

THE RIGHTS OF LOCAL COUNCILS TO BE NOTIFIED OF PLANNING APPLICATIONS AND DECISIONS

Notification of Planning Application

1. If a local council makes a written request to the Local Planning Authority (LPA), it must be informed of planning applications relating to land in its area and be given either a copy of each application or information sufficient to identify the land and the nature of the development (paragraph 8 of schedule 1 to the Town and Country Planning Act 1990 (as substituted by paragraph 53(5) of schedule 7 to the Planning and Compensation 1991 and as amended by the Local Government (Wales) Act 1994) and Article 23 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 – see Appendix to this Legal Topic Note)
2. A local council is also entitled to be notified of any alteration to a planning application accepted by the LPA (other than a trivial alteration). This entitlement was introduced by the 1991 Act as a result of representations made to the Government by NALC during the passage of the legislation through parliament.
3. Where the parish council are given information about an application it shall, as soon as practicable, notify the local planning authority whether it proposes to make any representations about the manner in which the application should be determined, and shall make any representations to that authority within 21 days of the notification to it of the application.
4. A local planning authority must not determine the application before:
 - (a) the parish council informs them that it does not propose to make any representations;
 - (b) makes representations; or
 - (c) the period of 21 days for making representations has elapsed,

whichever occurs first;

and in determining the application the authority shall take into account any representations received from the parish council.

Notification of Planning Decisions

5. Under Article 23(3)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 a local council is entitled to be notified of the terms of the decision of the LPA or the Secretary of State in relation to planning applications of which it has been given details. The easiest way in which this can be done is for the district council to supply a copy of the decision letter. A decision by the Secretary of State has only to be supplied where he “calls in” a planning application. There is no statutory right for a local council to be supplied with a copy of every appeal decision made by the Secretary of State or, by delegation, an Inspector.

Failure to notify an application or an alteration thereto

6. Since the duty to notify is mandatory, a failure to notify would be a breach of statutory duty on the part of the LPA. The opinion of experienced counsel is that a planning permission granted by the LPA in such circumstances would be voidable if the council successfully challenged the LPA’s decision in the High Court by way of Judicial Review. The remedy is discretionary and before deciding whether such failure should invalidate the planning permission, the Court would have to look at all the circumstances of the case.
7. Whether or not an alteration to an application is “trivial” (see paragraph 2 above) is no doubt a matter on which a local council might take a different view from the LPA. Ultimately, an interpretation of the word could be sought from the High Court by way of Judicial Review. In practice, a local council might be well advised to agree with the LPA on what types of alteration are, and are not, trivial.
8. It follows from the above that a failure by a LPA to comply with any of the mandatory procedures set out in the legislation would enable a local council to seek Judicial Review (e.g. where a LPA determined an application before the expiry of the period allowed for a local council to submit representations).

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
15	Legal Proceedings	Sets out the law and practice in respect of Judicial Review in further detail.
58	Planning	Sets out the appeal mechanisms of interest to local councils.
60	Copies of Planning Documents	Sets out the powers of local councils to obtain copies of planning documents.
83	Neighbourhood Planning	Sets out the procedure for obtaining a Neighbourhood Development Plan or Neighbourhood Development Order.

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Appendix: Paragraph 8 of Schedule 1 to the Town and Country Planning Act 1990 (as amended)

1. A local planning authority who have the function of determining applications for planning permission shall, if requested to do so by the council of any parish situated in their area, notify the council of –
 - a) any relevant planning application; and
 - b) any alteration to that application accepted by the authority.

2. In sub-paragraph (1) “a relevant planning application” means an application which –
 - a) relates to land in the parish; and
 - b) is an application for –
 - i. planning permission; or
 - ii. approval of a matter reserved under an outline planning permission within the meaning of s.92.

3. Any request made for the purposes of sub-paragraph (1) shall be in writing and state that the council wishes to be notified of all relevant applications or all applications of a description specified in the request.

4. An authority shall comply with the duty to notify a council of an application by –
 - a) sending the council a copy of the application; or
 - b) indicating to the council the nature of the development which is the subject of the application and identifying the land to which it relates, and any notification falling within paragraph (b) shall be in writing.

5. An authority shall comply with the duty to notify a council of an alteration by –
 - a) sending a copy of the alteration to the council; or
 - b) informing the council in writing of its general effect, but need not notify a council of an alteration which in their opinion is trivial.

6. A development order may require a local planning authority which is dealing with an application of which a council is entitled to be notified—

- a) to give the council an opportunity to make representations to them as to the manner in which the application should be determined;
- b) to take into account any such representatives;
- c) to notify the council of the terms of their decision or, where the application is referred to the Secretary of State, the date on which it was so referred and, when notified to them, the terms of his decision.

Article 23 of the Town and Country Planning (Development Management Procedure) (England) Order 2010

- (1) Where the council of a parish are given information in relation to an application pursuant to paragraph 8(1) of Schedule 1 to the 1990 Act (local planning authorities: distribution of functions), they shall, as soon as practicable, notify the local planning authority who are determining the application whether they propose to make any representations about the manner in which the application should be determined, and shall make any representations to that authority within 21 days of the notification to them of the application.
- (2) A local planning authority shall not determine any application in respect of which a parish are required to be given information before—
 - (a) the council of the parish inform them that they do not propose to make any representations;
 - (b) representations are made by that council; or
 - (c) the period of 21 days mentioned in paragraph (1) has elapsed,
 whichever shall first occur; and in determining the application the authority shall take into account any representations received from the council of the parish.
- (3) The appropriate authority shall notify the council of the parish of—
 - (a) the terms of the decision on any such application; or
 - (b) where the application is referred to the Secretary of State—
 - (i) the date when it was so referred; and
 - (ii) when notified to the appropriate authority, the terms of the Secretary of State's decision.
- (4) For the purposes of paragraph (3), the “appropriate authority” is—
 - (a) where the parish is situated in a National Park, the National Park authority;
 - (b) where the parish is situated in Greater London or a metropolitan county, and is not situated in a National Park, the local planning authority;
 - (c) where the parish is situated in a district which has no district council, and is not situated in a National Park, the county planning authority;
 - (d) in any other case, the district planning authority.