



Horsham
District
Council

Welcome to Parkside

Training Seminar | Parish Council
19 December 2017

Agenda

1. Introductions
2. Explanation of the planning system
 - Different types of application
 - What is a material consideration
 - Terminology in Parish Council responses
 - Weight given to consultees/representations
 - Scheme of delegation
3. Compliance (enforcement)
 - The process
 - Actions
 - When a case is closed

(Break)

Agenda continued..

4. S106 Legal Agreements (S106) and Community Infrastructure Levy (CIL)
 - CIL implementation
 - When we still use S106s
 - How can Parishes apply for S106 money
 - How can Parishes apply for CIL money
 5. Neighbourhood Planning and Parish Design Guides
 - The role of neighbourhood planning in the planning system
 - Development within/outside of built up area boundaries
 - The weight of Parish Design Guides and how they are used in decision making
 6. Planning for the Right Homes in the Right Places consultation response
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Applications Team

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An Explanation of the Planning System

Administering the system

The planning system is designed to be applied by local government and communities.

Within Horsham we have three tiers of local government:

- West Sussex County Council
- Horsham District Council
- Parish Councils (Horsham also has three Neighbourhood Councils)

Horsham District Council administers much of the planning system, preparing Local Plans, determining planning applications and carrying out enforcement against unauthorised development.

Horsham is responsible for most planning matters other than transport, education and minerals & waste planning which are typically functions of the county council.

Administering the system

Parish Councils play an important role in commenting on planning applications that affect their area. The Government wants to see decisions taken at the lowest level possible and has introduced the ability for parishes to produce Neighbourhood Plans.

Neighbourhood Plans once adopted become part of the Development Plan for the area and will be used as part of the process to make decisions on planning applications.

Local planning authorities appoint planning officers to assist with the operation of the planning system. Most minor and uncontroversial planning applications across the country are decided through delegated decision – taking powers.

Larger and more controversial developments are often decided by planning committee, informed by officers' recommendations. Decisions here are made by elected councillors with the opportunity for Parishes and third parties to make representations verbally to the committee.

Administering the system

The Secretary of State oversees the planning system as a whole as well as having a more direct role in a small number of decisions through the appeal system, the call-in process and decisions on nationally significant infrastructure projects

The Government have set statutory time limits for determining planning applications, usually 13 weeks for major development and 8 weeks for all other types of development (unless an application is subject to an EIA, in which case a 16 week limit applies). If a valid application is already being considered and it becomes clear that more time than the statutory period is genuinely required, then the local planning authority should ask the applicant to consider an agreed extension of time. Any such agreement must be in writing and set out the timescale within which a decision is expected

The Planning Inspectorate for England and Wales is an agency of the Department for Communities and Local Government (often called PINS). Planning inspectors are responsible for deciding most planning and enforcement appeals on behalf of the Secretary of State, and also play a role in plan-making.

Types of application

Full planning application - The most common type of planning application. Types of development that require an application for full permission include;

- Most non-householder developments
- Engineering or other works
- New housing development
- Temporary planning permission
- Changes of use of buildings or land.

Householder application - This is an application specifically for householders that want to carry out work to their home or garden area. These cover projects such as:

- Extensions and Conservatories
- Garage and Loft conversions
- Garages, Car Ports and Outbuildings
- Fences, Gates and Garden Walls
- Decking and Balconies
- Satellite dishes
- Solar Panels and Wind Turbine

Types of application

Outline application - The purpose of an outline application is to decide whether the scale and nature of a proposed development would be acceptable before a fully detailed proposal is put forward. This type of permission is usually for larger schemes, for example, housing developments.

If approved, conditions are normally attached which will need to be completed or met before further submission - this is known as a Reserved Matters application (see below)

Reserved Matters application - Where outline planning permission has been granted, an application for approval of the details, or Reserved Matters, must be submitted to the planning authority for approval before the development starts. A Reserved Matters application must be submitted for approval within three years of an Outline application being approved.

Prior Approval / Notifications - Where development is permitted however requires a notification to the local planning authority prior to the development taking place. These cover:

- Larger Home Extensions
 - Change of use i.e Office to Residential
 - Agricultural and Forestry i.e Barn to Residential
 - Telecommunications
 - Demolition
-

Category of application

A 'major' application is:-

- More than 10 dwellings or gypsy / traveller pitches
- More than 1000sqm of new commercial floorspace
- Sites over 1 hectare in size

A 'minor' application is:-

- Between 1 and 9 dwellings
- Commercial development up to 999sqm and under 1 hectare in site area

'Other' applications include:-

- Householder extensions
 - Listed Building Consents
 - Advertisement Consents
 - Changes of Use
-

How are applications determined?

A decision on a planning application must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

The National Planning Policy Framework (NPPF) stresses the importance of having a planning system that is genuinely plan-led. Where a proposal accords with an up-to-date development plan it should be approved without delay.

The development plan consists of:-

Local Plans: the Horsham District Planning Framework, the South Downs National Park pre-submission plan, and West Sussex County Council development plan documents that deal specifically with minerals and waste

Neighbourhood Plans: where these have been approved by the local community at referendum.

Supplementary Planning Documents: which provide specific planning policy guidance and advice.



What is a material planning consideration

A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision. Material considerations can include (but are not limited to):

- Government policy
- Local Plan/Neighbourhood plan policies
- Overlooking/loss of privacy
- Loss of light or overshadowing
- Parking
- Highway safety
- Traffic
- Noise
- Effect on listed building and conservation area
- Layout and density of building
- Design, appearance and materials
- Disabled persons' access
- Previous planning decisions (including appeal decisions)
- Nature conservation

However, issues such as loss of view, or negative effect on the value of properties are not material consideration

How much weight is given to representations received

The Council is legally obliged to take into account the representations received from Parish Councils, neighbours and other interested parties when deciding all planning applications.

Furthermore, the Council encourages Parishes and local residents to have their say in planning matters. The weight given to representations will largely be dependent on whether any comments can be substantiated by a compliance or non-compliance with local and national policy. The final decision on an applications rests with the Council and will need to factor in consistency in decision making both locally and nationally.

What will happen after my objections have been made?

Due to the large number of responses the Council receives, it is not possible to respond personally to each letter. However you can call to speak to the case officer or a manager for an update on the application. Representations are publically available and you should be aware that other members of the public may see your views. However, please note that personal details, excluding name and address, are removed. All representations are published on the councils website upon receipt. If you wish to see if your representations have been received, you are advised to check our website.

Scheme of Delegation



The discharge of planning functions are delegated to the Planning Committees of the Council (Planning Committee North and South) and to the Director of Planning, Economic Development and Property, who in turn delegates to senior planning officers of the Council.

The most up to date scheme of delegation was amended in the Councils constitution in September 2017. It is however important to date it did not change the ability of a Parish Council to request a planning application be heard at planning committee.

The scheme of delegation states that:

The Parish or Neighbourhood Council can request an application be heard by Committee by submitting a written representation prior to the consultation expiry date. The representation will need to make it clear that you wish to address Planning Committee.

If your representation is contrary to the recommendation of the officer(s) the application will be referred to the relevant Planning Committee.

Scheme of Delegation

Exceptions apply as follows:

- i. Applications for a Certificate of Lawfulness (proposed or existing)
- ii. Applications for Prior Approval (submitted pursuant to the General permitted Development Order 2015 (as amended))
- iii. Applications for Prior Notification (submitted pursuant to the General permitted Development Order 2015 (as amended))
- iv. Applications for the submission of details of conditions pursuant to planning permission
- v. Applications for works to trees in a Conservation Area
- vi. Applications for works to trees covered by a Tree Preservation Order
- vii. Applications to modify or discharge an obligation contained within a Unilateral Undertaking or a S106 Agreement
- viii. Applications for a non-material amendment

The exceptions apply as the above are not planning applications and largely have to be determined within a short period of time. Some also benefit from deemed consent if no decision is made within the statutory timeframe. This does not prevent comments being made by a Parish Council or other interested party which would be considered by planning officers.

A planning application is also referred to committee if more than 8 letters of representation are received within the consultation period which are contrary to the officers recommendation





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Planning Compliance



Team Leader	Madeleine Hartley
Principle Compliance Officer	Helen Sissons

2 x Vacant Compliance Officer
(start date to be confirmed)

CIL & S106 Officer	Suzanne Shaw
CIL Planning Assistant Conditions	Charlotte Grant
Monitoring Officer	Marie Riggs

Compliance – Our Statistics

No. of cases this year	592
No. of cases closed this year	418
No. Notices served	17
Appeals determined	2
Appeals outstanding	10

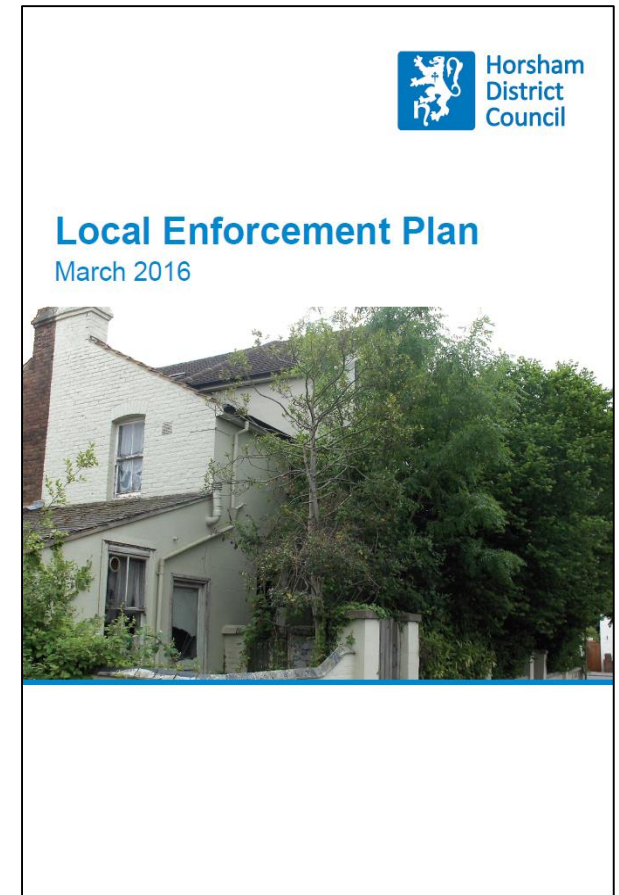
National Policy

National Planning Policy Framework Paragraph 207 states:

‘that enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so’

Local Policy

The Local Enforcement Plan sets out local priorities for enforcement action, allowing the councils enforcement resources to be put to the best use in dealing with breaches of planning control that threaten the quality of the local environment or the amenities of the residents of the district.

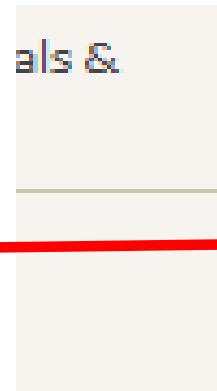




How to make a Complaint

- Via the web at: www.horsham.gov.uk or;
- By email to planning.compliance@horsham.gov.uk

The screenshot shows the Horsham District Council website. The top navigation bar includes links for Accessibility, Contact, and Home. Below this is a menu with categories like Bins, Planning, Council Tax, Jobs & Careers, Parking, Payments, Housing, and Other services. The main content area is titled 'Planning Enforcement'. On the left, there is a sidebar with various planning-related links. The 'Report a planning breach' section is highlighted, and a red circle is drawn around the 'Report Here' button. Below this, there is a section for 'Local Enforcement Plan' and a 'Related Files' section with a link to 'Local Enforcement Plan (pdf, 6.8 MB)'. At the bottom, there is a 'Stay Connected' section with an email subscription form.



The Planning Portal provides the answer and you remain

Report Here

Please note we do not



What happens when a complaint is received

- 1) Complaint registered and allocated to an officer.
 - 2) Complainant sent an acknowledgement letter letting them know who the case officer is
 - 3) Planning history of the site is assessed by the case officer.
 - 4) Site visit undertaken.
 - 5) Action from the site visit:
 - Assess if there is a breach
 - Application may be invited
 - Planning Contravention Notice (PCN) may be served
 - Send a letter for the breach to cease or be demolished
 - Enforcement Action may be taken
-



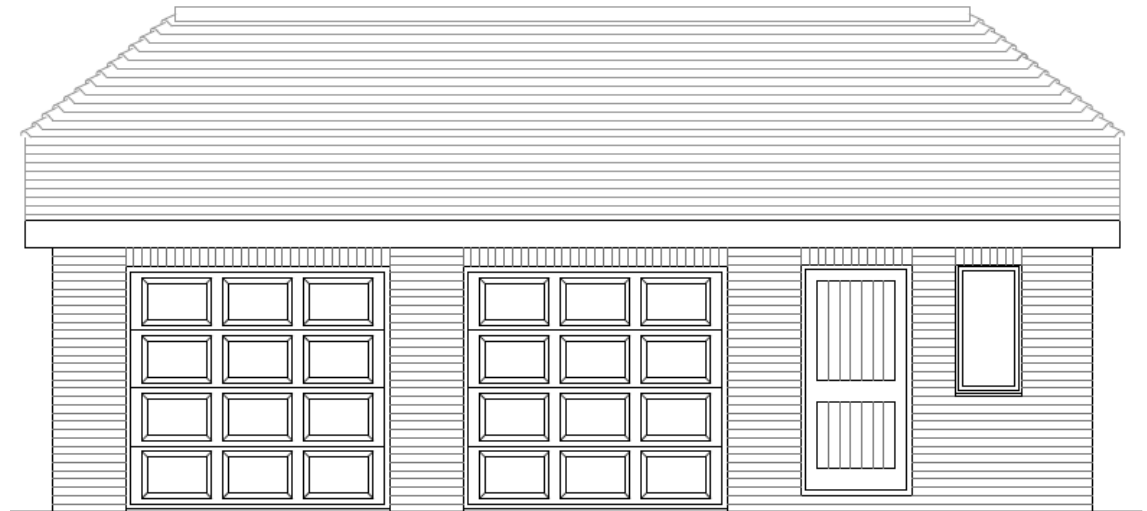
Types of Action

- Planning Contravention Notice (PCN)
 - Enforcement Notice
 - Listed Building Enforcement Notice
 - Breach of Condition Notice (BCN)
 - Stop Notice
 - Temporary Stop Notice
 - Untidy Land Notice (s.215)
 - Court Injunction
 - Prosecution
-



Example 1

Planning permission
granted by Horsham
District Council for a
garden store





A Compliance investigation
commenced;

The site visit identified that the
garden store had not been built in
accordance with the approved
plans.



Following enforcement action the owner restored the building to the size shown on the approved plans.



Example 2 - Ancillary uses

Vehicle repair (B2 use class) with the sale of some retail.

- The lawful use is vehicle repair for the fixing of vehicles (the primary use).
- There is a small area in the unit where goods are sold such as oil, brake fluid, screen wash (a retail element).
- The sale of these goods are primarily for customers who are getting their cars fixed.
- As the sale of these goods are so small and primarily bought by people bringing their cars to be fixed, this use would be ancillary to the primary use and **not** a retail use.

Example 3 – Expediency



Example 4 – De Minimis

Development that does not fall within the definition of development set out in section 55 of The Town and Country Planning Act 1990.

“...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or other land”.

De Minimis:

‘so minor that they would practically fall outside the scope of planning. This categorisation generally applies to only the most minor types of development’

Example:

Approved



As built



Example 5

Even if a building is fully constructed the Council can take action

Before..



Photo Credit: BBC News

After.....





Appeals

- Anyone issued with an enforcement notice has the right to appeal.
- The enforcement notice will then be considered by the Planning Inspectorate (PINS).
- An appeal for a Section 215 Notice goes to the courts, not PINS.
- A breach of condition notice cannot be appealed.
- If an enforcement notice is not complied with, the Council can prosecute (provided it is considered expedient to do so).







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Section 106 and the Community Infrastructure Levy

Community Infrastructure Levy (CIL)

Horsham District Council is the Charging Authority for the Community Infrastructure Levy

Implementation Date: 1st October 2017

Any applications determined on or after 1st October 2017 are potentially CIL liable, including:

- Appeals
- Prior Approvals
- LDCs Proposed

What is the Community Infrastructure Levy

A tool to help deliver infrastructure required to support the development of an area;

May be payable on development which creates net additional floorspace (measured internally) of 100m² or more; or

Development which creates (a) new dwelling(s) regardless of size (except sub-division)

This can include Permitted Development.

CIL & Section 106

Section 106 scaled back on implementation of CIL;

Section 106 will only be used to secure site specific measures required to make a development acceptable in planning terms, for example by securing:

- Affordable Housing
- Specific highway works
- On-site open/play space

CIL & Section 106

The CIL regulations require any S106 obligations to meet 3 tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The Planning Obligations and Affordable Housing SPD sets out the Council's approach to securing planning obligations and Affordable Housing.

Spending Section 106 Funds

The use of Section 106 funds must:

- be for capital expenditure
- accord with the specific use/purpose set out in the legal agreement;
- comply with the Community Infrastructure Levy regulations e.g. be directly related to the development, be required to mitigate the impact of the development, be reasonable in scale and in kind;
- comply with other relevant criteria e.g. pooling restriction.

Applying for Section 106 Funding

Community Facilities and Open Space, Sport and Recreation funds:

Where use of the funds is defined e.g. “play area at X”:

- Complete the ‘Funding Request For S106 Prescribed Use’ application form;
- Submit to the Planning Obligations Officer (Suzanne Shaw);
- Planning Obligations Officer will consider the application in light of the CIL regulations and other relevant criteria and advise in writing whether application is successful;

Applying for Section 106 Funding

Community Facilities and Open Space, Sport and Recreation funds:

Where use of the funds NOT defined e.g. “Community Facilities in X”:

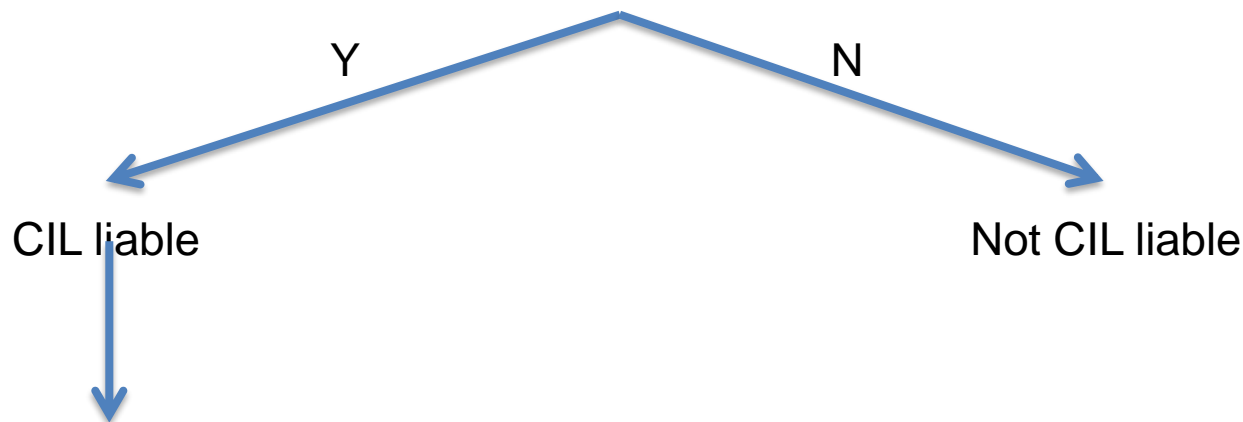
- Complete ‘Section 106 Grant Application’ online
- Submit to the Grants and Funding Officer (Melanie Stowell)
- Grants and Funding Officer will consult the local Member and the Planning Obligations Officer;
- If funding sought is less than £2,500 – delegated authority to Head of Development;
- If funding sought is more than £2,500 – Planning Obligations Panel (meets every two months)



The CIL Process

What Development is CIL Liable?

Q. Does the development create 100m² or more of net additional floorspace, or
(a) new dwelling(s) (except sub-division)?



Refer to CIL Charging
Schedule for rate per m²

CIL Charging Schedule

The Charging Schedule sets out the CIL rates for development in Horsham.

Residential Development ⁽¹⁾	CIL charge per m²
District-wide (Zone 1) (excludes North of Horsham and Kilnwood Vale)	£135
Strategic Sites (Zone 2) (North of Horsham and Kilnwood Vale only)	£0
Other Development (Across the Charging Area)	CIL charge per m²
'Large format' Retail Development (A1 to A5) including supermarkets ⁽²⁾ and retail warehousing ⁽³⁾	£100
'Standard Charge' (applies to all development not separately defined above, including, smaller retail development (A1 to A5) ⁽⁴⁾ , offices, warehouses, leisure, education and health facilities)	£0

NB. CIL rates are subject to Indexation

Exemptions & Reliefs

The CIL regulations provide exemptions/reliefs for:

- Minor development (less than 100m² of GIA created);
- Residential annexes or extensions;
- Charities
- Social Housing
- Self-build Housing

Claims for exemptions and reliefs must be submitted **prior to commencement** and will be considered by the **CIL Team** following determination of the application.

Existing retained or demolished floorspace may also be eligible for deduction from the chargeable area if that floorspace meets the “in-use” test.



Enforcement

A range of measures including:

- Surcharges
- Late payment interest
- CIL Stop Notice
- Liability Order to seize and sell assets
- Prison for up to 3 months

Roles & Responsibilities

The District Council:

- Charging Authority for the CIL;
- Setting the CIL rates;
- Collecting the CIL;
- Allocating expenditure of CIL (provision, improvement, replacement, operation or maintenance of infrastructure only);
- Reporting on CIL received and spent;
- Passing the meaningful proportion to Parish Councils.

Parish Councils:

- Receive a proportion of CIL receipts for their area (the 'meaningful proportion') unless they notify the Council they do not want to receive them;
- Responsible for spending and reporting on that proportion;

Meaningful Proportion

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish
✓	X	15% capped at £100/dwelling, paid to parish
X	✓	25% uncapped, local authority consults with community
X	X	15% capped at £100/dwelling, local authority consults with community

Meaningful Proportion

Parish Councils can choose to give some of their meaningful proportion back to the charging authority to seek to aid the delivery of infrastructure priorities, or to another Parish to aid their delivery of identified projects.

Meaningful Proportion

Un-parished Areas:

- Still benefit from the 15% neighbourhood portion (or 25% portion, if a neighbourhood plan or neighbourhood development order has been made).
- The Council will retain the levy receipts and engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding.

Spending the Meaningful Proportion

The level of CIL monies the charging authority holds must be sufficient to be able to distribute this money. The governance of CIL including this level and the payment arrangements need to be established.

Parish Councils must use CIL receipts to fund:

- a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
 - b) anything else that is concerned with addressing the demands that development places on an area;
- Must be spent within five years of receipt;
 - If unspent can be reclaimed by the District Council who will spend it on the Parish Council's behalf;

Reporting

For each year funds are received, Parish Councils must report:

- Total CIL receipts;
- Total CIL expenditure (summarising items/sums);
- Total CIL receipts for reported year retained at end of reported year;
- CIL retained from previous years;

Report must :

- be published on the Parish Council/Horsham District Council website
- be sent to Horsham District Council no later than 31st December following the reported year (unless the report will be published on Horsham District Council's website)

Key Contacts

Horsham District Council:

Suzanne Shaw (Planning Obligations Officer)

Melanie Stowell (Grants and Funding Officer)

www.horsham.gov.uk (CIL Frequently Asked Questions and Planning Obligations and Affordable Housing SPD)

planning@horsham.gov.uk (CIL and S106 enquiries)





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Neighbourhood Planning

The Role of Neighbourhood Plans

The starting point for determining a planning application is the 'development plan'.

In Horsham District this is the Horsham District Planning Framework (HDPF)

In parishes where there is a 'made' neighbourhood plan, they are also part of the development plan. They are also used for decision making.



The 'Weight' of Neighbourhood Plans

Only 'Made' plans have full weight in the decision making process.

Early drafts of neighbourhood plans have not been tested at the Examination stage, and might change, and therefore have limited (or no) weight.

Plans do gain in weight as they progress through the preparation stages – a plan that has been successful at examination but has not held a referendum has greater weight than the very first 'Regulation 14' consultation that is held by the parish.

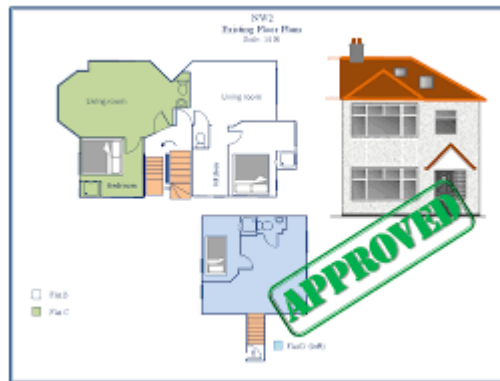
The Content of Neighbourhood Plans

Neighbourhood Plans **add local detail** to the wider higher level policies in the HDPF. These include:

- Small scale housing allocations
- Small scale employment allocations
- Local greenspaces
- Identification of local green infrastructure to be protected, local design features, enhancements to local community facilities

Neighbourhood Plans & Decision Making

In order to succeed at the examination stage, Neighbourhood plans must be in 'general conformity' with the HDPF policies. For example HDPF policies sets the locational strategy, which directs housing to larger settlements rather than isolated homes in the countryside.



This process means that policies should not conflict with each other. Both plans are used **together** to help determine planning applications.

Housing Delivery & Neighbourhood Plans (1)

The HDPF is seeking to deliver 'at least' 16,000 homes in the period to 2031.

This total is made up from

- sites which already have planning permission
- allocations in the HDPF
- allocations in neighbourhood plans.
- windfalls. These are sites that are not already permitted or allocated. They will come forward in locations all over the district **including** parishes which have a made neighbourhood plans.

Housing Delivery & Neighbourhood Plans (2)

Windfall development usually comes forward in settlements with a built-up area boundary.

HDPF policy 3 states that *'development will be permitted within towns and villages that have defined built-up areas' and 'is of an appropriate nature and scale to maintain the characteristics and function of the settlement'*



Housing Delivery & Neighbourhood Plans (3)

This means the principle of development within a BUAB is accepted providing it meets other planning policy criteria, such as design, scale or layout.

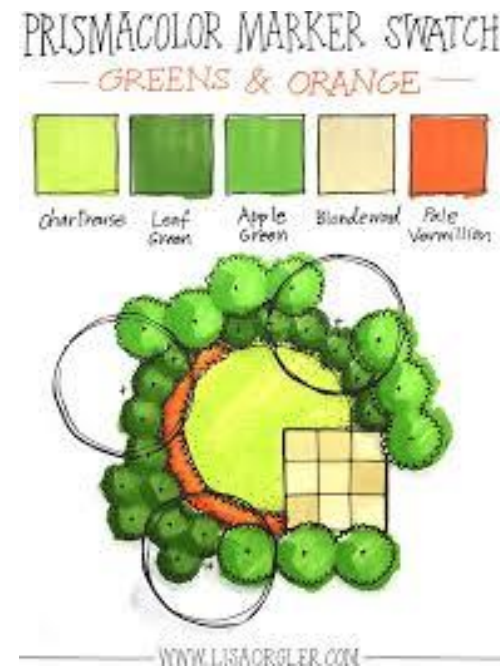
Land **DOES NOT** have to be allocated in a neighbourhood plan to meet this policy requirement. However other policies in the HDPF or a neighbourhood plan will be used to decide if the proposals are acceptable. This could for example include policies on design.

Windfall sites are in addition to and not instead of Neighbourhood Plan (or Local Plan) allocations.



Design Guides

- HDPF and Neighbourhood Plans have policies on the design and layout of proposals
- Design Guides can be used to provide further guidance and information to potential applicants about materials, local character, landscaping – what is it that makes a town / village / parish locally distinctive? There is potential to designate as supplementary planning document (SPD)
- They DO NOT set policy
- They are to help guide and inform development rather than a way of saying no to development



HDC Response to the Planning for the Right Houses in the Right Places Consultation



HDC Response

Stated our concern at the proposed housing formula.

It is over simplistic – local conditions are not reflected. We have high housing provision but prices are driven by those on London wages rather than those who live and work in HDC

Delivery currently unlikely – lack of sites and infrastructure

It is also incorrect – currently based on 800 dpa which includes provision for Crawley. The starting figure should be 650

Neighbourhood Planning – recognise need to provide numbers to parishes to plan for could be helpful

Transition arrangements of how this work not covered and very unclear. The need for this to be set out was highlighted.

HDC Response

Government have indicated that a draft NPPF which takes account of the changes will be published 'early in the new year'

- This probably means early spring!
- HDC will respond to consultation and will also make Parishes aware when it is published.





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Further / Useful information

www.horsham.gov.uk/planning

Planning Portal – interactive house

Planning Advisory service

Planning Resource

The Planner

The Royal Town Planning Institute

Department for Communities and Local Government
