

Planning & Regulatory Committee Training

Briefing for Members
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Determining Planning Applications

- What is development ?
 - ‘the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or an other land’
- Section 55 TCPA 1990



County Matters

- Schedule 1 T&CP Act 1990; SI 2003 No.1033
 - Winning and working of minerals
 - Mineral processing and transhipment of aggregates by road and rail
 - Use of land for the deposit of waste
 - Erection of plant etc for the handling, processing and storage of waste







Drilling Rig



Capped Well Head Horse Hill



Eco Park Charlton Lane May 2017





County Council Development

SI 1992 No 1492 - Reg. 3 & 4

- County Planning Authority shall determine :
 - planning applications by the County Council to develop land solely or jointly with another party – schools; youth facilities; fire and ambulance; road schemes
 - subject to referral to the SoS in the case of larger scale development





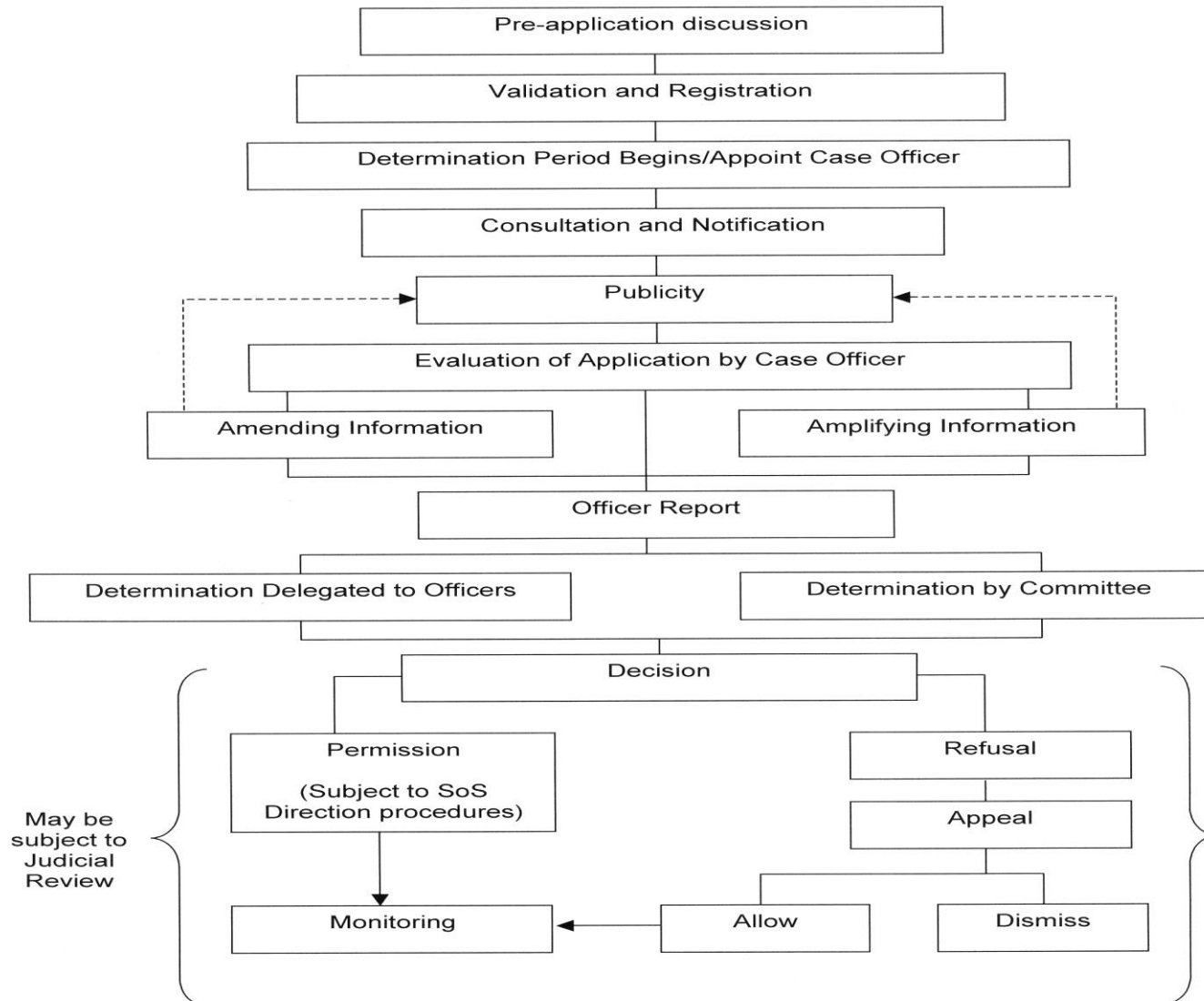




The Planning Application Process

- Pre application discussions
- Submission/Validation
- Consultation
- Determination

Key Stages in the Planning Application Process (simplified)



Determining Planning Applications

- The Planning and Compulsory Purchase Act 2004 requires that planning applications shall be determined in accordance with the Development Plan unless material considerations indicate otherwise (Section 38(6))

The National Planning Policy Framework 2012

Presumption in favour of sustainable development – ‘a golden thread’

To perform economic, social and environmental roles

Development Plan in Surrey – Minerals, Waste and County Council Development

- Surrey Waste Plan (2009) - Review underway
- Surrey Minerals Plan (2011)
 - Core Strategy; Primary Aggregates; Minerals Site Restoration SPD
- Aggregates Recycling Joint Development Plan Document (2013)
- Relevant Borough/District Plan

Spatial Policy Constraint



Green Belt

- Harm
- Preserve Openness
- No conflict with GB purposes
- Planning permission granted where ‘very special circumstances’ clearly outweigh the harm
- Exceptions listed in NPPF

Material Considerations

- Any consideration which relates to the use and development of land capable of being a planning consideration. Whether it is material in any given case will depend on the circumstances
- Material :-flooding ;disturbance; visual impact; fear of consequences of the development









Material Considerations cont.

- **Immaterial:-** economic viability of development;
loss of property value
- Other material considerations:-
 - National Policy Statements;
 - Planning Policy Guidance (PPG);
 - Need for the development;
 - Case Law



Planning Conditions

- Render the unacceptable acceptable!
- Use of Conditions – NPPF para 206 & PPG
 - necessary;
 - relevant to planning;
 - relevant to the development permitted;
 - enforceable;
 - precise;
 - reasonable in all other respects

Directions

- Circular 02/2009
- LPA to consult SoS before granting planning permission for certain types of development – whether to exercise ‘call in’ powers
- Green Belt; outside town centres; World Heritage Sites; playing fields; flood risk



Certificate of Lawful Existing Use or Development (CLEUD)

- Lawfulness
- Time period
- Matter of fact not planning judgement
- Lack of detailed control
- Proposed Use or Development (CLPUD)

Enforcement - Principles

- time limits
 - operational development
 - material change of use
- expediency
- discretionary
- reasonable
- consider Development Plan and other material considerations
- criminal offence for non compliance

Retrospective Planning Applications

- Possible outcome where unauthorised development has taken place
- Retrospective nature of the application should not be a factor in determination





Enforcement Powers

- Temporary Stop Notice (TSN)
- Stop Notice (SN)
 - served with EN to stop activity
 - cost/benefit assessment
 - compensation payable
 - criminal Offence
- Injunctions
 - High Court or County Court

Enforcement - Tools

- Planning Contravention Notice (PCN)
- Breach of Condition Notice (BCN)
 - non compliance a criminal offence
 - no right of appeal
- Enforcement Notice (EN)

Environmental Impact Assessment

- Schedule 1 Projects
EIA required in every case
- Schedule 2 Projects
EIA required where project is
likely to give rise to significant
environmental effects



Obtaining a decision on the need for EIA

The Town & Country Planning (EIA) Regulations 2017

- Screening Opinion - Reg 6
- Scoping Opinion - Reg 15
- Secretary of State – Seek a Direction – Reg 16
- Public document

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