

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED
DEVELOPMENT PROCEDURE) ORDER 1995 - TO DATE
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING ADVERT REGULATIONS 1994
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)
ACT 1990
APPLICATIONS FOR PERMISSION FOR DEVELOPMENT**

These are reports and recommendations by Officers for consideration and resolution by the County Planning Authority.

All the applications in respect of the proposals specified in this report will be available for inspection by the Members of the Committee prior to and during the meeting at which the said applications will be considered.

The Background Papers relating to each application, including forms, plans, relevant correspondence, Development Plan and guidance documents are available for public inspection during normal office hours

A REPORT BY THE HEAD OF PLANNING SERVICES

**Audit Commission in Wales
Planning Services Best Value Inspection Report**

1.0 PURPOSE OF REPORT

- 1.1 To consider the recommendations of the Audit Commission Best Value Report.

2.0 BACKGROUND

- 2.1 Planning Services carried out a review of the service in 1997/98 as part of the Best Value Evaluation in Wales.
- 2.2 Services carrying out a review are subject to inspection.
- 2.3 In April this year Planning Services was inspected by two Inspectors from The Audit Commission. The inspection took nine days.
- 2.4 A draft report was issued in late May and the final report was published on 18th July 2002.
- 2.5 The Audit Commission has assessed the Planning Service as *"a good, two star service that has promising prospects for improvement"*.
- 2.6 A copy has been deposited in Members' group rooms and a copy has been given to the Leader, The Chair and Vice Chair of Planning and the Lead Member of the Environment and Chair of Scrutiny Committee. The report is also available on the web site.
- 2.7 The summary and recommendations from the Audit Commission report are appended in Appendix 1.

3.0 REPORT RECOMMENDATIONS

- 3.1 To secure continuous improvement the report makes eleven recommendations. These are set out in **Appendix 1**.
- 3.2 A table setting out our recommended response is set out in **Appendix 2**.

4.0 RECOMMENDATIONS

1. That response nos. 2-6, 8, 9 and 11 be noted in **Appendix 2**.
2. That the recommended response 1, 7 and 10 in **Appendix 2** be approved.

Summary and recommendations

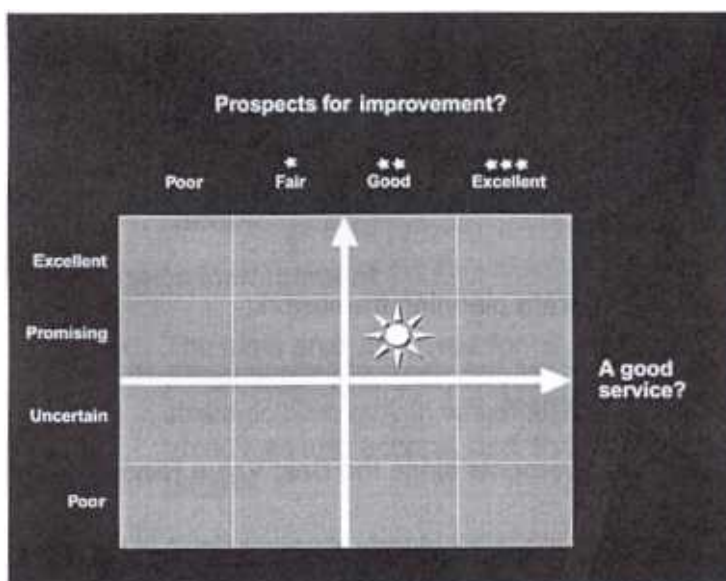
Summary

- 1 Denbighshire County Council is a unitary authority in the north east of Wales. The population is 91,800, of which 28 per cent speak, read or write Welsh.
- 2 There is no overall political control of the Council, with 17 of the 47 seats held by independent councillors.
- 3 The Council employs 4,400 staff across all services
- 4 The Best Value Review was carried out on Planning Services. This involves the Council's responsibilities for the development plan and policy, conservation and implementation, development control, planning enforcement, minerals and waste and building control. The Services are delivered by 44 council staff at a net cost of £1.07million in 2001/02, which was 1.01 per cent of the Council's budget.

Scoring the Service

- 5 We have assessed the Council as providing a 'good', two star service that has promising prospects for improvement. Our judgements are based on the evidence obtained during the inspection and are outlined below.

Scoring chart²: Denbighshire County Council – Planning Services



'a good service that has promising prospects for improvement'

² The scoring chart displays performance in two dimensions. The horizontal axis shows how good the Service or function is now, on a scale ranging from no stars for a service that is poor (at the left-hand end) to three stars for an excellent service (right-hand end). The vertical axis shows the improvement prospects of the service, also on a four-point scale.

6 We found Planning Services to be a good service because:

- ◆ the Services are generally well thought of by both internal and external users;
- ◆ the Council has given priority to preparing and adopting the Unitary Development Plan (UDP) and is the most advanced authority in Wales in this respect, with the Plan due to be adopted in June 2002;
- ◆ the Services compare well with those of other authorities in Wales in terms of conservation and implementation work, and in terms of overall costs;
- ◆ the Services are adding value by virtue of their expertise, pre-application advice and processes, and grant aid;
- ◆ there are a number of examples of good practice, which are listed in the appendix to this report.

However, we also found that:

- ◆ the Services' aims and objectives are not clear or sufficiently challenging;
- ◆ there is some user criticism of the speed of determining planning applications and the responsiveness of some officers;
- ◆ the Council is not meeting its targets in terms of the speed of determining planning applications and the speed of responding to search enquiries;

and these are addressed in our recommendations.

7 In our opinion the pilot review carried out in 1998/99 was over ambitious and lacked focus on key service delivery issues. Also the challenge, compare and compete tools were used to only a limited extent to drive improvement. Nevertheless there is:

- ◆ an evolving and improving corporate planning framework;
- ◆ a continuing commitment to seek out the views of service users and to use these to target areas for improvement;
- ◆ evidence of many service improvements since the Best Value Review was completed;
- ◆ continuing support from councillors and other stakeholders to maintain this progress.

Having considered all these factors and the fact that the completion of the UDP provides the opportunity to give greater focus to the issues of timeliness and responsiveness, it is our conclusion that there are promising prospects for the Council to deliver further improvements to the people of Denbighshire.

Recommendations

- 8 To rise to the challenge of continuous improvement councils need inspection reports that offer practical pointers for improvement. In this context, the inspection team feels that the Council should now take action to resolve a number of general, political, managerial and partnership issues.
- 9 We suggest that within the next year the Council addresses the following recommendations:

Service Issues

- ◆ The Council should initiate a full review of how the searches service is delivered within the Council in the light of the way services are now distributed between directorates. An Action Plan should be prepared and adopted to ensure that the service meets the National Assembly for Wales standard by 2003/04.
- ◆ Actions in the Planning Services Business Plan for 2002-5 to improve the speed of determining planning applications, and the speed of examining Full Plans submissions under the Building Regulations, should be reviewed and appropriate actions incorporated to bring performance up to the level of the top 25 per cent in Wales.
- ◆ Corporate action should be taken to complete and publish an Enforcement Concordat.
- ◆ Directional signage to services should be provided in Council buildings.
- ◆ A publicly available leaflet should be provided to communicate the Code of Practice for Members and Officers involved in Planning.
- ◆ A more user-friendly means should be adopted of communicating those aspects of the Customer Charter that are of particular interest to service users.

Performance Management

- ◆ The aims and objectives for all Planning Services should be reviewed in consultation with councillors and service users, in order to establish a clear strategic hierarchy in which aims are underpinned by measurable objectives and actions, and challenging user-focused outcomes and targets.
- ◆ Arrangements should be put in place so that Planning Services' Section Heads are more fully engaged in performance management, for example
 - ◆ by transferring agreed service objectives, actions and targets into section work plans;
 - ◆ by looking for ways in which their varying expertise can be shared to avoid duplication of effort across a flat management structure;
 - ◆ by looking for opportunities to delegate budgets

- ◆ Arrangements should be put in place to systematically monitor performance against all outcomes and targets and this information should be regularly fed back to staff, service users and councillors and into the service planning process.

Procedural

- ◆ The Council's procedures for dealing with planning decisions taken by the Planning Committee contrary to officer recommendation, and in relation to planning appeals, should be incorporated within the Council's standing orders and should provide:
 - ◆ adequate time for officers to advise on the suitability of the reasons for refusal and whether a case can be put at appeal without the risk of costs being given against the Council;
 - ◆ a clear statement that appropriate members of the Committee are required to give evidence at a subsequent appeal in order to protect the Council's interest.
- ◆ The Council should continue its efforts, in association with the Planning Officers' Society of Wales and the 'Moving towards Excellence in Planning' project, to establish a comprehensive and robust set of data to enable planning services throughout Wales to compare their performance.

10 We would like to thank the staff of Denbighshire County Council particularly the Head of Planning Services, Aneurin Phillips and Eleri Williams, the Customer Relations Manager, who made us welcome and met our requests efficiently and courteously.

David Wilson

Jenny Inker

Inspectors

Dates of inspection: 15th – 24th April 2002

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Audit Commission Best Value Recommendations and Recommended Response

No.	Audit Commission Recommendations	Response	Who	When
1	The Council should initiate a full review of how the searches service is delivered within the Council in the light of the way services are now distributed between directorates. An Action Plan should be prepared and adopted to ensure that the service meets the National Assembly for Wales standard by 2003/04.	Accept. This should be done jointly with the Legal Services Manager and other Heads of Service responsible for providing information on the Search.	Subject to Cabinet approval by the Head of Legal Services.	Dec 2002
2	Actions in the Planning Services Business Plan for 2002-5 to improve the speed of determining planning applications, and the speed of examining Full Plans submissions under the Building Regulations, should be reviewed and appropriate actions incorporated to bring performance up to the level of the top 25 per cent in Wales.	Accept. Action has already been taken at management level to (1) fill vacant posts, (2) establish a dedicated support team for DC and BC South (3) engage the private sector in handling householder/minor applications where necessary to meet performance targets.	Head of Planning Services	Nov 2002
3	Corporate action should be taken to complete and publish an Enforcement Concordat.	Accept. Planning Services has adopted the Concordat.	Corporate Director Environment	Dec 2002
4	Directional signage to services should be provided in Council buildings.	Accept. Directional signage to Council offices and within office complexes in Prestatyn and Ruthin is poor. Other offices are also poorly signed from/in town centres. Schemes have been prepared for the two critical locations. Implementation is subject to funding. A phased programme is required because of the resource implication.	Head of Highways and Transportation	Sept 2002
5	A publicly available leaflet should be provided to communicate the Code of Practice for Members and Officers involved in Planning.	Accept. We propose to look at all leaflets and public notices to make them easier to read and understand.	Head of Planning Services	Commence March 2003
6	A more user-friendly means should be adopted of communicating those aspects of the Customer Charter that are of particular interest to service users.	Accept. As in response 5 above.	Head of Planning Services	March 2003

APPENDIX 2

No.	Audit Commission Recommendations	Response	Who	When
11	The Council should continue its efforts, in association with the Planning Officers' Society of Wales and the 'Moving towards Excellence in Planning' project, to establish a comprehensive and robust set of data to enable planning services throughout Wales to compare their performance.	Accept. The Head of Planning Services is on the Steering Group managing this project.	Head of Services	Ongoing

A REPORT BY THE HEAD OF PLANNING SERVICES

- Review of:
1. Code of Best Practice
 2. Delegation Scheme
 3. Other Procedures

1. PURPOSE OF REPORT

1.1 To consider revisions to the following:

- (i) Code of Best Practice for Councillors and Officers dealing with planning matters.
- (ii) Scheme of Delegation to the Planning Committee and Planning Section.
- (iii) Planning Services Charging Scheme

in light of **(1)** experience since the last review in November 2001; **(2)** the Audit Commission in Wales Best Value Inspection Report; **(3)** Local Government Association Circular 98/02 Probity in Planning (Update): The Role of Councillors and Officers.

2. BACKGROUND

- 2.1 The Code of Best Practice and the procedures were last reviewed by the Planning Committee on 31st October and by Council on 27th November 2001. The Planning Committee approved minor amendments to the Scheme of Delegation on 30th January 2002 which were ratified by Council on 26th March 2002.
- 2.2 On 19th March 2002 the LGA published circular 98/02 Probity in Planning (Update) and on 17th July the Audit Commission in Wales published their final report following a Best Value inspection of the Planning Services.
- 2.3 This report should be seen as a commitment to periodically review our standards and procedures in the wider context of the need to constantly improve our performance.

3. CODE OF BEST PRACTICE

- 3.1 The Code of Best Practice for Councillors and Officers was approved in January 1998 and amended in November 2001.
- 3.2 To take account of recommendations of the Audit Commission and LGA, a revised Code of Practice is set out in **Appendix 1**. The main changes have been highlighted in bold text
- 3.3 Main changes proposed are:-
1. Applications by, or are land owned by Heads of Service, Directors and Chief Executives or close relatives of Officers, will not be dealt with under delegated powers.
 2. The Monitoring Officer will be informed of applications submitted by, or on land owned by members, officers of Planning Services, Heads of Service, Directors and Chief Executive or close relatives of members and officers.
 3. Training is seen as an essential part of the quality of the decision-making process for Councillors and Officers. Section 10 has been expanded.

4. There has been a case where a member has appeared on behalf of an appellant at a hearing. This puts the Officer who is there to defend the Council's position in a difficult position and undermines the Council's case. It is considered that members should not appear or give evidence in appeals on behalf of the appellant.
5. The Audit Commission recommends that where an Officer recommendation is reversed, members **must** give evidence in an appeal hearing or inquiry. (BVR para 65). Para 9.3 in the Code has been amended in cases where decisions are taken against Officer recommendation.
6. The Audit Commission recommends that adequate time should be provided for Officers to advise on the suitability of the reasons for refusal and if a case can be put at appeal without the risk of costs being given against the Council. The recommendation applies to refusals and to approvals. A new para 8.3 in the Code provides this opportunity but allows discretion to the Head of Planning Services in consultations with the Monitoring Officer and Chair of Planning.
7. By giving the required notice in writing members can require an application to be determined by the Planning Committee. Members reasons for calling in the application are background documents and available for the public to inspect. The reasons for calling in the application are summarised under 'Member Comments' in the planning committee report. Members are advised in calling in the planning application not to publicly express a firm view on the application thereby giving the impression that they have not considered all the evidence. Officers have prepared a list of standard reasons and members should refer to these when calling in the application (**See Appendix 4**).

4. DELEGATION SCHEME

- 4.1 The current scheme of delegation was approved by the Council on 27th November 2002 **with minor revisions approved on 26 March 2002**.
- 4.2 The scheme has been well received and appears to be working well.
- 4.3 Details amendments to the scheme are set out in **bold text Appendix 2**. The main changes are as follows:-
 1. Applications submitted by, or on land owned by Heads of Services, **Corporate** Directors and **the** Chief Executive and their close relatives, cannot be determined by the Head of Planning Services.
 2. Extending delegated powers in enforcement to include Section 215 (untidy land) and Listed Building enforcement notices.

5. CHARGING SCHEME

- 5.1 The charging scheme has been reviewed in consultation with front-line staff. It is recommended that the updated charging scheme set out in **Appendix 3** be approved and implemented from January 2003.

6. RECOMMENDATIONS

- 6.1 That the recommendations set out in bold and strike through in **Appendices 1-4** of this report be approved.
- 6.2 A final ratification of the decisions of the Planning Committee **in Appendices 1 and 2** will be required by Full Council.

CODE OF BEST PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

- 1 **DEVELOPMENT PLAN PROPOSALS AND PLANNING APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS, AND COUNCIL DEVELOPMENT PROPOSALS**
 - 1.1 Members submitting their own proposals or acting as agents for individuals or companies pursuing a planning matter or where a proposal relates to land which they own will take no part in the decision-making process for that proposal.
 - 1.2 Planning applications submitted by **or on land owned by** members or close relatives* will be determined by the Planning Committee. **(*Close relative is defined as spouses/partners, parents, children and brothers and sisters.)**
 - 1.3 Planning applications submitted by **or on land owned by** Officers of Planning Services, **Heads of Service, Directors and Chief Executive**, or close relatives* of **such** officers, will not be dealt with by officers under delegated powers. Such proposals will be reported to the Planning Committee. **(*Close relative is defined as spouses/partners, parents, children and brothers and sisters.)**
 - 1.4 **The Monitoring Officer will be informed of all applications submitted by, or on land owned by members and officers of Planning Services, Heads of Service, Directors and Chief Executive of the council, or close relatives of such officers.**
 - 1.5 Proposals for the Council's own development except where on Council owned land related to the functions of the Council will be determined by the Planning Committee (or Council in the case of significant departures) and treated in the same way as those by private developers.
 - 1.6 **Proposals for a Council's own development will be treated in the same way as those of private developers in accordance with DOE Circular 19/92.**
- 2 **LOBBYING OF AND BY COUNCILLORS**
 - 2.1 **Members should avoid taking a firm view on a planning matter in advance of the Planning Committee meeting. Great care should be taken when calling in an application to be determined by the Planning Committee under Part 2 A (iv) of the delegation scheme.** Members will make the final decision at the Planning Committee after receiving/hearing all the evidence and arguments on both sides and after duly considering the officer's report.
 - 2.2 Members will not put pressure on officers for a particular recommendation, **nor seek to improperly influence a decision likely to compromise their impartiality.**
 - 2.3 Members who are unsure whether an interest should be declared will seek the advice of the Council's Monitoring Officer.

- 2.4 Members should advise the Ward Councillor as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside their own Ward.
- 2.5 **“Councillors should, in general, avoid organising support for or against a planning application and to avoid lobbying other councillors”.** (LGA Circular 98/02 para 8.10)

COMMENT

Lobbying is a part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their elected ward member or to a member of the Committee. The Nolan Committee accepts that it is essential for the proper operation of the planning system that local concerns are adequately ventilated. However, lobbying can lead to the impartiality and integrity of a member being called into question. When being lobbied, members should take care about expressing an opinion which may be taken as indicating that they have already made their mind up on the issues before they have been exposed to all the evidence and arguments. **Councillors should take account of private views and those of wider public interest. They should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so (LGA Circular 98/02, para 5.4).** Members should be aware that the planning decision process involves rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way the decision was made, or complain to The Ombudsman on grounds of maladministration.

Members of the Planning Committee should not openly declare which way they intend to vote in advance of the planning meeting and of hearing evidence and arguments on both sides. If the member responds to lobbying by deciding to go public in support of a particular outcome the proper course of action for such a member would be to make an open declaration and not vote.

3 PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS AND NEGOTIATIONS

- 3.1 Members should, wherever possible, refer requests for advice to officers.
- 3.2 Members and officers involved in pre-application and/or enforcement related discussions with potential applicants should make clear at the outset that the advice is not binding on the Council. Members will state that any views are personal and provisional.
- 3.3 Advice should be consistent and based upon the development plan and material planning considerations.
- 3.4 Members and Officers will keep notes of all **potentially contentious meetings and telephone discussions relating to** pre-application and enforcement related discussions.

- 3.5 Application and enforcement related negotiations will be conducted by officers. Officers will brief members when appropriate.

4 OFFICER REPORTS TO PLANNING COMMITTEE

- 4.1 Officers will produce written reports on all planning applications reported to the Planning Committee.

- 4.2 Reports will cover, among other things:

- description of the planning application
- substance of objections
- views of case officers **and those consulted**
- relevant development plan policies
- **site or related history**
- other material planning considerations
- **outcome of environmental statement (where one has been submitted)**
- recommendation
- the heads of agreement of any recommended Section 106 obligation

- 4.3 Officers will provide written reports on all enforcement matters reported to the Planning Committee. On occasions enforcement reports will need to be presented under Part 2 of the agenda when public and press need to be excluded because of the content of the item.

- 4.4 Reports will be updated orally at the Planning Committee meeting.

- 4.5 If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this will be clearly stated.

- 4.6 Oral reports or written reports handed out at Committee should only take place in exceptional circumstances.

5 LATE CORRESPONDENCE

- 5.1 The substance of correspondence received by officers after the committee report has been completed will be reported orally to Members at the Planning Committee, provided the correspondence is received before 5pm on the day before the Committee starts. If correspondence is received after this deadline, **including at Committee**, only the receipt of the item will be recorded but a copy will be made available at Committee.

- 5.2 **Members who read out at Committee or refer to letters received from their electorate/applicant/objector should, as a matter of courtesy, provide an advance copy to officers.**

6 PUBLIC SPEAKING AT SUB-COMMITTEE

- 6.1 Public speaking by applicants, objectors, contravenors, complainants or third parties is not allowed at Planning Committee meetings.

COMMENT

The Council consults widely and currently gives more than the statutory minimum time for responses. It considers that the disbenefits (e.g. legislative meetings, difficulties in managing committee meetings, ensuring fairness and establishing a practical protocol) outweigh the benefits.

7 COMMITTEE SITE VISITS BY THE SITE INSPECTION PANEL

- 7.1** Site inspection panels cause delay and additional costs and will only be used in exceptional cases where the expected benefit is substantial.
- 7.2** Site inspection panels will be carefully arranged and their composition, format and conduct will follow the 'Guidelines for Site Inspection Panels' approved by The Planning and Economic Development Committee on the 10th September, 1997.
- 7.3** Members proposing Site Inspection Panels will state clearly why an Inspection Panel should be appointed **and how the benefit would be substantial**. The reasons should be planning reasons related to the development proposed or enforcement issues reported and should clearly state the physical features on sites or surroundings which requires detailed inspection.
- 7.4** A site visit is only likely to be necessary if **(1)**, the impact of the proposed or unauthorised development is difficult to visualise from the plans and any supporting material including photographs; **(2) the proposal is particularly contentious**.
- 7.5** A record will be kept of the reason(s) why a Site Inspection Panel is called.
- 7.6** Site visits by the inspection panel and officer assistance is the most fair and equitable, as approved by The Planning and Economic Development Committee on the 10th September, 1997.

8 PLANNING COMMITTEE DECISIONS

- 8.1** The Chair of the Planning Committee will make it clear for the benefit of members and the public the decision of the Committee following the vote.
- 8.2** Where Members grant or refuse a planning application against officer recommendation, Members will provide the following particulars at the Planning Committee meeting and the particulars minuted.
- The terms of conditions or heads of the Section 106 Agreement to be attached to the grant .
 - The reason(s) for granting or refusing the planning application.
 - The reason(s) for not accepting the recommendation.
- 8.3** **Where members refuse planning permission against officer recommendation, the Head of Planning Services in consultation with the Monitoring Officer, may report the application back to the next planning**

committee meeting with a covering report dealing with the suitability of the reasons for refusal and whether a case can be put at appeal without the risk of costs being given against the Council.

8.4 Where Members decide to take/not to take enforcement action against officer recommendation, Members will provide the following particulars at the Planning Committee meeting and the particulars minuted.

- The reason(s) why it is / is not expedient to take enforcement action.
- Where enforcement action is required, the steps to be taken to remedy the breach and the period for compliance.
- Where enforcement action is not required, give instruction to officers as to what other (if any) action is required.

COMMENT

As part of the democratic process, Members will occasionally make decisions against officer recommendation. Officer reports to the Planning Committee contain the planning justification for the recommendation. It is important when Members make decisions contrary to the recommendation that the reason(s) for the decision is/are full, clear and carefully minuted.

9 APPEALS

9.1 Officers will organise and generally appear as witnesses at public inquiry or informal hearing on behalf of the Council.

9.2 Officers giving evidence as witness will present the best possible case on behalf of the Council while complying with the RTPI Code of Professional Conduct. The appeal will be conducted in accordance with the agreed procedure as set out in the report on Planning Appeals and Member Involvement approved at Planning Committee on 16th December 1998.

9.3 Members **will** give evidence at inquiry or informal hearing in appeals where **an officer recommendation has been reversed.**

9.4 In exceptional cases it may be necessary to use Planning Consultants, **rather than officers**, to present the Council's case. Committee approval will be sought in such cases.

9.5 **Members should not appear or give evidence at appeals on behalf of the appellant.**

9.6 Local members will receive, for comment, a copy of the Council's proposed Rule 6 statement in Inquiry cases

COMMENT

The professional responsibility of a Chartered Town Planner as a witness at a local inquiry or informal hearing are governed by The RTPI Code of Professional Conduct which requires member officers to conduct themselves in such a manner as to

uphold the reputation of the RTPI and of the planning profession. In particular, it requires that officers do not undertake any duties or carry out any instructions of a public employee or other employee, or a client or supervisor which involves making statements purporting to be their own, but which are contrary to their bona fide professional opinion. Conflicts of interests is likely to occur at an inquiry arising from a decision taken by the Council contrary to a professional recommendation. The advice of the RTPI (PAN4 "*Chartered Town Planners at Inquiries*" and PAN9 "*Development Control - Handling Appeals*") is that officers as witness at an inquiry or hearing are there to give evidence and opinion. This must be true evidence, true to the best of his or her understanding and knowledge. The evidence can be the authority's stated opinion and local opinion. While officers should not volunteer giving information that the case made is at variance with his/her own professional opinion if challenged the officer must give an opinion based on the report to Committee. The RTPI considers that where there are clear differences of opinion which would be detrimental to the Council's case, the planning case officer is unlikely to be the best witness and the Council must accept the consequences of such a revelation. The better alternative according to the RTPI is to call someone else, who is in a position to speak with conviction, e.g. member of the Planning Committee or consultant(s) employed by the Council. Members will, therefore, be given an opportunity to appear/present case on behalf of the Council.

10 TRAINING AND REVIEW OF DECISIONS

- 10.1 Members of the Planning Committee will be offered training on the planning process when first serving on the planning committee.**
- 10.2 All members will be offered training annually.**
- 10.3 Members will be updated regularly on changes to legislation or procedures.**
- 10.4 Officers will arrange for members to a-visit to a sample of implemented planning permissions and enforcement sites to assess the quality of decisions. These will include examples from a broad range of categories, including delegated decisions. The results will be used to review planning policy guidelines or practices.**

11 COMPLAINTS AND RECORD KEEPING

- 11.1 Officers will operate the Council's complaints system.**
- 11.2 All reports of alleged unauthorised development and enquiries will be recorded.**
- 11.3 All planning applications, including delegated applications, enforcement files, building regulations and development plan files, will contain a written account of events throughout its life.**

12 INFORMATION

- 12.1 Planning Services will comply with the Access to Information Act and the Data Protection Act.**

- 12.2** Members will receive weekly lists of planning applications received.
- 12.3** Members (local ward members) will receive notification of enforcement cases to be reported to Committee and copies of enforcement notices served.
- 12.4** Members (local ward members) will receive notification of appeals lodged and decisions.
- 12.5** Members will receive regular enforcement, appeal and planning application progress reports.
- 12.6** Members will receive full annual and interim half year performance reports.

SCHEME OF DELEGATION

This revised scheme was approved in September 2002 and came into effect on the 1st October 2002. January 2003

The scheme is in three parts. Part 1 sets out what the Head of Planning Services can do subject to checks and balances in Parts 2 and 3. Part 2 sets out under what circumstances the Head of Planning Services cannot exercise decisions. Part 3 sets out decisions which must be taken by Full Council.

***"Close relative" is defined as spouses/partners, parents, children, brothers and sisters.**

PART 1

The scheme shall authorise the Head of Planning Services to:-

- (1) determine all types of applications and notifications under the Planning Acts and allied legislation, including in the case of notifications and determinations, where material planning objection(s) has/have been received.
- (2) determine building plans, certificates and notices, service notices under the Building Act and Regulations and allied legislation
- (3) submit observations on development proposals for example from neighbouring authorities, exempted organisations, etc.
- (4) resolve all planning and building regulation enforcement related cases by serving statutory notices as necessary or by taking no further action in accordance with the Committee approved, "Enforcement Policies and Procedures" document and instigate prosecution proceedings
- (5) to determine the name and numbering of streets subject to prior consultation with local ward member(s) and no adverse views expressed. [Note : naming delegated to Town and Community Councils in some instances]
- (6) instigate the Emergency Powers provisions in Enforcement related cases where extremely urgent formal action is deemed necessary. This will allow for the service of any Enforcement related statutory notice and seek an injunction subject to prior consultation with the local Ward Member(s) who agree on such action as recommended by Officers. The following signatures will be required in all cases - the Corporate Director of Environment or the Head of Planning Services, the County Clerk or the Legal Services Manager and Chair or Vice Chair of the Planning Committee
- (7) take all necessary ancillary decision/action in exercising statutory planning and building control functions including determining the need for Environmental Impact Assessments and acting on Committee or Full Council resolutions
- (8) determine applications for grant aid under approved schemes
- (9) decide the type of appeal subject to Members being consulted and defend the Council's position at appeal or court of law

- (10) submit observations on consultations on draft documents
- (11) **instigate prosecution proceedings in respect of fly posting, Section 215, Listed Building Enforcement and Discontinuance Notices**

PART 2

The Scheme shall not authorise the Head of Planning Services to:

A DETERMINE ALL TYPES OF PLANNING APPLICATIONS

- (i) on which a material planning objection(s) including those from Town/Community Councils and statutory consultees) has been received in the stipulated time span, which is recommended contrary to objections, other than were allowed for by Part 1 (1)
- (ii) contrary to the provisions of an adopted development plan, and which is recommended for approval;
- (iii) contrary to approved Council policies, standards or guidance, and which is recommended for approval;
- (iv) which any Member requests in writing or by e-mail to the Head of Planning Services, within 21 days of the circulation of details of the application, should be the subject to consideration by the relevant Committee (subject to planning reasons being given);
- (v) submitted by or on behalf of a Councillor of the authority, **Planning Staff, Heads of Service, Director, Chief Executive**, or by any member of the Planning Services' staff (or their close relative);
- (vi) submitted by or on behalf of the Council for development except where on Council owned land related to the functions exercised by the Council.
- (vii) to refuse applications which are retrospective when enforcement action is also recommended **unless the enforcement action is delegated to officers by this scheme i.e. Listed building consent applications;**
- (viii) relating to land in the ownership of a Councillor, **Planning Staff, Heads of Service, Director, Chief Executive**, or their close relative;
- (ix) where in the view of the Head of Planning Services material planning issues in support of the application has been raised by consultees or third parties which warrant consideration by the Planning Committee;
- (x) remove or vary a condition previously imposed through a resolution of the Planning Committee additional to those recommended by Officers;

B RESOLVE ENFORCEMENT RELATED CASES

- (i) by instigating prosecution proceedings for failure to comply with an order or notice except in those cases ~~involving large fly posting campaigns~~ listed in Part 1
- (ii) by serving the following enforcement related statutory notices unless the Emergency Power provisions have been instigated
 - Enforcement Notice (other than enforcement notices related to breach of condition)
 - Special Enforcement Notice
 - Stop Notice
 - ~~Section 215 (untidy land) Notice~~
 - ~~Listed Building Enforcement Notice~~
 - Urgent Works Notice
 - Repairs Notice
 - ~~Discontinuance Notice~~
 - Legal Injunction
- (iii) take no further action on enforcement related case that have generated 5 or more complaints from separate addresses in the locality

PART 3

DECISIONS RETAINED BY THE FULL COUNCIL

- (i) Planning applications or other applications which constitute significant departures from **the Adopted Unitary Development Plan** where the Planning Committee have resolved to grant permission. Significant departures constitute:
 - (a) those proposals which have little or no justification under the terms of the adopted **UDP** e.g. new dwellings in the countryside unrelated to agricultural need, and
 - (b) other proposals which are clearly not allowed for by the adopted **UDP** but where other material considerations justify a departure e.g. economic benefits
- (ii) Final approval of policies and proposals to be included in the Unitary Development Plan or any modification **or review** thereof.
- (ii) Applications which if refused or approved with conditions attached or a decision on an enforcement matter that would be likely to result in a successful award of costs against the Council at appeal

PLANNING SERVICES

CHARGING SCHEME 2003

	SERVICE PROVIDED	PRICE INC. VAT	POSTAGE & PACKAGING	FAX
A	PHOTOCOPYING SERVICE			
1	GENERAL COPIES			
	A4 per sheet	50p	60p	£1-50
	A3 per sheet	£1-00	60p	NA
	A2 per sheet	£4-00	60p	NA
	A1 per sheet	£5-00	60p	NA
	A0 per sheet	£6-00	60p	NA
2	DECISION NOTICES (A4 Size)			
	Planning permission/refusal	£10-00	60p	£1-50
	Building regulation approval/rejection	£10-00	60p	£1-50
	Appeal decision letter	£10-00	60p	£1-50
	Any Enforcement notice held in Statutory Register	£10-00	60p	£1-50
3	PUBLISHED REPORTS (A4 Size)			
	Denbighshire UDP (Deposit Written Statement)	£15-00	£2-50	N/A
	Denbighshire UDP (Deposit Maps) (full set)	£25-00	£2.50	N/A
	Individual Maps - photocopy charge			
	Denbighshire UDP Proposed Changes document	£10-00	£2-50	N/A
	Denbighshire UDP Further Proposed Changes document	£5-00	£2-50	N/A
	Denbighshire UDP Inspectors Report & Addendum Report	£100 (paper) £5.00 (Floppy Disc)	£2.50 (paper) 60p (Floppy Disc)	N/A
	Supplementary Planning Guidance - Complete set of Topic Based Notes	£10-00	£2.50	N/A
	Supplementary Planning Guidance - Complete set of Site Planning Briefs	£10-00	£2.50	N/A
	SPG - Complete set of Conservation Area Appraisals	£10-00	£2.50	N/A
	SPG Individual Brief, Note or Appraisal	£2.00	60p	£1.50
	Parking Strategy & Standards	£2.00	60p	£1.50
4	MISCELLANEOUS			
	Tree Preservation Order	£10-00	60p	£1-50
	Listed Building Description	£5-00	60p	£1-50
	SSSI Descriptions and Map	£10-00	60p	£1-50
5	O.S. MAP EXTRACTS			
	Mapping package for Planning and Building Control Note: This cost is in addition to O.S. charge.	£5-00	60p	£1-50
B	OTHER SERVICES			
1	SITE HISTORY			
	Written requests for a search of land availability; or of the planning history, planning policy or site constraints of a specific site - including all copy certificates (minimum charge 1 hour)	£25 per hour (Or part hour)	N/A	N/A
2	COMPLETION SURVEY			
	Written requests for a check to be made as to whether	£70-00	N/A	N/A

	SERVICE PROVIDED	PRICE INC. VAT	POSTAGE & PACKAGING	FAX
	development has been completed in accordance with approved plans or conditions (including a site visit)	per site		
3	PLANNING APPLICATION FILE			
	To inspect (have sight of) papers or other documents where there is no statutory right to access	£5-00	N/A	N/A
C	EXEMPTIONS			
	Public and charitable bodies Community Councils and other Local Planning Authorities Statutory Consultees, The Press Information intended for educational purposes Elected members of the County Council in connection with Council business Information required to enable an appeal to be lodged			

Recommended reasons for requesting a planning application be determined by the Planning Committee in accordance with Part 2 A (iv) of the delegation scheme .

- 1. Committee consideration needs to be given to impact on(land use planning issue)**
e.g residential amenity, highway safety, nature conservation, trees, conservation area etc.
- 2. Proposal raises important policy issues**
- 3. Proposal is of County wide significance**

Members should not use words such as “object” or “support” in their request as this implies that a view has been arrived at before all the evidence has been considered.

**DENBIGHSHIRE COUNTY COUNCIL
PLANNING COMMITTEE MEETING
4TH SEPTEMBER 2002**

AGENDA ITEM No. 5

REPORT FOR INFORMATION BY THE HEAD OF PLANNING SERVICES

**WELSH ASSEMBLY GOVERNMENT
TECHNICAL ADVICE NOTE (WALES) 19 – TELECOMMUNICATIONS**

1. INTRODUCTION

1.1 The purpose of this report is to:

- Inform Members of the publication of the Welsh Assembly Government's (the Assembly Government's) new Technical Advice Note (Wales) 19 – Telecommunications (TAN (W) 19), dated August 2002.
- Identify new issues from the document (refer to Appendix 1);
- Advise Members where they can read/inspect the new guidance.

1.2 A full copy of TAN (W) 19 can either be viewed at the Planning Offices in Ruthin or Prestatyn or downloaded from the Assembly Government's website: www.wales.gov.uk

2. BACKGROUND

2.1 The new TAN (W) 19 – Telecommunications replaces the former TAN (W) 19 published in August 1998. It should be read in conjunction with sections 12.11 -13 of Planning Policy Wales (2002). Technical Advice Notes should be taken into account by local planning authorities (LPA's) in the preparation of development plans and may be material planning considerations in determining planning applications. Welsh Office Circular 29/99, 'Planning for Telecommunications', and Technical Advice Note (Wales) 19 'Telecommunications', August 1998, are cancelled.

2.2 The new guidance takes account of the growth of the telecommunications industry and technology, of the new social and economic demands for communications, and of the Assembly Government's environmental policies.

3. KEY NEW ISSUES AND AMENDMENTS

3.1 The new key issues and amendments are set out in Appendix 1.

4. CONCLUSIONS

4.1 TAN (W) 19 raises new issues to which Denbighshire County Council, as the LPA, should have regard to. All issues raised in the guidance will be considered by the Council in reviewing or altering the UDP, in the production and revising of supplementary planning guidance and other strategies and also in making development control decisions.

5. RECOMMENDATIONS

- That Members note the publication of TAN (W) 19 'Telecommunications', 2002 which will replace the existing TAN (W) 19 'Telecommunications', 1998 with immediate effect.
- That all issues raised in the guidance are noted, in particular the new issues and amendments summarized in Appendix 1 of this report.

1. SUMMARY OF KEY CHANGES

1.1 The new guidance takes account of the growth of the telecommunications industry and technology, of the new social and economic demands for communications, and of the Assembly Government's environmental policies. This report highlights those areas where new guidance has been introduced or the emphasis of existing guidance has changed.

1.2 Telecommunications Systems

Details of the equipment required for the second and third generation mobile phone networks is given including the new macro/micro and picocell base stations. Third generation mobile phone network operators are charged with achieving 80% coverage within the UK by 2007. Five licences have been granted, four of these to existing operators who should be able to utilise their existing infrastructure, the fifth operator will need to develop a network and so there may be demand for the development of new sites where existing structures cannot be shared.

1.3 Development Plans

- No new advice is included with regard to development plans.

1.4 DEVELOPMENT CONTROL

Minor Telecommunications Development

- Microcell and picocell base stations for mobile phone networks are very small pieces of equipment, attached to buildings and generally no larger than a burglar alarm box. Their installation can generally be treated as permitted development in a similar way to domestic TV aerials.
- Telecommunications operators are required to provide 28 days notice to a LPA if they intend to install any equipment except where they are submitting an application for prior approval for planning permission.

Permitted Development Rights

- A new requirement that any equipment installed under permitted development rights should be removed from the land, building or other structure, as soon as reasonably practical after it is no longer required for telecommunications purposes. The site should be returned to its previous condition, failure to do so may result in the LPA serving breach of condition notice requiring removal of the equipment.
- LPAs now have 56 days to consider applications for prior approval, this is extended from 42 days previously.

Property Values

- Where it is alleged that a proposed telecommunications development will impact on property values, it is not for the LPA to protect the private interest of one person against another. Protection of the wider public interest in terms of the impact on the locality and amenities only can be considered.

1.5 CONSULTATION ARRANGEMENTS

- New sections recommending pre-development and pre-application discussions between the operators, LPAs and other groups such as residents groups, community councils and amenity bodies are added.
- LPAs are now required to consider whether additional publicity arrangements need to be made in relation to telecommunications applications for developments, including where appropriate consultations outside the authority area.
- Where it is proposed to install, alter or replace a mobile phone base station whether near or on a school or college, the relevant educational bodies should be consulted both by the operator and the LPA.

1.6 ENVIRONMENTAL CONSIDERATIONS

- In National Parks and AONBs proposals should be sensitively designed and sited and the developer must demonstrate that there are no other suitable alternative locations.

1.7 HEALTH CONSIDERATIONS

- A new section outlining what Electromagnetic Fields (EMFs) are, the potential health impacts and recommendation of the precautionary approach from the International Commission on Non-Ionizing Radiation Protection (ICNIRP) which has been accepted by the Assembly Government. Full details of these recommendations can be viewed in the document.

1.8 ANNEX 1

- Annex 1 provides detailed guidance on the procedures to be followed for prior approval applications, consultation, siting and appearance and grounds for refusing approval. This section provides details of the information operators are required to supply in support of applications. This differs from the previous TAN (W) 19 which covered in detail the developments allowed under permitted development rather than the information required.

ENFORCEMENT MATTERS

- ENF/184/99/S - Denbigh - Neglect to, and vandalism of, a Grade II Listed Building.
- ENF/2002/0028 - Denbigh - Insertion of a door and two windows without planning permission.
- ENF/307/01/S - Corwen - Unauthorised external illuminated fascia sign.
- ENF/2002/0021 - St Asaph - Siting of Mobile Home.
- ENF/2002/0017 - Prestatyn - Unauthorised UPVC Shop Front.
- ENF/2002/0033 - Rhyl - Installation of Canopy at fascia level and fascia sign.

COPIES OF APPENDIX AVAILABLE FROM HEAD OF PLANNING SERVICES

A REPORT BY THE HEAD OF PLANNING SERVICES

DATE OF SITE VISITS

1. PURPOSE OF REPORT

- 1.1 To advise Members of the likely date of any Site Visits requested by the Planning Committee.

2. DATE OF THE SITE VISITS

- 2.1 In consultation with Legal and Administration, it has been decided that the **Thursday 12th September 2002** is most suitable. This date has been provisionally booked.
- 2.2 You are advised, therefore that any site visits arranged today will take place **On Thursday 12th September 2002 (times to be advised)**.

3. MEMBERSHIP OF THE SITE VISIT PANEL

- 3.1 This will depend on Political Balance and will include the Chair and Vice Chair of the Committee and the relevant Local Member(s)

4. RECOMMENDATION

- 4.1 That Members agree to the Site Visits being held on **Thursday 12th September 2002**

**Decisions Made by the Head of Planning Services under
Delegate Powers
6th July 2002 - 9th August 2002**

Item For Information

This is a list of applications where the decision has already been made under delegated powers. If you wish to discuss the application/decision please contact the Case Officer.

DECISION TYPES

- GRANT** - grant planning permission
- REFUSE** - refuse all types of application
- APPROVE** - approve reserved matters or condition
- CONSENT** - grant listed building, conservation area, or advert consent
- NO OBJ** - no objection to works to tree(s) in conservation area
- NOT REQ** - proposal does not require permission/consent
- DETERMIN** - determine that prior approval is not required or is granted on determination application (certain telecom or agricultural works)
- P DEV** - proposal found to be permitted development after receipt
- WDN** - application withdrawn by applicant
- INVALID** - application found to be invalid
- CERTIFY** - Certificate of lawful use issued
- RCERTIFY** - refuse to issue certificate of lawful use

COPIES OF APPENDIX AVAILABLE FROM HEAD OF PLANNING SERVICES