



Penrith Town Council

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PLANNING PROTOCOL

Delegation of Powers to Deputy Town Clerk

Introduction

A parish or town council cannot grant or refuse planning permission, but it can offer its opinion as a statutory consultee and try to influence specific decisions and planning policy. The Councils strength lies in local knowledge. The real decision makers are found in the planning authority, the District Council. District Councils produce development plans. These set out the district planning policy in and proposals for the area. They identify where development can and cannot take place, the natural and the built environment, and the management of traffic. Although there are a number of exceptions, anyone wishing to develop must apply to the District Council for planning permission. The District will email the Town Clerk with notice of a live application and its reference number. The Town Council is normally given 21 days to comment on receipt of the email.

Where a Town Council submits comments on a planning application, the planning authority, is required to consider the Town Council's comments. The District Council Planning officers will consider all the comments received and reflect these in the report made to the District Council Planning Committee.

As well as determining planning applications, the District Council has an enforcement role. If development appears to have taken place without permission or if the development is more extensive than given in the planning consent, the District Council's enforcement officer may be invited to visit the site and take any necessary follow up action.

There are situations where a member serves on both the Town Council and the district planning authority. In such a situation there is no reason why the member cannot consider the planning application at both Town Council and district planning authority level subject to certain requirements:

- Having expressed a view at a meeting of the Town Council, it is necessary for the member to consider the matter afresh at a meeting of the planning authority. The member cannot deal with the planning application before the planning authority with a closed mind.

- A member, who, perhaps, makes a statement at the Town Council meeting saying he/she has made his mind up on a particular planning application will find himself disqualified from consideration by the planning authority and, if he/she participates, runs the risk of challenge.
- In all cases a member must ensure that he or she does not participate or vote on a matter, if he or she has a disclosable pecuniary interest in that matter or if to do so would be a breach of the relevant council's code of conduct for members.

Permission will usually be granted if the development complies with the policies of central, regional or local government.

Who makes decisions on planning applications?

Eden District Council is the Local Planning Authority (LPA). Penrith Town Council is a statutory consultee on planning matters affecting the parish of Penrith and any observations or comments raised by the Town Council must be considered by the Planning Authority.

Can the public see the plans?

All copies of planning applications are available for inspection by members of the public at Eden District Councils offices or on their website at <https://plansearch.eden.gov.uk/fastweb/>.

What does Penrith Town Council do?

Penrith Town Council Planning Committee meetings take place monthly to discuss relevant planning applications. These meetings are open to the public and press. If additional meetings are called, notices will be placed on the notice boards in the Town Council Offices at Friargate, Angel Lane and on the website at <https://www.penrithtowncouncil.gov.uk/meetings/planning/> in the normal manner.

Can the public ask a question or make a comment to town councillors?

During the meeting members of the public are able to speak in relation to a planning application. Any member of the public must let the Council know that they wish to speak at least the day beforehand by giving their name and address to the Clerk or Chair. Those wishing to speak have a maximum of 3 minutes to make comments which must be restricted to material planning considerations only.

Information on how to make representations on a planning application can be found at <https://www.penrithtowncouncil.gov.uk/meetings/planning/supporting-opposing-planning-application/>

Once all comments have been taken, the Town Councillors will formulate their comments. Council's comments are forwarded to the District Council within the allocated deadline.

Where are the decisions made?

Simple planning applications are decided by officers of Eden District Council under their delegated powers but contentious planning applications are considered at a District Council Planning Committee Meeting. Included in the District Council Officer's report on each planning application will be the relevant Town Council's comments, if any. Local residents may attend the District Councils Planning Committee Meeting and ask questions at the meeting and write in beforehand. Copies of the Agenda of the Planning Committee Meeting are available from Eden District Council.

Decisions made by officers and by members of Eden District Council on planning applications are forwarded to all Town and Parish Councils.

Responsibilities

- To maintain an effective planning consultation process.
- To encourage sensitive and high quality development within the Town Conservation areas.
- To participate fully in the development and implementation of local plans, policies and interests in order to ensure that these have a beneficial impact on Penrith.
- To seek to obtain legitimate planning gain (Section 106 money) for the town from all major developments in Penrith.
- To report any suspected planning enforcement issues to the Local Planning Authority for consideration.

Wherever possible the applications will be considered at the Town Council's monthly Planning Committee Meetings. When this is not possible the Council may call an Extra Ordinary Planning Committee Meeting, defer to a Full Council Meeting or delegate the power to respond to minor applications to the Town Clerk. Penrith Town Council Office sends the planning application details to all Councillors on the Planning Committee as soon as it is received electronically.

Minor – this category is for applications such as satellite dishes, limited signage or the erection of a conservatory, an extension or erection of one dwelling, the change of use of a shop to residential etc. to which the Council is likely to have 'No Objection'. These applications maybe noted without discussion at each meeting of the Committee.

These applications may be delegated between meetings to the Town Clerk:

- If a planning consultation deadline falls between meetings the Council may delegate authority to the clerk to submit a response to meet the consultation deadline.
- If there is no opportunity to consider an application at a meeting it may be necessary to delegate responsibility for deciding on the Council's observations on a planning application to the Clerk.
- This will most likely occur when the Council does not meet before the planning authority's deadline and the Council does not wish to convene a meeting.
- It is legal for a council to delegate decision making to an officer, i.e. the Clerks, but not to a councillor or councillors or Chair.

A councillor's view on whether or not to object to a planning application can only be validly expressed during a properly convened meeting.

Delegation

The terms of the delegation arrangement with respect to planning applications are:

- a) The Clerk has delegated powers to respond.
- b) The Clerk may consult with councillors informally to obtain their general consensus.

- c) The Clerk may consult informally with appropriate councillors to clarify issues and information before exercising the Clerk's judgement with respect to a planning application.
- d) If there is a strong difference of opinion between Councillors, the Clerk will request additional time from the LPA to enable the application to be considered at Committee
- e) The Clerk is required to report the Chair before making a decision.
- f) The Clerk in exercising delegated powers, is required to make an objective decision, i.e. the Chair cannot instruct the Clerk how to exercise their delegated authority.

Decisions taken by the Clerk must be reported to the next full meeting of the Council and minuted.

Major – this covers significant planning applications such as large housing or supermarket developments, developments with environmental impacts, applications within conservation areas, those on listed buildings and controversial applications. These applications are presented to Committee.

The practice at the meeting will be to invite the public to speak and raise any items of concern, thus enabling the Council to fulfil its representational role. Each member of the public may speak for 3 minutes. If an organisation makes representation on behalf of a number of residents they may speak for 5 minutes.

Before the meeting, a member of the Planning Committee may go to look at the site and any neighbouring properties. They must not get into discussion with the applicant or any objectors. The member or officer may also consult the District Council Planning Office and consult with a Planning Officer on any item of particular concern before presenting the application to the next meeting of the Planning Committee. All comments on planning applications must be based on material planning matters, including:

- The compliance of the proposals with the adopted development local plan.
- How the proposal fits in terms of design and use with its surroundings.
- The effect of sunlight and daylight on adjoining properties - overlooking, loss of privacy and loss of light.
- The loss of privacy to adjoining properties.
- The effect on parking, drainage, traffic, road safety and general disturbance to local residents.
- Flooding issues - local knowledge of drainage or other possible problems surface water run-off
- Environmental issues – bats
- Sustainability issues
- Scale of the development
- Design, appearance, layout and materials
- Loss of important open space or physical features
- Noise, disturbance or smells
- Impact on the surroundings, effect on listed building and conservation area.

Planning comments cannot include:

- Spoiling of householder views.
- Devaluation of property.
- Covenants affecting properties.
- Nuisance caused by building work.
- Land ownership disputes.
- Personal preferences for the site.

It is important that all comments are clear, concise and accurate. The Council should record if it "Supports" or "Objects" to the application and may record member's observations.

It helps if the Council suggests conditions it would like to see imposed if the local Planning authority permits the application.

Penrith Town Council staff prepares and send the comments of the Committee to the District Council within five clear days of the Planning meeting or sooner if required.

Approved: August 2020

Review: May 2023

Appendices:

Eden District Council – Planning Services Charter 2013

Planning Portal Links

Eden District Council Planning Services Parish Charter

Consultation

We will consult you, the local parish, about all applications for planning permission, listed building consent and advertisement consent. We will not inform you of 'prior notification determinations', as these are notifications of telecommunication apparatus and 'agricultural notifications' and we only have 28 days in which to respond. These developments have 'deemed consent' and therefore do not require planning permission.

Timescales

The parish will be consulted and given 21 days in which to reply. The speed and efficiency of dealing with planning applications is monitored and we aim to determine 80% of all minor applications within 8 weeks. This is a national target. The Parish can help Planning Services achieve this target by responding promptly to consultations. Responses received after the 21 day consultation period will not be taken into account, except where the application has already been determined.

Extensions

The planning case officer can agree to extend the parish consultation period. The consultation letter we send has the contact details for the Case Officer. The Parish Clerk is encouraged to make contact if a time extension is needed.

Information and advice

If, during the consultation period, the parish requires further information or advice, please contact the case officer. The Case Officer is available to offer the Parish further information or advice. We prefer requests in writing, so please email the Case Officer, or planning.services@eden.gov.uk. It is also helpful if the Parish has one contact point for the Case Officer.

"Material" issues

Where the parish raises issues that are not regarded as material to the consideration of the planning application, we will write and let you know. Planning applications can only be determined on material planning considerations and this specifically excludes such things as loss of value or loss of view. A guidance note on matters which can and cannot be considered 'material' is available from Planning Services, or read [object or comment on a current planning application](#).

The delegated powers of the Head of Planning Services allows him to determine whether a comment or objection upon a particular application is a 'material' planning matter or not.

What happens if the head of planning and the parish do not agree?

Where the view of the head of planning services on a particular application differs from that of the parish, the application will be referred to our Planning Committee for a decision. This is to ensure that the views of the Parish are heard by Committee in all cases where they may be contrary to his own. The Parish view is reported in full to Committee.

How are recommendations communicated?

The Parish Clerk will be sent a copy of the report appearing on the Planning Committee agenda to ensure they are fully aware of the recommendation made to Committee by the Head of Planning Services and the justification for this recommendation. The Committee agenda is also available on the Council's website at least 5 days before the meeting. See [Planning Committee meetings list](#).

Who can attend Planning Committee?

A representative of the parish is able to attend Planning Committee to explain their views on a particular application and will be invited to attend any site visit undertaken by the Planning Committee within your parish. The decision on whether to hold a site visit rests with the Committee. Where a decision is made by the Council against the view of the Parish, a written explanation will be given.

June 2013 (revised)

Contact details:

- **Contact:** Development Management
- **Email:** planning.services@eden.gov.uk
- **Telephone:** [01768 817817](tel:01768 817817)
- **Address:**

Eden District Council, Mansion House, Friargate, Penrith, Cumbria CA11 7YG

Planning Portal links

The Planning Portal recommends the following links as essential for local planning pages:

The essential links		
Title	Address and description	What is this link?
Make a planning application	www.planningportal.gov.uk/apply Apply here to make an online planning application.	The direct link to the electronic version of the National Standard Application Forms.
Building Work	www.planningportal.gov.uk/guide Find planning and building regulations guidance including case studies on many common projects in the home here.	Links to Planning and Building Regulations guidance.
Visual guide for householders Interactive House/Terrace House	www.planningportal.gov.uk/house Explore the interactive house for guidance on many common householder projects. Explore the interactive terrace for guidance relating to flats, shops and basements as well as many common householder projects, in England.	The Portal's Interactive Houses offer the most user-friendly way into planning and building information.
Greener Homes and Micro-generation	www.planningportal.gov.uk/greenerhomes Guidance for householders; providing advice on planning and building regulations matters for green energy projects and energy saving.	A direct link to an increasingly topical subject.
Building Regulations	www.planningportal.gov.uk/buildingregulations A wide range of Building Regulations information and advice on how to apply for various types of common building work.	Direct link to the Building Regulations and downloadable Approved Documents
Guidance on Appeals	www.planningportal.gov.uk/appeal Submit a new appeal, search for an existing appeal and comment on it.	How to use the electronic appeal system – including the new Householder Appeals Service