

Planning Development Control Charter
for Derbyshire County Council

**A Guide to the Level of Service you can
Expect from the Council's Planning
Development Control Service**

David Harvey
Strategic Director - Environmental Services

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1 Introduction

- 1.1 The purpose of the planning system is to regulate the development and use of land in the public interest. It is a mechanism by which we seek to protect and enhance our environment whilst at the same time allowing development necessary for our economic and social well-being. The development control process seeks to ensure these aims are achieved by the determination of planning applications for development in accordance with national, regional and local planning policies.
- 1.2 Derbyshire County Council is responsible for deciding planning applications for:
- mineral extraction and related development;
 - waste management facilities;
 - development by the County Council e.g. schools.
- 1.3 The purpose of this Charter is to set out the aims and objectives of the Planning Control Service in carrying out its duties and responsibilities and in particular to ensure that a high standard of service is provided to all those who are involved in the development control process.

2 Planning Control

- 2.1 Planning control is the process which regulates the development and use of land. It involves the determination of planning applications, the monitoring of development as it takes place, enforcement action where breaches of planning control have occurred and the provision of information and advice about the system generally and individual proposals.
- 2.2 Decisions on planning applications are taken in the context of a framework of policy statements including Government Guidance and regional and local planning policy.
- 2.3 Officers of the County Council aim to provide high quality professional advice to the Authority, applicants and the public to ensure as far as possible that the development control process is operated in a fair, consistent and efficient manner. The aim is to make the best decision in respect of each

application, not necessarily the quickest, although we always aim to achieve the Government targets for processing planning applications against which the Council is measured.

- 2.4 Some planning applications give rise to complex issues which need careful investigation and consideration before a decision can be reached and may involve the preparation by the applicants of a comprehensive assessment of the environmental impact of their proposals.

3 Information and Advice Available Before Submitting a Planning Application – The Pre-Application Stage

- 3.1 Anyone considering making a planning application to the County Council is encouraged to discuss their proposals with planning control staff, during office hours, before any formal submission is made. In the case of a specific proposal, applicants are advised to make an appointment to ensure that enquiries can be dealt with more efficiently. General information and advice is also available on the County Council's website.
- 3.2 Where advice is requested by letter a response will be made within ten working days. In the case of a more complicated enquiry where consultation with other departments or bodies or a site visit are necessary then the enquirer will be informed to that effect.
- 3.3 Telephone enquiries which cannot be dealt with immediately will be returned within one working day, indicating when a full response will be provided.
- 3.4 Enquiries received by e-mail will be acknowledged within one working day and where an immediate response is not possible an indication of the response date will be given.
- 3.5 Where a proposal is likely to have a significant effect on the environment potential applicants are encouraged to seek an informal view from the Authority on the need for Environmental Impact Assessment (EIA) and the scope of issues which would need to be included. Applicants will normally be advised to submit a formal request for a *screening opinion* under the Government's Environmental Assessment Regulations to determine whether EIA is required. It may also be useful for potential applicants to request a *scoping opinion* at the same time to determine the

necessary material to be included in any Environmental Statement.

- 3.6 The information and advice given will be as accurate as possible but it must be understood that it is given without prejudice to the formal consideration of a subsequent application. Applicants may wish to submit a draft application for comment prior to the formal submission although it should be remembered that when the formal procedures of an application are carried out there will be consultation with other bodies and a more detailed appraisal of the application. This may highlight issues not anticipated at the informal pre-application stage.
- 3.7 Information will be provided on the relevant planning policies, previous decisions and the information which should be provided in support of the application. The Council encourages applicants to submit their applications online through its website: http://www.derbyshire.gov.uk/environment/planning/planning_applications/making_a_planning_application/ or if this is not practicable to submit a copy of their application and its supporting documents on a CD in .pdf format so that it can be easily placed on the website. Where applicants are unable to submit their application in electronic formats an indication will be given of the number of paper copies the Council would wish to receive to assist in speeding up the processing of the application.
- 3.8 The County Council encourages potential applicants to engage with local residents, neighbours and Parish Councils as appropriate depending on the nature and scale of their proposals. In the case of major developments the Council will expect applicants to have carried out pre-application consultations with local residents and Parish/Town Councils and demonstrate that their views have been considered in the formulation of the submitted proposals.

4 Submitting a Planning Application

- 4.1 The applicant or agent should ensure that any application is submitted correctly and should be on the forms provided by the County Council and that all of the relevant information has been supplied. The Council provides a checklist and application forms to assist in this process which can be found on the Council's website.

4.2 When an application is received, a number of checks will be carried out within five working days of receiving the application:

- The application will be checked to ensure that all the necessary forms, certificates and plans have been provided and that they are accurate.
- The fee, where required, is correct.
- The receipt of all applications will be acknowledged. Applicants/agents will be told whether or not the application is complete and can legally be accepted by the Authority and, if not, how any deficiency can be corrected.
- Valid and complete applications will be forwarded to the relevant district/borough council who will enter them on the statutory register of planning applications.

4.3 The acknowledgement of the application will indicate when the period for determination (eight, thirteen or sixteen weeks, depending on the type of application) will expire and explain the implications of these time periods.

4.4 In the case of complex or potentially controversial applications a specific target date for a decision may be difficult to provide, but an indication of the process and likely period for decision will be given. With straightforward, uncontroversial applications it will be possible to provide a more accurate target date for the decision.

4.5 The case officer dealing with the application will be identified in all correspondence.

4.6 Where applicants use professional agents or advisors, correspondence, negotiations and discussions will take place directly with the agent or advisor.

5 How the Planning Control Section will Deal with Applications

5.1 If the application is not accompanied by an Environmental Statement and has not been subject to a formal *screening opinion*, the Council will need to consider whether the proposal is one which requires EIA. Regulations require that notification of the need for EIA is given to the applicant/agent within 21 days of receipt of the application. A reasonable period for the submission of this additional information will be suggested by the Council and the implication of non-receipt will be explained.

Seeking the Views of Other Bodies

- 5.2 The views of a wide range of bodies may be sought to assist the County Council in reaching a decision. Some of these consultations are required by legislation whilst others can provide valuable information to aid the decision making process.
- 5.3 District/borough councils are consulted when the application is sent to them for registration. The relevant parish/town council(s) will also be consulted. Where it is considered they may be affected by applications, adjoining county, district and parish councils will also be consulted.

Seeking the Views of the Public

- 5.4 The County Council welcomes comments in relation to planning applications. All applications will be publicised in accordance with the Council's adopted policy. This will normally involve the posting of notices on or near the boundary of the application site and in addition, notices may be placed in a local newspaper or individual neighbours notified depending on the nature of the proposal. In addition, the Council's website contains details of all current applications and allows people to make comments on them online. Access to this service is available at all of the Council's libraries. Advice on issues which are relevant planning grounds for objection is contained in Annex 1. A copy of the application is also available for inspection at the relevant district/borough council offices.
- 5.5 Anyone who makes comments on an application to be determined by the Council will receive an acknowledgement. They will also be told of the date the application is to be considered and the recommendation of the Strategic Director - Environmental Services.

Making the Decision

- 5.6 In the case of some uncontroversial development proposals, decisions are delegated to the Strategic Director - Environmental Services, although this will not be the case where any objections on planning grounds have been received which cannot be overcome by imposing conditions on a permission.
- 5.7 Decisions in respect of applications which have given rise to unresolved planning objection or raise policy issues are determined by the Council's Regulatory - Planning and Control Committee. The Council allows those who have commented on particular planning applications to attend and speak at the

Committee and the procedure for this is set out at Annex 2 to this document.

- 5.8 The Council's aim is to issue decision notices within two working days of the decision except where accompanying legal agreements have to be completed. Where such an agreement is considered necessary, an applicant will be informed at the earliest opportunity so that negotiations, over the form and content of the agreement, can be conducted concurrently with the processing of the application.
- 5.9 The applicant's rights of appeal against the decision will be explained.
- 5.10 Following determination of an application everyone who commented on the proposal will be informed of the Council's decision and the planning reasons for it.
- 5.11 The statutory register of planning applications is kept by the district or borough councils and includes a copy of applications received and decisions taken by the County Council in their area. These registers are available for inspection during normal working hours. The County Council's website also contains copies of recent planning decisions.

6 Monitoring of Development

- 6.1 The monitoring of development as it takes place, to ensure that it is carried out in accordance with the approved details, is particularly important in relation to mineral and waste management permissions.
- 6.2 Developers will be requested to notify the County Council when they propose to start development. Government Regulations introduced in April 2006 enable the County Council to carry out an annual programme of chargeable visits to mineral and landfill sites to monitor site progress and compliance with approved plans and conditions.
- 6.3 The responsibility for submitting details and complying with time limits required by mineral and waste permissions lies with the site operator but, as part of the monitoring process, operators will be alerted to the need to submit any outstanding details required by the permission.

- 6.4 Records of monitoring inspections will be copied to site operators and will be made available on the Council's website and provided to parish and district councils.
- 6.5 On major sites, local liaison committees also assist in the monitoring process by providing a forum for overseeing the progress of the development and an opportunity for consideration of any complaints received.

7 Dealing with Complaints

- 7.1 Complaints from members of the public or other individuals or businesses about possible breaches of planning control in respect of mineral and waste operations may be made in writing, by telephone, fax, e-mail or via the County Council's website and, if requested, will be treated confidentially as far as is practicable. Contact details are attached as Annex 3.
- 7.2 We will endeavour to fully and promptly investigate all complaints. However, dependent upon the number and nature of complaints being dealt with at any one time, it may be necessary for us to prioritise our work and deal with issues of a more serious nature more urgently than others.
- 7.3 We will aim to acknowledge all complaints within two working days of their receipt (e-mails will be acknowledged within 24 hours) and within ten working days we will also advise the complainant of what action has been taken. If the matter has not been fully resolved, we will advise if further action is proposed, or if no further action is proposed, we will explain the reasons for this.

8 Enforcement Action

- 8.1 The nature of mineral and waste activities is such that they have the potential to damage the environment and cause harm to amenity. Accordingly, possible breaches of mineral and waste planning control, identified either as part of routine monitoring or as a result of the investigation of a complaint, will always be regarded as a serious matter.
- 8.2 Officers of the County Council have a legal right to enter land to investigate possible breaches of planning control. When necessary, these rights will be explained to landowners and operators.

- 8.3 Where, having gathered the necessary facts and information, the Council is satisfied that a breach of control requiring remedial action has been substantiated, we will consider the most appropriate action. In some cases, immediate formal action may be necessary.
- 8.4 However, where the breach is considered not to result in serious environmental harm, we will initially seek to resolve the matter without recourse to formal action. We will contact the landowner and/or operator believed to be responsible for the breach and ask them to remedy the breach voluntarily. We will explain what remedial measures are necessary, why they are necessary and specify over what timescale we will expect them to be undertaken. We will request a formal response within twenty-eight days.
- 8.5 If a satisfactory response is not received within the twenty-eight day period, and the breach continues, we will reconsider the need to initiate appropriate formal enforcement action, for example, in cases where unauthorised development has resulted in any of the following: damage to interest of acknowledged environmental importance, a clear danger to road safety, and/or a significant loss of residential amenity.
- 8.6 The local County Councillor will be consulted where formal enforcement action is being considered. District councils, parish councils and other agencies, such as the Environment Agency, will also be consulted as appropriate.
- 8.7 The landowner and/or operator, and any complainant, will also be advised where it is resolved to initiate formal action and every effort will be made to maintain a dialogue with the landowner and/or operator with a view to resolving matters without recourse to time consuming and often costly appeals or prosecution proceedings.
- 8.8 If an appeal is lodged against an enforcement notice, local people will be informed so that they have the opportunity of making representations on the matter to the Planning Inspectorate which administers the appeal process.

9 Reporting

- 9.1 A quarterly report is made to the Regulatory - Planning and Control Committee to advise the Committee of the monitoring and

enforcement work undertaken by the Planning Control Section in the preceding quarter, including the number of monitoring inspections undertaken, the number and nature of complaints handled and enforcement actions initiated.

Annex 1

Guidance Note on Commenting on Applications

There is sometimes confusion over what Councils can take into account when they consider comment on development proposals. The Councils cannot reject an application simply because a large number of people object to it. They can only consider objections that are relevant to planning issues. Examples of important considerations include:

- conflict with policy in an approved development plan;
- problems with traffic if the development went ahead;
- the effect the development might have on the environment; and
- the potential effect on the appearance and character of the surrounding area.

Matters which are sometimes raised but which the Council cannot normally take into account include:

- the effects the development might have on property values;
- the personal circumstances or character of the applicant;
- the fact that development may already have begun;
- the fact that the applicant does not own the land;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- trade objections from competitors;
- fears that the development may be used for a different purpose in the future; and
- claims that a proposal might affect private rights, such as restrictive covenants or private rights of access (these are usually matters on which objectors may need to obtain legal advice).

Annex 2

Procedure for Public Participation at Meetings of the Regulatory Planning and Control Committee.

Introduction

The County Council welcomes the involvement of the public and local organisation in the planning process.

Applications which do not give rise to adverse representation on planning grounds or where objections can be overcome by the imposition of requirements on a permission will normally be dealt with by the Director of Environmental Services in consultation with the Chair and Vice Chair of the Planning and Control Committee. Those proposals which do give rise to objections will usually be determined by the Committee.

Where applications are determined by the Director of Environmental Services those who made representation will be informed of the decision and the reasons for it being dealt with through this process.

General Procedure

1. All representations will be acknowledged.
2. In the case of applications which are to be determined by the Regulatory Planning & Control Committee, the applicant (or agent) and any person or organisation who has made representations will be notified of the date and time of the Committee meeting.

Where petitions have been submitted the person who sent in the petition or the first name on the petition will be notified of the meeting.

3. Meetings of the Regulatory Planning and Control Committee are normally held at County Hall, Matlock. Whilst the Committee will convene at 10 am they will often wish to visit a number of the application sites before considering their decision and this means that the time of meetings varies considerably.
4. Anyone who wishes to make representations to the Committee should notify the Planning Control Section on 01629 580000

extension 3331 before 12.00 noon on the Friday before the meeting. You will be asked to indicate the item on which you wish to address the Committee and whether you support or oppose the application.

5. On the day of the Committee you should arrive at County Hall 15 minutes before the start of the meeting and let the Committee Clerk know that you still wish to make representations to the Committee. This will enable the Committee Clerk to organise representations and explain the procedure.
6. Where there are several people who wish to make similar representations the Committee Clerk will seek to minimise duplication, for example, by investigating if those present are willing to nominate a single spokesperson or otherwise co-operate in the presentation of their representations.

The Committee Meeting

7. When practicable items where there are representations to be heard would normally be brought forward by the Chair of the Committee.
8. On each item an officer representing the Director of Environmental Services would outline the proposal and the main issues together with any updating of the report. Members of the Committee can then ask any questions of the officer.
9. The Chair of the Committee would then invite speakers in the following order:
 - a. Local Member
 - b. District/Borough Council
 - c. Parish/Town Council
 - d. Action Groups or other organisations
 - e. Individual objectors
 - f. Applicant or Agent
 - g. Supporters
10. As far as practicable each speaker would be allowed up to 3 minutes speaking time but where more than 2 people are

making similar representations, the Chair may use his discretion to restrict presentations to a shorter period.

11. The speaker is not allowed to ask questions or enter into debate with Members or officers.
12. Following each representation Members of the Committee may ask the officers any questions about matters arising from that representation. The officers will then endeavour to respond.
13. Following completion of representations and any questions and officers' responses arising from them the officers may then provide further comments or information about the matter as they may consider appropriate.
14. The proposal would then normally proceed to a decision unless there is considered to be appropriate grounds for a deferral.
15. The Chair of the Committee has discretion to change the usual participation procedure where it appears to be necessary for the fair and effective conduct of the meeting.

The Decision

1. All those who made individual representations, and the lead name of petitions, in respect of specific applications will be informed of the decision as soon as practicable following the Committee meeting.

Annex 3

Contact Details

General Enquiries

Call Derbyshire 08 456 058 058

Fax Line 01629 585887

Planning Applications

Mineral Development 01629 580000 x 3335

Waste Development 01629 580000 x 3340

Development by the County Council 01629 580000 x 3340

Site Monitoring and Enforcement 01629 580000 x 3345

E-mail address planningcontrol@derbyshire.gov.uk

Planning application, comment and reporting forms for possible contraventions of planning control are available on the planning pages of the County Council website:

www.derbyshire.gov.uk/environment/planning