



ROTHER DISTRICT COUNCIL

STRATEGY & PLANNING SERVICE

GUIDE TO

DEVELOPMENT MANAGEMENT

PRACTICE FOR

TOWN AND PARISH COUNCILS

www.rother.gov.uk/planning

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The Development Management Services - A Guide for Town and Parish Councils

Introduction

This guide has been published to help the Parish and Town Councils in Rother to play their part in the statutory planning process as it deals with planning and other related applications¹. It explains the 'Development Management' process in respect of the determining applications made to Rother District Council and provides information of how planning decisions are made.

Parish Council Notification - The Legislative Requirements

Parish Councils are sometimes under the impression that the District Council is obliged to consult with them in relation to planning applications. This is not actually the case. Schedule 1, paragraph 8, of the Town and Country Planning Act 1990, states that there *is* a statutory requirement for **local planning authorities**² to notify **Parish Councils**³ of planning applications *if* the Parish Council has requested that it be notified.

The local planning authority is then required to send a copy of the application or indicate to the Parish Council the nature of the development identifying the land to which the application relates. In Rother notification is now undertaken by email alert with links to the District Council's website.

Where Parish Councils have asked to be notified of applications, they are required to let the local planning authority know as soon as practicable whether or not they wish to make comments as to the way a particular application should be determined and in any case, to make those comments within 21 days of being notified.

When Parish Council comments are made within the time allowed, the local planning authority **must** take them into account when determining the application. If Parish Council comments have been made, the Parish Council is entitled to receive details of the decision made.

If the local planning authority allows the application to be amended before it is determined, any significant amendments are notified to Parish Councils.

¹ For the purposes of this document reference to planning applications includes other related applications including those relating to advertisements and to listed buildings.

² For most cases this is Rother District Council, but East Sussex County Council is also a local planning authority for some matters

³ For the purpose of this document reference to Parish Councils includes the Town Councils of Battle and Rye

There is no statutory requirement for Rother to notify a Parish Council of applications outside the Parish area, although as a matter of good practice this is done with more significant applications adjoining the Parish boundary where there is likely to be a common interest.

The local planning authority must not determine any application before the **first** of the following to occur;

- Notification by the Parish Council that no representations are to be made, or
- Receipt of the Parish Council's representations, or
- The expiry of the 21 day period.

Parish Council Notification - Rother District Council Procedures

The local planning authority's procedures for Parish or Town Council notification are set out in Annex A. The Annex indicates how Rother District Council as the local planning authority responds to the notification requirements.

Committee and Delegation Procedures

Rother District Council's adopted planning delegation procedures acting as the local planning authority are set out in Annex B - Processing of Applications.

The Purpose of Notification

There are a number of mutual advantages to the notification process:

- It gives the Parish Council the opportunity to be aware of what development may be undertaken in their area.
- The development may be of particular significance locally and the views of the Parish Council are a helpful indication of local reactions.
- The Parish Council, with its local knowledge, can alert the local planning authority to any anomalies in the application which would not be readily apparent on a site visit (e.g. local people may have important evidence of how a particular site is used, hours of working, etc.).
- It enables the Parish Council to let local people know about development proposals.
- It enables the Parish Council to notify the local planning authority of suspected unauthorised development using the Council's procedures.
- The Planning and Building Control page of the [Rother Council Website](#) allows Parish councils and the public to view the applications, consultee responses and comments in response to the (pink) public site notices giving public notice of applications. The Planning and Building Control page on the Council's website also offers the facility to

submit comments electronically. The local planning authority's decision notice is also viewable on the website.

How Parish Representations are Taken into Account

The local planning authority must take into account the representations of the Parish Council. However, this does not mean that the local planning authority will necessarily decide an application completely in accordance with the Parish views. It is not the role of a Parish to duplicate or replicate the role of the local planning authority. There are several reasons for this:

- The local planning authority is only entitled to take into account planning matters. If the comments of Parish Councils do not relate to legitimate planning issues, they must be set aside.
- The local planning authority will receive advice from their professional officers on all matters which should be taken into account in making a decision. The Parish Council will not normally receive such comprehensive advice.
- The local planning authority must determine applications in accordance with the development plan unless material considerations indicate otherwise. As consultation responses are material considerations, the local planning authority takes into account the representations of others, as well as the Parish, especially those from statutory consultees (e.g. the County or national highway authority or the Environment Agency), other officers of the Council, neighbours, and the applicant. It must also take into account any relevant planning history of the site, including previous appeal decisions, and various policy considerations. Although the Parish will not have full information on the content of these other representations they can now view the progress of an application, plans, correspondence, and consultation replies via the Planning website.

In reaching a decision the local planning authority is required to weigh up all the views made on an application. For example, the East Sussex County Council Highway Authority may not have any adverse comment on an access proposed for a particular development onto a highway. However, the Parish with its local knowledge may take the view that the access is dangerous. Members of the local planning authority can question their officers about such a divergence of view, but the Highway Authority's view would normally prevail if a refusal of planning permission is not likely to be sustainable on appeal in the light of the current highway standards.

This means that while the local planning authority takes into account the Parish comments, it will have a more rounded picture to consider. The comments of a Parish, when weighed in the balance, may have insufficient weight to enable the application to be determined with the wishes of the Parish, whether to approve or to refuse.

In addition, there are restrictions on the way in which a local planning authority is entitled by law to deal with applications.

Alterations and Amendments to Current Applications and Permissions

Current applications

It is not possible or necessary to re-notify the Parish of every amendment to a current application. Each time a formal re-notification is carried out, the decision is put back two to

three weeks and the Council generally only has eight weeks (13 or 16 weeks for some schemes) to determine an application unless an extension of time is agreed by the applicant. Failing this the applicant has a right of appeal against the Council's 'non-determination' of the application within the statutory period.

There is no guidance as to what constitutes a "minor" amendment: indeed it is not possible to be specific, bearing in mind the different circumstances of each case. However the local planning authority is likely to re-notify where there is a significant effect on third parties, or where the amendment is significant and outside the terms of the original application.

Minor amendments unlikely to be the subject of re-notification might include alterations in siting, design, fenestration, landscaping and materials or changes which arise as a result of representations as well as those that do not increase any adverse effect on neighbours and are not substantially different from that approved.

Existing Permissions

There is also a statutory procedure for dealing with 'non-material amendments' to extant planning permissions. Such changes, that raise no issues or considerations which were not raised when the original proposal was approved, are dealt with by the local planning authority's Service Manager – Strategy and Planning under delegated powers. Anything which is regarded as a 'material amendment' will have to be the subject of re-submission for planning permission and would undergo the normal round of consultation with the Parish.

Determining Planning Applications

In reaching a decision on a planning application, the local planning authority must follow a specific and objective decision making process as set out by Government.

When deciding planning application local planning authorities must,
"...have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."

Both national and local considerations come into play.

A plan-led system

The planning system in England is plan-led, having regard to:

1. **National policy** – The National Planning Policy Framework (NPPF), National Policy Statements, Gypsy & Traveller Policy and the Planning Practice Guidance (PPG)

For the local planning authority this means that the NPPF must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions. The NPPF is important but it does not change the statutory status of the local development plan (Local Plan) as the starting point for decision-making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is therefore highly desirable that the local planning authority has an up-to-date plan in place so that robust local decisions can be made.

2. **Local policy** – the Development Plan is prepared by the local planning authority. Currently in Rother District the Development Plan comprises:

- The Rother Local Plan Core Strategy (adopted October 2014) and
- The saved policies of the Rother District Local Plan 2006⁴

3. Neighbourhood policies – Neighbourhood Plans may be prepared by Parish/Town Councils and are brought into force by the local planning authority.

At the present time a number of Parish and Town Councils in Rother are preparing Neighbourhood Plans.

Sustainable development

At the heart of the National Planning Policy Framework is a presumption in favour of 'sustainable development', which is to be seen as a golden thread running through both plan-making and decision-taking. There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

For the local planning authority deciding applications this means (unless material considerations indicate otherwise):

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework (i.e. the national Framework) indicate development should be restricted.*

Material considerations

In principle any consideration which relates to the use and development of land is capable of being a material planning consideration. The courts have held that whether a particular

⁴ Once the Development policies and Site Allocations Document is adopted as the second stage of the Core Strategy, the Rother District Local Plan 2006 will no longer apply.

consideration falling within that broad class is material in any given case will depend on the circumstances. **Material considerations must be genuine planning considerations, i.e. they must be related to the development and use of land in the public interest.** The considerations must also fairly and reasonably relate to the application concerned

The Courts are the arbiters of what constitutes a material consideration. All the fundamental factors involved in land-use planning are included, such as the number, size, layout, siting, design and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood and the availability of infrastructure.

When Members of the local planning authority are determining planning applications, they are acting in an administrative capacity; their decisions must be objective and made within the rules of the planning system. The planning merits of the application rather than the weight of public opinion, lead to the decision.

It is important to remember that the Council has to be able to defend a decision to refuse planning permission if an appeal is lodged. If the Council cannot justify its refusal, not only could the development be approved on appeal with less stringent conditions than the Council might have wished, but it could be faced with paying the appellant's costs if its own case is considered to be weak or unreasonable. Where planning permission has been refused against the advice of officers or statutory consultees, local planning authorities are expected to produce convincing evidence to support their decision to refuse; otherwise they will almost certainly be faced with costs. Even a relatively small case can run up costs of several thousand pounds and this risk of costs awards against it cannot be taken lightly.

The Council will also have in mind that the Local Government Ombudsman can find maladministration if proper administrative procedures are not followed.

What are Planning Considerations?

Comments on a planning application can only be taken into account if they relate to material planning considerations. (See section on Determining Planning Applications) It is common for neighbours to object to applications for a variety of reasons. Parish Councils are encouraged to consider only relevant planning matters, and in this respect can also help their local residents understand the limits of planning control.

Planning considerations **DO NOT** include the following:

- **Retrospective Applications.** Development carried out without the necessary planning permission is generally not an offence and planning legislation makes provision for planning applications to be made retrospectively. If the development is acceptable on its merits, the Council cannot withhold permission simply to punish a pre-emptive development. However, if the development is unacceptable, the local planning authority will need to consider commencing enforcement proceedings against the developer.
- **Trade Objections.** It is not the role of planning to interfere in matters of competition between businesses other than at strategic level, e.g. when the retail vitality of a town as a whole is threatened by an out of town retail park. An example of a 'trade objection' might be, *"We don't need another grocer's shop as there's been one in this street for years"*.
- **Moral Objections.** The planning system is not the place for moral judgements, for instance against betting shops, lottery kiosks or amusement arcades; although there

may be genuine planning reasons for refusal such as noise and disturbance to adjoining residents resulting from the potential attraction of these establishments.

- Views. The loss of an attractive private view, e.g. when development is proposed on the opposite side of a road or to the rear of an objector's house. There is no right to a private view, however the loss of residential amenity more generally and matters such as overlooking or privacy at close quarters, or the impact wider public views, will be important considerations.
- Property values. The fear that an objector's house or property might be devalued.
- Ownership. The fact that an applicant does not own the land to which his application relates (as this could be overcome by agreement), or that an objector is a tenant of land where development is proposed.
- Covenants. Allegations that a proposal might affect private rights, e.g. restrictive covenants, property maintenance, party wall issues, private rights of way or boundary disputes. An example might be when an extension on a boundary is acceptable in planning terms but might be difficult to maintain. Such considerations are legal or contractual matters on which objectors, neighbours or applicants should consult their own solicitor or adviser.
- Personal. Arguments of a personal kind relating to the associations, financial circumstances or ethnic origin of the applicant. The personal circumstances of applicants can only be taken into account in exceptional circumstances, for example where the applicant's proposed use of a building would be acceptable but the planning permission, if not made personal, would unacceptably allow more intensive uses in the same Use Class. The planning system does not exist to protect the private interests of one person against the activities of another. The material question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- Construction. Problems associated with the construction period of any works e.g. hours of work, noise, dust, construction vehicles.
- Other legislation. Where there is separate legislation imposing controls e.g. Building Regulations' Fire Regulations or Health and Safety, etc., then these should not be duplicated by the local planning authority.

(The above list is not exhaustive)

Material planning considerations **DO** include the following:

- Rother Local Plan Core Strategy (October 2014)
- Rother District Local Plan 2006 (saved policies)
- Local Supplementary Planning Documents produced by the local planning authority.
- The Government's National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG).

- Effects on Listed Buildings, Conservation Areas and the High Weald AONB (also statutory requirements).
- The environmental qualities of the surrounding area, the visual character of a street and the amenity or privacy of dwellings.
- Road safety, access, car parking and traffic generation together with other public services such as drainage.
- The size, layout, siting and design of the development.
- Loss of light and overshadowing
- Overlooking and loss of privacy
- Loss of trees.
- Noise, disturbance, smells.
- Disabled access
- Public or other proposals for using the same land.
- Case law and previous planning decisions.
- Consideration of what could, otherwise, be undertaken as 'permitted development' without the need for a specific permission.

(The above list is not exhaustive)

Planning Conditions and Obligations

When granting planning permission local planning authorities can impose conditions where there is a clear land-use planning justification for doing so. The tests of conditions set out in the national Planning Policy Guidance are that every condition must be:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects

One way of testing whether a particular condition is necessary is if planning permission would have to be refused if the condition were not imposed. Otherwise, such a condition would need special and precise justification.

Unless otherwise specified, a planning permission runs with the land. Exceptionally, however the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the welfare of the local community, may be material to the consideration of a planning application. In such circumstances, permission may be granted

subject to a condition that it is personal to the applicant. However such arguments will seldom outweigh the more general planning considerations.

Where it is not possible to include in a planning condition matters that are necessary for a development to proceed, developers may seek to negotiate a planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). Planning obligations should meet the statutory tests set out in the Community Infrastructure Levy Regulations 2010 i.e. they should be:

- (a) *necessary to make the development in planning terms;*
- (b) *directly related to the development;*
- (c) *fairly and reasonably related in scale and kind to the development.*

The use of planning obligations must be governed by the fundamental principle that planning permission must not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Planning obligations are only a material consideration to be taken into account when deciding whether to grant planning permission, and it is for local planning authorities to decide what weight should be attached to a particular material consideration.

How Does the Council Deal with an Application?

It is important that a Parish appreciates the relationship between the local planning authority and the applicant.

It is the applicant, not the local planning authority, who decides what proposal to submit. The local planning authority then has to determine that application on its merits, i.e. the appropriate development or use for the site.

Council planning officers also provide pre-application advice to applicants for a fee and may also negotiate amendments to a proposal during consideration of a formal application. It is important to understand that advice given by professional officers is given wholly without prejudice to any final decision by the Council as local planning authority.

The local planning authority would expect to approve an application if it accords with the Development Plan unless material considerations indicate otherwise. In some cases - for example, an application for an agricultural worker's dwelling house in open countryside - there will be a greater onus on the applicant/developer to prove a *need* for the development.

The local planning authority has eight weeks from the date of submission to determine most applications unless an extension of time is agreed by the applicant. For Major applications the period is 13 weeks, 16 weeks (applications requiring an Environmental Statement under the Environmental Impact Assessment Regulations) or a mutually agreed period between the applicant and the Planning Authority. If a decision is not made in this time there is no deemed approval (except in 'prior approval cases'), but the applicant then has the right of appeal to the national Planning Inspectorate. Similarly if the application is refused an applicant has a right of appeal.

If an objection can be overcome by imposing a condition, that should be the appropriate course of action rather than a refusal. Conditions have to be reasonable, enforceable, and have to relate to the development in question. If the development would be acceptable without the conditions, then those conditions are unlikely to be regarded as reasonable if the applicant decided to appeal against them.

Enforcement

Carrying out development without planning permission is not “illegal” unless the person undertaking the work has failed to comply with an enforcement notice⁵: there is always a judgement to be made as to whether the unauthorised activity causes such harm that it is “expedient” to take formal action to deal with it.

In relation to development carried out at variance with a planning permission the same judgement has to be made. Alternative schemes may well be equally acceptable, but should have the benefit of planning permission.

There is a limited range of circumstances where rapid action is possible. These might include work to protected trees or a breach of a planning condition. In the latter case a Breach of Condition Notice can be used, against which there is no right of appeal. However such a notice should only be used in respect of a clear breach. In exceptional circumstances where a breach of planning control is having a serious adverse effect on an area a Stop Notice or Injunction may be possible.

In many cases the appropriate action is the service of an Enforcement Notice. This will state the alleged breach of control and set a reasonable period within which the breach is to be remedied. There is a right of appeal to the Planning Inspectorate, in the same way as the refusal of, or imposition of conditions on, a planning application. The considerations which come into play are similar and the timescale is similar to that for an appeal on a planning application, i.e. several months. Assuming that the independent inspector upholds the Notice, there is still the possibility that it will not be complied with. This may then result in the need for appropriate action through the courts.

The local planning authority is not able to monitor all completed development and it is useful if members of the public report apparent breaches of control. Parish Councils have a role to play here. It must be borne in mind that if a breach of control has taken place, but there is no harm to the public interest, then it is not normally appropriate to take action.

It is therefore quite possible for development to be neither authorised, nor the subject of enforcement action.

Many breaches of control are successfully dealt with informally through the co-operation of the owner or developer.

More information can be found in [Rother District Council's adopted enforcement policy \(March 2014\)](#)

⁵ Undertaking works to preserved trees to listed buildings are criminal offences.

Listed Buildings, Conservation Areas and Advertisements

The Parish will be notified of applications for listed building consent. Often these will be submitted in conjunction with a planning or advertisement application but in certain cases works that require listed building consent will not require planning permission.

Different criteria apply to listed building applications from planning applications. The local planning authority must consider the acceptability or otherwise of the works in terms of the character of the building as one of Special Architectural or Historic Interest. Planning matters such as means of access, drainage or loss of daylight to a neighbouring property are not relevant to the character of the listed building.

For Conservation Areas, the local planning authority has a duty to special attention to the desirability of preserving or enhancing the character or appearance of that area.

Unauthorised alterations to Listed Buildings and unauthorised demolition within a Conservation Area are criminal offences.

A wide range of advertisements may be displayed without the consent of the local planning authority i.e. they have 'deemed consent'. Other advertisements will require 'express consent' under the Advertisement Regulations. An Authority can serve a 'Discontinuance Notice' on deemed consent advertisements (a form of permitted development for advertisements) in the interests of amenity or safety but this is subject to appeal. Advertisements erected without consent also can be the subject of prosecution.

Prior Approval Applications

The 'Prior Approval' procedure requires the local planning authority to be consulted on a range of developments which are "permitted development" i.e. do not need planning permission as such.

Historically this procedure applied to a very limited range of proposals such as some agricultural or forestry buildings and operations, some development by telecommunications code system operators (e.g. mobile phone companies) and to the demolition of buildings. More recently 'prior approval' procedures have been significantly expanded to cover a much greater range of developments and changes of use. These new relaxations are subject to different assessment criteria depending on the case.

With these uses or developments are subject to the 'prior approval' procedures, the principle of the development is already decided; however the applicant is required to notify the local planning authority which then has either 28 days or 56 days - subject to the type of notification - to indicate whether or not it wishes to approve or amend the details of the development.

These applications will usually be dealt with by the Service Manager – Strategy and Planning under powers delegated by the Council and in view of the short timescale for determination, the opportunities for interaction with the Parish or the public, are limited. Some, but by no means all of these 'prior notifications', do however require some form of public advertisement.

Trees and Hedgerows

Specific protection of trees can be undertaken by the local planning authority by the imposition of Tree Preservation Orders in cases where individual trees or groups of trees make a significant visual contribution to their local surroundings. It is an offence to prune, fell, wilfully damage or wilfully destroy a protected tree without permission from the local planning authority. A formal application is required to carry out works to a protected tree.

There are a number of exemptions from the requirement to obtain consent or notify. These include cases where a tree has died or has become dangerous as well as the removal of dead branches from a living tree. Anyone proposing to cut down a tree under this exemption has to give the local authority five days' written notice except in case of an urgent risk to safety. If a local planning authority is aware that unauthorised work has been carried out, it may prosecute. When the local planning authority grants consent to the removal of a tree or it is removed because it is considered dead or dangerous, the owner can be required to plant a replacement tree by way of condition.

Trees within Conservation Areas are also protected in a limited way by the requirement that before carrying out any work to a tree, six weeks' notice of this intention must be given to the local planning authority. The purpose of this requirement is to give the authority the opportunity to make a Tree Preservation Order if this is appropriate. It is an offence to carry out work to protected trees without following the above procedures.

Local authorities have a duty to ensure that adequate provision is made for the preservation and planting of trees when granting planning permission for developments by imposing conditions and making Tree Preservation Orders.

In the 1990s 'The Hedgerow Regulations' were introduced to protect countryside hedgerows on or next to agricultural land, land used for keeping horses, common land, village greens, SSSIs, nature reserves, Public Rights of Way. Subject to certain criteria, including minimum length exclusion, it is now necessary to give notice to the local planning authority prior to the removal of such hedgerows.

Propriety

The members of the local planning authority (District Councillors) are elected to represent the interests of the whole community in planning matters. When determining planning applications they must take into account planning considerations only. While this can include views expressed on relevant planning matters, local opposition or indeed support for a particular proposal is not in itself a ground for refusing or granting planning permission. All decisions must be founded upon valid material planning reasons.

Chapter 11 of the Localism Act 2011 introduced a new ethical framework for local government. Each local authority (District/Town/Parish Council) is required to adopt a local code of conduct for councillors consistent with the following principles: selflessness; integrity; objectivity; accountability; openness; honesty and leadership. The Council's Code of Conduct sets out the expectations as to the conduct of elected and co-opted members in carrying out their official duties. The guidance note, [*Probity in Planning for councillors and officers*](#), published by the Local Government Association and the Planning Advisory Service in 2013, relates these requirements specifically to planning.

Rother District Council's Monitoring Officer is now responsible for receiving allegations of breaches of local codes and deciding whether they should be accepted for investigation. The sanctions for breaching the local code determined by the Council's Standards

Committee in accordance with the Arrangements for Dealing with Member Complaints, including censure and/or removal from any Member posts held within the Council.

Private Interests

The planning system does not exist to protect the private interests of one person against the activities of another; although private interests may coincide with the public interest in some cases. It can be difficult to distinguish between public and private interests, but this may be necessary on occasion. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

Other Legislation

Non-planning legislation may place statutory requirements on planning authorities, or may set out controls which need to be taken into account (for example, environmental legislation, highways or water resources legislation). Planning authorities, in exercising their functions, also need to have regard to the general requirements of other legislation, in particular:

- The Equality Act 2010 has replaced previous legislation dealing with discrimination including the Race Relations Act 1976, the Sex Discrimination Act 1975 the Disability Discrimination Act 1995 and has placed on public bodies and organisations a duty to have due regard to eliminating discrimination or harassment prohibited under the Act, to advance equality of opportunity between people who share a relevant characteristic and those who don't, and to foster good relations between people who share a relevant protected characteristic and those who don't, when carrying out their public functions. The relevant protected characteristics which need to be considered when delivering policies and services are:
 - age;
 - disability;
 - gender reassignment;
 - marriage and civil partnership;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation

Where these are relevant to planning applications and to any exercise of planning powers by a public body they should be taken into account.

- The Human Rights Act 1998, which incorporated provisions of the European Convention on Human Rights (ECHR) into UK law. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every person together with the limitations placed on these rights in order to protect the rights of others and of the wider community. The specific Articles of the ECHR relevant to planning include Article 6 (Right to a fair and public hearing), Article 8

(Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

ANNEX A

Rother District Council The Development Management Service and Town and Parish Councils - Notification Procedures

1. The local planning authority will notify each Parish of every planning application or application for listed building or conservation area consent, advertisement consent and applications for work to protected trees within the Parish boundaries. Notification is made by email alert and the planning website. Parish Councils are encouraged to make use of the [planning website](#) which shows all application details and plans, consultee responses and comments in response to the (pink) public site notices posted by the local planning authority. The website is also the preferred method for the local planning authority to receive Parish comments.
2. The local planning authority will email the Parish Council a copy of the Weekly List each Tuesday which details applications validated by the local planning authority the previous week. The Weekly List contains a hyperlink to each application on the planning website.
3. The local planning authority will record the view of the Parish Council in all planning reports whether delegated or dealt with by Committee. Where a planning application is being determined by the Planning Committee the parish comments will be included in the agenda if received up to 12 days before the relevant Committee meeting. Once the Agenda has been published any later views of the Parish Council will be reported orally if received after the above deadline but by 9.00 am on the day before the relevant Planning Committee. Any representations received later than this will only be reported at the discretion of the Chairman of the Planning Committee.
5. The local planning authority will notify a Parish Council of amendments to applications unless the local planning authority considers the alterations of a minor nature and unlikely to affect the Parish's initial comments.
6. The local planning authority can only accept a formally constituted view from a Parish in response to a planning application. This will normally be received from the Clerk to the Parish or from a Parish Council Member delegated to respond. It will not be the view of an individual member of the Parish Council.
7. Planning Committee meetings of the local planning authority are open to the public and therefore members of the Parish may attend all or part of these meetings as observers (except for confidential items where the public are excluded).
8. The local planning authority will notify each Parish Council of every planning decision in their Parish.
9. The Parish Councils can also view all planning decision notices in Rother by visiting the [planning website](#) .
10. The Council's Service Manager – Strategy & Planning, exercises delegated authority to determine "Prior Approval" applications. Because of the limited time available to respond to such notifications they are included on the printed weekly list and planning website for information only.
11. The local planning authority undertakes to notify the relevant Parish Council of a planning or related appeal within the parish area.

ANNEX B

THE PROCESSING OF APPLICATIONS

Registration

All applications are checked for legality initially by the local planning authority's Business Support Team. Applications require the correct fee, satisfactory drawings and any other appropriate information. Details of all applications are entered onto the computer system. Increasingly applications are submitted electronically through the national Planning Portal with information uploaded automatically into the District Council's back office computer system.

All applications are allocated a Rother District Council planning reference number e.g. RR/2015/02, followed by a suffix indicating the type of application as follows:

Application types which appear on weekly list.

P	Planning Application
L	Listed Building Application
A	Advertisement Application
O	Lawful Development for <i>Existing</i> Use or Development
T	Works to Trees subject to Tree Preservation Orders
H	Conservation Area Application
NA	Neighbouring Authority Consultation
C	County Council Consultation
CM	County Matter Consultation
3R	Council application (Regulation 3) +
4R	Council application (Regulation 4) +
HS	Hazardous Substances Consent
FA	Agricultural/Forestry Details
DA	Demolition Details
HRN	Hedgerow Removal Notice
PN3	Change of Use Prior Notifications

Applications on weekly list under Notifications:

FN	Agricultural/Forestry Prior Notification
TN	Telecommunication Prior Notification
DN	Demolition Prior Notification
RN	Rail Notice

Application types not advertised:

MA	Minor Amendment
DC	Discharge of Conditions
SU	Statutory Undertakings
PN	Householder Prior Notification
T	Works to Trees in a Conservation Area
O	Lawful Development for <i>Proposed</i> Use or Development

A Weekly List of applications (published every Tuesday) is circulated to all Parish Councils and is also publically available for viewing on the [Council's website](#). This list contains all applications accepted as valid within the previous week.

Public access to applications

Councillors and the general public can view application files electronically via the Council's website. The planning files contain plans, forms, supporting information, correspondence, consultation replies, neighbour comments, etc. This information is available 7 days a week 24 hours a day. Access to the electronic files is also possible during the normal working hours of the Town Hall at Bexhill and at the Battle and Rye libraries

A separate 'Statement of Community Involvement', adopted by the Council, sets out the procedures on consultations and decision making.

Decisions

Decisions on planning and other related applications are made either by the Planning Committee or under powers delegated to the Service Manager – Strategy and Planning.

Planning Committee

The Council's Planning Committee comprises elected Members of the District Council and is held in public normally once a month. The Committee determines those applications not considered under the delegated authority to officers. Generally the Planning Committee determines the more major, complex or controversial planning applications although any application by the District Council itself, or relating to Council-owned land, or any application made by a serving District Council Officer or Councillor or a close relative must be considered by the Planning Committee.

Delegation

Under the delegated system applications are able to be determined at planning officer level on a daily basis once the 21 day consultation period has expired. Delegated decisions normally comprise about 90% of all decisions taken by the local planning authority and will include most of the uncontroversial or small scale applications. Delegated authority can also extend to the major schemes but delegated decisions occur only where there are no conflicting material views to the intended decision; whether this is to grant or refuse permission, or other consent.

Notified 'D' system

In circumstances where there is a difference of opinion between the Parish/Town Council or where other material planning objections have been received in relation to the officer recommendation (e.g. from other statutory consultees, or from local residents), then an electronic report (known as a Notified 'D' report) is forwarded internally to Councillors in the first instance.

Notified D reports are sent out to all District Councillors on a daily basis by email during the working week. Such reports identify the planning issues involved together with the officer's recommendation and intended decision. Councillors then have 5 days in which to review the case and 'call-off' the application from the delegated route; referring the matter instead to the next available Planning Committee should they so decide. However, in calling a matter to the Planning Committee the Councillor is required to give their specific reasons and will also be encouraged to discuss the matter first with a senior planning officer.

The Notified 'D' system is also used to notify Councillors of other matters including updates of delegated items from Planning Committee where appropriate

Availability of decisions

All decisions made by the local planning authority are publically available on the [District Council's website](#).

Parish Councils are sent copies of all decisions in their parish by email.

Useful websites and links:

Rother District Council –
www.rother.gov.uk/planning

Planning Portal -
www.planningportal.co.uk

Communities and Local Government –
For all enquiries www.communities.gov.uk

East Sussex County Council –
www.eastsussex.gov.uk