



# Member Planning Handbook



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## 1. Introduction

This document will help provide Members with information on how you can be involved with planning applications and issues within your ward/division and assist you in dealing with local planning issues.

### National Planning System

By way of general background, a “[Plain English guide to the planning system](#)” is published by the government. This guide explains how the planning system in England works and covers.

- Introduction: the purpose of the planning system
- Key decision-takers in the planning system
- National planning policy
- Nationally significant infrastructure projects
- Strategic planning
- Local Plans
- Neighbourhood planning
- Contributions and community benefits
- Permitted development rights
- Obtaining planning permission
- Planning enforcement
- Planning appeals, ‘recovery’ and ‘call-in’
  - Annex A: Stages in a Local Plan
  - Annex B: Stages in a neighbourhood plan or order
  - Annex C: Stages in the planning application process

### Council Constitution

Appended to the Council Constitution is a “[Planning Protocol](#)”. This covers issues such as.

- Applications submitted by Members and Officers
- Planning Applications by the Council
- Pre-application developer presentations to members and stakeholders
- Officer-member relations
- Good Practice Guide for Councillors
- Code of Conduct
- Predetermination and Bias
- Where you represent two Councils
- Contact by Members of Planning Committee and Cabinet with Applicants, Developers, Objectors and Supporters
- Conduct at Meetings by Planning Committee Members
- Conduct of Ward Councillors (non-members of the Planning Committee)
- Lobbying of Members of Planning Committees
- Lobbying by Members of Planning Committees
- Site Visits – Committee Members

### Who manages the planning service?

The planning service is managed within Planning Growth & Sustainability.

*Corporate Director of Planning, Growth & Sustainability – Ian Thompson*

Ian.Thompson@buckinghamshire.gov.uk

The directorate covers the following service areas:

- Planning and Environment
- Property & Assets
- Economic Growth & Regeneration
- Strategic Transport & Infrastructure
- Housing & Regulatory Services

*Service Director Planning & Environment - Steve Bambrick*

Steve.Bambrick@buckinghamshire.gov.uk

Service area covers:

**Planning and Development**

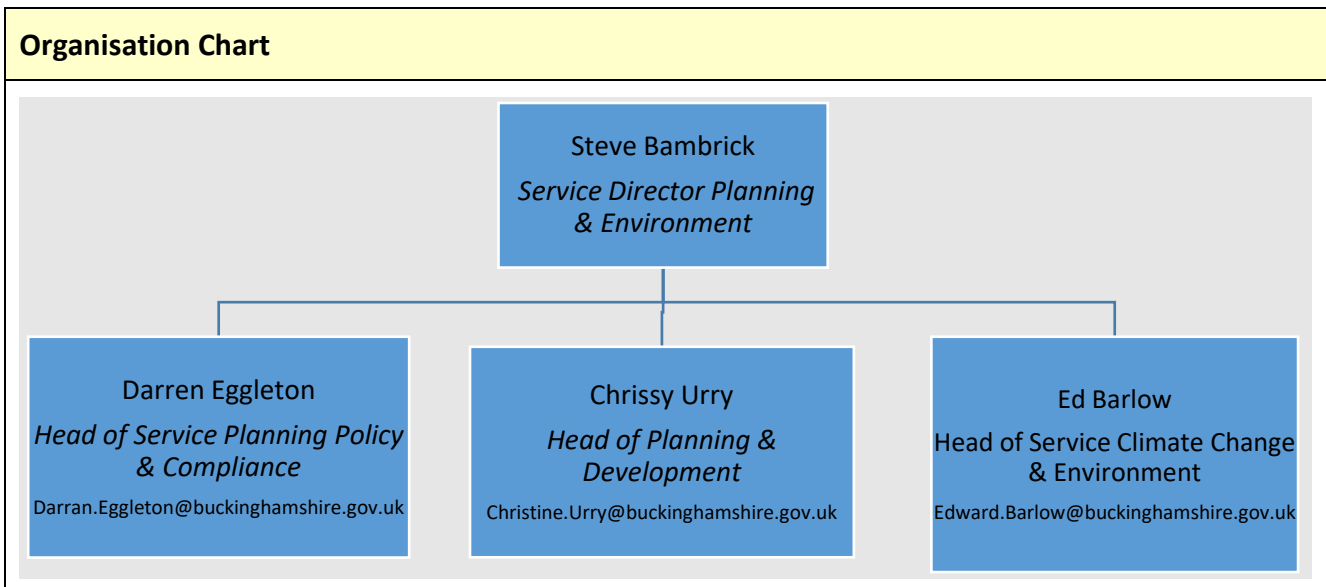
- Development Management
- Building Control
- Highways DM

**Planning Policy & Compliance**

- Enforcement
- Local Planning
- CIL/106

**Climate Change & Environment**

- Built Environment (Heritage, Archaeology, Urban Design & Landscapes)
- Natural Environment (Ecology & Biodiversity Net Gain; Arboriculture, Environment Records Centre)
- Climate Change & Energy
- Strategic Flood Management; Sustainable Drainage



## 2. What are my responsibilities in terms of planning applications?

Members do not have specific duties in relation to planning applications within their ward/division.

In representing your constituents there may be occasions where you wish to highlight to the case officer within the Planning Department the specific concerns of your residents (where these are based on sound planning issues), or where you have concerns yourself.

You can also request that any planning application be referred to Planning Committee for scrutiny and determination where you feel that this is appropriate.

Legislation requires the Local Planning Authority to process and determine around 50 different types of planning application, approval, notification, or consent. The relevant regulations set out how the process that must be followed, including timescales, fee payable, and appropriate consultation, or notification requirements.

Regarding planning applications, there is clear and specific commitment to undertake public consultation and notification. This is because it plays a valuable role in bringing to our attention particular local issues and constraints that might not be immediately obvious to the planning case officer.

Public engagement is however almost exclusively specific to applications for planning permission and has not been applied to other more technical planning processes such as Certificate of Lawful Development, the approval of details reserved by condition, non-material minor amendments, and the various prior notification and consultation processes.

### 3. What should I say?

You do not have to comment on every application. Where you do comment, you should try to focus on the issues you feel are important (focus on material planning considerations) and explain why.

You do not need to quote specific policies; just explain why you think it is acceptable or unacceptable and provide any evidence you must support your view.

The involvement of your constituents plays a valuable role bringing to our attention any local issues and constraints that might not be immediately obvious to the planning case officer.

The purpose of public consultation and notification is therefore to allow all the relevant issues to be highlighted. Then, irrespective of the number of representations in support or against a development, planning decisions must be made in accordance with:

- current legislation,
- development plan policy, and,
- all material considerations identified.

The term “material planning considerations” covers any matters that can broadly be categorised as being in the public interest. Over the years the courts have highlighted a range of issues that do not fall into this category, mainly because they are “private interests” or already regulated through other legislation.

Although not an exhaustive list these include:

<b>Matters (of public interest) which can be considered</b>	<b>Private interests, or matters covered by other legislation, which cannot be considered.</b>
The adopted ‘Development Plan’ comprising of Policies of the Local Plan, Core Strategy, Neighbourhood Plan & Waste and Minerals Plans Emerging Local & Neighbourhood Plans Supplementary Planning Documents such as Conservation Appraisals The National Planning Policy Framework and Planning Practice Guidance Environmental qualities of the area, visual character, and amenity Loss of light and overshadowing Overlooking and loss of privacy Noise, disturbance, and odour Loss of trees Road safety, access, car parking, traffic generation Flood risk	Moral objections The loss of a private view Property values Ownership Covenants and personal property rights Other legislation which imposes controls e.g., Building Regulations or Environmental Health (although there is some cross over) The developer’s motives, record, or reputation Unfair competition Speculation over future use That public consultation hasn’t been undertaken prior to making a planning application The volume of representations made by the community.

<b>Matters (of public interest) which can be considered</b>	<b>Private interests, or matters covered by other legislation, which cannot be considered.</b>
Case law and previous planning decisions Climate Change and Sustainable design and construction Consideration of what could otherwise, be undertaken as “permitted development”	

Members, the public and Parish/Town Councillors are not expected to be planning experts, so just let us know what you think the main issues are when making comments. It is for the planning officer to decide if the issues raised are “material considerations” or not. They will then list the material considerations and test them against the relevant policies in a report, concluding in a recommendation.

The planning authority must make their own objective appraisal to ensure that robust planning decisions are made. If refusing a planning application, the reasons given must be clear and capable of being substantiated by evidence at appeal if required. If they cannot be adequately defended the Planning Inspectorate can punish Councils financially for unreasonable behaviour in their decision making.

There will inevitably be cases when the Council, acting as the Planning Authority, will reach a different judgement to some of those who have expressed a view. That does not mean that their comments have been ignored. It is just that the legal framework in which decisions are made is very complex, but how the issues have been weighed and balanced should be clear in the officer report.

If after reading the officer report you are still unclear as to why a decision has been made contrary to certain representations, please contact the case officer or their Team Leader to discuss it. Most planning decisions are taken under powers delegated to officers, but with those applications which are considered would benefit from scrutiny being determined by a Planning Committee.

Once a decision has been reached only the information required to be retained as part of the planning register should remain online, resulting in Public Comments being removed. This is to ensure that the Council fulfils its responsibilities under the 2018 General Data Protection Regulation, and because of the costs associated with the indefinite retention of such data.



## 4. How do I find out about planning applications submitted in my ward/division?

While we are creating new IT systems which cover all of Buckinghamshire Council, we are still using the legacy planning software which we inherited. So, planning applications are available to view on our website using the legacy versions of “Public Access”.

Select your local area to view and comment on a planning application:

- [Aylesbury Vale](#)
- [Chiltern and South Bucks](#)
- [Wycombe](#)
- [View minerals and waste, historic schools and roads applications.](#)

**Screen shots of Public Access simple search page**

The image displays four screenshots of the Buckinghamshire Council website's 'Public Access simple search page'. Each screenshot shows the council's logo and navigation menu at the top. The main heading for each page is: 'Aylesbury Vale Area', 'Minerals and Waste Planning', 'Wycombe Area', and 'Chiltern & South Bucks Areas'. Below the heading, there is a search bar with options for 'Search', 'My Profile', 'Login', and 'Register'. The search interface includes tabs for 'Simple', 'Advanced', 'Weekly/Monthly Lists', 'Property', and 'Map'. A 'Search for:' field has radio buttons for 'Applications', 'Appeals', and 'Enforcements'. A 'Status:' dropdown menu is set to 'All'. A text input field prompts the user to 'Enter a keyword, reference number, postcode or single line of an address.' with a 'Search' button. The 'on idox solution' logo is visible in the bottom right corner of each screenshot.

## Member Notification

Local members will be notified of applications within their ward/division by both a weekly list of planning applications and by individual email. (This is in addition to the ability to use Public Access to search by ward or Parish across any selected date range and application type at any time).

The individual email for each application allows access to “Consultee Access” a module that provides greater access to information and puts any representations made directly into the back-office planning system for the case officer to access.

Using Consultee Access to notify members has been in use in the Aylesbury area for many years, but it not yet available in every area. We are working to introduce this across all areas by summer 2023.

You will receive an email notifying you of each planning application in your ward and giving 28 days to comment.

The email will have the notification attached and will be like the example opposite:

- Setting out the development proposed and its location,
- Giving a date by which comments should be made,
- A link to take you to “Consultee Access”

Consultee Access is a version of Public Access used for formal consultation. It provides you with a list of the applications you have been notified of and which you have responded to.

The list provides you with a link to view the application details including the documentation.

This is only in use in the former Aylesbury Vale Area but is being rolled out legacy area by area.



Minerals & Waste planning applications were formerly considered by Buckinghamshire County Council, so covered the entire geographical area of what is now Buckinghamshire Council. Local members are notified of each application by email (not linked to Consultee Access) giving a deadline for comment. The types of application considered by this team include:

- Winning and working of minerals and related developments e.g., sand/ gravel extraction.
- Waste management applications e.g., landfill, waste transfer, waste re-use and recycling.

## 5. The Role of Member Surgeries

### Aim

A Member Surgery system operates. Not only does this provide Members access at an agreed time to the right officers, but it also allows a more focused use of limited planning officer resources.

The aim of the surgery is:

- To provide members with a means discussing planning issues raised by constituents in an open and confidential environment of mutual respect and trust.
- To allow members to build up a better knowledge of the planning system and more confidently perform their roles as local councillors and as advocates for the planning service.
- To increase visibility of officers and allow relationship building.
- To reduce the number of misdirected emails being received

### Operation

One-hour bi-weekly member surgery sessions are held, covering issues related to Development Management, Planning Enforcement and Planning Policy.

These are provided on a committee area basis (north, central, east, south, and west). They will each be led by a Development Management Team Leader (or an appointed deputy), as is the case with Area Planning Committee(s). The Surgery Lead Officers are:

- **North:** Laura Pearson/Sarah Armstrong
- **Central:** Andrew MacDougall/Sarah Armstrong
- **East:** Mike Shires/Daniel Gigg
- **South:** Ben Robinson/Daniel Gigg
- **West:** Charles Power/Ray Martin/Chris Steuart

Councillors should not use this forum to put pressure on officers for a particular recommendation or decision and should not do anything that compromises the impartiality or professional integrity of the case officer.

### Process

Members can email ([memberliaison@buckinghamshire.gov.uk](mailto:memberliaison@buckinghamshire.gov.uk)) to request pro-forma, which they can complete, with their request to book a 20-minute slot specifying the matter they wish to discuss.

The Planning Member Liaison Officers will

- coordinate the agenda and liaise with the relevant team leaders and the agree officer attendee list
- then send out links/time slots for sessions, which will be held virtually via “Teams”

The Planning Member Liaison Officer will manage the meeting and log any follow-on actions.

## 6. The Role of Strategic Sites Working Groups

The purpose of strategic sites working groups is to provide an opportunity to collaboratively review submissions for strategic allocated sites through the course of the planning process. It will provide Ward Members a forum to discuss opportunities and challenges that emerge from the proposals, ensuring the delivery of high-quality sustainable development and to maximise public benefit arising from the development.

These meetings would be held quarterly and would provide a forum to share information related to the development proposals and to critically consider the issues and matters in a manner which seeks to improve the overall outcomes of the development. Importantly, members will be able to share with officers their local knowledge of the sites and context, which will be considered in the consideration of the applications. These discussions will identify what the issues are, why they need resolution, and collectively work together in putting forward ideas on how they might be resolved.

## 7. Member Training

We hold quarterly forums for members to provide updates on the Service. This is an opportunity for the Planning and Environment Service to advise members on strategic matters, issues, and changes.

We also host quarterly ‘meet the planner’ events, which provide more focused sessions on areas of planning that are important to members. These sessions take the format of 30-minute training, followed by networking with officers of the planning team over tea and coffee. These sessions are held in person and office locations are rotated.

In addition, we hold annual and bespoke training to Planning Committee members.

## 8. Who determines Planning Applications?

The Buckinghamshire Council’s Constitution sets out the Scheme of Delegation which gives powers to officers to determine planning applications and related matters and which applications should be determined by committee.

The power to determine Planning Applications rests with either the relevant Area Committee, the Strategic Sites Committee, or more usually is delegated to Senior Planning Officers, sometimes in consultation with the Chairman of Planning Committee.

In accordance with national best practice over 96% of applications are usually determined under delegated authority. This allows our Planning Committees to focus their resources more effectively on cases of local or strategic significance, which would benefit from such scrutiny.

To allow planning applications to be determined a case officer will prepare a report setting out the issues and making a recommendation. The case officer will.

- usually make a site visit
- consider consultee comments
- consider any other representations received
- make an assessment
- negotiate amendments if appropriate

- write a report considering all the issues and reaching a recommendation.

A decision is then taken under powers delegated to the officers, or by Planning Committee as required by the Council Constitution.

## 9. Planning Committee

Planning Committee can determine any “outline”, “full” or “reserved matters” planning application brought before them. The purpose of Planning Committee is to review recommendations where the weighing and balancing of the issues is finely balanced.

The geographical coverage of each area committee is shown in the map below:

Name of Committee	Geographical Coverage
<p>a) <b>Strategic Sites</b></p> <p>b) <b>Central Buckinghamshire Area Planning Committee</b></p> <p>c) <b>North Buckinghamshire Area Planning Committee</b></p> <p>The Oculus, Council Offices, Gatehouse Road, Aylesbury, HP19 8FF.</p>	
<p>d) <b>South Buckinghamshire Area Planning Committee</b></p> <p>e) <b>East Buckinghamshire Area Planning Committee</b></p> <p>Council Chamber, Council Offices, King George V House, King George V Road, Amersham. HP6 5AW.</p>	
<p><b>West Buckinghamshire Area Planning Committee</b></p> <p>Council Chamber, Council Offices, Queen Victoria Road, High Wycombe. HP11 1BB.</p>	

## Strategic Sites Committee

The relevant Planning Committees can determine planning applications (full, outline or reserved matters). Strategic Sites Committee has responsibility for:

- wider strategic development.
- sites which have a significant impact beyond the specific local area; or
- sites fundamental to the implementation of an adopted or emerging Local Plan.

By way of example, this will include but is not limited to:

- Major infrastructure
- Large Scale Major Development comprising:
  - Housing (approx. 400 dwellings or more)
  - Employment (approx. 10,000 sq m or 2 hectares or more)
  - Retail (approx. 10,000 sq m or 2 hectares or more)

## Area Planning Committees

The Area Planning Committees have responsibility for determining those Planning Applications which have been called in or referred to committee for decision, which are not within the remit of the Strategic Sites Committee.

Applications submitted by the Council, a councillor, a Chief Officer, Corporate Director, Service Director, or any other officer working in the Planning and Environment Service will be considered by the appropriate area committee.

## Declaration of interests

At the start of committee meetings, or during if appropriate, you will be asked to declare any interests relevant to items on the agenda.

If you are unsure about whether to declare, you should contact the monitoring officer or one of the deputies' monitoring officers for advice.

Comprehensive guidance can be in the Local Government Association published document [Probity in planning Advice for councillors and officers making planning decisions](#) 2019.

## Planning Committee Contacts

If you have any questions, please contact the relevant planning team leader:

Application Type	Contact
Planning applications	North: <a href="mailto:laura.pearson@buckinghamshire.gov.uk">laura.pearson@buckinghamshire.gov.uk</a> East: <a href="mailto:mike.shires@buckinghamshire.gov.uk">mike.shires@buckinghamshire.gov.uk</a> South: <a href="mailto:ben.robinson@buckinghamshire.gov.uk">ben.robinson@buckinghamshire.gov.uk</a> West: <a href="mailto:charles.power@buckinghamshire.gov.uk">charles.power@buckinghamshire.gov.uk</a> West: <a href="mailto:ray.martin@buckinghamshire.gov.uk">ray.martin@buckinghamshire.gov.uk</a> Central: <a href="mailto:andrew.macdougall@buckinghamshire.gov.uk">andrew.macdougall@buckinghamshire.gov.uk</a>
Major planning applications	North & Central: <a href="mailto:sarah.armstrong@buckinghamshire.gov.uk">sarah.armstrong@buckinghamshire.gov.uk</a> East & South: <a href="mailto:daniel.gigg@buckinghamshire.gov.uk">daniel.gigg@buckinghamshire.gov.uk</a> West: <a href="mailto:chris.steuart@buckinghamshire.gov.uk">chris.steuart@buckinghamshire.gov.uk</a>
Minerals & Waste applications	All Committees: <a href="mailto:chris.steuart@buckinghamshire.gov.uk">chris.steuart@buckinghamshire.gov.uk</a>

## 10. How do I request a “call in” to Planning Committee?

The “call-in” process is set out in the [constitution](#).

Only Planning Applications as defined in the constitution are subject to the “call in process”:

***Planning Applications Means planning applications for full and outline consent as well as applications for reserved matters approvals and for the avoidance of doubt excludes Permission in Principle (PIP) and Related Matters.***

Within 28 days of being notified of a Planning Application, members must use Consultee Access (or Public Access if only that is available) or to notify the planning officer that they may wish to call-in the Planning Application to the relevant Planning Committee.

In response to a notification, once the officer has reached a recommendation, they will inform the member who has requested the call-in (and the Ward members if the member is from a different ward).

The member requesting the call-in then has 7 days in which to provide material planning reasons via Consultee Access, confirming their request for the Planning Application to be considered by committee.

At that time, the member requesting the call-in must also disclose whether they have a Disclosable Pecuniary Interest, personal interest, prejudicial interest, or any personal bias in the Planning Application being called in.

The Service Director Planning and Environment in consultation with the Chairman (or, in his absence, the Vice-Chairman) of the relevant planning committee will determine whether the matter called-in by a councillor would benefit from Planning Committee scrutiny, or whether the exercise of delegated powers is appropriate.

The Chairman will notify the relevant member of the decision.

### Can an application be “called-up” after 28 days?

It is recognised that there may be exceptional circumstances, after the 28 days of being notified of a planning application, that a member may wish to call up an application.

If after 28 days of being notified of an application and providing the application has not yet been determined, Members can notify the planning officer, using Consultee/Public Access, that they wish to call in the application into the relevant planning committee:

- as a direct result of substantial changes to the Planning Application
- due to a change of circumstances
- due to another reason for the delay in notification

Members will need to cite at least one of these reasons for the delay in notification.

At that time, the member requesting the call-in must also disclose whether they have a Disclosable Pecuniary Interest, personal interest, prejudicial interest, or any personal bias in the Planning Application being called in.

The Service Director Planning and Environment in consultation with the Chairman (or, in his absence, the Vice-Chairman) of the relevant planning committee will determine whether the matter called-in by a councillor should be considered by Planning Committee, or whether the exercise of delegated powers is appropriate.

The Chairman will notify the relevant member of the decision and explain the reasons if the request is declined.



## Three Member Call in Process

Where a call-in has been requested by all members of a ward, the application will automatically be considered by the relevant Planning Committee.

The members requesting the call-in must also disclose whether they have a Disclosable Pecuniary Interest, personal interest, prejudicial interest, or any personal bias in the Planning Application being called in.

## Parish and Town Council Call in Process:

Within 28 days of being notified of a Planning Application, Town and Parish Councils must use Public Access or Consultee Access to notify the planning officer that

- They wish to call-in the Planning Application to the relevant Planning Committee.
- Provide material planning reasons for a call in
- Provide an undertaking that a representative will attend and speak at committee if the request for call-in is agreed.

The Service Director Planning and Environment in consultation with the Chairman (or, in his absence, the Vice-Chairman) of the relevant planning committee will determine whether the matter called-in by the Town or Parish Council should be considered by Planning Committee, or whether the exercise of delegated powers is appropriate.

## 11. Amending a planning permission

A common question we are asked is how someone can amend a planning permission once it has been granted. Often, some small changes are needed, due to construction techniques, or a change in circumstances.

There are three ways of amending an existing planning permission:

### Non-Material Amendments

This procedure covers very small changes, e.g. moving a window or a wall slightly. Has no material impact on the original permission and an application is solely to assess whether it is a non-material change, or not. If granted, the amended details/alteration replaces the original planning permission.

### Minor Material Amendments (a “Section 73” application)

This covers slightly bigger changes, providing they are not substantially different to what was originally approved. If granted, this creates a new planning permission. The applicant can then choose whether to implement the original or the revised scheme.

### A New Planning Application

If the changes proposed are significant, change the size of the development, site area, or changes the description of the original development, then normally a new planning application will be required.

## 12. What is Permitted Development?

Permitted development rights are a national grant of planning permission that allow certain building works and changes of use to be carried out without having to first make a formal planning application.

There are numerous “Classes” of permitted development set out in the legislation; the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the “GPDO”). Each Class contains a list of limitations and conditions, all of which must be complied with for the proposal to benefit from “permitted development” rights.

These are all factual criteria, e.g., relating to height, volume, distance to boundary, etc. If they are all complied with, as a matter of fact, the proposal does not require an express planning permission from the Council. Normal planning considerations such as local plan and neighbourhood plan policies are not considered.

If an applicant wants confirmation whether something is permitted development, they can apply for a Certificate of Lawfulness. This is a legal determination to check if the proposal complies with all the relevant criteria in the legislation.

It is not necessary to apply for such a certificate, although to avoid costly mistakes it is helpful for “peace of mind” and avoids difficulties in selling the property in the future.

## 13. Planning Enforcement

### How to report a suspected breach of planning control in your area

The Planning Compliance and Enforcement team investigates a variety of breaches of planning control. Such breaches may include unauthorised building works, changes of use, and breaches of planning conditions.

They also investigate illegal works to trees, hedgerows, and Listed Buildings. For more detailed information on the planning enforcement service, please see the

[Planning Enforcement and Monitoring Plan](#)

### What to do if you suspect a breach of planning control has occurred

Some minor works do not fall within the definition of “development” in planning legislation and so do not need any planning permission at all.

Other building work is automatically granted planning permission through national government legislation (permitted development rights).

If you are concerned that a breach of planning control is occurring or has already occurred, then the planning compliance and enforcement team will investigate the allegation and can take formal enforcement action where appropriate and necessary.

### How to contact us

For the purposes of efficiency, the team’s preferred method of reporting an alleged breach is via this web link [Report a planning breach | Buckinghamshire Council](#)

## Bank Holiday Planning Enforcement Service

The Council currently provide a planning enforcement service to investigate specific breaches of planning control during bank holidays, namely

- Illegal works to protected trees
- Illegal works to Listed Buildings, including demolition
- Any breach of condition that has a significant and detrimental impact on the residential amenity of neighbouring properties
- The creation of unauthorised caravan sites
- Any other breach of planning control that has a **significant** detrimental impact on the local area or has the potential to cause serious irreversible harm.

Alleged breaches of planning that meet one of the above criteria should be reported via our Bank Holiday service number **07796 993523**. Your enquiry will be triaged, appropriately prioritised, and directed to an officer for investigation as appropriate. You will be advised if the allegation will be dealt with by an officer immediately or sent to the team for follow up in office hours.

The Bank Holiday service is available between the hours of 9am and 5pm on the April, May, and August Bank Holiday weekends only.

Please note that the phone number for this service 07796 993523 is only in use during the bank holiday weekend between the hours of 9am and 5pm. It is not monitored at any other time and there is no option to leave a voice mail message.

If your call is not answered, the officer will call you back at their earliest opportunity. Please therefore do not call from a withheld number.

## Unauthorised works to protected trees

If you suspect that works are being undertaken to a protected tree or hedgerow, or a tree in a conservation area then please provide as much detail as you can about the works. Any details of the persons, company or vehicles involved in the works can be critical in such matters.

Any photos that can be obtained from you or members of the public can also be highly useful. It is only recommended that photos be taken where persons feel comfortable in doing so and can do so safely.

## Creation of an unauthorised caravan site

The use of land as a caravan site requires planning permission in almost all cases.

If you suspect that a breach of planning control has occurred in relation to land being used as a caravan site, or if works have begun to lay hardstanding in preparation for such a use, then please contact the planning compliance and enforcement team using the communication channels above.

If your enquiry is regarding an unauthorised encampment on public land then please contact the Buckinghamshire Council Gypsy & Traveller Service; they operate Monday to Friday, 08.00 - 17.00.

You can report an unauthorised encampment here ([Report an unauthorised encampment | Buckinghamshire Council](#)), or by calling 01296 395000.

## 14. Planning Policy

Our planning policy documents set the context for development in Buckinghamshire.

They govern the decisions made on planning applications and ensure that development proposals are suitable for their proposed area. Ensuring the right development in the right place at the right time.

Planning policy is created at two different levels:

- **national** - planning policies set by the government through the National Planning Policy Framework (NPPF)
- **local** - planning policies created by local planning authorities (such as Buckinghamshire Council), or at neighbourhood level by town and parish councils or neighbourhood forums

The NPPF sets out the government's planning policies for England and how these are expected to be applied.

Buckinghamshire Council is required to produce development plans which set out planning policies for the local area. These plans also allocate areas for future development and identify areas that should be protected from development. Buckinghamshire Council also produces a separate Minerals and Waste local plan.

The development plan includes:

- adopted local plans from legacy Council areas
- a minerals and waste plan for Buckinghamshire
- neighbourhood plans that have been put into place or 'made'

### Local plans

A local plan shows where development can happen, and where it needs to be carefully controlled, such as in protected places.

Buckinghamshire has four adopted local plans from legacy councils. We are currently preparing a new local plan, LP4B, which will replace the legacy council plans.

Our new local plan aims to deliver sustainable development in several ways, including:

- meeting the social, economic, and environmental needs of Buckinghamshire
- better quality places
- more comprehensive and predictable delivery of all kinds of infrastructure
- making sure there are enough of the right homes and workplaces
- getting the infrastructure in the right place at the right time
- delivering better deals from developers on the obligations arising from their proposals

## Neighbourhood development plans

Neighbourhood development plans are created by communities to develop a shared vision for their neighbourhood.

Once they are formally made their policies become part of the development plan and used to make decisions on planning applications. In this way, they can shape the development and growth of their local area.

The Localism Act 2011 introduced new powers for communities to influence development in their local area. These powers include the ability to create a:

- **neighbourhood development plan:** that sets out policies that guide decisions made about development in an area
- **neighbourhood development order:** which gives the community the ability to grant planning permission for specific kinds of development
- **Community Right to Build Order:** which are planning permissions granted by the community to deliver small-scale, site-specific community projects

Neighbourhood development plans must have at least one policy, relate to a specific area and cannot be used to propose a lower level of housing growth than has already been proposed within the strategic policies in the local plan.

## Housing land supply

We constantly monitor potential housing sites across Buckinghamshire and keep a 5-year housing land supply register.

This is so we can be sure there are enough sites to meet the housing needs set out in our adopted strategic policies for the next 5 years. National planning policy sets out a requirement for local planning authorities to demonstrate a rolling 5-year supply of housing against their housing requirement.

The Buckinghamshire 5-Year Housing Land Supply Position Statement is available to view on the website: [Planning website](#).

## Housing and Economic Land Availability Assessment (HELAA)

As a local authority, we must assess the amount of land available for housing and economic development in Buckinghamshire, in accordance with the both the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG).

This assessment is called the **Housing and Economic Land Availability Assessment** (HELAA). It is a technical study that determines the suitability, availability and achievability of land for development.

The HELAA is an important evidence source to inform plan-making. It does not however:

- represent policy
- determine whether a site should be allocated for future development
- determine whether planning permission should be granted.

Land allocations can only be made through local plans or neighbourhood plans.

## Monitoring report

The Buckinghamshire Council Authority Monitoring Report (AMR) provides a snapshot of how we are performing against our planning policies.

This includes information on housing, employment, and the environment. It is a record of how the council is performing and how much development is taking place.

The AMR is made up of documents that we aim to update at least annually when information becomes available.

## 15. S106 Planning Obligations and Community Infrastructure Levy

Planning obligations are set out either within bilateral legal agreements or within unilateral undertakings.

These are deeds between the local authority and developers that can be attached to a planning permission to make developments that would otherwise be unacceptable in planning terms acceptable.

Under s106 of the Town and Country Planning Act 1990 as amended, planning obligations are capable of:

- restricting the development or use of the land in any specified way (for example requiring some housing to be provided as affordable housing)
- requiring specified operations or activities to be carried out on land
- requiring land to be used in any specified way
- requiring a sum or sums to be paid to the authority

Regulations state that a planning obligation may only constitute a reason for granting planning permission if it is:

- necessary to make the development acceptable in planning terms.
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development

Where financial contributions are required by a planning obligation within a section 106 agreement or a unilateral undertaking these are often referred to as **S106 contributions**.

It may be necessary for a Council to secure contributions from several developments over a period before it is in a position to implement a significant infrastructure scheme, such a road, for which funds have been secured.

## Developer Contributions

The requirement for new infrastructure is often driven by the need to mitigate the impacts of proposed new development. Developer contributions are an important source of funding to allow the Council to provide that infrastructure. Contributions can be through:

- planning obligations within section 106 agreements and unilateral undertakings
- the Community Infrastructure Levy (CIL) – a fixed charge levied on new development to fund infrastructure.

## S106 Contributions

These are contributions from developers secured by a legal agreement usually accompanying a planning permission, to make developments acceptable which would otherwise be unacceptable in planning terms. The key features of these are:

- Secured during the planning process, bespoke, and negotiated (unlike CIL). Often from larger developments.
- Usually focused on site specific mitigation of the impact of development, e.g. to provide new infrastructure.
- Payments often linked to ‘trigger points’ at different stages of development e.g. occupation of 50, or 100 homes, and may vary for each contribution and by site.
- Typically, must be spent within a set timescale, often within ten years of receipt.

It is during the application process, prior to determination that Members have an opportunity to identify and request mitigation proposals. This should be included in any comments you wish to make on the planning application. It should be noted that identifying and requesting mitigation if the planning application is to proceed, does not prejudice or undermine your overall position.

Proposals for mitigation schemes that are a good fit with the Council’s strategies and policies and are considered affordable and deliverable are more likely to result in contributions being secured. Mitigation must only be sought where it is necessary, directly related and proportionate to development proposals. Members are encouraged to engage with the relevant service that would be responsible for delivering any mitigation schemes as early as possible.

At the stage of drafting and finalising a S106 agreement, we are working to an approved Heads of Terms. The S106 agreement is the legal mechanism that secures the obligations as set out in the recommendation to approve (either by the officer or planning committee). We do however publish S106 drafts for either 5 or 10 working days (dependant on the number of obligations) prior to completion, albeit this is not a formal consultation. This Statutory Duty does not require the Council publish every “iteration” of a draft planning obligation under construction during the negotiation stage.

## Community Infrastructure Levy (CIL)

This is a charge levied on new development in accordance with CIL Charging Schedules. Reflecting their legacy origins, these are different for the West and South/East areas with different rates, which apply to different categories of uses. There is not a CIL Charging Schedule currently in place for the Aylesbury Vale area.

CIL can be used by the Charging Authority (Buckinghamshire Council) for “the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area”.

Although the levy can be used to fund a wide range of infrastructure (including health and social care facilities), it cannot be used to fund affordable housing. Its key features are:

- Charged for all developments involving the creation of a dwelling.
- For all other development (not creating a dwelling) charge is based on which Charging Schedule the development falls under (West or South/East).
- Where CIL is chargeable it depends on the size of new development (the gross internal area measured in sqm). Chargeable developments (except for new dwellings) are exempt if less than 100sqm of new floorspace created.
- There are notable exemptions and reliefs, (including for self-build, affordable housing, and charities).
- CIL is not negotiable (unlike section 106 contributions).

Up to 5% may be retained by the Council towards the cost of administering CIL. A proportion of CIL (15% rising to 25% where a Neighbourhood Plan is adopted) collected from development is passed to the Town or Parish Council within which the development was situated.

In the unparished area of High Wycombe, including the area to which the Daws Hill Neighbourhood Plan applies, the local allocation is held by the Council in a ringfenced account. Decisions are taken on its use following consultation with and recommendations from the High Wycombe Town Committee.

## Allocation and use of developer contributions

The use of specific contributions is usually specified within the relevant s106 agreement.

The CIL that is retained by the Council is integrated into the capital budget setting process, as a corporate resource, which is agreed by members at Council every February. This reflects the Council's wider responsibilities for infrastructure and the financial pressure on capital resources. At the same time, it is recognised that CIL must be used to support the development of the area.

Members are well placed to be aware of key local priorities. These can be thought of as falling in two categories: strategic and local. The former will tend to have benefits beyond the local area and will typically be embedded in a relevant strategy document e.g. transport links, new or extended secondary schools, strategic open space and leisure centres. Examples of the latter could include environmental improvements to a local shopping parade.

There are two corresponding routes that can be taken to seek funding. For strategic schemes, the first is to ensure that the relevant Cabinet Member is aware of that scheme and takes this into account in setting strategies and action plans and in terms of considering it against all portfolio priorities during the budget setting processes.

For local schemes, Members are often well placed to influence how the local CIL allocation that is passed to Town and Parish Councils is spent. This is 15% of CIL received (and increases to 25% where there is an approved Neighbourhood Plan in place). There is typically greater latitude in the scope of the use of these funds, as these councils have fewer funding responsibilities and the rules concerning the use of CIL are less strict.



## Infrastructure Funding Statement

Since 2020 the Council has published an annual Infrastructure Funding Statement (IFS) in accordance with government requirements.

The IFS sets out details of developer contribution receipts and the types of infrastructure and projects that may be funded by the Community Infrastructure Levy (CIL) and from Section 106 contributions.

The IFS can be viewed on the Council website at [Infrastructure funding statement | Buckinghamshire Council](#)

## 16. Different types of planning applications

### *Outline Planning Permission*

Outline Planning Permission, which can include any number (or none) of the five detailed matters below. If it includes none, then it is essentially the principle of development that is being considered at the outline stage.

Reserved Matters: the remaining detailed matters, which have been reserved from the outline stage, need to be applied for after an outline planning permission is granted. They include:

- layout - way the development is laid out in relation to buildings and spaces outside the development.
- scale - size of the development
- appearance - the way it looks/ the exterior of the development.
- means of access - routes to and within the site.
- landscaping – trees, hedges, and hard landscaping such as paving.

The outline permission and the approved reserved matters together make up the planning permission.

### *Full Planning Permission*

An application can simply be for “full” planning permission, although other variations of the same thing can include:

- Retrospective Planning Permission.
- Variation of a Planning Condition.
- Householder Planning Applications.
- Permission in Principle and Technical Details Consent

### *Other Applications, Consent and Notifications*

As well as “planning permission” we also deal with other related notification and consent regimes, things like:

- Advertisement Consent
- Listed Building Consent
- Certificates of lawfulness of existing use or development

- Certificates of lawfulness of proposed use or development
- Approval of Details reserved by Condition
- Non-Material Minor Amendment
- Hedgerow removal notices
- Works to trees protected by a Tree Preservation Order
- Works to trees in a Conservation Area
- Various permitted development prior notifications

There are over 50 types of applications and notifications all with different timescales and legal criteria.

### Government planning application monitoring

The government monitor the performance of every planning authority under three main application definitions.

#### *Major application - definition*

‘Major development’ involves any one or more of the following.

- The provision of dwelling/houses where –
  - The number of dwelling/houses to be provided is 10 or more: or
  - The development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the number of dwelling/houses to be provided is 10 or more.
- The provision of a building or buildings where the floor space to be created by the development is 1000 square metres or more: or
- Development carried out on a site having an area of one hectare or more.

#### *Minor application - definition*

‘Minor development’ involves any one or more of the following.

- For dwelling/houses, minor development is one where the number of dwellings/houses to be provided is between one and nine inclusive on a site having an area of less than one hectare.
- Where the number of dwellings/houses to be provided is not known, a site area of less than 0.5 hectares should be used as the definition of a minor development.
- For all other uses, a minor development is one where the floor space to be created is less than 1,000 square metres or where the site area is less than one hectare.

#### *Other application types - definition*

- Change of land use, only if the application does not have a site area greater than one hectare; and no building or engineering work is involved, or the building or engineering work would be permitted development were it not for the fact that the development involved a change of use.
- Householder developments are defined as those within the curtilage of a dwelling house and include extensions, conservatories, loft conversions, dormer windows, alterations, garages, car ports or outbuildings, swimming pools, walls, fences, domestic vehicular accesses including footway crossovers, granny annexes, porches, and satellite dishes.
- Applications for consent to display advertisements under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

- Applications for listed building consent to extend, alter or demolish under Section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- Planning applications for relevant demolition of an unlisted building in a conservation area under section 70 of the Town and Country Planning Act 1990.

## 17. Planning Appeals

### Appeal Process

The most common type of planning appeal is appeals against the refusal of planning permission, but appeals can be lodged in other circumstances e.g. where an application is granted subject to conditions the applicant considers unreasonable.

An applicant can [appeal a planning decision](#) if either:

- they disagree with it, or
- the decision was not made within 8 weeks (13 weeks for a major development) and an extension of time has not been agreed.,

If you disagree with a planning application decision, you must appeal within 6 months of the date on the decision notice from your local planning authority. If they did not decide within 8 weeks, you can appeal up to 6 months after the decision was due.

There is a different fast track process to [appeal a householder planning decision](#) for a smaller project like an extension, conservatory, or loft conversion.

Only the person who made the application can appeal. There is no third party right to appeal.

The procedures can vary depending on the type of application or consent you are appealing against e.g. the deadline is earlier if you have received an [enforcement notice](#) you must appeal within 28 days of the notice. The planning inspectorate website provides all the necessary details; <https://www.gov.uk/appeal-planning-decision/make-an-appeal>

### Types of Appeal Procedure

There are several types of planning appeal procedure:

#### *Written Representations*

The appellant makes a written submission, the Local Planning Authority makes a written submission, and the Inspector decides based on what they have received.

#### *Householder*

A fast-track written representations appeal. The Inspector bases his decision on the representations submitted at the time the application was being considered and the case officers' report. No further representations are permitted.

#### *Hearing*

Written submissions are exchanged, and a hearing is held. This allows all parties to sit around a table and take part in a discussion chaired by the Inspector.

*Public Inquiry*

Written submission (proofs of evidence) is exchanged, and an Inspector holds a formal Inquiry. This involves each witness being examined and then cross-examined on their evidence (rather like in court). The Council will instruct a barrister, to present the strongest possible case.

*Hybrid*

An Inspector can consider different material considerations in the same appeal under different appeal types e.g. housing as an Inquiry, landscaping as a Hearing and the rest as Written Representations.

*Blended*

Prior to covid all Public Inquiries and Hearing were held “in person”. During covid they were all held remotely as “Teams” meetings.

Post covid the default is that they will be held in person, but the option of a “blended” process is available to Inspectors. This process requires those who can attend in person to do so, but those who cannot attend in person (usually due to infection or being “at risk” of infection) can join remotely and participate through a “Teams” call.

The Planning Inspectorate decide which method they consider is most appropriate.

## Members Involvement in Public Inquiries

Members, Town and Parish Councils and residents can all take part in the appeal process. The Planning Inspectorate has produced [guidance](#) for taking part in planning and listed building consent appeals.

Anyone who submitted written representations on the planning application are notified of the appeal. The Planning Inspectorate will take into consideration all written representations submitted to the Council as part of the planning application, as well as written representations submitted as part of the appeal. It is important that you adhere to the timescales prescribed by the Planning Inspectorate for written submissions.

Public Inquiries are open to the public, and although the Planning Inspectorate is not obliged to allow members of the public to speak at the inquiry, the Inspector may nonetheless allow interested parties who have submitted written representations to speak at the inquiry.

If you wish to speak at an inquiry, it is important that you are there when it opens (on the first day) because the inspector will:

- Go through some routine matters.
- Tell everyone about the timetable and the order that proceedings will take.
- Ask if there are any interested people who want to speak at the inquiry and will register their names.

If you told the inspector at the start of the inquiry that you wanted to speak, and you decide to ask any of the witnesses a question (or questions) you must make sure that your questions are relevant to the evidence the witness has given. You should not repeat questions that have already been asked.

When the cases for the main parties have been completed, at the Inspector's discretion, anyone who is interested in the appeal usually has the chance to speak and present their case. When giving your views you should not repeat arguments that you have made already in written representations, or which someone has already said, as this does not help the Inspector.

The Inspector will usually ask if you are willing to answer questions about your evidence. You do not have to do this, though it is often helpful to do so and it may add weight to your evidence. Do not feel intimidated. The Inspector will not let anyone ask you hostile or unfair questions.

If a group of Interested Parties or a parish council would like to have a more active role in the Inquiry, then they may wish to become [Rule 6 parties](#). It is critical that if you want to appear at the Inquiry as a Rule 6 party, that you notify PINS as soon as possible and provide a Statement of Case.

## Appendix One – Member and Officer Working in Planning

Ward councillors have an important role to play as representatives of their communities and to bring local information to the decision-making process. Ward councillors may therefore become involved in discussions with officers about individual applications. However, they should remember that it is very easy to create the impression that they are using their position to influence the progress of the application. Any discussions with officers should be seen to be open and above board to avoid any potential accusations of impropriety. Officers should make a note on the file of any such discussions.

Members should not put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the planning officer in your constituency role, which may be incorporated into any committee or delegated report.

Members should recognise that officers involved in the processing and determination of planning matters must act in accordance with the Council's Employee Code of Conduct and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions, or recommendations, will be based on their overriding obligation of professional independence.

Members should approach discussions with Planning Officers professionally, respectfully, and courteously. Whilst planning is often an emotive subject, it is not acceptable for members to be threatening, rude, derogatory or use demeaning language. This can cause distress and hurt and leads to distrust between members and officers.

Members should be aware that they may be communicating with junior officers, who do not have the political awareness and experience of senior officers in the Council.

### **The Planning Protocol sets out what members can expect from planning officers:**

- a. Develop a respectful working relationship.
- b. A focus on working together to achieve positive results.
- c. Integrity, mutual support, and appropriate confidentiality.
- d. Openness, transparency and sharing of information provided it does not prejudice an investigation.
- e. For officers to give advice and information to councillors and to implement the planning policies determined by the Council.
- f. In giving advice and preparing and presenting reports officers will express their professional opinions and make recommendations
- g. Officers will act in a highly professional manner, in line with the principles set out in the RTPI's Professional Standards: Code of Conduct.
- h. Assist and support members in their understanding of the planning process.
  - i. Provide training and development for councillors to carry out their role effectively.
- j. An awareness of and sensitivity to planning issues within the political environment.
- k. Timely response to planning enquiries.
- l. Notification of Decision relating to a call-in of an application to either Strategic Sites Committee or Area Planning Committee and updates as appropriate.
- m. An understanding of and support for respective roles.

n. To take all responsible precautions to ensure that no conflict of duty arises between the interests of the Council and the interests of themselves or any third party and shall declare any at the earliest opportunity

### **Benefits of Collaborative Working**

Planning Officers and Members should strive to work together to achieve positive results. Members have the capability to be advocates for the planning service out in the community as well as being useful sources of local information.

### **Communication**

Where possible members should utilise Member Surgeries in favour of email correspondence. Not only does this provide Members access at an agreed time to the right officers, it allows a more focused use of limited planning officer resources.

The aim of the surgery is:

- To provide members with a means for discussing planning issues raised by constituents in an open and confidential environment of mutual respect and trust.
- To allow members to build up a better knowledge of the planning system and more confidently perform their roles as local councillors and as advocates for the planning service.
- To increase visibility of officers and allow relationship building.
- To reduce the number of misdirected emails being received

It should be noted that Surgeries are exclusive to members and invites should not be forwarded to third parties.

Planning Officers should proactively respond to members and indicative timescales are set out below:

Telephone Call	Within 48 hours
Email Correspondence	Within 3 working days
Member Surgery Slots	Within 2 working days

Officers will aim to achieve these timescales, however this may not always be possible, for example on the lead up to a planning committee, during an appeal or when officers are on leave.