

Guide for Objectors

There is a lot of information for people making Planning Applications but little advice on how to comment on an application that someone else is making. We hope this guide is helpful. Obviously it is not intended to be comprehensive or legally exact but hopefully gives the information you need in most instances.

To make your objection as effectively as possible you need to understand something of the Planning process.

The Planning process

Whilst “the Council” is seen as making the decision on a planning application, that decision is affected by a number of issues:-

- 1) The East Devon Local Plan (and other supplementary Planning Policies).
These documents set out in broad terms how land and buildings in each area may be used. They are heavily influenced by National, Regional and Sub-Regional policy
- 2) The Law.
Planning Applications and decisions are part of a legal process. Many aspects of the Planning process must happen in a legally prescribed way.
- 3) National Guidance.
Planning policy guidance from central government advises how certain issues in planning should be handled.

These 3 areas mean that, for better or worse, the Council often cannot just decide what it thinks best for each individual planning application, on the strength of local opinion. In some cases “its hands are tied”.

Planning decisions

An important thing to remember is that a Planning Application will normally be approved, if it conforms to Planning policies. If you object to a planning application you will need to help the Council find a “material planning reason”, why that application should not be approved.

Without a relevant planning reason a Council decision to refuse could be challenged at a Planning Appeal. These planning appeals are expensive to the Council, and the Council has no control over the outcome.

There may be reasons to refuse some planning applications but these concerns might be overcome by setting “conditions”. If there is concern that a new factory might create noise to local residents, we may set a ‘noise condition’ which would set how much noise would be acceptable.

If a planning application can be agreed with conditions, we should not refuse that Planning Application.

What are “Material Planning Considerations”

Your objection must clearly relate to a “material Planning consideration”. These are the only reasons a Planning Application can be refused: Material planning considerations may be that:

- there is a clear planning policy to keep or/promote certain uses
- there would be a breach of adopted plans and policies
- there would be a significant effect on an area such as: availability of public infrastructure, density (how closely the buildings are arranged), layout, siting, design and external appearance of buildings, means of access, capability of roads to cope with extra traffic, car parking, landscaping.

- there is a significant effect on other individual buildings such as overlooking, loss of light, overshadowing, visual intrusion, noise and disturbance, overbearing (for example a very large extension close to the boundary with another dwelling), light pollution (particularly relevant in rural areas)
- there is impact on a specially designated area or building (e.g. “conservation areas” and “listed buildings”, and in Areas of Outstanding Natural Beauty) particularly how buildings relate to their surroundings.
- the planning history of the site shows relevant past problems.
- there are drainage and potential flooding issues
- there are potential problems associated with contaminated land
- there are potential problems associated with serious land stability problems (where they affect the greater public, not where they affect single adjoining landowners, this is a private matter between the parties)

The planning decision relies on balancing the competing arguments for, and against, a proposal. Even if there is a problem under one or more of these ‘material planning considerations’ this does not mean the Council should always refuse permission.

For most of the matters which are ‘material planning considerations’ there are clear national or local standards which are set, (e.g. car parking, access dimensions, noise levels, density) and these will be used in deciding the application.

The most difficult issue is that of “design and appearance”. Except for certain conservation areas, and listed buildings, this does not usually relate to whether the style of the development matches the rest. It also doesn’t relate just to whether the style is “pleasing” to you. The design matters which are especially taken into account are the alignment, height and extent of both the building and its components, compared to others nearby.

Not all buildings in a street need to have the same architecture, but they should have some aspects which create continuity with their neighbours. Many streets have buildings that sit harmoniously though built in different styles in different centuries. Unless your area has a “design guide” you will find that subtle objections solely on grounds of design and appearance may be quite difficult to argue.

Matters that are NOT material Planning Considerations

Other matters are not normally material planning considerations and even if you raise these things as objections they cannot usually be taken into account by us when we decide on a planning application (nor would they be considered at any independent planning appeal). These include:

- What has happened on other sites
- Loss of a view
- Who the applicant or occupant is
- Unfair competition
- Breach of covenants and private property rights
- Devaluation of any local property
- Moral and religious issues
- Matters which relate to other regulatory regimes. This could be Building Control Standards, Highways Acts, or Health and Safety
- Matters which relate to safety or disruption during construction, although it is sometimes possible to regulate the hours of work on certain sites.
- Lack of adequate parking for a town centre development (government policy says parking does not need to be provided in such locations in easy reach of public transport).

How to object

When a planning application is made we will normally notify those who might be affected. Some applications will be advertised in the local paper.

Comments from the Town or Parish Council, local Councillors, and from other “statutory bodies” (Environment Agency, Highway Authority, and Environmental Health Service) will be taken into account.

All of these may comment on the proposals and explain which ‘material planning considerations’ are relevant.

Every objection received is recorded, read, considered, and summarised in the report written for each Planning application.

If you wish to comment on an application, and wish to comment, it is useful to note its Number and address. Details can be found on the Council website or alternatively at your local Town, Parish or District Council office.

Put your objection by letter, or at planning@eastdevon.gov.uk, setting out which application you are objecting to and the ‘material planning consideration’.

You might want to copy your objections to the Town or Parish Council too. Many Town and Parish Councils have a committee to consider Planning Applications in their area. They can make no legal decisions about the application, but they know the local situation well, and they can help ensure East Devon District Council does not overlook some significant “material planning consideration”.

Some objectors tell their local District Councillor of their concerns. If the Councillor is on the Development Control Committee they may refuse to discuss this with you as they MUST NOT have an opinion on the case until they have seen and heard all the points. In this case contact another Councillor.

Making a decision

Few of East Devon’s planning decisions are taken by the full Development Control Committee. Simpler decisions are made by Council Officers but these are then checked by Senior Planners and often the Chairman of the Development Control Committee. These are called ‘Delegated decisions’. There are clear rules about which applications are “delegated”.

If an application is to be decided at Development Control Committee you may attend to watch. You will need to check (through the website or by contacting 01395 571531) when the application is likely to be heard. Be aware that some Committees can be very lengthy where there are major contentious issues.

Sometimes a planning application is referred to the Planning Inspection Committee and a “site inspection” is carried out by that Committee. No decisions are made at these visits, they are strictly fact finding, and you will not be permitted to attend as an objector. You can however attend and speak at the subsequent Planning Inspection Committee meeting – usually in the afternoon following the visit.

Details of the rules for public speaking can be found at

www.eastdevon.gov.uk/index/your_council/councillors_and_meetings/committees/planning_inspections.htm

What if you don’t like the decision?

As an objector you can only appeal against a Planning decision by ‘Judicial Review’ through a Court. You would need to prove the Council’s decision was made incorrectly. It is a rare and potentially expensive procedure to follow. You should consult your solicitor.

The Council also has a formal complaints process (and you may ultimately go to the Local Government Ombudsman). However this process cannot overturn any Planning decision. The Ombudsman will look at the way the application was decided upon, and decide themselves whether this was fair or not.

If you wish to make a 'formal' complaint against the Council then you will need to contact the Senior Planning Officers in writing firstly. We have complaint forms for this purpose.

The fact that a decision went against your objection is not in itself reason for complaint unless it was unfair or badly administered.

Section 106 agreements

In some cases, where a planning application will have a wider impact on the community the applicant will be asked to enter into a "Section 106 Agreement or Undertaking". This is not the same as a planning condition.

A Section 106 agreement is a legal arrangement between the Council and Developer. This involves the developer providing some community or environmental return for the development. This may support education, low cost housing or transport.

Section 106 agreements are not a way of 'buying' planning permission, they are a means to lessen the impact of a development on the wider community.

What if the applicant doesn't stick to what was approved?

If you believe that the development is incorrect please report this, as soon as possible, to the Senior Planning Officer who will investigate on your behalf. Some small changes may be allowable, or permitted with negotiation, larger changes may need a new planning application.