

DEVELOPMENT CONTROL AND COMPLIANCE TEAM

PROTOCOL FOR LIAISON WITH TOWN AND COMMUNITY COUNCILS

Denbighshire County Council aims to be an excellent authority in providing high quality, sustainable and efficient services to all its citizens and communities by 2012. One of the ways in which the Development Control and Compliance Team aims to achieve this is by closer liaison with Town and Community Councils.

This protocol sets out clear guidance for liaison between the Officers within the Development Control and Compliance Team (the Team) and the Town and Community Council's (T&CCs) from the pre-application stage through to post decision matters. By following the steps within this protocol, a closer link will be forged between the Development Control and Compliance Team and the Local Community through improved communication. By improving communication, the Council will gain a better understanding of the needs of the communities involved, and the Town and Community Councils will also benefit from having a better knowledge of the parameters in which Officers work when considering planning applications in their local communities.

1. BEFORE AN APPLICATION IS SUBMITTED

- 1.1 There are occasions when a developer/applicant will contact the Team with a view to discussing the merits of a development before submitting an application.

The Council is not always at liberty to discuss this type of enquiry with third parties as they are usually of a confidential nature.

The Council will aim to bring together the developer and the local community whenever possible by improving communication and understanding of the planning process.

Early informal engagement would not prejudice the right of the Town and Community Council to voice an opinion if or when an application is submitted. Nor does it guarantee that all local issues can be resolved before an application is received.

What the Town and Community Council can expect from Denbighshire

- 1.1.1 *The team will seek to gain the consent of the potential developer to informally approach the T or CC to advise them of the details of any significant pre application discussions.*
- 1.1.2 *The team will encourage the potential developer to give presentations to the T or CCs where appropriate.*

What Denbighshire would like from the Town or Community Council

- 1.1.3 *To provide informal feedback on any pre-application consultation making suggestions for scheme improvements and highlighting relevant local considerations.*

2. WHEN AN APPLICATION IS SUBMITTED

- 2.1 T or CCs will be formally consulted by the Team on all relevant planning applications in their area. The responses received will be placed on file, reported in full within any planning report and issues raised will be addressed in formulating a decision.
- 2.2 The relevant maximum statutory period for response by a T or CC on a planning and/or other application will be 21 days from the date of the letter or e-mail sent to the relevant T or CC.
- 2.3 The majority of applications are dealt with by the case officer under our Scheme of Delegation*. When this happens, a report is written by the case officer and this will include the T or CC response. However, when an objection is received from the T or CC and the case officer is minded to approve, then our Scheme of Delegation dictates that the application is heard by the Planning Committee. Again, the response is included in full on the case officer's report to Planning Committee. Please refer to our Scheme of Delegation for full details.
- 2.4 All reasonable steps will be taken to ensure that a decision is not made under delegated powers before a response is received from the T or CC.
- 2.5 The team will keep the T & CC informed of potential Planning Committee items to ensure that the community is kept aware of applications which may be of local interest. We will always seek to ensure total transparency in the planning process and keep the T & CC informed as to whether applications must be determined at Planning Committee.
- 2.6 If there has been a request to speak at Committee, all relevant documents will be provided before the date of the Planning Committee so that the speaker is aware of the procedure.
- 2.7 We will also provide any further documentation produced after the officer's report has been finalised. Such documentation is normally presented to Planning Committee in the form of a late representations (blue) sheet.
- 2.8 Not all applications will have public speakers and we would not normally provide further details unless we had been requested to do so.

However, the team will endeavour to provide more information to T & CCs on applications which have been to Planning Committee as these tend to be the more contentious ones, or have more local issues.

- 2.9 Sometimes, the final Planning Committee decision will follow the recommendation of the T or CC but this is not always the case. In these instances we will provide more information after the relevant Committee, this will enable the T & CC to understand the reasoning behind the decision.
- 2.10 To ensure total transparency, we will provide copies of any legal agreements for those applications where a legal obligation was required before the decision notice could be released.

What the Town and Community Council can expect from Denbighshire

- 2.10.1 *We will send out a letter of consultation, including copies of relevant plans and documents promptly following the submission of a valid application. This can be done either via paper copy or via electronic means.*

- 2.10.2 *We will aim to be sympathetic and accommodating when the T & CC are unable to respond within the relevant timescale. However, please bear in mind that the officers have a limited timescale in which to determine applications so this will place a restriction on how long they can wait.*
- 2.10.3 *If no response has been received at the point where a delegated decision can be made, the case officer will take all reasonable steps to contact the Clerk to find out why a response has not been received. This may be because the timing of the T or CC meetings was not compatible with the timescale of the application. In these cases, we will ensure that we take this into consideration when determining whether or not a decision can be issued.*
- 2.10.4 *We will ensure that the appropriate Clerk of the T & CC receives the list of potential Planning Committee items at the relevant time and that they are informed that they have the opportunity to speak at Committee. This will be done approximately two weeks prior to Planning Committee and will include a brief summary of the relevant planning issues on that application.*
- 2.10.5 *We will endeavour to address the valid material planning issues raised by T & CCs when formulating reports and decisions and, where necessary, will provide further clarification on planning issues.*

What Denbighshire would like from the Town or Community Council

- 2.10.6 *The Case Officer needs to have a written response from the T or CC as soon as possible.*
- 2.10.7 *The response should take into account the relevant policies of the Denbighshire Unitary Development Plan (available in all local libraries and also on the Denbighshire website) and should also highlight any local issues which may not be immediately obvious to the case officer.*
- 2.10.8 *Should the T or CC experience difficulties in responding within the relevant timescale, the Clerk should approach the case officer as soon as possible to explain the delay. (See contact details at the end of this document)*
- 2.10.9 *Failure to request an extension of time could result in a planning application being determined under our Scheme of Delegation without a response being received from the T or CC.*
- 2.10.10 *The more contentious applications can generate substantial officer reports. Therefore we would ask that responses are concise and relevant to the local issues as all policy issues will be thoroughly reported by the case officer. This will ensure that issues are not duplicated and reports are more reader friendly.*
- 2.10.11 *Should the Clerk feel that there are substantial concerns regarding an application, early contact with the case officer should be made by the Clerk in order to discuss the issues. The Clerk could obtain the view of the case officer and whether the case will be dealt with under the Scheme of Delegation or at Planning Committee. If this is the case, the Clerk may feel that a slot should be requested for someone to address the issues at Planning Committee.*

- 2.10.12 *On receipt of the Committee item list, the Clerk should circulate the document to its Members. This will ensure that contact can be made at the earliest opportunity in case any of the Members wish to address the committee in accordance with our Protocol on Public Speaking at Planning Committee.*

3. AFTER A DECISION HAS BEEN MADE

- 3.1 The case officers will ensure that the appropriate T or CCs are consulted on any relevant 'approval of conditions', either on request or due to the significance of the issue.

What the Town and Community Council can expect from Denbighshire

- 3.1.1 *We will send copies of all relevant decision certificates to the T or CC which will list conditions which have been imposed on the planning applications.*

Should the Planning Application case officer receive documentation seeking to discharge a previously imposed condition which is likely to affect the local community, a consultation will be carried out with the T or CC. This will give the T or CC 14 days in which to make comments on these details.

What Denbighshire would like from the Town or Community Council

- 3.1.2 *Although there is no strict time limit on approval of conditions, we aim to approve as soon as possible therefore a prompt response is appreciated.*
- 3.1.3 *We would expect the Clerk to bring all decision notices to the attention of their members to ensure that any conditions which may affect local issues can be highlighted with the relevant case officer. This will ensure that the T or CC can be contacted or consulted when documentation is received to approve the relevant condition.*

4. TOWN AND COMMUNITY COUNCIL TRAINING ON PLANNING MATTERS

- 4.1 We will aim to bring the Council closer to the community by providing regular training/liaison sessions with the T or CC. This will allow two way engagement and provide the T or CCs and the Council with a better understanding of the challenges that each face when considering planning applications.

What the Town and Community Council can expect from Denbighshire

- 4.1.1 *We will provide four training sessions per year. Each of the sessions will be located in different locations throughout the County to allow access for all.*
- 4.1.2 *Should any Town or Community Council feel that they would benefit from training on a particular subject which affects their local area, we will endeavour to provide that training outside the four scheduled sessions.*
- 4.1.3 *Requests for Senior Officers from the Development Control and Compliance Team to attend any Town and Community Council planning meetings will be accommodated where feasible.*

What Denbighshire would like from the Town or Community Council

- 4.1.4 *We usually suggest that the sessions are limited to the Clerk and maybe one other member of the T or CC. However, should the Clerk not be able to attend, we are more than happy for an alternative Member to attend on their behalf. These sessions are for the benefit of the T & CCs. Your attendance and feedback is valuable in helping us to provide a better service.*

5. MONITORING OF DEVELOPMENT AND REPORTING OF BREACHES OF PLANNING CONTROL

- 5.1 Once permission has been given for a type of development there may be certain planning conditions or legal agreements which require monitoring to ensure the development proceeds as approved. We are a small team and whilst we will always endeavour to monitor major schemes it may not always be possible to monitor all development sites. The aim is that better communication between the Council and T & CCs will enable better monitoring of sites. Planning also have a role in the investigation of possible breaches of planning control (i.e. someone doing something without planning permission). Again, better liaison with T & CCs can assist in this process as T & CCs will often be able to flag such breaches up before the Council becomes aware of them.

What the Town and Community Council can expect from Denbighshire

- 5.1.1 *We will provide copy decision notices to all the relevant Town or Community Councils to ensure that the local community is fully aware of the conditions imposed by the Local Authority on certain planning consents.*
- 5.1.2 *The Planning Compliance section will investigate all breaches identified by the T & CCs having regard to resources and priorities at the time of the investigation and will provide feedback on their findings.*

What Denbighshire would like from the Town or Community Council

- 5.1.3 *The T or CC can often be the eyes and ears of the Development Control and Compliance Team. Any potential breaches of planning control or non-compliance with planning permissions should be reported in writing to the team (see contact details).*
- 5.2 Where development does not proceed on site despite having the benefit of planning permission this can often result in a visual blight on the community.
- 5.3 The Council will work with the landowner/developer and the T & CC to ensure the site remains visually acceptable in the short to medium term or until the development can be progressed. Relevant Enforcement action will be progressed where it can be proved that significant harm is being caused by the appearance of the development.

What the Town and Community Council can expect from Denbighshire

- 5.3.1 *We will investigate all options available to the team to try and mitigate the situation. There are limited powers of enforcement in situations where permission has been given but not fully implemented. However, the team will liaise with the developer to try to seek a mutual resolution and keep the local T or CC updated on the necessary course of action.*

What Denbighshire would like from the Town or Community Council

- 5.3.2 *The early reporting of possible negative impacts from a site or building on the community would enable the Development Control and Compliance Team to formulate an action plan to deal with this potential harm. Contact should be made with one of the Planning Compliance Officers. Contact details are listed below.*

6. THE PLANNING APPEAL PROCESS

- 6.1 In most cases* within 6 months of the refusal of planning permission an applicant has the right to appeal the decision. This appeal can be made to the Planning Inspectorate and may take the form of an exchange of written statements, an informal hearing or a public inquiry. The T&CC would have made representations on the original planning application and, dependent on the nature of the proposed development, may wish to take an active role in the planning appeal process. Local issues which may have been crucial in the formulating of the refusal will, no doubt, be relevant in the planning appeal process. Planning Inspectors will often take heed of the comments of the T&CC during a planning appeal and in order to make a comprehensive defence of the Council's decision it is important that the Council and T&CC liaison is managed properly.

What the Town and Community Council can expect from Denbighshire.

- 6.1.1 *We will contact the relevant T&CC to let them know a planning appeal has been received enclosing the relevant decision notice.*
- 6.1.2 *Should the relevant T&CC wish to be involved within the planning appeal process the appeal case officer will involve them in pre-appeal meetings and send them any relevant documents and statements pertaining to the case. A representative of the T&CC may then attend the planning appeal giving appropriate evidence where necessary in the defence of the Council's case.*

What Denbighshire would like from the T&CC

- 6.1.3 *Should the T&CC feel they wish to be heard at a planning appeal they should ensure contact is made with the case officer once they receive notification that an appeal has been lodged. The T&CC should be guided by the case officer as to how best they may support the Council's case highlighting what specific evidence may be required. The T&CC may wish to write to the Planning Inspectorate in order to defend the reason(s) for refusal.*
- 6.2 The involvement of the T&CC in a planning appeal, if managed appropriately, can greatly enhance the Council's case and enable a Planning Inspector to get valid and up to date local information pertaining to the case. The Council would encourage involvement where appropriate and would aim to assist the T&CC in getting involved.

PLANNING AND PUBLIC PROTECTION



PLEASE NOTE:

- a) Statutory time scales: The National target set by the Welsh Assembly Government is for all Councils to determine planning applications within 8 weeks. The consultation period is set at 2 weeks but we in Denbighshire do not consider this timescale to be realistic therefore have extended it to three weeks.

When we consult on planning applications, we contact many organisations/bodies, as well as T & CCs, for example highways department, Environment Agency, neighbours etc and everyone's feedback will be considered before determining an application.

- b) We would fully encourage and support any T or CC in receiving their consultations via electronic means as this can speed up the process and is the most cost effective and efficient way of carrying out the consultation process. Please feel free to contact us should you wish to consider electronic consultations.
- c) The most efficient and cost effective way of sending responses back to the Council would be via e-mail through our general e-mail address planning@denbighshire.gov.uk
- d) Any changes in personnel or addresses should be reported as soon as possible. Having up to date details will ensure accuracy with consultation and communication.
- Scheme of Delegation – Sets out when an officer is able to determine an application and when it has to go to Planning Committee

Contact Details:

Development Control & Compliance, Caledfryn, Smithfield Road, Denbigh, Denbighshire, LL16 3RJ
Tel : 01824 706727 Fax : 01824 706709
E-mail : planning@denbighshire.gov.uk
Website : <http://planning.denbighshire.gov.uk/portal/>

Author: Paul Mead
Contact: Judith Williams

Date Created: March 2010
Date: 5th March 2010.
Version: V1

Glossary of Planning Terms

Affordable Housing - low cost housing for sale or rent, often from a housing association, to meet the needs of local people who cannot afford accommodation through the open or low cost market, or subsidised housing.

Amenity - the pleasant or normally satisfactory aspects of a location which contribute to its overall character and the enjoyment of residents or visitors.

Article 4 Direction - an order made by the Secretary of State, the National Assembly for Wales or the local planning authority, requiring a planning application to be made where normally permitted development rights would apply.

Change of Use - more correctly referred to as a 'material change of use'. A change in the use of land or buildings that is of significance for planning purposes, often requiring planning permission.

Enforcement Notice - notice requiring the discontinuance of an unauthorised use and/or the removal of buildings, including restoration of land, where development has been begun without permission or in breach of a condition.

Environmental Impact Assessment (EIA) - The [Town and Country Planning \(Environmental Impact Assessment\) \(England and Wales\) Regulations 1999 \(SI 1999/293\)](#) require an EIA to be carried out for certain types of development. The EIA process evaluates the likely significant effects of a development on the environment and examines mitigation measures to remove or reduce these effects. The information is assembled and reproduced as an environmental statement (ES). A local planning authority must take the ES into account and comments on the ES from the public and statutory consultees before they reach a decision on whether to grant development consent.

Established use - a use which does not conform to a plan but against which enforcement proceedings cannot be taken, often because of the length of time a use has been in operation.

General Permitted Development Order (GPDO) - the Town and Country Planning (General Permitted Development) Order 1995 grants rights (known as permitted development rights) to carry out certain limited forms of development without the need to make an application for planning permission.

Lawful Development Certificate - a procedure by which existing or proposed uses and other forms of development can be certified as lawful for planning purposes. An application has to be made to the local planning authority and there is a right of appeal against their decision.

Outline application - a general application for planning permission to establish that a development is acceptable in principle, subject to subsequent approval of detailed matters.

Permitted Development Rights - rights to carry out certain limited forms of development without the need to make an application for planning permission, as granted under the terms of the Town and Country Planning (General Permitted Development) Order 1995.

Section 106 Agreement - a binding agreement between a council and a developer associated with a grant of planning permission and regarding matters linked to the proposed development.

Sui Generis - uses of land or buildings which do not fall into any of the use classes identified by the Use Classes Order, for example theatres, launderettes, car showrooms and filling stations.

TANs - technical advice notes for Wales which provide topic-based supplements to the policy document Planning Policy Wales.

Unitary Development Plan - local plan produced by certain unitary district authorities and London boroughs which have responsibility for the full range of local authority services.

Use Classes Order - the Town and Country Planning (Use Classes) Order 1987 puts uses of land and buildings into various categories, planning permission not being required for changes of use within the same use class. In practice changes between use classes are likely to require planning permission.