where the development has already been carried out. This is used where planning permission is to be granted retrospectively in order to ‘regularise’ a breach of planning control, or where a temporary permission has expired.

The County Council need to take into account the planning considerations existing at the time the decision is being made.

Environmental Impact Assessments (EIA)

Certain applications for planning permission are subject to an Environmental Impact Assessment (EIA). An EIA is best viewed as an extra process that the applicant has to undertake. An EIA will be necessary if the proposed development falls into Schedule 1 of the EIA Regulations (as many waste proposals do) or if the development is likely to have a significant effect on the environment or it is in a sensitive area (as governed by Schedule 2 of the Regulations).

Environmental Statement

The applicant must prepare a report that identifies, describes, and assesses the effects that the project is likely to have on the environment. This report, called an Environmental Statement (ES), is submitted to the County Council with the application.

The ES has to address the direct and indirect effects of the development on a number of factors including the population, fauna, flora, soil, air, water, climatic factors, landscape, and archaeology.

An application to vary conditions attached to an existing planning permission is in effect an application for a new planning permission. The County Council, therefore, has to consider the need for EIA in exactly the same way as for any other application.

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5 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999\(^5\) govern this area of planning law and further guidance can be found in Departmental Circular 02/99.
Screening and Scoping

The County Council can ‘screen’ proposals to establish if an EIA is required and it can also ‘scope’ the content of the ES at the request of the applicant. This will often be the focus of pre-application discussions.

Failure to properly screen applications to determine whether an EIA is required can result in planning permission being quashed by the courts.

Decision-Making

Once the ES has been submitted and the County Council is happy it has all the information it requires, it will evaluate the information presented and make a decision on the planning application based, in part, on the content of the ES.

The officer’s report needs to document the County Council’s consideration of EIA and whether or not it was deemed necessary and the reasons why.

In some cases, additional information may be required from the applicant under Regulation 19 before the application is determined. If insufficient information is provided and a full assessment of the significance of the environmental impacts cannot be made, the ES may fail to meet the requirements of EIA Regulations.
Planning Applications Process

Pre-Application Discussions

For many applications, especially for larger potential projects, it is likely that there will be some pre-application discussions between the allocated planning officer from the County Council and the applicant. This is to establish the kind and depth of information that will be required to enable the County Council to determine the application properly.

Pre-application discussions are encouraged in the NPPF to facilitate and encourage pre-application discussions. “Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage... they should encourage take-up of any pre-application services they do offer.”

The officer must not make any decisions on the planning merits of the application at this stage although they will guide the applicant as to the likely acceptability of the proposal.

Receipt of Planning Applications

Once a planning application has been received and checked that it has included all information required to determine the application (known as ‘validation’), it will be registered. The County Council will send an acknowledgement to the applicant.

Timetable for Decision-Making

For ‘minor’ Regulation 3 development, the County Council should notify the applicant of its decision within 8 weeks of the date on which the application was registered.

For applications which are classified as ‘major development’, the eight week period is extended to 13 weeks. For minerals and waste applications, the target is 13 weeks, as the definition of ‘major development’ includes the winning and working of minerals or the use of land for mineral working deposits and waste development.

Where the development requires an Environmental Impact Assessment (EIA), the time period for determination is 16 weeks.

All of the above periods can be extended in writing between the applicant and the County Council.

If a decision on the application is not given by the County Council by the statutory deadlines or the mutually agreed date, then the applicant can appeal to the Secretary of State against non-determination. The applicant has six months from the statutory deadline or mutually agreed deadline in which to do this.

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6 paragraph 189 of NPPF
7 Article 8 GDPO 1995
8 Under section 78 of the Town and Country Planning Act 1990
Advertising and Consultation

Applications need to be advertised – this is done by a site notice and, for major applications, by advertisement in a local newspaper.

The County Council must take into account any representations made within 21 days from the date notice of the application is given or 14 days from the date any advertisement appeared in a local newspaper. The County Council cannot determine the application until these periods have expired.

Statutory consultees include the relevant District or Borough Council, the Parish Council, statutory bodies such as the Environment Agency, the Highways Agency, and Natural England. Consultees are given 21 days after receipt of the consultation to respond⁹. This period can be extended by agreement, particularly for major and/or complex applications.

Once the responses are received, the case officer will consider them and it is usually at this point that the decision will be made as to whether the application should be determined by Planning Committee or by the case officer under delegated powers.

Assessing the Application (Material Considerations)

The law states that "... 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 must be made in accordance with the development plan unless material considerations indicate otherwise." ¹⁰

It also states "... in dealing with [an application for planning permission] the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."¹¹

There has been much case law and judicial discussion as to what can be termed a ‘material consideration’ and each material consideration will not necessarily be relevant to every application.

Factors that are material considerations include:

- the statutory 'development plan’ – adopted plans and policies, such as the West Sussex Minerals Local Plan;
- development plan documents in the course of preparation;
- central Government guidance – e.g. the NPPF and Planning Policy Guidance and Statements which have not been revoked by the NPPF; and
- consultees, owners of the land, and members of the public responses (where relevant to the application and related to issues directly linked to the application).

Different ‘weight’ will be attached to published documents depending on whether the document has been formally adopted by the relevant authority and the age and date of the document. For example, less weight should be attached to documents that have not been formally adopted and greater weight should be attached to documents

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¹⁰ Section 38(6) Planning and Compulsory Purchase Act 2004
¹¹ Section 70 (2) TCPA 1990
that have been through the public consultation and Secretary of State processes and have been formally adopted.

Factors **capable** of being material considerations include, but not exclusively:

- siting
- area
- height
- mass
- design
- external appearance
- means of access
- landscaping
- impact on neighbouring land
- availability of infrastructure
- traffic considerations
- communications
- precedent
- objectives in relation to waste

Factors that are **not** capable of being a material consideration include:

- finance – whether a development is financially viable (but may be rendered material by a formula contained in the development plan);
- cost to County Council of modifying or revoking a planning permission; and
- the contractual position of the County Council’s waste management arm in connection with contracts to run waste sites or any other contractual information relating to the running of sites.

The above lists are liable to change through evolving case law and, therefore, will be updated accordingly.

**Prematurity**

In a limited number of cases, planning permission should be refused where it would predetermine decisions (about the scale, location, or phasing of new development) that should be made through the preparation of a development plan document. Prematurity should not be used as the sole reason for refusing planning permission. Note that the more advanced a plan is, the more weight can be attached to it when determining a planning application, making the pre-maturity reason for refusal less likely. In West Sussex, the Minerals Local Plan is still extant and the draft waste local plan is due to go before an inspector in July 2013 with the expectation that it will be adopted in October 2013.

Guidance is set out in “The Planning System: General Principles”. This document is free standing and still has full weight. It was not cancelled by the NPPF.
Key paragraphs state: “in some circumstances it may be justifiable to refuse planning permission on the grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of the new development which are being addressed in the policy in the DPD.”

Paragraph 18 states “...Planning applications should continue to be considered in light of current policies. The weight to be attached to such policies depends on the stage of preparation or review, increasing as successive stages are reached.”

**Human Rights**

There has been extensive litigation in the courts as to whether the English planning system is compliant with both the Human Rights Act 1998 and the European Convention on Human Rights (from which the 1998 act is derived). In particular, Article 8 (right to a private and family life) and Article 6 (right to a fair trial) and First Protocol Article 1 (protection of property) have been raised in relation to the constraints and workings of the planning system.

The latest view on human rights and the planning system is that the planning system is generally compliant with the ECHR and HA 1998.

The officer’s report will always need to fully consider the Articles and Protocol above and there will be paragraphs in the report confirming that they have been taken into consideration and the conclusions drawn.
Determining Planning Applications

Section 70(1) of TCPA 1990 sets out that when determining an application, whether by Planning Committee or by officers under delegated powers, the County Council can:

- grant permission unconditionally; or
- grant permission subject to appropriate conditions; or
- refuse permission.

Planning applications must be determined in accordance with the development plan unless ‘material considerations’ indicated otherwise. There is scope in the legislation\(^\text{12}\) that allow other factors to mean that the application is considered and recommended for approval despite not complying with the development plan (i.e. ‘contrary to the development plan’). This is likely to be rare, and only in cases where plans/policies are outdated or other material considerations outweigh the terms of the development plan.

Planning Committee or Delegated Decision?

The Constitution sets out the criteria for deciding if the application should go to Planning Committee for consideration, or whether it can be determined by officers. The following table shows the instances when a matter will go to Committee or where officers will be capable of determining the application.

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<th>Substantial adverse comment and contrary to development plan</th>
<th>Substantial adverse comment and not contrary to Development Plan</th>
<th>No substantial adverse comment but *contrary to Development Plan</th>
<th>No Substantial adverse comment and not *contrary to Development Plan</th>
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<td>Determination by Planning Committee</td>
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<tr>
<td>Determination by Officers</td>
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<td>✔️</td>
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Although the Planning Committee can determine all applications, in practice if there is no substantial adverse comment, the matter is usually determined by officers.

Members are able to consult the Members Information Service (MIS), published weekly, about forthcoming planning applications. If a Member feels that a matter has a lot of local interest, or is particularly controversial, they may ask for it to be considered by the Planning Committee rather than under delegated powers. This is the case even if there are no adverse comments or if the matter is not contrary to the ‘development plan’.

Officer Reports

Regardless of whether the application will end up before Planning Committee or will be determined by officers, a report will be prepared detailing the history of the site, the policy context, the statutory consultee responses, the public representations, and the

\(^{12}\) Section 72 TCPA, Section38(6) PCPA 2004
key considerations, before arriving at an overall conclusion and a recommendation (if the report is going to Committee) or a delegated decision, both with reasons.

Reports that go to Planning Committee will document the following:

- executive summary detailing the key issues, the overall conclusion, and a recommendation
- planning background/history
- details of the proposal
- details of the relevant planning policies
- summary of the statutory consultees’ responses
- summary of public representations
- consideration of key issues (and conclusion on those issues)
- overall conclusion and recommendation
- human rights considerations
- Equality Act 2010 considerations
- suggested conditions (only if the recommendation is for approval)
- informatives (information for the applicant on any other permits or licences that may be required that are not the responsibility of the County Council such as Environment Agency permits).
- reasons for refusal (only if the recommendation is for refusal)

**Giving Reasons for Decisions**

This is an essential requirement – there is a clear duty on the County Council to give clear reasons for the grant of permission or for the refusal of permission. 13

Reasons must be intelligible and adequate. Case law on the issue includes the following: “[Reasons]... must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the principal important controversial issues disclosing how any issue of law or fact was resolved. ... The reasons need refer only to the main issues in the dispute, not to every material consideration.” 14

**Decisions by Planning Committee**

**Conflicts of Interest, Pre-Determination, and Bias**

The Planning Committee is, and must be seen to be, independent of the applicant. First, this means that Members must pay attention to whether they have a personal or disclosable pecuniary interest (DPI) in such applications, and second, and perhaps more importantly, that Members must consider the issues of pre-determination and bias.

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13 As contained in Article 31 of Town and Country Planning (Development Management Procedure) Regs 2010
This is particularly important for Regulation 3 applications for the County Council’s own development which the County Council is permitted to determine but in so doing must wear two separate ‘hats’ – that of applicant and that of determining authority.

Members must also give careful consideration to any roles they may hold outside of Planning Committee. This includes advising the property or resources portfolio holder, or sitting on steering groups through which the Member might have access to information that could influence the way in which they consider the application at committee (such as being a member of a County Local Committee).

Members should not make a decision on a planning application prior to the vote at the Committee meeting. This means that Members should not make any public proclamations as to their views on the application that would lead the public to think that the Member had already made up his or her mind on the merits of the application prior to Committee.

The basic proposition is that a Member cannot be party to a decision in relation to which he is actually biased (in that he/she has a ‘closed mind’, i.e. that they have pre-determined the outcome of any matter despite the presence of contrary evidence before them) or gives the appearance of being biased, as it would appear to the outside reasonable observer\(^\text{15}\).

Members must keep open minds, be prepared to listen to all sides of the arguments presented, and be able to justify why they have taken a particular decision or voted in a particular manner, based on the facts as presented to them.

Further advice can be obtained from the County Council’s Monitoring Officer (currently the Head of Legal and Democratic Services).

**Overturning Officer Recommendations**

If the Committee comes to a different decision to that of the officer in the recommendation, it will be necessary for the Committee to give clear reasons for either their decision to grant or to refuse permission\(^\text{16}\). These reasons for refusal (or grant) must relate to the material considerations of the application and generally need to have a link to a relevant policy.

For example, the Committee may decide, contrary to the report, that the surrounding infrastructure to the proposed development will not be able to cope, and therefore the application should be refused. Accordingly, a ‘reason for refusal’ would be that the surrounding infrastructure is already at capacity and cannot cope with the increase in traffic the proposal will generate. Members will need to consider whether they consider they have empirical evidence to conclude differently to that of the officer and will need to base this on sound policy.

Another example is if the proposed development is within an Area of Outstanding Natural Beauty. A reason for refusal may read that the proposed development is within an AONB and so the development would be contrary to development plan policy.

Officers will assist the Committee in formulating wording for such reasons.

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\(^{15}\) Appearance of bias in Porter v Magill [2002] 3 AC 357, para 103, per Lord Hope

\(^{16}\) See also section on procedure on County Council own development
Different or Additional Reasons for Refusal or Granting Planning Permission

The Committee can decide it wants to give different or additional reasons for resolving to refuse or grant planning permission. Guidance will be available from officers, but any new reasons for refusal or permission need to relate to a material consideration and be linked to policy.

Committee needs to note that if the decision is appealed, additional reasons cannot be later added in to the Decision Notice. Therefore, Committee Members must carefully consider the pertinent issues before resolving to remove or alter any suggested reasons.

Committee may also decide that it wants to add in extra reasons for granting permission. Again the reasons must be relevant and linked to a material consideration. Officers will advise and assist if this option is exercised.

Refusal of Planning Permission for Regulation 3 Applications

There is a distinct procedure to be followed if the Planning Committee is minded to refuse a Regulation 3 application for the County Council’s own development.

If the Planning Committee signal that it is their intention to refuse the application, the Committee will be adjourned in order for officers to obtain further information or to determine how to address the issues raised. The matter will then be brought back before Committee.

If Members are then satisfied that the issues they raised have been resolved, then the Committee can resolve to grant permission. If Members are not convinced that the issues have been resolved, the Committee will give their indication of a refusal in principle and the reasons for this.

This then becomes a recommendation that must go before full County Council. Full County Council will act as the Planning Authority under its statutory powers and the Chair of Planning Committee will introduce the item.

Departures

In certain circumstances as highlighted below the secretary of state may decide to call in or determine certain types of planning application itself. Such applications continue to be known as ‘departure’ or ‘called-in’ applications.

If an LPA does not propose to refuse planning permission for the following after 20 April 2009:

i) green belt development, development outside town centres, and such development is at odds with the development plan or

ii) world heritage site development, and such development would have an adverse impact on the outstanding universal value, integrity, authenticity and significance of such a site or

iii) playing field development, and such development is the land of the local authority or currently used for education purposes or has at any time in
the five years before the application been used by an educational institution as a playing field and Sport England has objected to the development subject to certain criteria or

iv) flood risk development where the Environment Agency has made an objection,

the application must be referred to the secretary of state to ascertain whether the secretary of state wishes to call in the application.

**Secretary of State Call In**

Under section 76A of the Town and Country Planning Act 1990 if an application is a ‘major infrastructure project’ that is likely to have national or regional importance, the Secretary of State may direct that the application be referred to him rather than by the local planning authority. An inspector will be appointed to consider the application.
Granting Planning Permission

Planning permission is granted when the ‘decision notice’ is signed and dated by the County Council and issued to the applicant.

In some cases, the Planning Committee may resolve to grant planning permission subject to the completion of a legal agreement. In such cases, the permission is not granted until the agreement is completed, which may be some weeks or months after the Committee meeting.

Different ‘Types’ of Planning Permission

Broadly, there are three types of planning permission:

1. The first is the most often seen type of planning permission. This is when permission is granted with no end date attached by way of condition and will specify that development must commence within 3 years of the grant of permission.

2. The second is when permission is granted but has an end date attached. Often such permissions are known as ‘temporary permissions.’ Legislation gives the County Council authority to impose conditions e.g. that buildings be removed or a use is discontinued after a specified period. Such permissions can be used where there is insufficient evidence to enable the County Council to determine the exact effects or the character of the application when the application may be detrimental to existing nearby uses.

A temporary permission, however, cannot be granted because of the known detrimental effect of the development on nearby amenities.

A temporary permission is normally only appropriate either where the applicant proposes a temporary development, or where a trial run is needed to assess the effects of a development on an area (where the decision is borderline).

All minerals permissions and reviews of mineral permissions will have an end date attached.

3. The third is when the permission is personal to the applicant (a ‘personal permission’). This means that the planning permission is not attached to the land, as it is usually. It also means that the permission does not run with the land, so that the applicant cannot pass on the permission by selling on the land.

Granting Planning Permission subject to Conditions

Conditions can be attached to a grant of planning permission to help ensure that the impact of the development will be controlled or mitigated. Conditions compel the applicant to do or take measures to render the development acceptable in planning policy terms.
Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects. (NPPF paragraph 206).

A key test as to whether a condition is necessary, is whether planning permission would have to be refused if the condition were not imposed. A reason must be given for the imposition of each condition.

The officer’s report to Planning Committee will, more often than not, contain suggested conditions to mitigate the impact of the development if the recommendation is to grant permission.

Planning Committee has discretion to add or remove conditions if it considers it appropriate. If Planning Committee is minded to add conditions, the conditions must adhere to the guidance set out above. Officers can assist with the drafting of any additional or amended conditions.

A requirement for financial contributions to mitigate the impact of the development cannot be the subject of a condition.

**Granting Planning Permission subject to a Legal Agreement**

Planning permission can be granted subject to the completion of a legal agreement by the applicant with the County Council.

Section 106 of the TCPA 1990 allows for the County Council to require the applicant to enter into an agreement with the County Council to govern the use of the land in some way. Such agreements are known as ‘Section 106 agreements’.

The use of Section 106 agreements was historically governed by case law and policy. To reflect changes made as a result of the introduction of the Community Infrastructure Levy (‘CIL’), the tests previously set out by government have been put on a statutory footing.

From 6 April 2010, therefore, it is necessary that a Section 106 agreement meets all of the following statutory tests:

(a) it is necessary to make the development acceptable in planning terms;

(b) it is directly related to the development; and

(c) it is fairly and reasonably related in scale and kind to the development

Section 106 agreements may be made with both the County Council and the applicant and owner signing up to them, or with just the applicant signing the deed (known as a ‘unilateral undertaking’). Both forms of agreement are equally valid. Unilateral undertakings tend to be used where there is a one-off contribution to be paid; they are not generally seen as appropriate when there are more complicated requirements to be signed up to.

Financial contributions can be required in a Section 106 agreement to mitigate the impact of the development on infrastructure such as roads, libraries, civic amenity sites or schools. Contributions are calculated when responses are formulated by the statutory consultees on the consultation.
Mineral and waste developments and developments for schools or libraries do not incur contributions for education or libraries or household waste recycling sites. This is because the calculations for such contributions are based on the increase in population that the development will generate. Such contributions apply to developments for housing.

The use of Section 106 agreements by the County Council is generally to govern large lorries or vehicles associated with development. These are known as ‘lorry routeing agreements’. The agreement will specify the route to be taken by lorries under the applicant’s control to and from the site. The agreement may also require the applicant to place signs on the application site informing the drivers of such vehicles to use a specific route. Such agreements are likely to be required when the Highways Authority as consultee has raised concerns about the capacity of the roads surrounding the development.

Another common mitigation measure is for the provision of a contribution to improve or strengthen the highway, or the submission of a highway works scheme by the developer for approval by the County Council to do mitigating works that will be required as a result of the development going ahead.

For developments that will use very large or numerous vehicles, there will often be a requirement to enter into an agreement with the County Council to pay for any extraordinary damage to the highway that will be affected by the development\textsuperscript{17}. This can be done as part of the Section 106 agreement process.

**Limitations on Granting Planning Permission**

The grant of planning permission cannot permit something outside the development that has been applied for in the planning application.

Case law has held that it is possible to grant permission subject to a condition that only a reduced development was to be carried out provided that the result did not differ substantially from the development proposed in the original application\textsuperscript{18}.

The main criterion to which the County Council has to have regard, is whether the development would be so changed that it would, in substance, no longer be what was applied for. In this case, granting planning permission would deprive those who should have been consulted on the changed development of the opportunity to comment.

An amendment to an application that would have the effect of altering its whole character cannot be done.

**What Happens Next?**

The applicant must apply for full permission within three years of the date of an outline planning permission. The development to which the permission relates must then be begun not later than the expiration of two years from the final approval of

\textsuperscript{17} Section 59 of the Highways Act 1980

\textsuperscript{18} Bernard Wheatcroft v Secretary of State for the Environment [1982] JPL 37
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reserved matters (the last approval of the last reserved matter if determined separately).

For a full planning permission, a condition will be attached stating that the permission must be implemented within three years of it being granted. If not, the application will need to be put forward again for consideration. Applications to extend the time limit for implementation of the permission cannot be used where the permission has already expired or the consent was granted after 1 October 2010.

**What if the applicant does not like the conditions imposed?**

If the applicant is granted planning permission and decides that they do not like the conditions that have been imposed on the permission, it is possible to ‘appeal’ these conditions, either to the planning authority or to the Secretary of State.

**Application to remove or vary a condition**

Under Section 73 of the TCPA 1990, the applicant can submit a further application to the County Council specifying the condition(s) that the applicant wants to see removed or varied. Officers must treat the application in the same way as an entirely ‘new’ application.

If the application is granted, what results is an entirely new planning permission although it does not cancel out the previous permission. This means that the applicant can decide whether to continue with the ‘old’ permission or apply the new permission.

A common example of such an application on a waste site is for the applicant to apply for a variation of the opening hours of the site to that granted in the original permission.

**Appeal to the Secretary of State**

If the applicant does not want to submit a new application to vary or remove the condition, or the application to do so is refused by the County Council, they can appeal to the Secretary of State.
Planning Appeals

The applicant has the right to appeal to the Secretary of State (SoS) in specific cases, e.g., if the County Council takes too long to determine an application or the Planning Committee or officers decide to refuse planning permission or impose conditions that the applicant does not like. The process is outlined below:

**Section 78 Appeal**

The applicant can appeal to the SoS for non-determination of an application under Section 78 of the TCPA 1990. This can occur when the County Council has had the application in for an amount of time over that of the timescale by which the
application should be determined or has resolved to issue permission but has then not done so.

Refusal of planning permission may also be appealed under Section 78 of the TCPA 1990. Similarly, if the applicant does not like the conditions imposed on the grant of permission he may appeal under the same section. The applicant has six months to appeal the decision of the County Council.

The appeal may take the form of written representations, an oral hearing, or a public inquiry. It depends on the complexity of the issues involved.

**Section 288 Appeal**

After an appeal to the SoS, should the applicant not be content with the decision of the SoS, he has one more option – a further appeal to the High Court against the SoS decision under Section 288 of the TCPA 1990.

The grounds of challenge come under two branches:

- if the decision is thought to be ‘ultra vires’ or outside the powers of the decision-making authority;
- if the decision is thought not to comply with the ‘relevant requirements’. The defect must have resulted in substantial prejudice to the applicant.
Third Party Appeals, Judicial Review, & Local Government Ombudsman

The following routes may be available to ‘third parties’ e.g. local residents objecting to a development proposal if, for example, they are unhappy with the handling of a planning application: appeal to the Secretary of State (SoS), judicial review; and referral to the Local Government Ombudsman.

The following flowchart illustrates the process.

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Third parties’ options

Grant of PP

Appeal under judicial review within 3 months of decision notice

Appeal by 3rd parties under S288 TCPA 1990 of SoS decision if have sufficient standing
Grounds:
1. Illegality
2. Irrationality
3. Procedural impropriety
Remedy:
1) Mandatory order – must do 5th
2) Prohibiting order – must not do 5th
3) Quashing order – take decision again
4) Injunction – restrained from doing 5th
5) Declaration – Courts view of lawfulness of decision

Refusal of PP

Non-determination by LPA

After appeal by applicants, PP granted

3rd party must show significant standing or interest in the application
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Appeals by Third Parties

Often in planning applications, outside interest groups become involved. Such groups may already exist (such as Greenpeace) or come into being as a result of the proposed development (local pressure groups for example). These groups often have firm views about the impact and desirability of the proposed development. Such groups are often referred to as ‘third parties’.

One of their options is for judicial review, dealt with below.

The other option is contained in section 288 of the TCPA 1990. If an application has been appealed following the refusal of permission, and the SoS has issued a decision whether to grant permission or not following the appeal, that subsequent decision may be appealed.

A category known as ‘Persons aggrieved’ by the decision of the SoS may appeal; this category can include those who had appeared and made representations at the appeal inquiry, such as local interest groups, as well as the party against whom the decision of the SoS went.

Third parties would need to show that they had a big enough interest in the matter and that they had been materially affected by it and such application must be made six weeks from the SoS’s decision.

Appeal is to the High Court for quashing the SoS decision and remitting to him/her for reconsideration.

Judicial Review

Appeal to the SoS, as outlined above, is dependant on there having been a successful appeal by the applicant to the SoS and planning permission having been granted.

If there has been no such appeal, then an aggrieved third party will need to resort to a claim for judicial review under the provisions of the Supreme Court Act section 31 and part 54 of the Civil Procedure Rules (CPR).

First, the claimant needs to make an application to the High Court for permission to proceed with the claim. They also need to show sufficient standing (that the claimant has sufficient interest in the matter and is not merely a vexatious litigant), and that the claimant has acted promptly.

Time Limits

The claimant will need to apply to the High Court within three months of the decision to grant planning permission. However, that does not mean that the claimant can wait the full three months before applying. Rule 54.5(1) of the Civil Procedure Rules states that an application to proceed with judicial review must be made “a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.”
At time of writing (May 2013) the government has announced that it intends to reduce the time limit for applying for judicial review in planning cases from 3 months to six weeks. It is anticipated that court rules will be changed in the summer of 2013.

**Effect of Judicial Review**

A claim for judicial review tends to be on the following grounds:

- **illegality**: a claim that the decision is illegal needs to show that the County Council took a decision contrary to law;
- **irrationality**: a claim that the decision is irrational must show that the County Council acted unreasonably – such that any reasonable authority would not have taken the decision in the manner that the defendant authority did; or
- **procedural impropriety**: a claim that the decision was taken as a result of procedural impropriety must show that the decision was not taken in accordance with the County Council’s Constitution or prescribed steps in the planning process were not adhered to.

If the High Court finds the claim has merit, there are five remedies that the Court can order.

(i) **a mandatory order** – that the County Council must do something to remedy the decision;

(ii) **a prohibiting order** – that the County Council must refrain from doing something concerned with the decision;

(iii) **a quashing order** – that the decision of the County Council needs to be taken again;

(iv) **an injunction** – that the County Council is restrained from doing something;

(v) **a declaration** – the court will take a view on the lawfulness of the County Council’s actions.

The Court will not make a decision that the County Council is required to make. Its powers are to take a view on the mechanisms taken to reach the County Council decision.

**Local Government Ombudsman**

All parties involved have the option of applying to the Local Government Ombudsman if they think that there has been maladministration by the County Council. More information can be found on www.lgo.org.uk.

First, members of the public are advised to write to the Chief Executive and then only to the Ombudsman if they feel their complaint has not been resolved.
Other Regulatory Regimes
Minerals and waste developments are often complex in nature and the processing of planning applications often requires close liaison with other regulatory regimes.

The main body involved is the Environment Agency (EA), which plays an intrinsic role in establishing the permits and licences for waste or minerals sites, once permission has been granted.

The EA operates under separate powers and legislation to the County Council. Its role usually comes into play once permission is granted. An example of EA involvement is the granting of an Environmental Permit (replaces the former system of waste management licences, or pollution prevention and control permits).

Even if planning permission is granted by the County Council, the applicant will have to satisfy the EA that it should grant an Environmental Permit. Without such permits, the site cannot become operational.

There are several concordats or protocols established between the EA and the Local Government Agency to encourage ‘working better together’.

Other regulatory regimes include those operated by Natural England, the District and Borough Councils (e.g. building regulations), and the Health and Safety Executive.

Outside agencies such as the EA are statutory consultees on the planning applications determined by the County Council.
Compliance and Enforcement

Monitoring and Compliance (Authorised Development)

Monitoring on all mineral and waste sites that have planning permission is carried out to ensure that the development takes place in ‘compliance’ with the terms of the planning conditions attached to the permission. In this way, the impact of the authorised development e.g. on the environment and local amenity, can be controlled.

Unauthorized Development

Unauthorized developments, i.e. those that do not have the necessary planning permission, can occur. Although it is not a criminal offence to carry out development without first obtaining planning permission, it is a contravention of the planning laws.

The County Council has powers to enforce those laws although the decision to take enforcement action is discretionary and must be well-founded. It must decide on the evidence presented, following a complete investigation, whether it is expedient and in the public interest to take action.

Investigation

Development that does not comply with the terms of a planning permission or development that is unauthorised (e.g. it does not have planning permission) is known as a ‘breach of planning control’. Unless reported anonymously, all possible breaches of planning control are investigated thoroughly and consistently.

The following range of ‘tools’ are available to us when investigating potential breaches of planning control:

- **Statutory power to enter land:** An authorised officer of the County Council has the right to enter land when investigating alleged breaches of planning control. Any person who prevents an authorised officer gaining access to land to obtain information required for enforcement purposes may be liable to prosecution.

- **Planning Contravention Notice (PCN):** Where there is good reason to believe a breach may have occurred, a PCN can be issued to gather information about either the unauthorised development and/or land ownership. Subsequent discussions may lead to the submission by the developer/operator/landowner of a retrospective planning application under Section 73A so that the matter can be formally considered by the County Council.

- **Requisition Notice:** This Notice requires the person on whom it is served, to provide us with details about land use/ownership, and may be the precursor to the issue of a formal notice. It also warns the recipient that enforcement action is being considered, and is often enough to satisfactorily resolve the breach of control.

Following investigation, the decision to take, or not to take, formal enforcement action is within the discretion of the County Council. The decision must be rational and must accord with policies in the ‘development plan’ unless there are good reasons that indicate otherwise. The decision must also be capable of public scrutiny.
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Particular attention must be paid to the need to protect sensitive areas, sites and features that are an important part of the natural and historic environment from any actual or potential harm.

For authorised development, particular regard must be had to any conditions imposed on the planning permission to protect or mitigate environmental or amenity impacts, and without which planning consent would not have been granted.

If there has been a breach of planning control, the County Council can ‘invite’ a planning application under Section 73A to be made to ‘regularise’ unauthorised development or to take enforcement action to control or stop the development.

**Enforcement**

Formal enforcement action will only be taken when the breach of planning control is unacceptable on planning grounds and it is in the public interest to do so. For example, formal enforcement action should not be taken against a minor or technical breach of control which causes little or no harm to the environment or to local amenity.

The precise form of any action taken against a breach of planning control is at the discretion of the County Council, subject to Judicial Review.

Any formal action that is taken must be appropriate and proportionate. The scale and persistence/repetition of a breach of planning control must be taken into account in determining the nature of any enforcement action.

In considering whether to proceed with formal enforcement action, account must be taken of the possibility of maladministration. Maladministration could arise due to ‘under-enforcement’ e.g. where enforcement action was clearly necessary and has not been taken or due to ‘over-enforcement’ e.g. where enforcement action is taken but it is disproportionate to the harm caused.

The following range of enforcement ‘tools’ are available to us when we decide to take formal enforcement action to deal with breaches of planning control.

- **Breach of Condition Notice (BCN):** A BCN is only used when there is non-compliance with a condition attached to a planning permission. The recipient has a minimum of 28 days in which to carry out the steps required by the notice. There is no right of appeal, other than on a point of law, and failure to comply is a criminal offence.

- **Enforcement Notice:** The Enforcement Notice can be used where there is a breach of condition on authorised development or where there is unauthorised development (if the County Council decides a retrospective planning application is not appropriate or an application has been refused). This Notice must be served on the owners, occupiers, and all other parties who have an interest in the land affected by the Notice. It specifies what the problem is, what must be done to put it right, and gives a time period for completion of the remedial works. It comes into effect not less than 28 days after it is issued unless an appeal is made against it. Any appeal stops the Notice taking effect until the appeal is determined and, if successful, leads to the notice being quashed. A Stop Notice can be issued to prevent continuation of any activity up to the period of confirmation or otherwise of any Enforcement Notice.
- **Temporary Stop Notice (TSN):** A TSN can be issued if it is believed that there has been a breach of planning control, and it is necessary to stop the activity, or any part of it that amounts to the breach, immediately. It is effective the moment it is served and can be used for a maximum of 28 days, during which time further enforcement action, if any can be considered. There is no right of appeal against a TSN, other than by way of Judicial Review.

- **Stop Notice:** A Stop Notice can only be used where an Enforcement Notice has been served or when an appeal has been lodged against the Enforcement Notice. It is used where it is necessary to stop activities immediately where there is particular harm to the environment or to local amenity. As compensation can be sought against the County Council against a Stop Notice, a financial cost benefit analysis is required prior to the serving of the Notice.

- **Injunction:** Notwithstanding any other actions being taken, an injunction (interim/emergency or final version) can be sought from a judge sitting in either the High Court or the County Court in order to restrain any breach of planning control that is causing significant harm to the environment.

- **Direct Action:** If an operator or landowner continues the operation or refuses to comply with the requirements of an Enforcement Notice, the Council can, in exceptional circumstances, take direct action to secure compliance. Direct action is a last resort and may include the County Council:
  1. entering the land and taking the necessary steps specified in the notice; and
  2. recovering from the person who is the owner of the land any expenses reasonably incurred by us doing so; or
  3. registering a charge on the land.
Appendix A: Principal Legislation

Historically, town and country planning legislation has been subject to frequent amendment and this has resulted in complex and non-user friendly legislation. The decision was taken in 1989, by the Government of the day, to consolidate the existing legislation. Four consolidating Acts were introduced and these still form the basis of planning law today:

- **Town and Country Planning Act 1990** (often referred to as ‘the 1990 Act’) – consolidated certain enactments relating to development control;
- **Planning (Listed Buildings and Conservation Areas) Act 1990**;
- **Planning (Hazardous Substances) Act 1990**; and
- **Planning (Consequential Provisions) Act 1990** – dealt with transitional provisions, consequential amendments and repeals to ensure continuity.

Although some minor substantive changes were made to the law by the four consolidating Acts, more substantial changes were required and these were introduced by the **Planning and Compensation Act 1991**. As its name suggests, this Act amended the law relating to planning and compensation for compulsory acquisition of land. The Planning and Compensation Act 1991 made important changes to the law relating to development plans, the definition of development, appeals and enforcement notices.

Since 1991, substantial changes to planning law have been made by the following acts:

- **Environment Act 1995** – established the Environment Agency and National Park Authorities. It also provided for the review and updating of existing mineral planning permissions;
- **Human Rights Act 1998** – incorporated the European Convention on Human Rights into UK law. Local authorities must have regard to human rights when determining planning applications; and
- **Planning and Compulsory Purchase Act 2004** – as well as changing the development plan system, this Act made numerous other changes to planning law.
- **Planning Act 2008**
- **Localism Act 2011**

As well as the Acts mentioned above, secondary legislation (Regulations and Orders), European legislation (Regulations and Directives), statutory guidance, and departmental circulars all have an important role to play in shaping planning law in the UK.
Appendix B: Further Reading

1. WSCC Constitution – standing orders, code of conduct

2. Planning Law Probity Guide in the WSCC Constitution

3. WSCC Guide to Participation at Planning Committee (Leaflet)

4. National Planning Policy Framework