

The Planning System

Part 2

Profession & Business 1

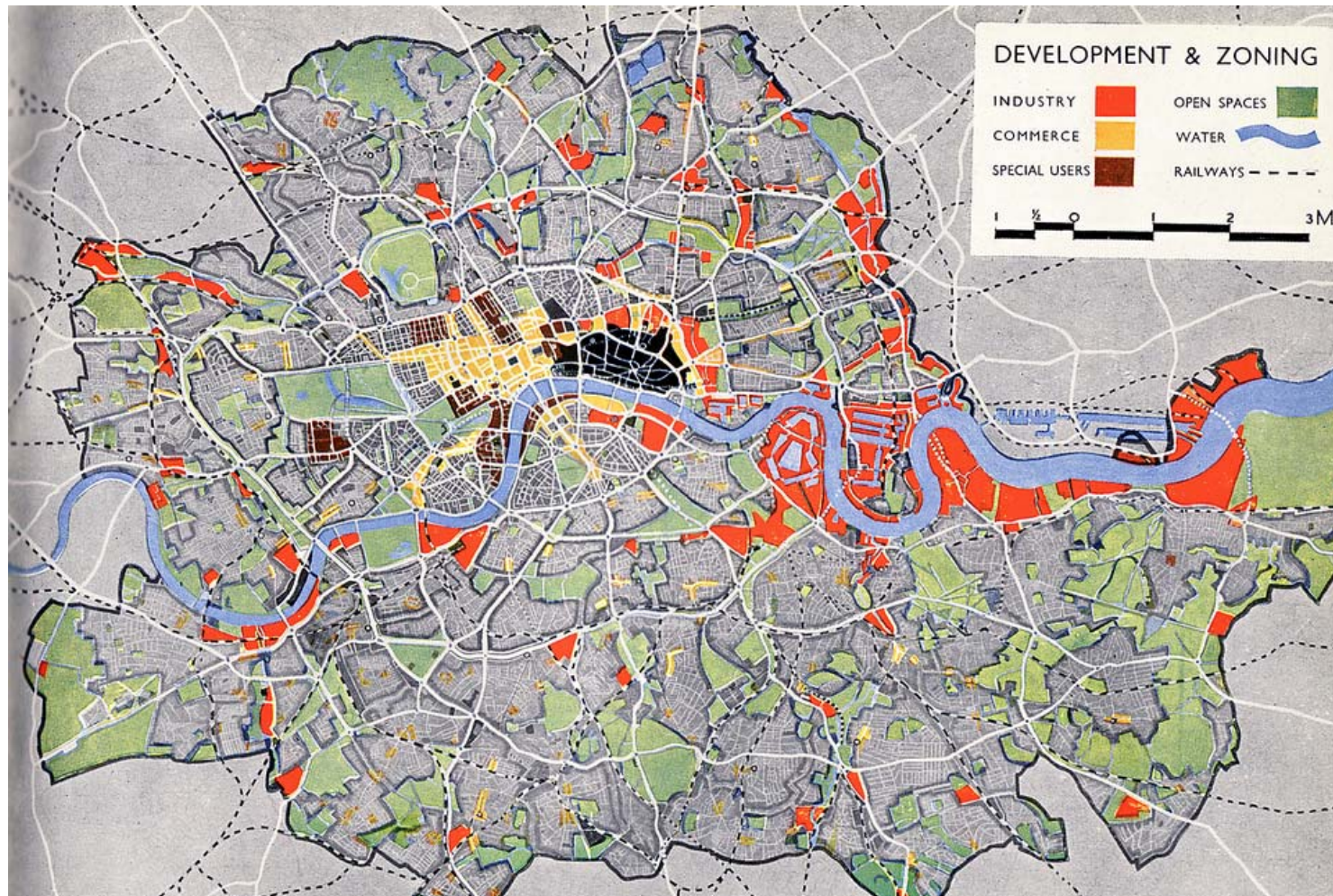
Level 5

Mod Code: M5X01982

What is the Planning System? (recap)

- Planning ensures that the right development happens in the right place at the right time, benefitting communities and the economy.
- It plays a critical role in identifying what development is needed and where, what areas need to be protected or enhanced and in assessing whether proposed development is suitable.
- Construction of new buildings and extensive changes to existing buildings usually requires consent from the local planning authority in the form of planning permission.
- Planning Policy is supported by legislation, this mainly takes the form of Acts of Parliament and Statutory Instruments.

- The law requires that all applications for planning permission should be decided in accordance with the policies of the “Development Plan”
- The decision on any planning application is therefore "policy-led" rather than "influence-led".



Types of Planning Application

- **Full planning permission:** This would grant permission for all aspects of the proposed development, although it would generally be subject to various conditions.
- **Outline planning permission:** Appropriate when an applicant is seeking an agreement "in principle" to a proposed development, without being committed to a particular form of design or layout.
- Approval of "**reserved matters**" Seeking permission for those aspects that were not dealt with in an outline planning permission.
- **Renewal** of planning permission: This would arise when an earlier outline or full planning permission was subject to a time-limiting condition which has since expired.
- **Removal or alteration** of a planning condition:
- **Listed Buildings Application:**
- **Signage and Advertising:**
- **Engineering Works:**

Other statutory requirements might include:

- Advertisement consent.
- Approval of 'conditions' (reserved matters) on a planning permission (or removal or variation of conditions).
- Certificate of established use.
- Certificate of immunity from listing.
- Extensions to the time limits for implementing existing planning permissions.
- Environmental impact assessment.
- Felling or lopping a tree.
- Hazardous substances consent.
- Lawful development certificates.
- Listed building consent.
- Mining or working of minerals.
- Non-material amendments to existing planning permissions.
- Notification where the Crown is developing on Crown-owned land.
- Scheduled monument consent.



Requirements of a planning application.

Statutory

- Ordnance Survey plan Scale 1:1250 Or 1:2500 Usually with the site boundary marked in Red
- Existing Site plan, Floor Plans and Elevations
- Proposed Site Plan, Floor Plans and Elevations
- Design and Access Statement (social housing and Major Developments)
- CIL – Community Infrastructure Levy

Requirements of a planning application.

Supportive

- Site Sections and Street Scenes.
- 3d Renders or models.
- Specialist Detailing.
- Planning Statement.

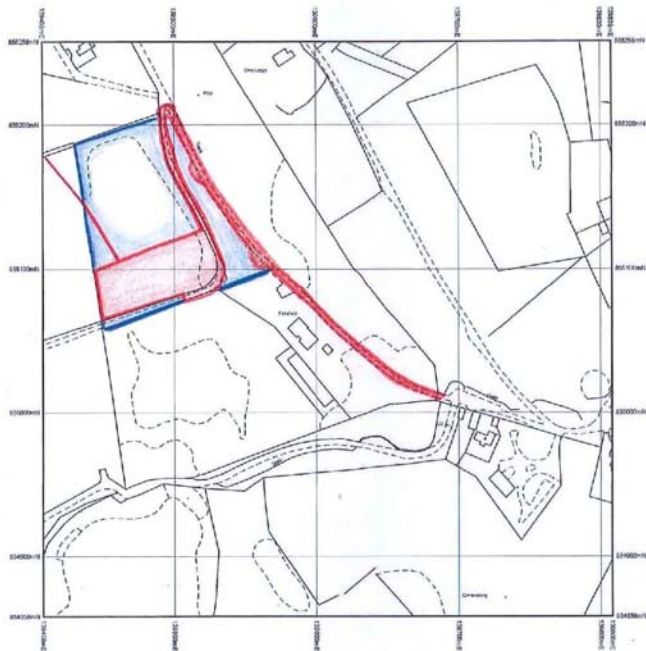
Requirements of a planning application.

Additional

- Ecology reports – Bats, Newts, flora and Fauna.
- Highway assessments – Traffic flow, large vehicle turning.
- Topographical Survey – land levels
- Tree/arboricultural assessments
- Structural reports
- Mining assessments – Ground Stability
- Viability

A **location plan** identifying:

- The land to which the application relates, with the application site edged in red and adjoining land owned by the applicant edged in blue.
- Roads and buildings on adjoining land.
- Land required for access to the site.
- Visibility of and from the site.
- Landscaping.
- Car parking.
- Open areas.
- Scale 1:1250 or 1:2500



Location Plan 1:2500

Red line indicates extent of planning development area

Blue Line indicates extent of land in applicants control



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Rev. 02 amend planning development area

Rev: 02	Date: 24.8.2015	Drawn: JG	
Orig. No. JG2587	Rev: 01	Date: 27.4.2015	Drawn: JG Chk'd
Status: Pre- planning permission - do not use for construction			
Title: Location Plan			
Project: Policy Park, Kingsburgh, Isle of Skye			
Client: [REDACTED]			
Scale: 1:2500		Planning ref:	

A **site plan** which must show the direction of north, site boundaries and existing buildings on the site, and may show:

- Buildings, roads and footpaths on adjoining land.
- Public rights of way.
- The position of trees.
- Hard surfaces.
- Boundary treatment.
- Scale 1:200 or 1:500



Design and Access Statements

What are design and access statements?

Statements are documents that explain the design thinking behind a planning application.

For example, they should show that the person applying for permission (the applicant) has thought carefully about how everyone, including disabled people, older people and very young children, will be able to use the places they want to build.

Design and Access Statements

Statements should include a written description and justification of the planning application.

Sometimes photos, maps and drawings may be needed to further illustrate the points made. They will be available alongside the application for anyone to see, so should avoid jargon or overly technical language.

It is important that they are written specifically for the application they accompany. They need not be very long, but the amount of detail they contain should reflect how complex the application is. So, a statement for a major development is likely to be much longer than one for a single building.

Design and Access Statements

In summary, statements:

- Accompany a planning application, but are not part of it
- Are needed with most types of application, but not householder applications (except in designated areas) or material change of use (unless it also involves operational development)
- Are also required for applications for listed building consent
- Need to explain and justify what is being applied for, and
- Can be linked to planning decisions by conditions if developers are to be required to follow them

Design and Access Statements

Design

The process - How the physical characteristics of the scheme have been informed by a rigorous process which should include the following steps:

- assessment
- involvement
- evaluation
- design.

Use

What buildings and spaces will be used for.

Amount

How much would be built on the site.

Design and Access Statements

Layout

How the buildings and public and private spaces will be arranged on the site, and the relationship between them and the buildings and spaces around the site.

Scale

How big the buildings and spaces would be (their height, width and length).

Landscaping

How open spaces will be treated to enhance and protect the character of a place.

Appearance

What the building and spaces will look like, for example, building materials and architectural details.

Design and Access Statements

Access

The statement needs to include two potential aspects of access.

Vehicular and transport links

Why the access points and routes have been chosen, and how the site responds to road layout and public transport provision.

Inclusive access

How everyone can get to and move through the place on equal terms regardless of age, disability, ethnicity or social grouping

Design and Access Statements

'We don't knock out design statements just to cheer up the planners – they're for us! We start them early in the programme to test, modify and organise our arguments; they form the basis of any planning discussions and...sometimes...they inform our appeal statements.'

Friendly Architecture

Design and Access Statements

Writing statements

- Keep it short and to the point
- Write it for the application; don't copy it from somewhere else
- Start the statement when you start the scheme, and use it to help influence the design
- Explain how the design has come about and what you are trying to achieve
- Talk to people who could help as soon as you can. Consulting access specialists, local groups, planners and so on early on will help the statement hang together
- Use statements as a negotiation tool, and allow them to change if the scheme changes
- Use accurate and informative illustrations. Any maps, diagrams or artists' impressions should be based on the application drawings.

Design and Access Statements

The process

Assessment

You should demonstrate that you have looked at the context of the site and its surroundings.

The size of the surrounding area to be surveyed and the detail with which this is done will depend on the sensitivity and scale of the development.

Local context includes the physical, social and economic characteristics of the site and surroundings, as well as any existing planning policies.

Design and Access Statements

Physical context:

What the place looks like and the character that is derived from existing buildings, landscape features and movement routes.

Social context:

How people in the locality will be affected by the development, including any aspirations they may have for the site.

Economic context:

The contribution the development will have on the local economy.

Planning policy context:

What policies and guidance exist to affect and shape the development of the site.

Design and Access Statements

Design and access statements should explain:

- Amount (how much development is proposed). For residential development, this the number of proposed units and for all other development, the proposed floor space for each proposed use.
- Layout:
- The relationship between buildings and public and private spaces within and around the site.
- Accessibility of the site for users, such as travel distances and gradients, and the orientation of blocks and units in relation to any site topography to afford optimum accessibility.
- The impact of the layout on the energy consumption and thermal comfort during winter and summer performance.
- Crime prevention measures.

Design and Access Statements

Scale:

- The height, width and length of a building or buildings in relation to its surroundings.
- The size of building parts, particularly entrances and facades.
- Why particular heights have been selected.
- How these relate to the site's surroundings and skyline.
- How they relate to the human scale.

Design and Access Statements

Landscaping:

- Purpose of landscaping private and public spaces.
- Its relationship to the surrounding area.
- A schedule of planting and landscaping materials.

Design and Access Statements

Appearance of the development:

- The appearance of the place or buildings proposed.
- How this relates to the appearance and character of the development's surroundings.
- How the decisions about texture, contrast, tone and lighting have considered accessibility.

Design and Access Statements

Context:

- Steps taken to understand the local context (physical, social and economic characteristics as well as planning policies).
- How local context has influenced the design.
- Consultation with the local community and local access groups as well as with local authority planning, building control, conservation and design and access officers. Explanation of how these views have been taken into account.
- Opportunities, constraints and conflicting issues.

Design and Access Statements

Use:

- Proposed use or uses.
- Their distribution across the site.
- Accessibility to and between them.
- Their relationship to uses surrounding the site.

Design and Access Statements

Access (access to the development, not internal aspects of buildings):

- Access to buildings, spaces and transport.
- Flexibility and responsiveness to changing needs.
- Any consultation undertaken.
- Access for emergency services if appropriate.

Planning Policy

Planning can be controlled at both local and national levels.

The NPPF (National Planning Policy Framework) considers National policy In England. The TAN (Technical Advice Notes) documents are drafted by Welsh Assembly Government for Welsh authorities.

Each Local authority will have its own Local Development plan and specific planning policy documents that are all available on line.

Planning Conditions

- A planning condition is a condition placed on a grant of planning permission. Such conditions permit development to go ahead only if certain conditions are satisfied. Conditions include time limits on development, undertakings regarding environmental and noise issues and limits on the size and external appearance of a new development.

Planning Conditions can be:

- Pre Commencement of development.
- Pre Commencement of an element of that development.
- Pre Occupancy
- Time specific
- Advisory
- Financial (Section 106 Agreements)

Planning Use Classification Order.

- A1 – Shops and Retail
- A2 – Financial and Professional Services
- A3 – Food and Drink
- B1 – Business/Light Industry
- B2 – General Industrial
- B8 – Storage
- C1 – Hotel
- C2 – Residential
- C3 – Dwelling
- D1 – Non Residential Institutions
- D2 – Assembly & Leisure
- Sui Generis – In a class of its own

USE CLASSES ORDER (WALES) and permitted development rights



Use Classes Order 1987	Use Classes Order 1972	Description	Permitted Development
A1 Shops Applies to buildings or land	Class 1	The retail sale of goods other than hot food, a post office, ticket or travel agency; hairdressing; the direction of funerals; the sale of cold food; display of goods for sale; hiring out of domestic or personal goods or articles; for the washing or cleaning of goods on the premises or for the reception of goods to be washed, cleaned or repaired; where the sale, display and service is to visiting members of the public.	A1 to A1 at ground with single flat over; Building for sale or display for sale of motor vehicles to A1
A2 Financial & Professional Services Applies to buildings or land	Class 2	Banks, building societies, estate and employment agencies, some solicitors & accountants; where the service is provided principally to visiting members of the public.	A2 to A1 where there is a ground floor display window
A3 Food and Drink Applies to buildings or land	Class 2	Restaurants, pubs, snack bars, cafes, wine bars, shops for sale of hot food, takeaways.	A3 to A1
B1 Business Applies to buildings or land	Class 2 Class 3	Offices not within A2. Research and Development, studios, laboratories, high tech Light Industry.	A3 to A2 B1 to B8 (up to 235 sq m)
B2 General Industrial Applies to buildings or land	Class 4-9	Industrial processes not falling within Class B1.	B2 to B1 B2 to B8 (up to 235 sq m)
B8 Storage or Distribution Applies to buildings or land	Class 10	Wholesale warehouse, distribution centres, repositories.	B8 to B1 (up to 235 sq m)
C1 Hotels. Applies to buildings	Class 11	Hotels, boarding and guest houses.	No permitted development
C2 Residential Institutions. Applies to buildings	Class 12 Class 14	Residential Schools and Colleges. Hospitals and convalescent homes.	No permitted development
C2A Secure Residential Institution		Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.	
C3 Dwelling Houses Applies to buildings		Dwellings, small businesses at home, communal housing of elderly and handicapped. (Note: in London, tenancies of less than 90 consecutive nights fall outside of this use class)	No permitted development
D1 Non-residential Institutions Applies to buildings	Class 13 Class 15 Class 16	Places of worship, church halls. Clinics, health centres, orphanages, day nurseries, consulting rooms. Museums, public halls, libraries, art galleries, exhibition halls, Law Courts. Non-residential education and training centres.	No permitted development
D2 Assembly and Leisure Applies to buildings	Class 17 Class 18	Cinemas, music and concert halls. Dance, sports halls, swimming baths, skating rinks, gymnasiums. Other indoor and outdoor sports and leisure uses, bingo halls, casinos.	No permitted development
Sui Generis (i.e. in a class of their own)	Class 17	Uses which do not fit wholly within a Use Class are considered 'Sui Generis' & require planning permission to change to another use. Some uses are expressly identified as being Sui Generis: Buildings selling and/or displaying for sale motor vehicles, laundrettes, taxi and vehicle hire businesses, amusement centres or funfairs, petrol filling stations and feedlots.	No permitted development

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Accelerating success.

Certificate of ownership

When a planning application is made for land that is not owned solely by the applicant, owners of the land to which the application relates must be informed.

Article 12 of the Town & Country Planning (Development Management) Procedure Order 2010 requires that planning applications are accompanied by a certificate confirming either that the applicant is the sole owner of all the land to which the application relates, or that notice has been served on all person(s) that are an owner of the land or a tenant.

Owners are people having a freehold interest or a leasehold interest the unexpired term of which is not less than seven years. This means that there can be more than one owner. In addition, the application may relate to more than one piece of land, so notice may have to be given to several people.

Certificate of ownership

A written notice must be served on all owner(s) that the applicant knows the names and addresses of, telling them that the application is being made. Where the applicant has taken reasonable steps to ascertain the names and addresses of owner(s), but has been unable to do so, then an advert must be taken out in the local press.

Certificate of ownership

The applicant must then confirm to the local authority that the owner(s) have been informed on a 'certificate of ownership' or 'ownership certificate' (an article 12 certificate):

- If the applicant is the only owner of the land, certificate A is submitted.
- If the applicant is not the only owner, and the names and addresses of all the other owners are known, certificate B is submitted.
- If the applicant is not the only owner, but only the names and addresses of some of the other owners are known, certificate C is submitted.
- If the applicant is not the only owner, and they do not know the names and addresses of any of the other owners, certificate D is submitted.

Section 106 Agreements

The National Planning Policy Framework (NPPF) suggests that a planning obligation is, 'A legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.'

Planning obligations (also known as Section 106 Agreements or 'planning gain') are obligations attached to land that is the subject of a planning permission.

They are used to mitigate or compensate for the negative impacts of a development or to prescribe the nature of a development.

They are intended to make acceptable developments which would otherwise be unacceptable by offsetting the impact by making location improvements. Because they apply to the land not the applicant, planning obligations transfer with the land to future owners of the site.

Planning obligations may be undertaken unilaterally by the developer or by agreement between the developer and a local planning authority.

Planning obligations must be:

- Directly relevant to planning.
- Necessary to make the proposed development acceptable.
- Directly related to the proposed development.
- Reasonable and in proportion to the development.

Examples of planning obligations could include:

- Requiring that the development includes affordable housing.
- Requiring compensation (or substitute provision) for the loss of open space.
- Making a contribution to the provision of additional infrastructure to serve the development (such as a new classroom at a school) or increasing the provision of public transport.

In 2010 measures within the Community Infrastructure Levy Regulations came into force clarifying the relationship between planning obligations and the community infrastructure levy and restricting the use of planning obligations.

Community infrastructure levy CIL

Section 206 of the Planning Act 2008 gives the local planning authority the power to charge the community infrastructure levy (CIL).

It is a charge that local authorities can choose to impose on new developments to fund local infrastructure.

This could include infrastructure such as:

- Transport schemes.
- Flood defences.
- Schools.
- Hospitals.
- Green spaces.
- Leisure centres.

Conservation area

Conservation areas are areas that have been designated as being of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.

The Planning (Listed Building and Conservation Areas) Act 1990 creates special controls for areas designated as conservation areas.

Conservation area controls apply in addition to normal planning controls.

Conservation officer

Local planning authorities generally employ, or retain the services of, a conservation officer. Sometimes this role may be combined with that of archaeological officer, although they are very different, albeit related, functions. The role can also be referred to as Historic buildings inspector.

The conservation officer's role is to ensure the heritage assets of the local authority are preserved, managed, enhanced and promoted.

Listed Buildings

The Planning (Listed Building and Conservation Areas) Act 1990 creates special controls for the demolition, alteration or extension of buildings, objects or structures of particular architectural or historic interest. Listed building controls apply in addition to normal planning controls.

Listed buildings are added to a register called the List of Buildings of Special Architectural or Historic Interest

Buildings may be listed for a number of reasons:

- Architectural interest (such as design, decoration or craftsmanship).
- Historic interest (for example, if the building is representative of a particular type).
- Historic association (association with nationally important people or events).
- Group value (part of a larger ensemble).

There are three categories of listing in England and Wales:

- Grade I: Buildings of exceptional importance.
- Grade II*: Buildings of more than special interest.
- Grade II: Buildings of special interest.

Listing can protect the interior and exterior of the building, as well as object or structures fixed to it, and any object or structure within the curtilage of the building which has formed part of the land since before 1 July 1948.

Following the introduction of the Enterprise and Regulatory Reform Act (ERR) 2013, it is possible when making a new listing to declare that specific features of the building, or specific buildings or structures attached to, or within the curtilage of the listed building are not of special interest.

There are no general rules about what can and cannot be done, as each building is unique and will have been listed for reasons particular to that building.

A local authority conservation officer can establish whether proposals are likely to affect a building's architectural or historical interest and therefore whether listed building consent is required.

Listed building consent must then be obtained from the local planning authority.

It is a criminal offence to alter listed buildings without listed buildings consent and the local planning authority can have works reversed if they do not have consent.

Listing is not intended as a preservation order, it simply identifies buildings of interest. Decisions relating to listed building consents should balance historic interest against practical issues such as its function, condition or viability.

Other controlled sites for which special permissions may be required include:

- Scheduled ancient monuments.
- Registered historic parks and gardens.
- Conservation areas.
- Registered historic battlefields.
- Designated wrecks.
- World heritage sites.

The Planning Application Process.

- Planning and Listed buildings applications are deposited with a local authority, usually by the applicants agent.
- The application is then checked by the validation team and a validation letter is issued. The date of validation is most important.
- A case officer within the LA is selected and they issue the documents to relevant statutory undertakers (anyone who may have an interest in the development) for a consultation period of 21 days.

The Planning Application Process. Cont....

- It is at this point that the applicant/agent is given the opportunity to respond to objections or comments raised regarding the application.
- Depending on the nature of the application, the case officer, is then given up to 8 or 13 weeks in total to consider a verdict on the submission.
- A small application with no objection can be resolved using delegated powers, which removes the planning committee (made up of a select group of Council Members) from the process.
- An approval document (with conditions) or a refusal document (with justifiable reasons) is then issued.

The Planning Application Process. Cont....

- Larger applications or contentious applications will require approval from the planning committee, and the case officer will present a report to the committee on selected dates with recommendations for approval or refusal.
- It is not always the case that a planning committee will agree with the case officer, and decisions are overturned. (although a decision against the planning officers recommendation is often contested at appeal and can cost the LA substantial sums of money).

The Planning Application Process. Cont....

- Once approval is granted, the applicant then has 5 years to commence the development. In which time, conditions will be discharged and other statutory obligations such as building regulations approval will be satisfied.
- In the event of an outline application, the expiry is 3 years with options to extend the period by a further 2 years when the reserved matters are discharged.
- Failure to discharge conditions or not build in accordance with the approved documents can often result in planning enforcement action. This can slow down the development, can result in financial penalty or even a criminal prosecution, depending on circumstances.

Planning appeal

If planning permission is refused, the applicant may lodge an appeal which will then usually be decided by an inspector acting for the Secretary of State.

A small number may be 'recovered' by the Secretary of State who will then determine the appeal themselves.

There are different types of appeal that can be made:

- Householder appeal.
- Planning appeal.
- Enforcement appeal.
- Listed building/conservation area appeal.
- Listed building/conservation area enforcement appeal.
- Lawful development certificate appeal.
- Advertisement appeal.

