

**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

**COPIES OF APPENDICES AVAILABLE FROM HEAD OF PLANNING
AND PUBLIC PROTECTION**

ENFORCEMENT MATTERS

- (i) **ENF/2004/00052 -
(The Best, 16 High Street,) Prestatyn
Display of externally illuminated fascia sign and
internally illuminated projecting box sign.**

- (ii) **ENF/2004/00053 -
(Ruthin Kebab and Burger House, 54 Well Street,) Ruthin
Introduction of ceramic tile cladding to shop front.**

- (iii) **ENF/2004/00012 -
(Part OS Field Nos. 5000 and 6300 at Pen y Bryn,
(Glascoed Road,) St. Asaph
Erection of dwellinghouse.**

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

EXTENSIONS TO FACTORY OUTLETS
(TWEEDMILL, TREFNANT)

1. PURPOSE OF REPORT

1.1 To advise Members on the submission of an appeal against the refusal of planning permission and to seek representation from Members of the Planning Committee to appear on behalf of the Council at the appeal.

2. BACKGROUND

2.1 The Council have refused two planning applications for extensions to the Tweedmill in September 2003 and September 2004 due to conflict with national and local retail plan policies.

2.2 The applicant initially appealed against the first refusal but that appeal was withdrawn.

2.3 The applicant has now appealed against the second refusal and a public enquiry is currently programmed to take place on 8th to 10th February 2005.

2.4 Both decisions of the Council were contrary to the advice of officers to grant planning permission.

3. THE PLANNING APPEAL

3.1 The Code of Best Practice for Councillors and Officers Dealing With Planning Matters advises at paragraph 9.3 that Members of the Planning Committee will be required to give evidence at an appeal when an officer recommendation has been reversed. The Code of Best Practice advises that Planning Committee needs to appoint representatives to give evidence.

3.2 In addition to Members appearing on behalf of the Council, it is also recommended that the Council be represented by an expert retail planning consultant and by Counsel. The costs to the Council of such representation would be in the order of £20,000.

3.3 Finally, Members should be aware that when it is a decision against recommendation, the cost of the appeal, including the costs set out in paragraph 3.2 above and any awards of costs against the Council, are normally considered as an allowable overspend against the service budget.

4. RECOMMENDATION

4.1 That the Planning Committee appoint Member(s) to represent the Council at the forthcoming appeal and that the Planning Committee support the suggestion for putting the Council's case as set out at 3.2 above.

**REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION
REVIEW OF SCHEME OF DELEGATION FOR PLANNING
APPLICATIONS**

1. PURPOSE OF REPORT

1.1 To review the scheme of delegation for planning applications. Members are requested to support the recommendations of this report.

1.2 The current scheme of delegation, approved in November 2002, requires review to enable the Planning Committee to concentrate on dealing with applications of a complex or controversial nature.

2. BACKGROUND

2.1 The current scheme of delegation was approved by Full Council in November 2002 and sets out delegation levels to the Head of Service, the Planning Committee and Full Council.

2.2 Advice from bodies such as the Audit Commission indicates the value of delegation to the lowest possible level allowing both efficiency and accountability in decision making. The Leader has recently committed to services not process. The current scheme of delegation has worked well by encouraging informal discussion between Members and officers and allowing over 80% of applications to be determined by officers. However, the recent introduction of public speaking has added to the length of meetings but the majority of Planning Committee meetings still include significant numbers of non-controversial applications that generate no discussion and are accepted in accordance with officer recommendation without debate. For example, at the last two Planning Committees over 50% of the applications on the agenda were not subject to any debate. However, notwithstanding this fact, meetings still last several hours with the Planning Committee on 1st September taking from 10.00 a.m. until 3.30 p.m., albeit with two breaks. Of those applications not subject to any debate the majority were domestic extensions which needed to be reported to the Planning Committee under the current delegation scheme due to single letters of objection.

3. AREAS FOR REVIEW

3.1 The Planning Committee are asked to support the following changes to the delegation scheme:

a) **Householder development** which results in no more than three letters of objection from different neighbours but complies with UDP policy and supplementary planning guidance can be dealt with by the Head of Planning and Public Protection. (Part 1 (i))

***Comment** – This would allow non-controversial householder development, which complies with policy and does not normally generate any debate, to be determined at officer level. It must be emphasised that this ability to determine applications where objections have been received is limited to householder development which raise only matters of detail and thus there are no county wide implications.*

b) **Member requests for an application to be considered by Planning Committee** should be limited to their own electoral division and Members must set out clearly relevant planning issues which warrant a Committee determination (Part 2a (iv)).

***Comment** – Members receive copies of the weekly list by e-mail or post and this allows Members to identify applications in their own ward upon which they have concerns. This encourages informal discussions between Members and Officers but should concerns remain Members have the ability to request in writing or by e-mail consideration by the Planning Committee. Limiting this to the Members own electoral division would not prevent informal discussions on applications outside the Members own electoral division. However, Members should note that the Code of Best Practice for Councillors and Officers Dealing with Planning Matters emphasises at paragraph 2.5 that “Members should advise the Ward Councillor as a courtesy in cases where they are seeking to be involved in a development proposal or an enforcement issue outside their own ward.” Such contact may result in the Local Member deciding to request a Committee determination.*

c) **To allow for action including prosecution proceedings in respect of advertisements.** In some instances this would follow on from a refusal of advertisement consent under delegated powers (Part 1(11)).

***Comment** – Advertisements can only be controlled in the interests of amenity or public safety. The issues are not complex. Unauthorised*

display of advertisements is an offence. There is a need for a quick and simple process and action which in turn would be a greater deterrent to offences being committed.

d) **To allow for the serving of Building Preservation Notices under delegated powers** (Part 1(11)). This section of the delegation scheme needs to be clarified to relate to the service of relevant notices and instigating action.

Comment – *Building Preservation Notices allow the Council to prevent the demolition of a building which may be worthy of listing. It is a holding mechanism to allow consultation with CADW and the possible listing of a building. It is often required urgently.*

3.2 Various alterations are required to detailed wording to reflect the changes in titles and to clarify certain sections. **Appendix A** includes a copy of the existing scheme of delegation amended to reflect proposed changes with the use of bold type and strike through.

3.3 The areas for review set out above were considered by the Environment Scrutiny Committee on 30th September 2004. The Scrutiny Committee supported the proposed changes to the delegation scheme subject to the continued operation of safeguards, namely continuing consultation with Local Members and production of details of applications dealt with under delegated powers (included as a standing agenda item at Planning Committee).

3.4 Following consideration of this report the proposed changes to the delegation scheme will need to be considered by Full Council at its meeting on 14th December 2004.

3.5 Assuming the revised scheme of delegation is supported then it will be implemented on planning applications received after 1st January 2005. The impact of the changes on the operation of the Planning Committee would then be monitored and reviewed and in the future there may be the opportunity to extend public speaking.

4. RECOMMENDATION

4.1 That the Planning Committee support the changes to the delegation schemes set out above and in **Appendix A** and that support is conveyed to the Full Council.

Appendix A

SCHEME OF DELEGATION

~~This revised scheme was approved by Full Council in November 2002 and came into effect on the 1st January 2003~~

This revised scheme was approved by Full Council in December 2004 and came into effect on 1 January 2005.

The scheme is in three parts. Part 1 sets out what the Head of Planning ~~Services~~ **and Public Protection and/or Development Control Manager** can do subject to checks and balances in Parts 2 and 3. Part 2 sets out under what circumstances the Head of Planning ~~Services~~ **and Public Protection and/or Development Control Manager** 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~~ **and Public Protection and/or the Development Control Manager** to:-

- (1) determine all types of applications and notifications under the Planning Acts and allied legislation, including ~~in the case of~~ **(i) householder development (development within the curtilage of a single dwelling house), where no more than 3 letters of objection from different neighbours have been received raising material planning objections and subject to the development complying with the Unitary Development Plan/Local Development Plan and approved Supplementary Planning Guidance and (ii) 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 **including stop notices and temporary stop notices** 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~~ **and Public Protection**, 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) **serve the relevant notices and** instigate prosecution proceedings in respect of fly posting, **advertisements, untidy land** (Section 215), and listed buildings, ~~Enforcement~~ **including discontinuance notices and building preservation notices**

PART 2

The Scheme shall not authorise the Head of Planning ~~Services~~ **and Public Protection and/or the Development Control Manager** 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~~ **and Public Protection and/or the Development Control Manager**, within 21 days of the circulation of details of the application, should be the subject to consideration by the relevant Committee (subject to **the application being in the Electoral Division of the Member and** 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 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 **and advertisement** 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 **and Public Protection and/or the Development Control Manager** 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 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 **and Temporary Stop Notice**
 - Urgent Works Notice
 - Repairs 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~~ **development plan** 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~~ **development plan** 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.
- (iii) 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

REPORT FOR INFORMATION

**Explanation of role of the Unitary Development Plan
and Local Development Plan in Denbighshire**

1. PURPOSE OF THE REPORT

- 1.1 This report sets out the role and status of the Unitary Development Plan (UDP) and Local Development Plan (LDP) in Denbighshire following a request for clarification at the September Planning Committee.

2. BACKGROUND

- 2.1 Some Members are uncertain regarding the role and status of the UDP, particularly in light of both the need to review the document and of the emerging Welsh Assembly Government (WAG) guidance on replacing UDPs with LDPs. This document attempts to explain the role and status of both documents.

3. Unitary Development Plans (UDP):

- 3.1 Following local government re-organisation in 1996 all local authorities in Wales were required to prepare a unitary development plan (UDP) for its area. UDPs are intended to provide a firm basis for rational and consistent decisions on planning applications and appeals. Section 54a of the Town and Country Planning Act 1990 (as amended) requires the determination of a planning application or appeal to be made:

“in accordance with the adopted plan, unless material considerations indicate otherwise. Conversely, applications which are not in accordance with relevant policies in the plan

should not be allowed unless material considerations justify the grant of planning permission.”

- 3.2 With such a ‘plan-led’ planning system, UDPs should provide developers and the public with certainty about the type of development that will be permitted in a certain location.
- 3.3 The preparation of a UDP takes several years from production of first draft through to final ratification (called ‘adoption’) by Full Council. On adoption the UDP supersedes any other development plan being used within the county.
- 3.4 The Denbighshire UDP became the first UDP in Wales to become adopted on 4th July 2002 and replaced the Glyndwr Local Plan, the Rhuddlan Local Plan, the Colwyn Local Plan and the Clwyd Structure Plan which were the existing adopted development plans in the Denbighshire area. At the time of writing Denbighshire is still the only local planning authority in Wales who have produced an adopted UDP.
- 3.5 A ‘draft’ UDP can be used as a ‘material consideration’ in the determination of a planning application. However, it cannot be afforded the statutory status given to an ‘adopted’ plan by Section 54a of the 1990 Act. i.e. consideration can be given to a policy or proposal in a draft plan, but this does not override the policies contained within the adopted plan which always takes precedence in planning decisions. The closer a draft plan is to adoption the greater the material weight that can be given to the policies and proposals within it – particularly if these policies have not been objected to during any preceding public consultation. Therefore it is normal practice for local planning authorities to have two development plans (an adopted plan and an emerging plan that is being prepared). Development Plans must be revised every 5 years and given that they take several years to produce, it is a continuous production cycle.

4. Reviewing the UDP

- 4.1 The Denbighshire UDP is the adopted plan for Denbighshire and will remain so until another adopted plan replaces it – which will take several years.
- 4.2 In order to meet Government targets of reviewing our Development Plan every 5 years, background work has commenced on reviewing the current UDP. Our aim is to consult the main issues in April 2005, with a view to producing the first main draft (called the Deposit) next autumn.
- 4.3 A full timetable for the UDP review is included in Appendix 1. A UDP Review Working Group has been established consisting of 12 Members and meets on a monthly basis – this Group considers various development and land use issues relevant to the review of the development plan. All Members are welcome to attend the Group and make a contribution.

5. Legislative Changes and the Introduction of Local Development Plans (LDP)

- 5.1 Planning legislation in England and Wales changed earlier this year with the introduction of the Planning & Compulsory Purchase Act 2004. This has implications on the production of development plans in Wales. New development plans will no longer be called Unitary Development Plans but will be known as Local Development Plans or LDPs. It must be emphasised that the secondary legislation on LDPs i.e. the guidance document setting out how they should be produced - has not yet been produced by the Welsh Assembly Government. Therefore LDPs are not yet formally a part of the planning system. WAG aim to introduce the secondary legislation in Autumn 2005.
- 5.2 It appears that WAG's intention is that LDPs will be slimmer documents than UDPs, with fewer detailed policies. The process of preparing LDPs will differ slightly from UDPs. However the fundamental principle and structure of LDPs is likely to remain very similar. The guidance on their production is

expected to be published by the Welsh Assembly Government in November 2005.

- 5.3 Once this guidance is in place next autumn, Denbighshire will aim to publish their revised development plan – the draft Denbighshire LDP as soon as possible. This document will be subject to extensive consultation and a public inquiry - and is likely to be adopted in 2007. The key factor to remember is that until this time, the UDP will remain the county's adopted development plan, upon which planning decisions will be determined.

6. RECOMMENDATION

- 6.1 This report is for information only. Members should note the content of the report which sets out the role and status of both UDPs and LDPs in Denbighshire.

Appendix 1

Draft Indicative Timetable for the Review of the UDP

(dates have not been provided beyond November 2005 because the proposed LDP production process has not been published by Welsh Assembly yet)

Background Studies / Information gathering exercises including, among others,: <ul style="list-style-type: none">• Retail and Town Centre Study;• Employment Study;• Population & Housing Study;• Urban Capacity Study; Monthly UDP Review Working Group Meetings.	Ongoing
Publication of 'Issues Papers' (highlighting the main issues relevant to the revised development plan in Denbighshire)	April 2004
Publication of Deposit LDP (this is the main draft Local Development Plan)	Probable date: November 2005

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

INFORMATION ITEMS FOR PLANNING COMMITTEE

1. PURPOSE OF REPORT

1.1 It is intended to have a standing agenda item at Planning Committee providing a reference point for Members for information on emerging policy, guidance and useful publications.

1.2 The information provided to Members would be limited to a brief description of the relevant document and a reference to the source of such documentation (internet/intranet address). The report will also include a summary of any significant implications for Planning Committee decision making.

2. INFORMATION ITEMS

2.1 At the last Planning Committee Members asked to be provided with details of existing policies and procedures which affect the workings of the Planning Committee. The following are the key documents:

i) Scheme of delegation (also subject to a report at this meeting).
Source : www.denbighshire.gov.uk – A-Z – Planning – Delegation Scheme

ii) Code of Best Practice for Councillors and Officers dealing with planning matters.
Source : www.denbighshire.gov.uk – A-Z – Planning – Code of Best Practice

iii) Site Inspection Panels
Source : www.denbighshire.gov.uk – A-Z – Planning – Guidelines for Site Inspection Panels

iv) Public Speaking at Planning Committee
Source : www.denbighshire.gov.uk – A-Z – Planning – Speaking at Committee

v) Other procedures have from time to time been adopted by the Planning Committee but these are not available currently in electronic format. A copy of these procedures will be made available in the Members Room

before the Planning Committee. These include *Planning Appeals and Member Involvement* and *Committee Procedures – Highway Officer Involvement*. Copies of these reports can be provided to Members on request. Please contact Gwen Butler, Senior Administrative Officer on 01824 706715, gwen.butler@denbighshire.gov.uk

A REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

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 County Clerk's Department, it has been decided that Monday, **1st November 2004** 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 **Monday, 1st November 2004**

3. MEMBERSHIP OF THE SITE VISIT PANEL

- 3.1 This will be balance in accordance with political groups depend on Political Balance.

4. RECOMMENDATION

- 4.1 **That Members agree to the Site Visits being held on Monday, 1st November 2004**

**Decisions Made by the Head of Planning and Public Protection
under
Delegated Powers
1st September 2004 - 30th September 2004**

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
DEEMED	- does not require 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 available upon request