

## Understanding planning permission in Burwash

### The overall situation

- 1 The rules about planning permission in Burwash are determined by policies set nationally, policies set by the local authority, general practice and, when in force, the Burwash Neighbourhood Plan. The rules are interpreted by Planning Inspectors and the courts, and their decisions help to determine the policies and how much weight should be given to the various factors in planning applications.
- 2 Most planning applications are dealt with by district councils. This note does not deal with those that are not dealt with by district councils. Burwash's district council is Rother District Council (Rother) in Bexhill.
- 3 There are two main types of planning decision dealt with by Rother: a) 'Planning Applications', and b) 'Listed Building Applications'. The first type is self-explanatory and the second is for alterations to a listed building or development 'within the curtilage of a listed building'. A listed building means a building or monument on the list kept by Historic England, a government body formerly known as English Heritage. Listings are either Grade I, Grade II\* or Grade II.
- 4 There is a section on Rother's website to help users determine whether they need planning permission: <http://www.rother.gov.uk/article/10276/Do-I-need-planning-permission>.

### The two stages for planning permission for major development

- 5 The first stage is called outline permission. The second is called detailed planning permission. At the outline stage the developer asks for permission to build the housing unit, state the number of affordable housing units there will be, if there are any, how the access arrangements satisfy the rules about that and such matters as the developer wants agreed. The detailed application decides the design of the housing units and the details of the application.

### Planning conditions and section 106 agreements

- 6 When there is a grant of planning permission for either outline or detailed planning applications, Rother will set out condition to the grant. Rother has a practice of requiring a section 106 agreement. This is a binding contract (agreement) between Rother and the developer. Once signed it binds both parties and is not subject to an appeal to the Planning Inspectorate for five years. In theory there is an appeal to the High Court but the applicant would have to show: a) Rother's decision was a decision that no competent authority could make knowing all the facts about the issue and b) that it would be appropriate to quash the decision. As a result this line of appeal exists in theory but is very unlikely ever to be used.

### Planning applications for large developments

- 7 For large developments the procedure for both outline and detailed application used by Rother is as follows. Those with a \* are stages Rother wishes applicants to undertake.
  - a) Contact with Rother for pre-application advice\*.

- b) Consultation with the local parish council\*.
- c) Consultation with the local community\*.
- d) The submission of the planning application with the fee.
- e) Rother checks the application and if it is in order validates it.
- f) Rother puts the application and supporting documents on its planning portal so the public and others can see them.
- g) Rother fixes a pink notice at or near the site and usually sends a letter about the application to those living on or next to the site. The pink notice is in effect the starting gun for the consultation period. The notice gives the planning number and the date for the consultation period.
- h) Rother informs the statutory authorities, like the parish council for the site, the police and East Sussex Highways. Rother also informs interested parties like the High Weald AONB Unit and those who have signed up for an e-mail alert for new planning applications in their parish.
- i) The public are given 21 days to comment on, object to or support the application. These comments etc. can be made on Rother's planning portal, by e-mail to Rother or in writing. Comments and documents from the public and official bodies are posted on the planning portal.
- j) The planning committee of Burwash Parish Council considers the documents on the planning portal and comments on the proposal.
- k) Rother's planning officers for the application consider whether others should be consulted and whether more reports or documents are required by the developer.
- l) Rother's planning officers draft an officer's report for the application. The report will set out the planning history for the site, the relevant law and principles, the representation received, their view on the main issues and their recommendation to Rother's planning committee. The recommendation will be either to grant or to refuse the application.
- m) Whether an application is referred to the committee looks simple. It isn't. Where there is a contentious application it is likely to be referred to the committee by a senior planner or one of the councillors.
- n) If the application is to be decided by the planning committee, members of the committee, who are some of the elected councillors and one or more planning officers, look at site. The policy is that these site meetings should be held on the Tuesday before the committee meeting and the committee meeting should be on a Thursday. The group visits the sites by coach. Site meetings are carefully monitored and no contact is permitted between committee members and the site owner,
- o) On the appointed Thursday, the planning committee meets and decides whether to grant or to reject the application. They can, but rarely do, ask for more information and adjourn the decision. If an application is granted, it is usually with conditions. If the application is rejected, the committee sets out the reasons for the refusal.

## **Appeals**

- 8 The applicant can appeal against a refusal or the conditions imposed if he or she lodges an appeal with the Planning Inspectorate in Bristol within six months of the decision. He or she can appeal to the High Court, but the High Court will be reluctant to grant an appeal where the issues are factual issues which should be considered by the Planning Inspectorate.
- 9 Objectors to the application cannot appeal to the Planning Inspectorate. They can only appeal to the High Court. The High Court judge will only intervene if there was a significant error of law made or the decision was 'against the weight of the evidence' such that the decision was outside the discretion of the planning committee.

#### **Planning applications for development which are not for large developments**

- 10 The procedure is similar to the one for major developments except some stages may not apply. There is unless the matter is referred to the committee no officer's report.

#### **The policies and factors for a planning application**

- 11 The main policy determined nationally is the National Planning Policy Framework issued in February 2019 [create link]. Rother's planning policy is the Local Plan, commonly known as the Core Strategy [create link]. This is being updated. The High Weald AONB Unit's guide was issued in late 2019 [create link].
- 12 Frequently used objections for unsuitable developments in rural Rother are:
  - a) The development is not a sustainable development. Sustainability means 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'. It is central to the economic, environmental and social success of the country and is the core principle underpinning planning' It may mean insufficient transport links, poor connections to the village hub or the hub is too far away.
  - b) The development would have an adverse impact on the High Weald Area of Outstanding Natural Beauty (AONB).
  - c) The development is not within the development boundary.
  - d) There are special ecological problems which make the development particularly harmful.
  - e) The housing units are of a poor design.
- 13 Lack of school places and insufficient capacity at the local health centre make little impact as objections, because it is considered that while the housing units are being built, the education and health authorities would be obliged to find that capacity or people would have to travel for their education and health needs.

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