

# Development Control Customer Charter

South Derbyshire District Council  
Planning Services



INVESTOR IN PEOPLE

September 2004

*This Charter has been produced by the District Council to explain the standards of performance and services which you can expect in relation to Development Control from South Derbyshire District Council.*

*It briefly explains the Planning System so as to make the process of decision making more open and straightforward. The aim is that we should work together to improve our quality of service and enhance and protect the environment whilst, at the same time, allowing necessary development to take place in an appropriate way.*

*The Council is committed to improving the quality of the built environment and preserving and enhancing the countryside.*

*Planning is a complex subject often seen as a balancing act regulating changes to the environment in the interests of the wider community.*

*The District Council recognises that potential conflicts exist and it is important that you understand what can reasonably be expected within the clearly defined limitations placed on the Council.*

**Gill Hague**  
Head of Planning Services  
Sept 2004 (Revised August 2007)

## Targets

Targets stipulated at various places throughout the text are summarised below in terms of working days;

- Replies to pre application advice sought in writing within 10 working days
- 90% of sites visited within 15 working days
- 80% of applications decided within 8 weeks
- 90% of decisions made by officers under powers delegated by the Development Control Committee
- 90% of decision notices sent out within 2 working days
- 85% of complaints regarding breaches of control initially investigated (at least) within 15 working days

The Council will publish its performance targets for dealing with planning applications and how well it has done every year. We hope you will find this guide informative and helpful.

Large print and audio copies of the Charter are available on request. Help for those who speak in languages other than English can also be provided. If you would like to use either of these services, or if you have any queries about the Charter, please phone 01283 595743. Help is also available online by clicking on [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)

## Service & quality

Development Control is a statutory duty of the Council governed by law. It involves dealing with planning applications, monitoring development and enforcement action where serious breaches of control occur.

All planning applications must be determined in accordance with the Derby and Derbyshire Structure Plan and the Council's Local Plan adopted in May 1998 (and more recently the Draft Local Plan (January 2003) will also be considered), unless material factors justify not doing so.

Officers provide information and advice about development proposals and are happy to discuss planning law and policy in relation to any specific planning issue you may have.

Our aim is to make the best informed and fairest decisions, rather than merely the quickest, having considered the needs of applicants and the views of experts and neighbours.

Whether you are an applicant or wish to comment upon an application, we understand that you may be unfamiliar with planning policy and procedures and we aim to treat everyone courteously and equally.

We try to ensure that application forms, notification letters and explanatory leaflets are written in plain English.

## Information & advice

We encourage discussions before an application is made. Early talks can make the planning process easier for you and improve the quality of applications received. They can also help us to process your application more quickly.

If we cannot advise what the recommendation will be, we will at least give you advice on the likely determining issues. Advice will be given to the best of an officer's ability based on information available at that time in an accurate and objective way but without prejudice to any future course of action taken by the Council.

Advice will be based on the policies of the Local Planning Authority, which are set down in the Local Plan and fleshed out in supplementary planning guidance. These are available on the Webpage.

The Council provides a form for private householders and their agents to fill in and find out whether the development proposed needs planning permission. The form (as others) are available on the Council's website or at the Council's Main Reception.

If you would like to speak to a particular Planning Officer who is not available, you may like to leave a message or make an appointment to see them at another time. All pre-application enquiries will be treated as confidential unless other relevant organisations need to be involved in the advice to be given.

*If you seek pre application advice in writing we will aim to reply within 10 working days.*

In all our dealings planning staff aim to be polite, fair and professional.

## Submitting a planning application

It is the responsibility of an applicant to make sure that the planning application is made correctly. Staff or the website will provide assistance in completing the forms.

We will also advise on the correct fee to be paid and on the plans which you will need to show your proposals. We can also provide Ordnance Survey location plans but there is a charge for this service.

Taking care to ensure that your application is complete and accurate will save time later when neighbours, the Parish Council and other bodies are notified of your proposals.

If you use an agent then, all correspondence and negotiations will be directly with them. Valid applications will be registered and their receipt acknowledged.

You will be notified if your application is found to be incomplete or if the proposal does not need planning permission. Incomplete applications will be held pending receipt of the necessary information or returned so that the necessary corrections can be made. If you are in any doubt about which form to use, you may contact planning staff for assistance, prior to making the application.

In addition to full or outline planning applications, we also process a large number of other applications covering:

- **Details or Reserved Matters**
- **Listed Building Consent**
- **Conservation Area Consent**
- **Display of Advertisements**
- **Farming and Forestry Notification**
- **Works to protected trees or trees in conservation areas**
- **Telecommunication notification**

- Certificate of lawful use or development
- Hedgerow removal
- Hazardous substances
- Demolition notification

## Dealing with an application

Once they are registered, Case Officers deal with all applications. These may be inspected by anyone who wishes to in the office. Brief details are also available on the Website. The Case Officer's name will be on all correspondence.

***In 90% of cases, the Case Officer will visit the site within 15 working days of receipt of the application.***

Appointments will be made where necessary if access is required to the site is found to be a difficulty.

Following the visit you (or your agent) will be contacted if there are any problems and to discuss any amendments needed to make the proposal more acceptable (if possible).

It is the Council's practice to discuss difficulties and to negotiate, where possible, towards an acceptable scheme rather than refusing an application which could be approved with sensible minor amendments.

Some applications fail in principle, in which case officers will endeavour to explain the reasons for refusal and, if possible, how they might be overcome by a resubmission.

Many less contentious and minor applications can be dealt with speedily but others involving more complicated issues or an assessment of their environmental impact, may take longer.

Applications should be determined within 8 weeks of registration. A formal extension to this period will only be sought where there are good reasons for doing so. Whether or not the 8 week period has expired, we will proceed on the basis that you want a decision to be made by the Council, unless/until you advise otherwise. Your co-operation will help to ensure that delays can be kept to a minimum.

***The Council aims to deal with 80% of most applications within 8 weeks***

The Council relies on others, including applicants and Parish Councils, to consistently deal with applications speedily.

However, the Council will not put speed above making well informed decisions in the overall public interest.

## Commenting on a planning application

The Council has to carry out formal consultations on almost all applications, for example, with the Parish Council or Highway Authority. The Council also notifies interested parties and neighbours in accordance with Government requirements and its own adopted practices. This is done in writing and sometimes also by displaying a site notice. Major applications are also advertised either in the Derby Evening Telegraph or the Burton Mail.

People notified in writing of an application which may affect them will be given advice on how to comment and what are relevant grounds of objection.

21 days are allowed for neighbours (or the public) to comment upon an application. If you have difficulty meeting this deadline please advise the Case Officer. Comments by letter, e-mail or over the web will be accepted but verbal comments will not.

Details of all current planning applications can be inspected at the Civic Offices during normal office hours which are weekdays from 8.45 am (9.30 am on Wednesdays) to 5.00 pm (4.30 pm Fridays).

It is our current practice to consult directly with neighbours having a common boundary with the site, upon whom it can reasonably be said there would be an impact, or to use a site notice to inform others in the area of the application (as appropriate). Anyone is entitled to comment on a planning application whether or not they receive a letter. A list of applications recently received can also be found on the Council's website ([www.south-derbys.gov.uk/planning](http://www.south-derbys.gov.uk/planning)) along with the facility for making comments.

***We will acknowledge letters of representation on the day of receipt if they are accompanied by a stamped addressed envelope.***

The officers will not enter into correspondence about the merits of applications with third parties other than with organisations whose representations are required to produce sound decisions.

However, a copy of the decision notice is available on the Council's website. Decision Notices will be sent out to third parties on the same day as they are dispatched to the applicant/agent.

The decision notice, officer's report to Committee and all representations received and considered are held on file. These are available for inspection and can be copied during normal office hours. A charge for inspection and copying will be made.

Local views are welcome and help the Council to consider planning applications fully. However, any comments made on an application are open to public inspection.

With an appointment, Planning Officers or support staff are available to help you to inspect plans and to make constructive comments upon an application. Planning staff are impartial professionals and cannot take sides!

The planning decision or officer recommendation to the Committee will always be based on the individual planning merits of the application. Therefore, to make your views count you should clearly set out your concerns relating them to matters relevant to a planning decision.

### **Matters relevant to a Planning Decision**

**N.B.** This list is not exhaustive but may help you to focus your attention on the important points. In deciding whether to grant planning permission, the Council must refer to the **Structure Plan** and the **Local Plan**, together with **Central Government advice and Guidance**. It must also consider all other **material planning considerations** such as:

- siting, design and external appearance; including the size, shape and proportion of a building and its appropriateness to the locality;
- the appropriateness of the use of the building or land;
- the effect on the landscape or setting of Listed Buildings or Conservation Areas;
- the provision of landscaping and protection of trees and natural features;
- site stability, liability to flooding, drainage, highway safety, means of access and parking.

## **Matters not relevant to a Planning Decision**

These matters are not planning considerations and cannot be taken into account in deciding planning applications:

- matters controlled by other legislation including public health,
- the quantity or quality of water supply;
- effects on private rights;
- values of neighbouring properties;
- retention or protection of a view;
- ownership of the land or buildings,
- moral issues, e.g. in relation to public houses, amusement arcades or betting shops etc.

## **The planning decision**

Approximately 10% of all planning applications are dealt with by the Development Control Committee which is made up of elected Councillors. These are the major or contentious cases. The remainder of the applications are decided by Planning Officers under powers delegated to them by the Committee.

The delegation agreement may be inspected at the Planning Reception.

The great majority of applications receive approval and most of these are made subject to conditions.

***90% of decision notices will be sent out within 2 working days of the decision.***

Applications will be refused where minor changes cannot be made to make them acceptable (see 'Dealing with an application' above).

You have 3 months from the refusal of an application (6 weeks for the display of an advertisement, 28 days for the refusal of permission to carry out works to protected trees) in which to appeal to the Secretary of State. You may also appeal against an unreasonable planning condition.

There are 3 types of appeal;

- (1) **Written Representations**
- (2) **An Informal Hearing**
- (3) **A Public Inquiry**

The majority of appeals are dealt with by written representations between the appellant and the Local Planning Authority.

In all cases the inspector appointed by the Secretary of State to determine the appeal will hold a site visit as necessary and reach a decision on the appeal independently.

## Development monitoring and enforcement

Occasionally developments take place without the prior and proper benefit of permission.

These are in breach of Planning Control and the Local Planning Authority can use enforcement powers to remedy the breach.

Moreover, once planning permission has been granted, it can only be carried out in accordance with the approved plans and the planning conditions. To do otherwise is also a 'breach of planning control'.

It is an applicant's responsibility to ensure that development is carried out in accordance with approved plans and that any amendments are sought **before** they take place. **Major** changes require a fresh application. Revised applications are subject to the same consultation and notification arrangements as the original application.

Some **very minor** changes can be dealt with by officers without the need for a fresh application. Such changes are not subject to reconsultation/notification on the basis that only those that make no material difference to the development will be accepted under the permission already granted. Otherwise, officers will call for a new application.

### Enforcement

The Council is committed to investigate possible breaches of planning control and unauthorised development. We seek your help in bringing matters which concern you to our attention.

Investigations may reveal that no unauthorised development has taken place. When it has, the Council has discretion as to whether or not to take action depending on the extent of any breach of its policies or guidance.

Concerns that breaches of control have occurred will be:

- **treated fairly**
- **investigated, at least provisionally, within 15 working days in 85% of cases and**
- **the outcome of any action will be explained to you, if you have so requested.**

The Council aims to preserve confidentiality as far as possible. The Council is party to the Enforcement Concordat as recommended by the government and also has a policy for prioritising enforcement work.

The main sanction against unauthorised development is an **Enforcement Notice**. There is a right of appeal to the Secretary of State for the Environment within one month of the service of an enforcement notice.

A **Breach of Condition Notice** may be served against development which fails to meet the requirements of any condition of a planning permission. There is no right of appeal against such a notice and the matter may proceed to the Magistrates Court, where fines can be imposed.

The Council can serve a **Planning Contravention Notice** when the landowner fails to respond to reasonable requests for information. This is also a matter for the Magistrates and there are fines for not replying or for giving false or misleading information.

Enforcement action is taken as a last resort, and **only** after negotiations have failed.

You may report a suspected breach of Planning Control in writing or verbally.

Anonymous complaints will be disregarded.

## Complaints

Anyone who feels that they have been treated unfairly by the Local Planning Authority can make a complaint to the 'Ombudsman' (the Commissioner for Local Administration in England). She may investigate complaints and can find 'no maladministration'; or, alternatively, 'maladministration by the Council' and, in the latter case, with or without injustice to the complainant.

The 'Ombudsman' can suggest, but not enforce, remedies in the case of maladministration. She cannot question the policies of the Council, only their administration.

The address of the Ombudsman is:

Mrs P A Thomas  
Local Government Ombudsman  
Beverley House, 17 Shipton Road, York YO3 6 FZ  
Phone: 01904 663200

**Before** contacting the Ombudsman you are advised to initiate the Council's own complaints procedure by contacting the Customer Services Manager or write directly to the Chief Executive, Frank McArdle, at the Civic Offices to see if the matter can be resolved locally.

## Further information

In addition to controlling development, the Planning Service also prepares the Local Plan (to be replaced over time by a series of documents making up a Local Development Framework) and provides the Building Control Service.

### Key names and contacts:

Tony Sylvester	<b>Development Control Manager</b>	01283 595743
Mary Gibson	<b>Area Planning Officer</b> Swadlincote & Southern Parishes	01283 595744
Tony Burdett	<b>Area Planning Officer</b> North Eastern Parishes	01283 595746
Tim Dening	<b>Area Planning Officer</b> North Western Parishes	01283 595748
Tony Young	<b>Area Planning Officer</b> Midway, Newhall, Woodville & Central Parishes	01283 595745
Stuart Taylor	<b>Building Control Manager</b>	01283 595730
Ian Bowen	<b>Planning Policy Manager</b>	01283 595821
Graham Fairs	<b>Local Highway Authority</b> <b>Liaison Officer</b>	01629 580000 EXT 7648
Pam Carroll	<b>Complaints</b>	01283 595906

If you require a copy of this information  
in another language, braille or large print format  
please contact the Customer Services Manager  
01283 595784.

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