

CLERKS' QUARTERLY MEETING, 07/12/09 ATTENDED BY ROTHER'S PLANNING OFFICERS

Planning Question Time (with Tim Hickling (TH) and Roger Scott (RS))

TH and RS then addressed the pre-submitted questions as follows:

Q1 *It would be particularly helpful for newer Clerks if the ability of District Councillors to refer applications to the Planning Committee was outlined. I would like to have reassurance that District Councillors are regularly reminded of this power.*

Pauline

A This is contained within the *Guide to Development Control Practice for Town and Parish Councils* [distributed], page 17. All District Members will be aware of this from Notified reports and planning training. TH explained that development control staff work to an 8-week performance target for planning applications. This could be compromised if too many applications are referred to committee at the last minute.

Q2 *I would like to hear about the appeals to the High Court which seem to have been in use several times recently (though not in my parish).*

Pauline

A Useful information sheets are available from the Planning Portal web site (www.planningportal.gov.uk). Aggrieved applicants may challenge the Planning authority's decision within 6 weeks under s288 of the 1990 Planning Act – if s/he considers procedures/statutory guidance has not been followed. Anyone may go to the High Court to challenge the 'process' – if they can afford it!

Q3 *Comments on applications The online options are 'support the proposal', 'object to the proposal', 'make a general observation'. Sometimes my Council wants to opt out of controversial decisions and to say 'no comment' and for this I tick 'make a general observation' and type 'no comment' in the box - however, I remember the previous Head of Planning saying that he took this to mean 'approval'. Could we have confirmation please?*

Pauline

A For the purposes of the delegation scheme RDC considers a 'no comment' to be neutral.

Q4 *Should parish councils give reasons for supporting or objecting to a proposal based on Local Plan policies?*

Pauline

A It is preferable – but not essential - for parish councils to support their views on planning grounds with an indication of policy. This would primarily be the Local Plan but could also be the SE Plan. There is now no Country Structure Plan.

Q5 *The ability of everyone to see all the letters etc. on the website is a wonderful resource but it certainly brings additional pressures onto parish councils. I have had both the applicant and those opposing an application striving for the parish council's approval. Care needs to be taken about treating both, or all, sides equally. If it is a complex series of applications and there are new members of the parish planning committee, it is difficult to ensure that they have all the information necessary to make reasonable comments and decision.*

Pauline

A Agree with comments – this assists open and transparent decision making. If there are complex applications or a need for further information the case officer should be contacted prior to the parish council meeting. S/He will have all the relevant planning history.

Q6 *Recently, I have had correspondence with the Head of Planning regarding the difficulty I experienced during August/September 2009 getting replies to e-mails containing general planning queries such as permitted development rights for parish councils, listed building advice re property owned by my Council and a query about putting Planning Portal links on parish council websites rather than links to Rother District Council planning web pages. I am told that a return e-mail should be received within 5 days but I waited a couple of weeks without an acknowledgement. I like to send and receive e-mails so that I have an easy record of the correspondence but when I gave up waiting for a reply about the permitted development as I needed an urgent reply and tried instead to phone Planning, I had to go through the Help and Advice Centre and eventually found that there was only one person in the Planning Department because it was school holidays and he didn't have access to the right part of the system to get the required information. (Tim is looking into my complaint.)*

Pauline

A This matter was dealt with at the Parish Planning Seminar. Best to email the Team Leader and send a copy to the general Rother planning email address as a safeguard. Details of 'who does what' in development control was emailed to Clerks earlier that day. TH would arrange for an updated contact directory for planning strategy staff to be sent to Clerks too.

TH

Comment from Pauline: It is sometimes difficult to make contact with a planning officer urgently during times when annual leave is typically taken. *Response:* Noted.

Q7 *It has become fashionable for people to keep pigs and chickens in their gardens or on a small parcel of land. How many animals/chickens would Planning consider to be pets? If they are breeding and selling pigs and/or producing 300-350 eggs per week what are the planning rules on this?*

Valerie

A Can be a grey area and dependent on the nature and scale of use. Use of land for the purposes of agriculture does not require planning permission. Therefore it will be structures and any operational development within a residential curtilage that will determine whether planning permission is necessary. There may be environmental health issues involved. Permission is required if livestock is to be accommodated within a structure up to 400m from a residential dwelling.

Q8 *Realistically, what is the earliest Rother might cease to post hard copies of planning applications and associated documentation to parishes?* Richard

A RDC has no plans to stop sending plans. It is currently pursuing a trial (3 months) with Robertsbridge and Crowhurst to encourage e-consultation.

Q9 *Is Rother going to supply the necessary equipment we will need - ie laptops, projector, screen, etc - for considering planning applications electronically at meetings and on site?*

Pat

A No plans to fund at present.

Comments: RDC will achieve savings by not sending out hard copies of plans; some Members do not have internet and would be excluded from planning e-consultation; it is difficult to open large electronic files in many rural areas; could applicants provide plans in a smaller format?; the quality of scans of plans currently can be poor.

Q10 *I would like a bit of info/clarification regarding the different types of application ie the suffix attached - particularly the 'O' Lawful Use/Development. What type of comments (if any) are appropriate and what granting of the certificate actually means - does it just apply to the current owners - or is it permanent?*

Also, the green weekly list gives a little bit of information on some of the 'notifications' but it would be useful to have an explanation of what type of comment (if any) is appropriate for the different types.

Karen

A An explanation of the suffixes appears on p16 of the *Guide to Development Control Practice for Town & Parish Councils*. Lawful Use Certificates would be a useful topic for a future planning seminar. RDC welcomes comments from parishes on applications for Lawful Development Certificates as they will have local knowledge to confirm – or otherwise – the accompanying evidence of established use. The certificates are associated with the land/property, not the applicant.

For Proposed Certificates of Lawful Use (where the applicant is merely trying to establish if planning permission is required) TH/RS agreed that these would be marked 'for notification'.

Q11 *According to the publication Clerks & Councils Direct (Nov 09) there are 5 parish councils developing a framework for Local Development Orders to allow Parish Councillors to decide minor [presumably householder] planning applications. One of these is Feock PC in mid Cornwall. Is this something Rother might support?*

Richard

A RDC is not intending to pursue Local Development Orders. Problems with local determination of applications would include: providing back up in the event of appeals, neighbour concerns and consistency.

Q12 *What is the legal status of the 'pink notice'? Could Rother be asked to prove it was displayed?*

Richard/Jennifer

A The use of the pink notice fulfils the statutory publicity requirement for planning applications. These are photographed as proof of display.

Q13 *If the plans submitted with a planning application are amended before a planning decision is made, but after discussion and approval by the Parish Council, why isn't the Parish Council informed of these changes and the amended plans posted on the Planning website, marked AMENDED?*

Nadia (Udimore)

A All amended plans are scanned and put on the web site. If major changes are accepted (subject to determination within the 8-week period) then normally formal re-consultation is carried out. RDC would take a view on whether the changes were material or not and whether the parish council needed to be consulted. RS acknowledged that it may be difficult to identify the changes within amended plans.

Q14 *A common complaint heard within parish councils is that they are not given any – or limited – feedback after having reported possible planning control breaches. Has any progress been made in introducing a system to address this?* Richard

A (15-17) Unfortunately, for a period of time not all complaints were being acknowledged. This matter was raised at the Parish Planning Conference and subsequent investigations showed this was still the case. Steps have been taken to ensure this does not happen again. With regard to providing feedback, it is intended to introduce a system whereby all complainants are informed of the current status of enforcement matters every 3 months. This will also be incorporated into the Division's Service Plan for 2010-11.

Q15 *For the duration of the current District Council (2007-), what percentage of parish council recommendations are not accepted by the Planning Authority?*
Paul

Q16 *What percentage of these is decided by the Head of Planning under his delegated powers and what percentage by the Planning Committee?*
Paul

Q17 *When there is a difference of opinion between the Parish Council and the officer recommendation why not always refer it to the Planning Committee rather than rely on the "Notified D" report or the discretion of the Head of Planning? In the absence of a decision by an elected body should not the recommendation of a Parish Council be followed?*
Paul

A This information is difficult to retrieve. In 2007 there were 400 notified reports and in 2008 about 500. Approx 20-25% of all decisions are notified – of which approx 15-20% may involve differences of view between the parish council and the officer recommendation. All notified reports will give the reason/s why the parish council view is not agreed with and Members can judge whether applications should be debated at Committee. Parish council comments are not ignored. 10% of applications go to the Planning Committee (in line with national guidance).

Q18 *How can the protection given to the High Weald Area of Outstanding Natural Beauty be improved? Is Aim 1 of the Rother Local Plan sufficient? ('To ensure that the environment is conserved and enhanced and that new development contributes to the local character, cultural identity and amenities.')*
Paul

A National policies in PPS7 (Sustainable Development in Rural Areas) set out overarching policies for the protection of AONBs. These are brought forward through Local Plan policies and the emerging Core Strategy of the Local Development Framework. A balance needs to be struck between preservation/protection and sustainable economic development.

Q19 *Policy GD1 is a list of criteria which relate closely to Aim 1. These can cause disagreement between the Parish and District Council. As many of the criteria require subjective judgements shouldn't the recommendations of the local representatives who will have to live with the outcomes be given greater weight than those of people who rarely visit the affected location? An example is GD1 (viii). In one case the DC turned down permission for a rear extension to a farmhouse hidden from most directions but then allowed a white structure to be built in front of a listed building in clear view of a trunk road and then took no action when the colour of part of the*

structure was changed to purple The PC recommendation was not followed in either case.

Paul

A Rother does take local views into account – they feed valuable local knowledge into the decision making process. Community involvement is supported in pre-application discussion which will involve parish councils. All decisions still need to be made within the planning policy framework and material considerations such as previous planning history.

Q20 *The Rother DC Planning Handbook includes advice quoted by the PC in support of a recommendation. This advice was given little weight when the case went to appeal as it was only advice and not council policy. Could it be clarified which advice included in this handbook is policy and which is advice?*

Paul

A The Planning Handbook (in the process of being updated) contains advice; policies appear within the Rother District Local Plan.

Additional Questions raised at the meeting:

- A. Referring to correspondence with Playden PC, RS advised that RDC has been looking at how it could provide better notification to parish councils of planning decisions. The intention was to email a weekly list to the clerk/designated person which would provide the decision, together with conditions/reasons for refusal. Hard copies would no longer be sent out on a monthly basis – if required, these could be downloaded from the web site.
- B. Jennifer asked if there was a policy on mobile homes. RS responded that the focus was on the 'use of the land'. If a mobile home is used for an ancillary purpose no change of use is required. Permission is required if separate accommodation is being provided (whether for personal use or rental).
- C. Amended plans: applicants now have to complete a form. RS will explore whether details can be included on the weekly 'green list' for information.
- D. Rod observed that although applicants have recourse to an appeal process, objectors don't. RS advised that they had the (very expensive) option of going to the High Court. If the process followed by the planning authority was considered defective a complaint could be made to the Local Government Ombudsman.