

Planning Service Parishes Bulletin 01

May 2013

Effective consultation responses: Advice to enable you to assist the Planning Committee in a making its decisions.

Welcome to the first Peak District National Park Authority Planning Service Parishes Bulletin. The Planning Service will produce a Parishes Bulletin when there are important issues to highlight or changes that you need to be aware of, either to national planning policy and procedures or to our own internal processes.

We are keen to enhance communication between the Planning Service and our customers and we value the Parish Councils as an important channel for information and local opinion on planning matters.

In this bulletin we provide you with advice about submitting effective responses to planning consultations and useful links to further information about your role.

Summary

When the Planning Committee is considering planning applications, the views of the local community are an important factor in its deliberations; if a parish council simply says “no comment” then the Committee has no guidance or evidence that the parish councillors have fully considered the application. A response of “no objection” at least suggests that the application has been assessed.

The Planning Committee prefers a more detailed response to give it confidence that its decision takes local opinion into consideration.

The following information should assist you in providing effective consultation responses. It is important to note that the applicant has a right to approval unless the application is contrary to the Authority’s Development Plan policies or unless the proposal would harm interests of importance to the national park. For instance, with an application for an agricultural worker’s

house in open countryside, there is an onus on the applicant/developer to prove a need for the proposed development.

1. The Purpose of Consultation

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

- The development may be of particular significance locally and the views of the Parish would be a helpful indication of local reactions.
- It gives the Parish the opportunity to be aware of what development is proposed.
- The Parish, with its local knowledge, can alert the Authority to any anomalies in the application which would not be readily apparent on a site visit (for instance, local people may have important evidence of how a particular site is used, such as hours of working).
- It enables the Parish to let local people know about development proposals.
- It enables the Parish to notify the Authority of unauthorised development.
- It provides an opportunity for people to inspect plans locally.

Our website www.peakdistrict.gov.uk/planning allows Parish Councils and the public to view the applications, consultee responses and comments in response to planning and other applications. The website also offers the facility to submit comments electronically. The Authority's decision is also viewable on the website.

2. How Parish Representations are taken into account

The Authority always takes into account the representations of the Parish. However, sometimes the Authority's decision will not be in accordance with the Parish views. There may be several reasons for this:

- The Authority is only able to take into account material planning considerations (see section 4). If the comments of Parish Councils do not relate to legitimate planning issues, they must be set aside.
- The starting point for all decisions is adopted planning policy and decisions must be made in accordance with policy unless there are other, overriding planning considerations.
- The Authority receives advice from its professional officers on all matters which should be taken into account in making a decision. The Parish Council does not normally receive such comprehensive advice.
- The Authority must take into account any other representations it receives, including those from statutory consultees, other officers of the Authority, neighbours and the applicant. It will consider these together with the planning history of the site, including any previous appeal decisions.
- The Authority is legally obliged to make a decision which takes into account all material planning considerations and there may be occasions when these outweigh the Parish Council view.

3. Development Management in Practice

The Planning Committee has to bear in mind that the Ombudsman can find maladministration if proper administrative procedures are not followed. When Members of the Authority are determining planning applications, they are acting in a quasi-judicial capacity; their decisions must be objective and made within the rules of the planning system. It is the merits of the application in those terms, not necessarily the weight of public opinion, which leads to the decision. [BC1]

The Authority must be able to defend a decision to refuse a planning application if an appeal is lodged. If the Authority cannot show that the application has been refused on grounds which are reasonable and solely related to planning considerations, the appeal is likely to be allowed.

Where planning permission has been refused against the advice of officers or statutory consultees, 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 cannot be taken lightly.

4. What are Planning Considerations?

Comments on a planning application can only be taken into account if they relate to **material** planning considerations.

Material planning considerations can include: (This list is not comprehensive)

- 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 trees.
- Noise, disturbance, smells.
- Public or other proposals for using the same land.

Planning considerations do NOT include the following:

- Retrospective applications: development carried out without planning permission is not necessarily an offence and planning legislation makes provision for planning applications to be made retrospectively. If the development is acceptable on its merits, the Authority cannot withhold permission simply to punish a pre-emptive development. However, if the development is unacceptable, the Authority will need to consider enforcement proceedings against the developer.
- Trade objections: it is not the role of planning to interfere in commercial competition between businesses other than at strategic level, for instance when the vitality or viability of a town centre as a whole is threatened by a proposed development.
- Moral objections to developments such as betting shops, lottery kiosks or amusement arcades cannot be taken into consideration. However there may be genuine planning reasons for refusal such as noise and disturbance to adjoining residents.
- Views: the loss of an attractive private view is not a planning consideration. For instance, 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 generally and matters such as overlooking, privacy or public views, are important considerations.
- Property values: fear that an objector's house or property might be devalued is not a planning consideration.
- Ownership: the fact that an applicant does not own the land to which the application relates cannot be taken into account (because this can be overcome by agreement). Nor is it a planning consideration that an objector is a tenant of land where development is proposed.
- Covenants: allegations that a proposal might affect private rights, for instance, restrictive covenants, property maintenance, private rights of way or boundary disputes, are not planning considerations. 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: the personal circumstances of applicants can only be taken into account in exceptional circumstances, [BC2]The planning system does not exist to protect the private interests of one person against the activities of another. The question is not whether owners and occupiers of neighbouring properties would experience financial or other personal 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.
- Problems associated with the construction period of any works, for instance, hours of work, noise, dust, construction vehicles, are not planning considerations.
- Other legislation: where there is specific legislation imposing controls such as Building or Fire Regulations, or Health and Safety, then these should not be duplicated by the Planning Authority.

Conclusion:

The Authority very much welcomes and values Parish Council responses to planning applications. The Authority would much prefer that these responses clearly indicate whether or not the Parish Council has objections and if it does, to detail what those objections are in line with the material planning considerations in paragraph 4.

Useful further reading:

The Planning Service & Parishes Accord (please email diane.jackson@peakdistrict.gov.uk if you need any copies or visit:

http://www.peakdistrict.gov.uk/_data/assets/pdf_file/0004/162499/planning-accord-1111.pdf

http://www.nalc.gov.uk/Publications/Booklets_and_Resources.aspx

www.standardsforengland.gov.uk/media/Parish_Toolkit_April_2009.doc.

Feedback:

The Planning Service is committed to listening to customer feedback to help us to identify any positives or areas for service improvement. We would very much welcome your feedback so that where workable, we can refine our procedures accordingly.

Please send your comments to Diane Jackson, planning liaison officer, on diane.jackson@peakdistrict.gov.uk or 01629816328 or write to her at the Peak District National Park Authority, Aldern House, Baslow Road, Bakewell, DE45 1AE.

If you haven't received Bulletin via email and would prefer an e-copy in future please email diane.jackson@peakdistrict.gov.uk