

The 'Planning Balance'

The process of 'weighing up' the relevant factors is often described as the 'planning balance'.

A planning authority must exercise its judgement and consider many (sometimes) conflicting issues to decide whether planning permission should be granted. This will mean examining the development plan and taking material considerations which apply to the proposal into account. These things must be properly considered otherwise the decision of whether or not to grant permission may be unlawful.

PLANNING DECISIONS AND MATERIAL CONSIDERATIONS

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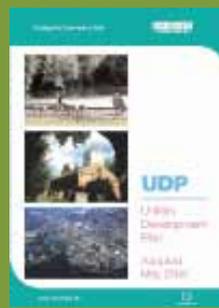
Introduction

Planning can be complicated. Sometimes, everyone will agree a particular development proposal is a good idea or a bad one. However, in most cases, there will be very different views on whether the proposals are good or bad. The developer and some other people will be in favour, but others (perhaps people who live close to the development site) may be very much opposed.

When this happens, it is the job of a local planning authority to consider all the arguments for and against a particular development and come to a decision whether to grant or refuse planning permission. It is this complex 'balancing exercise' which is at the heart of the planning process.

In deciding whether to approve or refuse a planning application, local planning authorities must use the policies contained within their development plan unless there are material considerations that mean a different decision can be made. This requirement is contained within section 38(6) of the Planning and Compulsory Purchase Act 2004.

This leaflet provides an explanation as to what this means in practice by analysing the jargon in the legislation and by looking at what things the decision-maker will take into account in reaching their decision. We hope that this will enable you to understand how the planning process works and how best you can influence its outcome.



How are Planning Decisions Made?

The Development Plan – What is it?

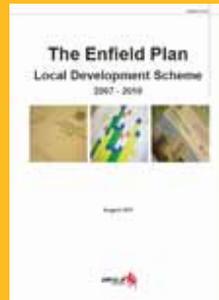
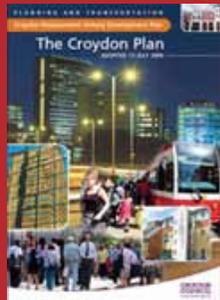
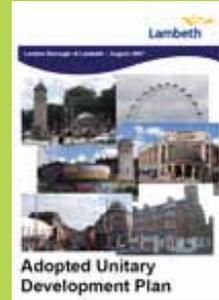
The development plan is the collection of planning policies which have been prepared and adopted by the local planning authority. These policies are used to provide a set of standards and requirements to control development in the local area.

Wherever you live, there will be a ‘development plan’ for your area; it may be known as a Unitary Development Plan (UDP), although more recently, Central Government has introduced a new type of development plan called a Local Development Framework (LDF).

The new process is in its early stages, but while the rules and the names may have changed, the principles relating to the preparation of the ‘development plan’ are basically the same.

At the start of the plan-making process, planning officers at your council will write draft policies. Some of these will be very general in nature e.g., a policy that all new development should be ‘well-designed’. On the other hand, some policies will be very specific e.g., no extensions above 150sq.m will be allowed to existing dwellings. Once the ‘draft’ policies are prepared, a number of different local, regional and national bodies, together with the public, will be consulted so that they can have their say.

The comments that are made will be considered by the council and it will then publish a revised version of the plan, with another period of public consultation. The revised plan and the comments that have been made will then be examined at a Public Inquiry by an independent Inspector appointed by the Government. The Inspector will listen to all of the views and then make final amendments to the policies. At this point, the council can ‘adopt’ the policies and proposals as its ‘development plan’.



When someone makes an application for planning permission, the local planning authority assesses the proposal against the policies in the development plan. Obviously, not every policy will be relevant to every planning application, but the planning authority will need to work out whether there are any policies which the proposed development conflicts with.

If the application complies with the policies in the development plan, the law presumes that planning permission should be granted; similarly, if the application conflicts with the policies, the law presumes that permission should be refused. However, both these 'presumptions' are subject to a further test – 'material considerations'.

Material Considerations – What are they?

The list of material considerations can be a long one and it is difficult to set out any particular rules which would help to identify them. However, one thing that can be said is that whilst there are some 'material considerations' which will apply to every planning application, there are others which will only arise in relation to a particular case. Some examples are given below:

- National planning guidance including Planning Policy Statements (PPSs), Planning Policy Guidance (PPGs) or Circulars.
- Previously approved development. If an extension to a property is approved in 2008 and a neighbouring property seeks permission for an identical extension in 2009, there is a presumption that permission should be granted as a council's 'decision-making' should be consistent.

The real list is much longer and it is difficult for many people who are involved in the planning process to recognise what is or is not a material consideration. To help further, the following is an example of what would be material considerations to a developer and nearby residents when a new supermarket is proposed:

Developer Statements

- 'The site is previously developed land'.
- Public transport access is very good.
- There is no other supermarket in this area.
- The proposal complies with PPS6 (national planning guidance on Town Centres).

Irrelevant Consideration – 'The supermarket will generate income for the company'.

Local Residents' Statements

- Traffic congestion will increase.
- Overshadowing of properties and loss of sunlight.
- Early morning deliveries will cause noise.
- There are other supermarkets nearby, another supermarket is not needed.

Irrelevant Considerations – 'The value of my house will go down', 'the supermarket will spoil my view' or 'I don't like supermarkets'.