



East Northamptonshire Council

Policy and Resources Committee - 9 December 2009

Constitutional and Procedural Changes

Summary

A number of changes are being proposed by the Constitution Review Group. Some of these changes require adoption in advance of the final report of the Group before April 2010 and the opportunity is being taken to consult relevant Committees to enable decisions to be taken at the Council meeting on 11 January. Other documents - prepared in accordance with the Development Control Improvement Plan - have been considered by that Committee

Attachment(s)

Appendix 1: Changes to Parts 4.1, 4.2, 4.4 and 5.3 of the Constitution

Appendix 2: Changes Parts 5.4 and 5.5 of the Constitution

Appendix 3: Changes to the Terms of Reference of Planning Policy Committee and the Licensing and Taxi Panels

Appendices 4 to 6: Other Documents endorsed by Development Control Committee

1.0 Introduction

1.1 The Constitution Review Group (CRG) was established at the Council meeting on 20 July 2009 to review the Council's Constitution and make recommendations to the full Council no later than 26 April 2010.

1.2 During the course of its work, the CRG has recognised the desirability of some changes being implemented in advance of its deadline. The intention, therefore, is for all relevant Committees to consider some important aspects with a view to the Policy & Resources Committee, at its meeting on 9 December 2009, making recommendations to Council on 11 January 2010.

1.3 The CRG wish to facilitate changes covering the following issues at this stage:-

- Member access to confidential papers
- Ability for Members not serving on particular Committees and Sub-Committees to remain in meetings after the exclusion of the public
- Determination of Licensing matters (non liquor and gambling) and conservation area adoptions and reviews
- Protocol for Involving Members in Pre-application discussions, (and other documents identified in the Development Control Improvement Plan).

1.4 The draft protocol referred to in the last bullet point above was considered by the Development Control Committee at a Special Meeting on 18 November. The draft was endorsed with some changes. The report to the Committee can be viewed on the Council's website –

www.east-northamptonshire.gov.uk/ppimageupload/Image16288.PDF

The Committee also considered a number of other draft documents, which have been prepared in accordance with the Development Control Improvement Plan. These other documents are designed to improve performance and procedures and do not involve changes to the Council's Constitution.

2.0 The Proposed Changes

(a) To the Constitution

2.1 Appendix 1 sets out the proposed and consequential changes to Parts 4.1, 4.2, 4.4 and 5.3 of the Constitution (deleted wording and new wording shown in brown), following on from the discussions at CRG. In summary, these are:-

- Ability for Members not serving on committees & sub-committees to remain in meetings after the exclusion of the public (Part 4.1 – Procedure Rules and Part 4.2 – Access to Information). The changes to 4.2 also address the question of other people who may be permitted to remain in the meeting, and clarify the position regarding schedules of decisions following meetings. The changes relating to the continued presence of Members in meetings after the exclusion of the public reflect recent concerns expressed by Members.
- Member Access to Confidential or Exempt Reports “Pink Papers” (Part 4.2 – Access to Information; Part 4.4 (Scrutiny Procedure Rules); and 5.3 (Protocol for Member & Officer Relations). Again, the changes proposed reflect recent comments by Members.

2.2 Appendix 2 sets out the changes (in brown and deletions) to Parts 5.4 and 5.5 of the Constitution to accommodate the new Protocol for involving Members in Pre-application discussions.

(b) Other Changes

2.3 Appendix 3 sets out changes to the Terms of Reference of (a) the Planning Policy Committee to transfer responsibility for Conservation Area adoption and review from the Policy & Resources Committee, and (b) the Licensing and Taxi Panels, to clarify the matters under taxi legislation which will be dealt with by members and also to widen the remit of, and rename, the Taxi Panels to accommodate any other licensing matters which require Member decisions. Terms of Reference of Committees are not part of the Council's Constitution but are linked to it and changes require full Council approval.

2.4 Appendices 4 to 6 set out the other documents, as endorsed by the Development Control Committee:-

- Development Control Charter
- Major Application Protocol
- Enforcement Policy.

2.5 The following information is provided in support of these 3 documents:-

2.5.1 Development Control Charter

The Planning Committee, on 9 August 2007, had previously approved a draft Charter (subject to minor amendments) but it was never published. The revision of this document was one of the tasks included within the Development Control Improvement Plan, to help improve the customer experience of development control. The aim of the review has been to make the document simpler and bring the performance measures in line with those reported to Performance Panel. The Charter is intended to provide a guide to what we do in development control and the level of service that our customers can expect.

2.5.2 Enforcement Policy

The Performance Committee on 4 September 2006 considered a report on the planning enforcement service and an Improvement Plan for this aspect of the service.

The majority of the outcomes in the Improvement Plan were completed some time ago. However the Enforcement Policy still needs Committee approval. The other main outstanding outcome is partnership working with Town and Parish Councils and it is proposed that this be kicked off with training sessions on enforcement.

The Policy has been re-written in plain English and now reflects our practice of seeking to reach a negotiated solution in enforcement matters. It also includes condition monitoring which is now part of the enforcement service. It is intended that it provide a guide to the level of service that our customers should expect from enforcement.

2.5.3 Major Application Protocol

One aspect of improving performance in relation to major applications has been the formalisation and tightening up of our procedures. The Major Application Protocol is intended to provide a guide to our customers about the service that we will deliver but also what we expect from them to ensure the timely processing of applications and the achievement of quality outcomes.

3.0 Recommendations

3.1 It is recommended that, subject to any comments made by the Scrutiny Committee and by Members at the meeting -

- (1) The proposed changes to the Council's Constitution shown in Appendices 1 to 3 be endorsed and recommended to Council for approval, and
- (2) The charter, protocol and policy outlined in Appendices 4 to 6 be approved for publication.

Implications:	
Corporate Outcomes or Other Policy/Priority/Strategy	
Good Quality of Life	<input type="checkbox"/> Good Reputation <input checked="" type="checkbox"/>
Good Value for Money	<input type="checkbox"/> High Quality Service Delivery <input checked="" type="checkbox"/>
Effective Partnership Working	<input type="checkbox"/> Strong Community Leadership <input type="checkbox"/>
Effective Management	<input checked="" type="checkbox"/> Knowledge of our Customers and Communities <input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours	<input type="checkbox"/>
Other:	<input type="checkbox"/>
Decision(s) would be outside the budget or policy framework and require full Council approval	<input checked="" type="checkbox"/>
Financial	There are no financial implications at this stage <input checked="" type="checkbox"/>
	There will be financial implications – see paragraph <input type="checkbox"/>
	There is provision within existing budget <input type="checkbox"/>
	Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>
	Decisions may have potential for income generation <input type="checkbox"/>
Risk Management	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>
	Material risks exist and these are recorded at Risk Register Reference - inherent risk score - residual risk score - <input type="checkbox"/>
Staff	There are no additional staffing implications <input checked="" type="checkbox"/>
	Additional staff will be required – see paragraph <input type="checkbox"/>
Equalities and Human Rights	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>
	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>
Legal	Power: Local Government Act 1972; Planning & Compulsory Purchase Act 2004

Other considerations: Council's Constitution					
Background Papers: Current Constitution; Development Control Improvement Plan; Minutes of Constitution Review Group					
Person Originating Report: Keith Osborne, Democratic Services Manager (01832 742113) and Sue Wheatley, Development Control Manager (01832 742247)					
Date: 17 November 2009					
CFO		MO		CX	

(Committee Report Normal Rev. 19)

APPENDIX 1

Proposed Changes to the Constitution – in brown and deleted text

Part 4.1 (Procedure Rules)

26. ATTENDANCE BY MEMBERS OF THE COUNCIL AT MEETINGS OF WHICH THEY ARE NOT MEMBERS

Members of the Council have ~~equal rights, as members of the public,~~ to attend meetings of committees and sub-committees of the Council, of which they are not members. Members attend as observers and must sit ~~in the public gallery separately from the committee or sub-committee~~ and may not participate or vote in such meetings. ~~This rule allows Members to remain after the press and public have been excluded from the meeting (provided that certain conditions are met (see paragraph 10.4 of Part 4.2 of this constitution)).~~

Part 4.2 (Access to Information)

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

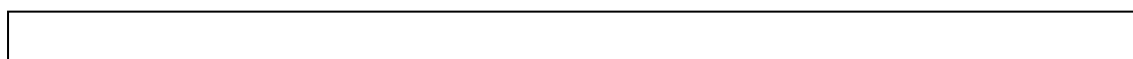
Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Where the meeting will determine any person's civil rights or obligations, or where any decision taken at a meeting may adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of exempt information

Exempt information means information falling within the ten categories set out in the following table (subject to the qualification shown)



10.4 Meaning of “public”

(a) The definition does not include Members of the Council who do not serve on a particular committee or sub-committee. Rule 26 in Part 4.1 allows such Members to remain in meetings after the exclusion of the public provided that they -

- Do not have a prejudicial interest in the matter to be discussed, and
- Fully observe Parts 5.3 - Paragraph 5 (Member & Officer Relations – Confidentiality) and 5.6 of the constitution (Protocol for Members on Confidentiality).

(b) A meeting may conclude that any person, for example, a consultant or representative from a partner organisation, can remain in a meeting after the exclusion of the public to provide information or answer questions on a matter to be discussed. Once information has been given and the meeting is ready to take a decision, the person(s) shall leave the meeting before such decision is taken.

12. INFORMATION FOR MEMBERS

12.1 Members’ rights of access to information are set out in Part 5.3 of this constitution.

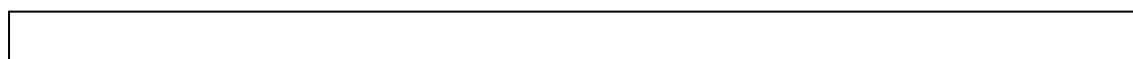
12.2 Committee agenda will be issued, for information, to all Members of the Council, whether or not Members of the relevant committee. A report of decisions for **Policy Committees*** will be made available to all Members within three working days of the meeting.

* This change is proposed because a schedule of decisions is only circulated for Policy Committee meetings

13. **SCRUTINY COMMITTEE & AUDIT & RISK MANAGEMENT COMMITTEE** **LIMIT ON RIGHTS**

Members of the Scrutiny and Audit and Risk Management Committees have no automatic entitlement to ~~(a)~~ any document that is in draft form but, in accordance with Part 5.3 of the Constitution, they are entitled to receive reports containing ~~(b) any part of a document that contains~~ exempt or confidential information (“pink papers”), especially ~~unless~~ since that information ~~is~~ may be relevant to an action or decision they are taking, reviewing or scrutinising, or intend to scrutinise.

Also change contents page



Part 4.4 (Scrutiny Procedure Rules)

9. Rights of Scrutiny Committee members to documents

9.1.1 In addition to their rights as Councillors, members of the Scrutiny Committee have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Parts 4 and 5 of this constitution.

Part 5.3 (Protocol for Member & Officer Relations)

Member's access to documents

4.5 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.

4.6 Council or Committee Business

Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council or Committee meeting. This right applies irrespective of whether the Member is a Member of the meeting concerned and extends not only to reports which are to be submitted to that meeting, but also to any relevant background papers. The Council has decided that Members of the Audit and Risk Management and Scrutiny Committees are entitled to receive reports submitted to other Committees and Sub-Committees which contain confidential or exempt information ("pink papers"). Other Members of the Council who do not serve on Audit & Risk Management or Scrutiny Committees or do not receive "pink papers" as serving Members on a particular Committee or Sub-Committee can see "pink papers" on request*. This right does not, however, apply to documents relating to certain items including background papers which may appear as a confidential (pink) item on the private agenda for meetings. Therefore Members do not have a statutory right to inspect exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

* should this request be made to the Monitoring Officer in writing ? (e-mail or letter) Need for some record to be kept

4.7 Generally

The common law right of Members is much broader and is based on a presumption in favour of any Members being able to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

4.8 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this

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respect a Member has no right to “a roving commission” to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”.

- 4.9 This question must initially be determined by the particular service manager whose section holds the document in question (with advice from the Chief Officer, Chief Executive or Monitoring Officer as necessary). In the event of dispute, the question falls to be determined by the relevant meeting i.e. the meeting in connection with whose functions the document is held.
- 4.10 ~~In some circumstances (e.g. a Member wishing to inspect documents relating to the business of a meeting of which he/she is a Member) a Member’s “need to know” will normally be presumed.~~ In other circumstances not related to the business of a Council or Committee meeting (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature are either not accessible by Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft document compiled in the context of emerging Council policies and draft committee reports, the premature disclosure of which might be against the Council’s and the public interest.
- 4.11 Whilst the term “Council document” is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a “need to know” and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.

5. CONFIDENTIALITY

- 5.1 Any Council information provided to a Member, orally, in writing or via a copy document, must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member’s duties as a Member of the Council. Early drafts of Committee reports and briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. Confidential information provided to Members should not be discussed with, or released to, any other persons.
- 5.2 A Councillor or a committee or sub-committee Member, necessarily acquires much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. A Member should never disclose or use confidential information for the personal advantage of him/herself or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.



APPENDIX 2

Changes in brown and deleted text

Part 5.4: Code of Practice for Planning Procedures

CONTENTS

	Page
1. Introduction and Basic Premises	1
2. Section 1 The Role of Members	2
3. Section 2 The Role of Officers	3
4. Section 3 Discussions with Applicants	4
5. Section 4 Lobbying	5
6. Section 5 Reports to Committee	6
7. Section 6 Site Visits	7
8. Section 7 Disclosures of Interest	7
9. Section 8 East Northamptonshire Council Applications	8
10. Section 9 Applications by Members and Officers	8
11. Section 10 Planning Obligations	10
12. Section 11 Training	10

Introduction

The way in which planning applications are determined is subject to a great deal of public and media interest; because of this, it is important that the system is seen to be open and free from improper influence.

This Code of Practice has been drawn up to set out clearly the way in which the Council deals with planning and other related applications. It applies to all Members and officers of the Council who are involved in the development control process, although recognising the separate but complementary roles of Members and officers in this process. The Code reflects the Council's longstanding custom and practice.

All references to Committee in this Code of Practice and Protocol (Parts 5.4 and 5.5 of the constitution) mean the Planning Committee.

Basic Premises

The basis of the planning system is the consideration of private proposals against wider public interests.

The successful operation of the planning system relies on ensuring that officers and Members act in a way that is not only fair but is clearly seen to be so.

Members have a special duty to their constituents, but their overriding duty is to East Northamptonshire as a whole. They should vote in the interests of the whole District in relation to planning matters. They should have regard to the Development Plan and all other material considerations.

1. In making decisions on applications, Members will:
 - act fairly and openly;
 - approach each application with an open mind;
 - carefully weigh up all the material planning considerations;
 - avoid undue contact with interested parties;
 - ensure that reasons for decisions are clearly stated.
2. The planning system exists to balance the consideration of private proposals against the wider public interest. Members must take into account the interests of all the District and will act in a way which is not only fair but is clearly seen to be so.
3. Members shall not give instructions to officers to secure a particular recommendation on an application nor shall they place pressure on officers in order to secure a particular recommendation.
4. Members can expect officers to give them every help and assistance in answering questions relating to planning matters.
5. Members of the Committee will be free to vote on planning applications as they consider appropriate, that is without a party “whip”, in the light of all the relevant information, evidence and arguments. This shall include the Development Plan and all material planning considerations.

6. In making decisions on applications, officers will:
 - provide professional and impartial advice;
 - make sure that all information necessary for a decision to be made is given;
 - set the application in the context of the Development Plan and all other material considerations;
 - provide a clear and accurate written analysis of the issues in the report to Committee;
 - give a clear recommendation.
7. Except where provided for by an adopted scheme of delegation or where the Committee gives specific delegated authority, officers will only give advice.
8. Officers are responsible for carrying out the decisions of the Committee.
9. The District Council endorses the Royal Town Planning Institute Code of Conduct, particularly the provision that chartered town planners shall not make or subscribe to any statements or reports which are contrary to their own professional opinions.

Pre-application meetings

10. Pre-application meetings with prospective applicants are encouraged and may involve Members, provided that the Protocol adopted by the Council and set out in section (a) of Part 5.5 of this Constitution is followed. ~~but to avoid misunderstandings they will only involve officers, other than where the Committee has by resolution specifically authorised that a pre-application meeting shall exceptionally involve Members. Committee shall specifically appoint the Members concerned.~~
11. It will be made clear at pre-application meetings that:
- only officers' initial and provisional views can be given, based on the provisions of the Development Plan and other adopted Council policy;
 - no decisions can be made which would bind or otherwise compromise the Committee or Members and/or officers specifically delegated under an adopted scheme of delegation to make the decision.
12. All officers taking part in pre-application discussions should make clear that decisions on planning applications are taken either:
- by the elected Members in Committee, or
 - under specific authorised circumstances in accordance with an adopted scheme of delegation,
- and if the application is to be determined under a scheme of delegation the officer taking part in the pre-application discussions should indicate whether or not he/she is the decision maker.
13. A written note will be made of all meetings. A follow-up letter should be normal practice when documentary evidence has been left with the Council.
14. A note will also be taken of telephone conversations. The meeting note and any follow-up correspondence shall be placed on the planning application file, should an application materialise following initial discussions.

~~15. Where pre-application meetings involve Members, at least one officer will be present. **This is now covered (& extended) in the Protocol**~~

Renumber from this point

Post application meetings

16. Members will not take part in post-submission meetings with applicants or other parties, except as provided for by Section 4 of this Code, unless the matter has been reported to the Committee and the Members concerned have been specifically appointed by the Committee. A note of any discussions will be taken and will be made available for public inspection, subject to the rules

about access to information. At least one officer will be present at all such meetings.

Lobbying

Section 4

17. Quite apart from Member involvement in pre-application and post-application discussions, ~~It is common for~~ applicants and others ~~to~~ may wish to discuss a proposed development with Members before an application is determined. This can aid understanding of the issues involved. However, to avoid compromising their position before they have received all the relevant information, evidence and arguments, Members of the Committee will:
- not make it known in advance whether they support or oppose a proposal;
 - not express an opinion which could be taken as support for or opposition to a proposal;
 - not organise support for or opposition to a proposal or lobby other Members (other than when addressing Committee);
 - restrict their response to giving procedural advice;
 - direct lobbyists or objectors to the case officer;
 - advise the Head of Planning Services or the Chairman of the Committee of the existence of any lobbying interests.
18. Members of the Committee may express support for a particular body of opinion in advance of the matter being considered by the Committee, provided they make it clear that they will not reach a final view on a proposal until such time as they are in possession of all the relevant information, evidence and arguments.
19. Arrangements exist for the public (an applicant or agent; a local resident; a Parish/Town Council representative) to speak for or against a planning application at meetings of the Committee. Members of the Council who are not members of the Committee will not be permitted to speak on behalf of planning application supporters or objectors during the public speaking session, but may address the meeting in their capacity as a District Ward, Parish or Town Councillor.
20. Any member of the Committee who wishes to express publicly a final view on an application prior to the meeting of the Committee at which a decision is to be taken will declare an interest and will not vote on that particular application. A Member in this position whose impartiality has otherwise been compromised will also need to consider whether to participate in or withdraw from the decision-making process. If a member of the Committee considers it inappropriate to fully participate and vote on an application affecting his/her ward, that Member may, subject to the normal rules relating to declaration of personal and private interests, address the Committee.

21. In accordance with the model code of conduct, Members should avoid placing themselves in a position that could lead the public into thinking that they have received preferential treatment for themselves, for friends or relatives or for any firm or body with which they are personally connected.

Reports to Committee

Section 5

22. Committee papers will be available for public inspection five clear working days prior to the meeting.
23. All applications presented to the Committee for decision will have a full written report from officers, including a summary of objections and the views of those who have been consulted, the relevant site or related planning history, the Development Plan context and relevant planning policies, any other material considerations, a reasoned consideration of the proposal and a clear recommendation.
24. Any material planning information that is received after the written report has been prepared will be presented orally by officers to the Committee. A written note of any oral report will be made and kept on the case file.
25. The Head of Planning Services has the discretion to withdraw any development control item from the agenda of the Committee subsequent to the preparation of the report, but prior to discussion by the Committee, if the circumstances of the consideration of the item change within that period.
26. Where an application is determined in accordance with an officer's report, the decision will be as set out in the report, subject to any amendments which officers or Members put forward at the Committee meeting and as may be resolved by the Committee.
27. Where Members disagree with the officer recommendation, the reasons for rejecting that recommendation will be clearly stated at the meeting and recorded in the minutes of that meeting. A copy of the minutes shall be placed on the application file. Members need to be sure that when they do not follow officer advice; their decision is based on sound planning reasons, which may need to be justified at an appeal. Also, such decisions may be subject to scrutiny by the Monitoring Officer and the process by which such decisions are reached by Members may be subject to scrutiny by the Scrutiny Committee.
28. Before an application is determined at a meeting of the Committee, members of the public (an applicant or agent; a local resident; a Parish/Town Council representative) may address the Committee for no longer than 2 minutes, to outline points of concern or support, subject to compliance with the Council's published procedures on public speaking. This right reflects Articles 6 and 10 of the European Convention of Human Rights (Right to be heard and Freedom of Expression).

29. All sites are visited and assessed by officers as part of the planning application process. However, Members may wish to visit sites, for example, to understand local conditions and the relationship of a proposed development to the surrounding area.
30. Official (formal) site visits authorised by the Committee will be held where there is a clearly identified benefit from holding one.
31. When Members undertake an unofficial (informal) site visit to an application site on their own or in company with another Member or Members, but this also involves another party such as an applicant, objector or Parish Council representation, then this visit should be declared to the Committee prior to the consideration of the application
32. A protocol for planning application site visits has been adopted by the Council, which is set out in Part 5.5 (b) of the constitution. The protocol covers both official (formal) site visits authorised by the Committee and unofficial (informal) visits by one or more individual Members.

33. The law and the model Code of Conduct set out the requirements and guidance for Members on declaring personal and prejudicial interests and the consequences of having such interests. Members should regularly review their situation with regard to interests. Under the model Code, not only should impropriety be avoided but also any appearance, or grounds for suspicion of improper conduct or bias.
34. Members and officers are discouraged from receiving hospitality or gifts from people with an interest in a planning proposal. If a gift or hospitality is received or is unavoidable, Members and officers must declare its receipt to the Council's Monitoring Officer. Under the model code of conduct for Members, the receipt of a gift or hospitality with an estimated value of £25 or more is regarded as a personal interest, which must be declared at a meeting at which the planning matter is discussed and registered with the Monitoring Officer within 28 days. In the case of officers, receipt or offer of a gift or hospitality, must be declared to the Council's Monitoring Officer as soon as possible and recorded in the register held by the Monitoring Officer for the purpose.
35. As referred to in paragraph 20 (section 4) of this Code, any Member of the Committee who wishes to express publicly a final view on a planning application prior to the meeting of the Committee at which a decision is to be taken will declare an interest and will not vote on that particular application.

36. It is the Member's responsibility to disclose his or her financial interest and that of his or her spouse, whether direct or indirect in any application being considered by Committee. Any interest should be disclosed on every occasion.
37. There shall be a standing separate agenda item for declarations of interest at the beginning of meetings of the Committee.

East Northamptonshire Council Applications Section 8

37. Where the District Council is landowner it too will require planning permission or other approval before its own development may be carried out. The appropriate application will be submitted to the Council as local planning authority and will be treated in the same way as those submitted by private applicants.
38. All planning applications submitted on behalf of East Northamptonshire Council will be determined by the Committee.

Applications by Members and Officers Section 9

39. All planning applications which are submitted by or on behalf of Members or officers of the Council, or their families, in their private capacity, who are involved in the planning process, will be reported to the Committee for decision, rather than under any adopted scheme of delegation. Members and officers will inform the Head of Planning Services and the Council's Monitoring Officer in writing of all such proposals.
40. The Member or officer concerned will take no part in the processing or determination of the application.
41. The Member concerned, if present at the meeting at which the application is to be determined, will declare a personal and prejudicial interest and will have the opportunity of addressing the Committee if he/she wishes, under paragraph 12(2) of the Council's code of conduct. He/she will withdraw from the meeting for the discussion and determination of the application.
42. If the officer concerned is in attendance in an official capacity at the meeting of the Committee at which the application is to be determined he/she will similarly declare their interest and withdraw from the meeting for the determination of that item.

Planning Obligations

Section 10

43. The officer report to the Committee will set out the reasons why a planning obligation is required and the recommendation will indicate the draft heads of terms that the obligation will contain. These details will also be recorded in the minutes of the meeting.

Training

Section 11

44. All Members shall be offered training in planning procedures, **which shall include the Protocols set out in Part 5.5 of this Constitution.** . A commitment to undertake training will be a prerequisite of membership of the Committee. All members of the Committee will be offered training within six months of appointment and at least annually thereafter. This training will cover subjects as may be determined from time to time by officers in consultation with Members. Failure to undertake the initial training offered or persistent failure to undertake any further training by members of the Committee will result in disqualification from that Committee.

Part 5.5: Protocols for Involving Members in Pre-application discussions and Planning Application Site Visits

CONTENTS

(a) Involvement of Members in Pre-application discussions

	Page
1. Introduction1
2. Attendance of Members at Meetings with Developers	1
3. Presentation of Pre-Application Proposals to Committee.....	2

(b) Planning Application Site Visits

	Page
1. Purpose	1
2. Official Visits	1
3. Unofficial Visits	2

Part 5.5(a): Protocol for Involving Members in Pre-application discussions

1.0 Introduction

- 1.1 The Council has a protocol which sets out how major planning applications are to be dealt with. Some major applications will benefit from the involvement of Members of the Council and this protocol provides clear guidance regarding this involvement. This will help improve the built form of the development and help speed up the process.
- 1.2 In addition, Members may want to be involved with smaller applications and this protocol also applies.
- 1.3 Case Officers will need to notify the relevant Members when they receive a pre-application query, in relation to a major proposal and other proposals which they consider may be of interest to Members. The relevant Members are the Ward Member(s) and Members of the Development Control Committee responsible for other areas.
- 1.4 Members attending pre-application discussions must have attended a training session on conduct at pre-application discussions.

2.0 Attendance of Councillors at Meetings with Developers

- 2.1 Members of the Council, where necessary, can attend pre-application meetings with developers, about major applications, but only when at least one Officer is present. Generally however, there will need to be more than one Officer present to enable accurate notes to be made of the meeting.
- 2.2 The timing of these meetings will need to be carefully considered; involvement at an early stage will be essential. For certain applications involvement at other stages would be beneficial and a schedule of involvement may need to be agreed with developers.
- 2.3 At the start of the meeting the Officer will make it clear that the role of the Member is to listen to the discussion, identify issues that the developer will need to consider and represent community interests but that it will not be possible for the Member to enter into negotiations or express a view on the proposal as they need to balance all material considerations before reaching a decision on an application. It will be made clear that the reason for this is to ensure that a Member does not pre-determine their position at any subsequent Committee meeting.
- 2.4 If at any point in the discussions the developer presses the Member to take part in negotiations or express a view, the Officer will remind the meeting of the role of the Councillor.

2.5 The Officer will, within 10 days from the date of the meeting, produce detailed notes of the meeting. This will note those present, the issues identified at the pre-application discussions, and the actions to be taken. These notes will be circulated for approval to the Member attendees and after confirmation of accuracy by all those who attended, forwarded to the applicant.

3.0 Presentation of Pre-application proposals by developers to Development Control Committee

3.1 If a proposal is particularly significant or has more than just local implications a developer will be invited by Officers to make a presentation to Members of the Development Control Committee, together with the appropriate Ward Member/s. Generally this will not be a public meeting.

3.2 A developer will be advised of the time available for their presentation and will be expected to keep strictly to this programme.

3.3 There will always be an Officer/s in attendance at the presentation.

3.4 At the start of the presentation the Chairman of the Development Control Committee (or Vice-Chairman) will make it clear that Members will listen to the presentation, will identify issues that the developer will need to consider further, represent community interests and ask questions but that it will not be possible for Members to enter into negotiations or express a view as they will need to balance all material considerations before reaching a formal decision on an application. It will be made clear that the reason for this is to ensure that a Member does not pre-determine their view.

3.5 If at any point the developer presses for a view or seeks to negotiate with Members, the Chairman/Vice -Chairman will remind everyone present of what they said at the start of the meeting.

3.6 After the presentation the Officer will make a detailed note of the presentation and discussion within 10 working days. The developer should provide the Officer with any presentation material to assist with this. This minute will be placed upon a public file.

Part 5.5(b): Protocol for Planning Application Site Visits

1. Purpose

1.1 The purpose of this protocol is to ensure that site visits in relation to planning applications are conducted in a proper and business-like manner and that the high standards of conduct which are rightly expected from all those involved are maintained in the interests of open and transparent local government.

1.2 For the avoidance of doubt, if a Councillor views a site on their own (say from the highway or other public place) without the involvement of any other party, this protocol need not apply, but Members must use their judgement.

1.3 Site visits should only take two forms

i. “Official site visits” (formal) authorised by the Planning Committee

or

ii. “Unofficial site visits” (informal).

2. Official Visits

2.1 An official visit is one which is authorised by the Planning Committee. In coming to a decision to undertake a site visit, the Committee should be clear as to the purpose of the visit, for example, where Members consider it necessary to view a site within the context of its surroundings. The purpose will be formally minuted. The Committee should not decide on a site visit in a case where an applicant’s plans are inadequate, or solely at the behest of the applicant or objector. Site visits take time and money and should therefore be the exception rather than the rule.

2.2 An official site visit must be accompanied by a planning officer, who will record who was present from the Council, and the findings of the site visit (if any) based on an oral summary by the Chairman (or whoever chairs the site visit).

2.3 For the benefit of the Members of the Committee and anyone else on site or within hearing distance, the Chairman must state the purpose of the visit, the procedure to be adopted, and tell everyone that the Councillors will not hear oral representations as these can be made at the Committee meeting.

2.4 A site visit must be conducted in a business-like manner. Councillors must remain together in a group led by the Chairman. They must not leave the group and enter into separate discussion with applicants, objectors or third parties.

- 2.5 Councillors must not discuss the merits or otherwise of plans or applications with anyone, except through the Chairman and then only to seek clarification of matters of fact.
- 2.6 The only persons allowed to be present on site other than members of the Planning Committee and Council staff are the owners and the applicant (where different) or agent, where their presence may be required to:
- (i) provide access to the site;
 - (ii) advise the Chairman of any health and safety implications;
 - (iii) clarify any points of information which the Chairman (and the Chairman only) require.
- 2.7 No decision regarding the determination of an application should be made on site. The decision must be made at a formal Committee meeting.
- 2.8 Should there be any breach of this protocol, the Chairman has the authority to terminate a site visit, and any breach of this protocol will be recorded and referred to the Council's Monitoring Officer.

3. Unofficial Visits

- 3.1 An unofficial visit is one undertaken by a Councillor, either at his or her own behest or at the request of an applicant or objector or Town or Parish Council, and at which an applicant, objector or Town/Parish Council representative is present.
- 3.2 Before undertaking an unofficial visit a Councillor must consult the Head of Planning Services, the Development Control Manager or the case officer and brief him or herself on the issues relating to the application. Any negotiations on a planning application should be carried out by officers.
- 3.3 The ward Councillor must be consulted if the unofficial visit is outside the Councillor's ward.
- 3.4 A Councillor on an unofficial site visit must avoid giving the impression that he/she represents the views of the Committee or the Council. If a Councillor feels compelled to give a personal view, he or she should emphasise that the final decision is one for the Committee.
- 3.5 If the Councillor concerned is a member of the Committee, he/she can offer to represent the views of the applicant/objector or Town/Parish Council, but only on the basis that they are representing those views, which may or may not coincide with the Councillor's own and the Councillor should make that clear to the Committee when the application is formally considered.
- 3.6 If a Councillor undertakes a site visit at the behest of one party, he or she must consider discussing the application with other interested parties. Therefore, if the Councillor is approached to undertake a site visit by an applicant, for example, he or she should consider discussing the matter with

any objectors or the Town/Parish Council, where views have been expressed and of which the Councillor will have become aware from his briefing by the planning staff. If a Councillor decides not to approach other interested parties, he or she may be asked the reason for that decision.

- 3.7 If more than one Councillor is involved in an unofficial visit, compliance with this protocol is the responsibility of each Councillor in attendance.
- 3.8 Any Councillor who comes into contact with the applicant or objectors in the course of an unofficial site visit must declare it at the commencement of the meeting at which the matter is to be determined.

Changes in brown and deleted text

Planning Policy Committee

Approved by Planning Policy Committee – 5 June 2008 – Minute 39 and amended by Council on 11 January 2010

- 1 The Planning Policy Committee comprises 15 members appointed by the full Council at the Annual meeting, in accordance with the statutory political balance requirements, to be responsible for the formulation and development of the Council's Local Development Framework within the meaning of the Planning and Compulsory Purchase Act 2004.
- 2 The Planning Policy Committee coordinates the implementation of spatial planning policy and determines the strategic planning objectives for East Northamptonshire within the framework provided by the agreed North Northamptonshire Core Spatial Strategy.
- 3 Functions which are delegated, for example to a standing sub committee, working party or an Officer, and the limits of that delegation, are defined in Table 1 of the Constitution.
- 4 The Committee's terms of reference are:
 - (i) To lead the preparation of the Local Development Framework (LDF) for East Northamptonshire;
 - (ii) To determine a Local Development Scheme for East Northamptonshire, in conformity with the Core Spatial Strategy for North Northamptonshire, including the approval of the timetables, programmes and development plan documents forming the LDF;
 - (iii) To consider the community's response to consultation on land use policy issues in accordance with the Statement of Community Involvement;
 - (iv) To agree the strategic policies, area strategies and allocations, and monitoring frameworks that comprise the LDF for East Northamptonshire,
 - (v) To establish three area working parties to guide the preparation of plans for (i) the Rural North, Oundle & Thrapston, (ii) the towns of Rushden, Higham Ferrers & Irthlingborough (The Three Towns) and (iii) Raunds and their associated villages;
 - (vi) To consider recommendations for area strategies and allocations, and monitoring frameworks arising from the work of the three area working parties;
 - (vii) To approve draft policy documents for public consultation and Plans for submission;
 - (viii) To consider the timing and prioritisation of Plans and proposals recommended by the area working parties;
 - (ix) To respond to consultations on planning policy matters and proposed legislative changes,

- (x) To adopt new Conservation Areas and review existing ones following public consultation and
- (xi) To consider the financial impact of its decisions, and make recommendations for the allocation or reallocation of resources to the Policy & Resources Committee;

Proceedings of the Committee take place in accordance with the Procedure Rules set out in Part 4 of the Constitution.

Licensing (**Liquor & Gambling**) Panels

L & G Licensing Panels function as sub-committees of the Licensing Committee (a statutory Committee) and operate under powers initially delegated to them by the Licensing Committee on 26 January 2005 (Minute 349) and 25 January 2007 (Minute 328) but amended by Council on 21 April 2008 (Minute 418).

The membership of each Panel varies. All Panels consist of 3 Members of the Licensing Committee (who have had training) and determined under delegated powers exercised by the Democratic Services Manager.

Panels conduct hearings which follow the rules of natural justice and are governed by The Licensing Act 2003 (Hearings) Regulations 2005 and The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.

Panels have the power to –

- determine applications under the Licensing Act 2003:
 - for personal licence if a representation made;
 - for personal licence with unspent convictions;
 - for premises licence/club premises certificate if a representation made;
 - for provisional statement if a representation made;
 - to vary premises licence/club premises certificate if a representation made;
 - to vary designated personal licence holder if a police representation;
 - to be removed as designated personal licence holder;
 - for transfer of premises licence if a police representation;
 - for Interim Authorities if police representation;
 - review premises licence/club premises certificates.
 - determine police representations to a temporary event notice;
- determine applications under the Gambling Act 2005:
 - for a premises licence where representations have been received and not withdrawn
 - for a variation to a licence where representations have been received and not withdrawn

- for a transfer of a licence where representations have been received from the Commission
- for a provisional statement where representations have been received and not withdrawn
- for a review of a premises licence
- for club gaming/ club machine permits where objections have been made (and not withdrawn)
- for the cancellation of club gaming/ club machine permits
- for a decision to give a counter notice to a temporary use notice

Minutes will be submitted for information to either the Licensing Committee or to the full Council.

Licensing (Taxi & Miscellaneous) Taxi Panels

These Panels are effectively “Committees” in legal terms and **originally operated for taxi licensing matters** under powers initially delegated to them by the Council in January 2005 (Resources Committee minute 264 – 15 November 2004) and confirmed by the Council on 21 April 2008 (Minute 418). **The remit of the Panels was extended to other miscellaneous licensing matters in January 2010**

The membership of each Panel varies. All Panels consist of 3 Members drawn from the membership of the Licensing Committee (who have had appropriate training) and determined under delegated powers exercised by the Democratic Services Manager.

The Panels conduct hearings which are not governed by statutory rules but nevertheless follow the rules of natural justice.

Panels have the power to **determine** –

- (1) ~~determine~~ applications under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 relating to hackney carriage and private hire drivers’, **vehicles and operator licences not otherwise delegated to officers, and where the Head of Environmental Services is minded to refuse**
- (2) specifically, applications –
 - (a) *Where a Criminal Records Bureau Check reveals:*
 - Offences of a sexual nature
 - Offences relating to violent conduct
 - Offences involving substance abuse
 - Offences involving obscene material
 - Offences relating to dishonesty
 - Offences relating to Motoring Offences, including those listed in the schedule contained within the conditions of licence, as detailed below:-
 - (i) Dangerous driving.
 - (ii) Driving or attempting to drive whilst unfit through drink or drugs.

- (iii) Unfit through drink or drugs whilst in charge (as opposed to actually driving or attempting to drive) the vehicle.
- (iv) Driving or whilst in charge of vehicle with excess alcohol in the blood.
- (v) Motor racing on highway.
- (vi) Taking and driving away a vehicle without consent.
- (vii) Using without insurance.
- (viii) Driving without a licence.
- (ix) Driving with defective sight (and refusing to submit to eye-sight test).
- (x) Parking in a dangerous position.
- (xi) Failure to stop and give particulars after an accident.
- (xii) Failing to conform with the requirements relating to pedestrian crossing or a school crossing.
- (xiii) Failing to conform with traffic signs (including double white lines) or a policeman's signal.

/continued...

- (xiv) Breach of traffic regulations i.e. (no waiting, one-way working).
- (xv) Using, causing or permitting to be used, a vehicle in a dangerous condition or with defects (e.g. brakes, steering, tyres).
- (xvi) Permitting a vehicle to be driven without insurance and/or without a licence.
- (xvii) Permitting a person to drive under age if the offence occurred after the first application.
- (xviii) Careless driving, driving without reasonable consideration and driving without due care and attention.
- (xix) Any three current endorsements for speeding.

(b) Where Medical Conditions require specialist medical consultation.

(All other hackney carriage and private hire licences are determined under delegated powers exercised by the Head of Environmental Services).

(3) other applications for licences or registrations under specific legislation (eg house to house collections) not otherwise delegated to officers, and where the Head of Environmental Services is minded to refuse (with the exception of Liquor and Gambling).

Minutes of the Panels will be submitted for information to the full Council.



East
Northamptonshire
Council

Development Control Charter



Helping to manage the District's environment by
providing advice to applicants and the community

If you would like to receive this publication in an alternative format (large print, tape format or other languages) please contact us on 01832 742000.

Contents		Page
	Executive summary	4
1.0	Introduction	5
2.0	Statement of intent	5
3.0	Scope	5
4.0	The Need for Planning Permission	6
5.0	Pre-Application Discussions: Asking for Information and Advice	6
6.0	Formal Planning Application	8
7.0	Approval and Monitoring of Conditions	13
8.0	Requests for Minor Amendments	13
9.0	Appeals	14
10.0	Enforcement	14
11.0	Complaints and Performance	14
12.0	Monitoring and reviewing progress	15
13.0	References	15
	Appendices	
	Appendix A – Targets for performance against service standards 2009/10	16

Executive summary

How East Northamptonshire looks and is developed is important to local residents. The Development Control Service helps with the management of the District's environment by providing advice to applicants and the community, looking at planning applications, checking development, and taking enforcement action when the rules have been broken.

Our aim is to provide excellent customer service and to continually improve the service that we provide to all parties.

This Charter explains the work we do and what you can expect from each stage of the process. It also sets out standards against which our performance can be judged.

1.0 Introduction - The Development Control Service

The purpose of this document is to explain what we do, our commitment to achieve certain standards and targets and what you can expect from us.

1.1 In Development Control we manage the development and use of land and buildings in the public interest. To do this we:

- Give advice about the need for planning permission
- enter into pre-application discussions
- consider planning and related applications
- respond to planning appeals
- check development as it takes place
- take action when development is carried out without permission

1.2 The main outcome that we seek to achieve through development control is the protection and enhancement of the built and natural environment, which contributes to the quality of life of our residents.

1.3 Effective delivery of the service is also an important outcome to us as it will ensure good value for money for our residents and a good reputation with our customers.

1.4 To provide an effective development control service we work in partnership with consultees, including Town and Parish Councils.

1.5 By publishing our standards we aim to continue to improve our Development Control Service and make it as responsive as possible. We will set targets for the achievement of our standards and will monitor our standards and targets to ensure they are met. Our current targets are included at the end of this document in Appendix A. We will also monitor the content of this Charter to ensure that it remains up to date and relevant.

2.0 Statement of intent

2.1 Our aim is to make the best decision about each application, not necessarily the quickest. This means taking into account a proposal's impact on the environment and the community. It may also mean balancing the needs of the applicant against the effect a development might have on neighbours and other people living nearby.

2.2 Our service is controlled by Government legislation which means that at times we can have little choice about how we provide our service. In addition we have national service standards that we have to work to.

3.0 Scope

3.1 We recognise that applicants, neighbours, and the public are all customers of the Development Control Service. Many people may have little or no experience of how the system works. We will treat everyone in accordance with the Council's Customer Service Standards of:

- Integrity
- Equality and Opportunity
- Courtesy and fairness
- Clear Communication
- Responsiveness
- Reliability

You can find further information about these standards in our leaflet “Customer Service Standards”(<http://www.east-northamptonshire.gov.uk/ppimageupload/image13843.pdf>)

- 3.2 We want to ensure that our service is as accessible as possible. We therefore provide a Planning Helpdesk service between the following hours, for general queries and information about planning.
- Monday to Friday 9.00am to 5.00pm (closed 1.00 to 5.00 pm on Wednesdays).
- 3.3 Please note that we ask that you put requests in writing about the need for planning permission and the likelihood of planning permission being granted.
- 3.4 Our website includes a lot of useful information to help you (www.east-northamptonshire.gov.uk).
- 3.5 Advice is also available through the Planning Portal (www.planningportal.gov.uk).

4.0 The Need for Planning Permission

- 4.1 Some forms of development do not require you to submit a formal planning application. We have published a guide about this for householders “ Planning Applications for Householders” (<http://www.east-northamptonshire.gov.uk/ppimageupload/Image14232.PDF>). We also provide informal advice about the need for planning permission. Whilst you are able to ask for this advice by letter we do prefer it if you use our form which is available from the office or can be downloaded (<http://www.east-northamptonshire.gov.uk/ppimageupload/Image7339.PDF>) as this will help to ensure that you give us all the information that we will need to reply to you.
- 4.2 In rare cases you may need to make a formal application for a Lawful Development Certificate for the works you propose. Usually however our customers are happy to rely upon our written advice. We will advise you if we think you should make a formal application. You are strongly urged not to submit one of these types of applications until you have discussed your proposal with an Officer.

Service Standard 1 – requests about need for planning permission

We will respond to written requests about the need for planning permission within 10 working days.

5.0 Pre-Application Discussions: Asking For Information and Advice

- 5.1 We encourage applicants to discuss their proposals before a formal application is made; through these discussions we can try to resolve any obvious problems, encourage better quality applications and achieve the highest quality of development.
- 5.2 So that together we can make the process effective, worthwhile, timely and consistent it is important that we recognise what we each need to do.
- 5.3 We ask any potential applicant or developer to set out a summary of their proposals in writing. We are not able to deal with requests for pre-application advice by telephone. The amount of information that you need to provide will depend upon the scale of your proposal. *As a minimum* we ask that you provide a location plan clearly outlining the land in question. The fuller the information you provide at the enquiry stage, the more detailed our advice can be. However, for larger schemes it is essential that you seek our advice as early as possible and that we have constructive negotiation before you submit your application. We ask therefore that before submitting a layout plan you submit your analysis of the site identifying site constraints and opportunities and identify how your proposal accords with the development plan.
- 5.4 When we receive a request for advice we acknowledge receipt. As we allocate cases in a weekly meeting please do not contact us at this stage. We will let you know who will be your Case Officer within 10 working days. The Case Officer will review our previous planning decisions relating to the site and identify the key planning constraints and policies which would be relevant. They generally, but not always, make a site visit.
- 5.5 We aim to provide a full written reply within 20 working days on more straightforward cases.
- 5.6 For larger/major applications with more significant implications we will seek to make an initial response either in writing or at a meeting within 20 working days. In this we will identify what we both need to do and any further information required. Please note that we will expect to be involved in pre-application discussions about layout and design and also Heads of Terms for any planning obligation (which is a form of legal agreement) that may be required. We would also wish to see community engagement in pre-application discussions in accordance with the adopted Statement of Community Involvement (SCI) ([web link](#)), including involvement of appropriate Members of the Council, which will need to be in accordance with the Council's Protocol for Member Involvement in Pre-Application Discussions in relation to larger applications. ([link to this](#)).
- 5.7 The advice provided by Case Officers is their professional opinion, and whilst we do seek to ensure that this is accurate and objective, it is provided without prejudice to a decision on a formal application. We can never guarantee you the outcome of the process as other information may come to light following consultations, representations or more detailed consideration of the proposal; this might result in a different view being taken. You should not make any property purchases or start building works based solely on pre-application advice.
- 5.8 When we give advice about minor and householder development we will seek to identify who else you should consult before making a formal application; for example the Highway Authority, Environment Agency, Natural England and English Heritage. We will

not, as a matter of course, carry out these consultations for you. This should ensure that your formal application can be dealt with more quickly. For larger/major applications when necessary we will involve relevant organisations in pre-application discussions. For all development we will also identify, using the Council's Validation Checklist, (weblink) the information which you will need to submit with your application.

- 5.9 We will treat all pre-application advice in confidence where possible, although the Council does have a duty to consider the release of this type of information under the Freedom of Information Act, should a specific request be made. Please remember that you should try to make sure that you leave time for informed discussions and comments on your proposals during the pre-application stage. It is in your interest to reach an agreed position with us before any planning application is submitted because we will normally only enter into discussions at the application stage if only very modest or minor design amendments would be needed to overcome our objections to a scheme.
- 5.10 For further information about the pre-application process please see the Pre-Application Protocol at (new document - link to website).

Service Standard 2 – Pre-application advice, non major applications

We will answer written requests for pre-application advice for minor and other development within 20 working days of receipt.

Service Standard 3 – Pre-application advice, major applications

We will provide initial advice/full answer in response to written requests for pre-application advice for larger/major development within 20 working days of receipt.

6.0 Formal Planning Applications

Submitting a Planning Application

- 6.1 It is your responsibility to make sure that your application is submitted correctly. When filling out the forms, you should follow carefully the advice given in the relevant guidance notes on making an application. You should also ensure that you include all the supporting information required by the National and Local Validation Checklist (website link). Even a simple mistake can prevent us from registering the application. We can provide help or advice on completing the application forms. For an additional fee we can also provide copies of Ordnance Survey site plans. We encourage you to submit your application online via the Planning Portal website, as this will reduce your paperwork and make the process quicker, at www.planningportal.gov.uk
- 6.2 We check each application to make sure that all procedural requirements have been met. If valid, the application will be registered. A receipt of the application and fee acknowledgement will be sent to the applicant/agent. In the acknowledgement letter, the applicant/agent will be told the name and telephone number (and in the future the e-mail address) of the case officer, a target date for when we should have made a decision and the applicant's rights will be explained.

- 6.3 When an agent or an adviser is appointed, to avoid confusion, we will deal only with the agent rather than the applicant in all correspondence and discussions.
- 6.4 Incomplete applications cannot be registered. The applicant/agent will be given a specified time in writing to complete the application. Where possible we will contact the applicant/agent by e-mail. We cannot begin to process the application until it is valid for registration. It is therefore in the interests of the applicant to respond quickly to requests for the required information.

Service Standard 4 – Validation of Applications

We will validate applications within 5 working days from the receipt of a complete application

Processing of an Application by the Case Officer

- 6.5 Once an application has been registered, a Case Officer will be allocated. The Case Officer will become responsible for the processing of the application and will at an early stage visit the site. The applicant will not normally be notified of the visit unless access to the property is restricted.
- 6.6 The Case Officer will identify, in consultation with other parties, any additional information required as soon as possible. Sometimes this is identified by those commenting on the application and is needed to help them understand the proposals.
- 6.7 We will not normally enter into discussions with the applicant except where only very modest or minor design amendments would be needed to overcome objections due to the need to meet performance targets. This means that it is important to engage with us at the pre-application stage.
- 6.8 Discussions will only take place if an application would only require small changes to make it acceptable and will not normally take place where:
- The development is unacceptable in principle;
 - A complete redesign will be needed to overcome objections;
 - Clear pre-application advice has been given, but the applicant has not followed that advice;
 - No pre-application advice has been sought;
 - The development does not comply with the Development Plan or other published standards;
 - The additional information could not reasonably be returned to the Council within 14 working days
- 6.9 Where an application is amended we will re-notify neighbours, where they are materially affected and other consultees as necessary, allowing 14 calendar days for additional comments to be made.
- 6.10 The Government's target is for Councils to determine 60% of major applications within 13 weeks, 65% of minor applications within 8 weeks, and 80% of other applications within 8 weeks. We will aim to deal with all applications in accordance with these

standards, as it is fairer to both applicants and other interested parties to know how quickly an application will be decided. We are therefore committed to the timely and efficient determination of planning applications.

Service Standard 5 - Determination of Applications

We will deal with applications in accordance with national and local performance indicators for the determination of applications.

- 6.11 We can not support a process of submitting continuing amendments to an application which delays the decision making process beyond the Government's target period. We will only agree to deferments of an application in exceptional circumstances. Applications will normally be determined as soon as possible unless they are withdrawn.
- 6.12 We will keep applicants informed about the progress of their application and we encourage regular contact with the Case Officer. If the application cannot be dealt with by the target date, we will explain why we need more time.
- 6.13 We will seek the applicant's agreement to extend the time for decision making as soon as we are aware that an overrun is likely, and explain the reason to the applicant.

Notification of an Application to neighbours and consultees

- 6.14 We have published an advice note that explains our neighbour notification and publicity policy "Planning Applications a Guide to Publicity and Neighbour Notifications" (<http://www.east-northamptonshire.gov.uk/ppimageupload/image7190.pdf>). This note explains people's rights to be informed about applications, how they can get detailed information, how they can make comments, and how comments will be treated.
- 6.15 We will provide assistance during office hours to people wishing to comment on a planning application through our Planning Helpdesk service. All planning applications and supporting plans can be viewed on the Council's website at any time at www.east-northamptonshire.gov.uk All planning decisions will be posted on the Council's website.
- 6.16 Information about planning applications will be provided on a weekly list which is available on the Council's website. Applications are also publicised in the Council's community newspaper, the *Nene Valley News* every fortnight. When required a site notice will also be displayed. Those people directly notified in writing about a specific application will be told how they can make comments on it, and will be allowed at least twenty-one days in which to do so. If material amendments are made to the application, neighbours will be re-notified where appropriate and allowed a minimum of 14 calendar days to comment.
- 6.17 We will expect statutory and other consultees to reply to consultations within 21 days. Whilst we will try to be sympathetic to requests for an extension of the time period for comment we are not able to guarantee that we will be able to agree to such requests. We will monitor how long consultees take to reply and take necessary action where the lack of response delays the timely consideration of applications.

Commenting on an Application

- 6.18 Anyone can comment on a planning application. However, for the comment (known as representation in planning terms) to be "material" (i.e. able to influence any decision), it must be based on valid planning reasons. We will not take into account objections that are not specific or based upon proper planning considerations. The Guidance Note "Planning Applications A Guide to Publicity and Neighbour Notification includes advice on "material" planning considerations (<http://www.east-northamptonshire.gov.uk/ppimageupload/image7190.pdf>) and further help can be obtained from the Planning Helpdesk at the Council Offices.
- 6.19 All comments must be made in writing, should be signed (unless sent via e-mail) and dated, and should clearly state the grounds on which the representation is made. Anonymous representations will not be considered, although you can make comment via a planning consultant or solicitor if you wish. Pre-printed form letters of representation will be accepted for consideration if they are individually signed and dated.
- 6.20 You may make comment on a planning application via the Council's website. We will accept e-mails as letters of representation provided that the sender provides their full name and postal address.
- 6.21 Representations can be submitted in the form of petitions and will be considered provided that:
- Each page of the petition is headed with the aim of the petition;
 - The name and address of those signing are provided and are readable;
 - The grounds of representation are material and are clearly stated; and
 - The name and address of the petition co-ordinator is included.
- Only the co-ordinator of a petition will be notified of our decision on the planning application
- 6.22 Representations received are summarised and considered in both Delegated Reports and reports to the Development Control Committee and taken into account before a decision is made (see following section).
- 6.23 Representations received between the end of the formal consultation period and the date of the Delegated Decision or Development Control Committee will still be taken into account.
- 6.24 Sometimes the report writing deadlines mean that the latest date for making comments falls after the report has been drafted. In such cases any comments will be reported to the Committee on a written update sheet along with any "late" comments.
- 6.25 We acknowledge the receipt of all letters of representation and we will notify you if the application is to be decided by the Development Control Committee. We will notify you of the Council's decision, either at the Development Control Committee or by the Head of Planning Services under delegated powers.

Making the Decision

- 6.26 We will make a decision on a planning application by one of two different methods.

- 6.27 Straightforward, small-scale applications which attract no material planning objection are mainly decided through the Scheme of Delegation. Under this process the Head of Planning Services (or other authorised Officers) will act on behalf of the Council in accordance with clearly stated and published guidelines. This brings efficiency and effectiveness to decision making on non-controversial applications. Government advice is that around 90% of applications should be dealt with under delegated powers.
- 6.28 Planning applications which are required to be considered by the Development Control Committee will include those applications involving complex proposals, or which are potentially controversial, or which conflict with the policies of the Council, or where an objection has been received from the Town or Parish Council unless after consultation with Ward Members, the Ward Members agree that a delegated decision can be made, or a Member requests that an application is determined by Committee.
- 6.29 The Development Control Committee normally meets every three weeks on Wednesday evenings. Details of any meeting and items on the agenda are published on the Council's website www.east-northamptonshire.gov.uk and can also be obtained from the Planning Helpdesk. The Committee holds its meetings in public and allows applicants and interested parties to speak at the Committee.
- 6.30 In normal circumstances we allow a maximum of two minutes speaking time at Planning Committee meetings for each of the following categories of interested party:
- Ward Member
 - The applicant or their agent
 - Objectors, Supporters or other interested parties
 - Town or Parish Council
- The Chair of the meeting can exercise discretion in allowing additional parties to speak where an application proves to be particularly contentious.
- 6.31 If there are a number of objectors who wish to speak at the Development Control Committee, we will only accept the request of the first person to reserve speaking time with the Committee Officer. We will encourage objectors to appoint a spokesperson or, failing this, to share the allocated speaking time.
- 6.32 Once a final decision has been made on an application, the decision notice will be issued to the applicant and we will also let anyone who has commented on an application know the decision. Any conditions attached to a permission, reasons for refusal, or any additional information or advice will be set out clearly and the reasons for them explained. The notice will state the Council's reasons for granting planning permission. It will also explain the applicant's right of appeal against a decision to refuse planning permission or against conditions attached to a permission. The Planning Inspectorate cannot consider appeals against the Council's grant of planning permission.
- 6.33 Some decisions may not be made until the applicant and other relevant parties have entered into a planning obligation (a form of legal agreement). If an obligation is believed to be needed, the applicant will be told as soon as possible so that discussions about the form and content of the obligation can be agreed during the consideration of the planning application, or ideally at pre-application stage. We will seek to recoup the full cost of the preparation of a planning obligation from an applicant.

- 6.34 We will normally expect a legal agreement to have been completed in a timely manner so that the decision can be issued within the Government's target period.
- 6.35 We have a range of standard legal agreements including matters of affordable housing provision, education contributions, and open space. We will encourage applicants to make use of these standard agreements.
- 6.36 No work should start on site until the applicant has received the formal decision notice that confirms the Council's decision in writing.

7.0 Approval and Monitoring of Conditions

- 7.1 Once a permission has been granted the applicant may need to submit further details to the Council for approval. These details will be described in conditions attached to the permission. Some of the conditions may require the details to be agreed before any works start on site. Details can be submitted either by letter or form. Recently the Government introduced a fee for the discharge of conditions and from December 2009 the Council will charge for the approval of details and discharge of conditions. (link to charges details/fees on website).
- 7.2 Whilst a Council has 8 weeks to deal with applications to discharge conditions we recognise that often our customers will not have allowed for this period of time. We have therefore set ourselves a more rigorous standard.
- 7.3 We can deal with straightforward matters which only need assessed by Officers of the Council relatively quickly, however we will require more time for more complex matters which may need us to seek external advice. No work should start on site until written approval is given to all pre-commencement conditions.

Service Standard 6 – approval of details required by condition

We will reply to your submission of conditions within 30 working days. We will not approve external materials conditions alone where other conditions need to be approved before work commences and where these details have not been submitted to the Council.

- 7.4 All works must be carried out in accordance with the plans which have been approved as part of the planning permission and conditions on the decision notice. It is important that our requirements are met and the permission is correctly implemented. The landowner or developer may otherwise be in breach of the terms of the planning permission.
- 7.5 The Council's Condition Monitoring Officer will regularly check to see which developments have commenced and will then actively monitor whether information has been submitted in relation to conditions.

8.0 Requests for Minor Amendments

- 8.1 We can sometimes agree to relatively minor adjustments to the approved plans. It is the applicant's responsibility to let us know about the need for any changes as soon as possible. No works should be carried out until we have approved the changes in writing.

8.2 We will only allow an amendment to an existing planning permission where this is very minor in nature. This is known as a non material change to a planning permission. If additional built volume is proposed or if we consider that neighbours should be notified of your proposed amendment, you will be required to submit a revised planning application. A request for a non material change to a planning permission should be made on the relevant 1APP form. (Weblink)

9.0 Appeals

9.1 If an application is refused or an applicant is not happy with a condition then there is a right of appeal. The procedure for dealing with appeals is set by the Planning Inspectorate and can be viewed at <http://www.planning-inspectorate.gov.uk/pins/index.htm>, or alternatively help can be provided by the Planning Helpdesk. We will ensure that all the timescales set by the Planning Inspectorate are complied with. As required we will notify all objectors and consultees of the appeal in a timely manner.

9.2 We will report appeal decisions to the following meeting of the Development Control Committee.

Service Standard 7 – Appeal Success

We will monitor our success rate in relation to planning appeals.

10.0 Enforcement

10.1 We have a duty to investigate complaints about breaches of planning control and have powers to act if the rules have been broken. An Enforcement Policy detailing the policy and practice of the Council on enforcement matters together with appropriate Service Standards has been published. This Enforcement Policy explains how we responds to complaints about breaches of planning control.(website link) We have also published a Guidance Note which explains the Enforcement Process “ Planning Enforcement”. (website link)

11.0 Complaints and Performance

11.1 We hope that you will be satisfied with the Development Control Service that we provide. If you have any suggestions, concerns or difficulties we want to hear from you. We are committed to improving our service and dealing promptly with any shortcomings.

11.2 We will consider all complaints made about the way in which a planning application or letter of representation has been dealt with. Disagreement with a decision of the Council will not, in itself, be a ground for complaint and in many situations there is a separate procedure for an applicant to appeal against such decisions.

- 11.3 In the first instance you should discuss the matter with the Case Officer, who will be familiar with the proposal. We will provide you with a copy of the decision notice and the Officer's report if you request these.
- 11.4 The Council has a Corporate Complaints procedure (include link) which has been designed to ensure that all complaints are dealt with fully and properly by the most appropriate person in the organisation. Written complaints will be acknowledged and then fully and promptly investigated. The complainant will be given a written response explaining the outcome of the investigation and any action that we propose to take. If no action is proposed, the reasons will be explained. The first stage is considered by the Case Officer the next stage is the Head of Service followed by the Executive Director.
- 11.5 If you feel that we have not followed the correct procedures you can ask the Commissioner for Local Administration (the Local Government Ombudsman) to investigate the matter. The Ombudsman would however, normally expect a complainant to have first followed the Council's formal complaint procedures.
- 11.6 We are always keen to seek your feedback on our service - comments will be used to consider appropriate service improvements. If performance has fallen below established levels and targets, we will identify and detail the reasons and describe the measures we propose to adopt to improve performance. If justified by special circumstances we will revise our targets. Complaints and the action taken upon them will also be identified.

12.0 Monitoring and reviewing progress

12.1 We will keep this Charter under review, and in particular we will update the appendix to include new yearly targets for performance against our standards.

References

The Killian Pretty Review (website link)

Appendix A – Performance Targets for 2009/10

Service Standard 1 – requests about need for planning permission

We will respond to written requests about whether planning permission is needed within 10 working days.

- Target – 80%

Service Standard 2 – Pre-application advice, non major applications

We will answer written requests for pre-application advice for minor and other development within 20 working days of receipt.

- Target – 70%

Service Standard 3 – Pre-application advice, major applications

We will provide initial advice/full answer in response to written requests for pre-application advice for larger/major development within 20 working days of receipt.

- Target – 70%

Service Standard 4 – Validation of Applications

We will validate applications within 5 working days from the receipt of a complete application

- Target – 77%

Service Standard 5 - Determination of Applications

We will deal with applications in accordance with national and local performance indicators for the determination of applications.

National Targets

- Major – 60% in 13 weeks
- Minor – 65% in 8 weeks
- Other – 80% in 8 weeks

Service Standard 6 – approval of details required by condition

We will reply to your submission of conditions within 30 working days. We will not approve external materials conditions alone where other conditions need to be approved before work commences and where these details have not been submitted to the Council.

- Target - 75%

Service Standard 7 – Appeal Success

We will monitor our success rate in relation to planning appeals.

- Target – ENC successful in 60% of all appeals

Service Standard 8 – Customer satisfaction

We will monitor customer satisfaction with the development control process every six months through the use of a satisfaction survey

- Target – 70% of customers satisfied

Document Version Control

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Issue	Date	Comments

NB: Draft versions 0.1 - final published versions 1.0

Consultees

Internal	External
e.g. Individual(s) / Group / Section	e.g. Stakeholders / Partners /Organisation(s)

Distribution List

Internal	External
e.g. Individual(s) / Group / Section	e.g. Stakeholders / Partners /Organisation(s)

Links to other documents

Document	Link

Additional Comments to note

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Protocol for Dealing with Major Planning Applications or applications of significant interest

1.0 Background

- 1.1 We recognise that the scale and complexity of major applications requires a different approach from smaller scale applications.
- 1.2 This protocol sets out how we will seek to improve the process and achieve consistency in our approach by providing greater certainty for all concerned in major applications. However, there may be instances when the full requirements of this protocol may not be necessary, as some major applications are more straight forward than others.
- 1.3 The Government has set national performance targets to improve the speed of decision making. According to these 60% of major applications should be determined within the 13 week period. We will aim to meet this target as it provides for good customer care for both applicants and other people with an interest in the application in knowing how quickly a decision will be reached.

2.0 What is a major application?

- 2.1 A major application is defined by the Government as any of the following:
 - A residential development of 10 or more houses or 0.5 hectares of site area or where the number of dwellings is not specified.
 - For non-residential, proposals covering a floor area of 1000 sqm or more or a site area greater than 1 hectare in size.

3.0 Pre application discussions

- 3.1 We positively encourage developers submitting a major application to discuss their proposal with us prior to the application being formally submitted. This will help to identify the key issues and ensure that the right information and material is submitted with the application so that it can be processed quickly.
- 3.2 As a minimum developers are encouraged to submit a site location plan, a description of the proposed works, an analysis of the site identifying the constraints and opportunities at this early stage. We would like to get actively involved in the layout of the site therefore an indicative plan would be helpful to enable us to get involved before the plan is at the final design stage. In addition, developers should submit an explanation of how their proposal accords with the development plan.
- 3.3 We will allocate a case officer to the proposed development. The officer will consider whether the proposed development site would need an Environmental Impact Assessment and may either request further information or ask for the submission of a request for a screening / scoping opinion. During this initial stage the officer may also attend an internal Development Team meeting to discuss the proposal and any emerging issues. The Development Team includes an officer from economic development, planning policy, housing, conservation, building control and development control. The Case Officer will inform all Ward Members.

- 3.4 Following this initial assessment, the case officer will either provide an initial response to the proposal or arrange a meeting with the applicant / developer and other relevant organisations depending on the potential issues, for example Highways, Environmental Health, Conservation.
- 3.5 At this meeting the merits of the scheme will be explored, including whether the scheme accords with the provisions of the development plan. In addition any Section 106 contributions and validation requirements will be discussed to ensure that the developer is aware of all of the supporting information and the Heads of Terms that will need to be submitted with the application. (An example of a typical Heads of Terms can be seen in Appendix 1). The case officer will also highlight the importance of community engagement in pre-application discussions. This includes involvement of appropriate Members of the Council (these are the Ward Member(s) and Members of the Development Control Committee responsible for other areas), which will need to be in accordance with the Council's Protocol for Member Involvement in Pre Application Discussions. (To be considered in parallel with this protocol, web link to be provided). Developers are advised that community engagement should be in line with our adopted Statement of Community Involvement. In particular it will be important to involve Town and Parish Council's in any discussions related to public open space and the County Council in discussions related to education.
- 3.6 Following the meeting detailed in 3.4 & 3.5 above the case officer will follow up with a meeting note and the developer may then be in a position to submit the formal application. Alternatively a series of further meetings will be arranged if necessary to continue the discussions on any relevant issues. The frequency of meetings will be agreed with the case officer and developer at the time of the initial discussion.
- 3.7 A timetable for the pre-application process is set out in Appendix 2.

4.0 Submitting the application – what to expect

- 4.1 We are committed to ensuring that all relevant information for applications is submitted at the beginning of the process. Piecemeal submission of documents leads to confusion and delay as further consultation with the local community and statutory agencies takes place. Through the pre-application process we will have been able to give advice on what information is required to support the application to ensure that it is registered quickly. A list of the local requirements for major applications is attached at Appendix 3 - please note that not all requirements may be relevant.
- 4.2 The target for validating applications is within 5 working days of receiving a complete application. The application, once validated, will be allocated, wherever possible, to the case officer who conducted the pre-application enquiry.

5.0 Processing major applications

- 5.1 The case officer will then begin consultations with the local community, interested parties and statutory consultees. This will be in addition to any consultation that has been undertaken at the pre-application stage. In addition a site notice will be

displayed and a notice published in the Nene Valley News. The Officer will also aim to carry out a site visit within 10 working days of receiving the application.

- 5.2 The case officer will encourage the involvement of Members and Town and Parish Councils as necessary.
- 5.3 The case officer will also instruct Legal Services, where appropriate, to prepare the Section 106 Obligation in accordance with the agreed Heads of Terms.
- 5.4 Following the expiry of the consultation period, the case officer will contact the Developer's Agent to discuss the consultation responses and request any amendments if required. Please note that amendments to the scheme will normally only be requested if a new issue has emerged or the amendment is minor. The case officer will not request a fundamental amendment if the scheme has been submitted contrary to advice given in pre-application discussions. In such circumstances the application is likely to be recommended for refusal.
- 5.5 The case officer will then prepare their report and the application will be reported to the next available Development Control Committee or will be dealt with under delegated powers. These are usually held every three weeks on a Wednesday evening. Reports are completed two weeks before the meeting so we need sufficient time for the application to make the agenda. The report to the Development Control Committee will also include the details within the Heads of Terms. Any recommendation to approve will be subject to the prior completion of the Section 106 Obligation and any other appropriate conditions that are deemed necessary.
- 5.6 A timetable of the application process can be seen in Appendix 4.
- 5.7 During the process of assessment and determination the progress of the Section 106 Agreement will be monitored by the case officer via contact with Legal Services and feedback will be given to the applicant. A timetable of the Section 106 process can be seen in Appendix 5.



APPENDIX 1
 Cedar Drive Thrapston Northamptonshire NN14 4LZ
 Telephone 01832 742000
 Email info@east-northamptonshire.gov.uk
www.east-northamptonshire.gov.uk

Heads of Terms Planning Obligations

Site address:
Applicant Name (s): Address:
Telephone: Email:
Please complete attached form setting out the obligations agreed.
If you require a Section 106 Agreement the following must be included when submitting this form: <ul style="list-style-type: none"> - Land Title - A4 / A3 Site Plan with land in question outlined in red x2 (this is in addition to any others required)
Please note any legal fees must be paid before completion of the Agreement.
Your Solicitor contact details: Contact: Company: Address: Telephone: Email:
Details of additional parties to agreement or any relevant information:
This form is to be completed and included in your application submission. If you have any queries on how to complete this form, or require further information please contact the planning department on 01832 742225 or email: planning@east-northamptonshire.gov.uk
Sign Date

Obligations Agreed		
Contribution Type	Amount / Provision	Timescales / Phasing
Education		
Affordable Housing		
Open Space		
Community Facilities		
Libraries		
Transport and Highways		
Healthcare		
Greenway		
Other		

APPENDIX 2

Pre-application process for major applications, or applications of significant interest

Stage (involving applicant)	Officer task	Time period for task
Applicants approaches Council	Log pre-app and check site history and establish constraints	Within 5 working days of receipt of QRY (internal term for pre-planning advice)
	Officer to acknowledge QRY setting out timescales and the procedure (this can be a standard template) Advise all the Ward Members of the QRY as necessary / appropriate.	Within 5 working days of receipt of QRY
	Consider whether the proposal requires Environmental Impact Assessment, and if so, request the applicant to submit a screening / scoping opinion.	Within 5 working days of receipt of QRY
	Attend first available Development Team meeting to discuss principles and general policies.	Within 14 days of receipt of QRY
Arrange meeting with Applicant to discuss proposal and emerging issues.	In advance of the meeting request additional information if required and obtain comments from the relevant parties. Arrange the attendance of relevant parties (such as highways, design officer, environmental health), including the ward member, as appropriate, and a technician (to enable preparation of submission requirements)	Within 20 working days of receipt of QRY
Meeting	Discuss the material considerations and merits of the scheme. Discuss the heads of terms & validation requirements Officer to encourage the applicant / developer to carry out community consultation, i.e. Town Council and local community and all Ward Members.	Within 28 working days of receipt of QRY
	Officer to follow up meeting with a formal meeting note.	Within 5 working days of meeting
Applicant either submits an application, or meetings continue with relevant parties until the scheme has been agreed informally.	Monitor the pre-app file.	

Local validation requirements

The following list of local requirements may be required for a major planning application (this is in addition to the national requirements), the list in full can be seen on the following link <http://www.east-northamptonshire.gov.uk/pp/silver/viewsilver.asp?id=2308>

- Design and Access Statement
- Air Quality Assessment
- Biodiversity Survey and Report
- Flood Risk Assessment
- Heritage Statement
- Housing Statement
- Land Contamination Assessment
- Landscaping Details
- Lighting Assessment
- Noise Assessment
- Photographs and Photomontages
- Planning Obligations (Heads of Terms)
- Statement of Community Involvement
- Structural Survey
- Supporting Planning Statements
- Sustainability Appraisal and Energy Statement
- Town Centre Impact Assessment
- Transport Assessment
- Travel Plan
- Tree Survey / Arboricultural Implications
- Utility Assessment
- Ventilation and Extraction Statement

Application process, upon formal submission, for major applications or applications of significant interest

Time period	Officer tasks
Week 1	Application received, EIA development? Validated, registered and allocated to Officer. Consultations identified and carried out. Case history and constraints set out for planning officer.
Week 2	Site visit carried out. Discuss proposal with Principal Planning Officer. Advise applicant if S106 is required and send instructions to legal.
Week 3	Monitor consultation responses.
Week 4	Consultations reviewed, letter to applicant to request additional information, meeting held with applicant if necessary. Request any amendments within 10 working days
Week 5 / 6	Await amendments, carry out reconsultations, over a 14 day period, if necessary. Schedule application for next available committee
Weeks 6 – 13	Application reported to committee monitor S106 procedure

APPENDIX 5

Section 106 Procedure	Officer Responsible
Instructions sent to Legal with relevant information in week 2 of the application process.	Planning Officer
Legal then draft the Legal Agreement and return to the Planning Officer for checking; this should be done within 10 working days.	Legal Services
Check draft and detail amendments (if any) and return to Legal within 5 working days. Inform Section 106 Officer.	Planning Officer
Send out draft agreement to the applicant and County Council (if necessary) within 5 working days.	Legal Services
Any changes that come back need to be agreed with a Planning Officer.	Legal Services
Once agreed it needs to be sent out for sealing.	Legal Services
On return signed the dated agreement needs to be passed to Planning Officer.	Legal Services
Once received by the relevant Planning Officer they formally issue the decision notice and send it out to the applicant/agent within 5 working days.	Planning Officer