

# A Guide to Development Management in Pendle



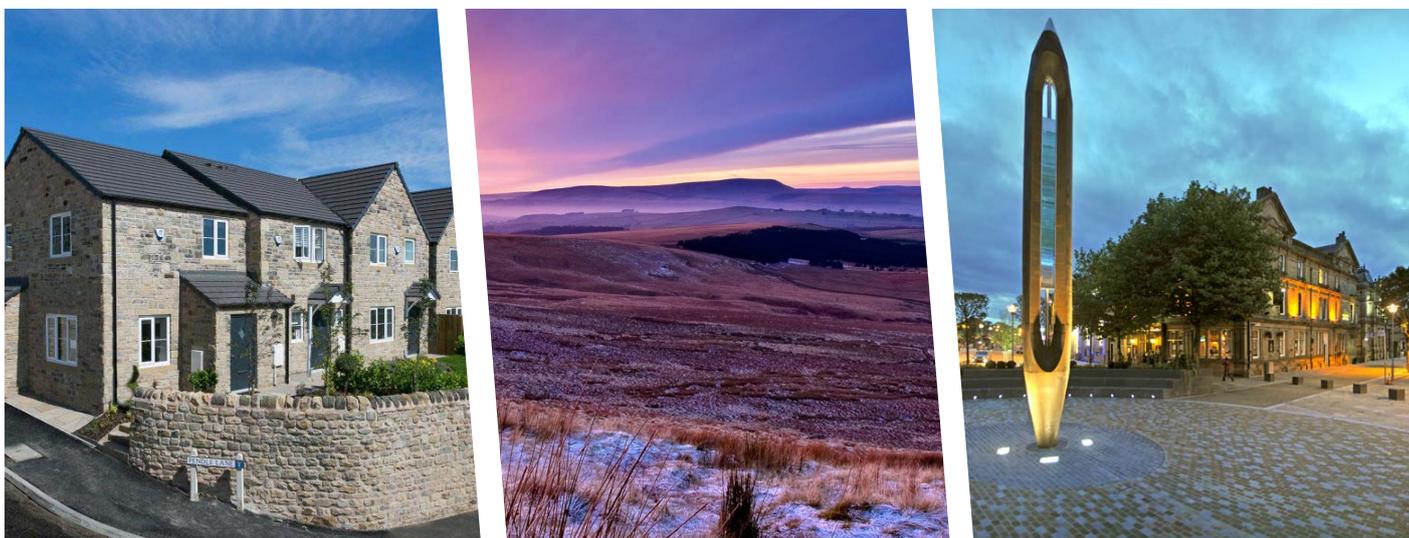
September 2023

# A Guide to Development Management in Pendle

The Council has produced the document “A Parish Guide to the Planning Process”, to explain the purpose of the planning process and the way it operates, specifically in Pendle Borough Council. This has proved to be a very useful tool but with changes to the planning system, the Guide needs refreshing.

That document has been updated to adapt to these changes. We hope that you will find the information useful.





## Contents

<b>1. Introduction to Development Management</b>	<b>2</b>
<b>2. The Need for Planning Permission</b>	<b>5</b>
<b>3. Types of Application</b>	<b>6</b>
<b>4. The Planning Process</b>	<b>12</b>
<b>5. The Decision, Appeals and Subsequent Changes</b>	<b>13</b>
<b>6. Monitoring and Enforcement</b>	<b>16</b>

## 01: Introduction to Development Management

This guide has been prepared by the Planning Department of Pendle Borough Council. Its aim is to explain the purpose of the planning process and the way it operates with specific reference to how it works in Pendle.

### Background to the planning system

The modern planning system as we know it came into being on the 1st July, 1948, when the Town and Country Planning Act 1947 came into force. 43 years later four principal new acts became law, namely the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990; this latter Act dealing purely with legislative “machinery”.

The Town and County Planning Act 1990 is the “principal Act” and covers the bulk of planning legislation. It continued the established principles of the British Planning System namely that the development and use of land should be controlled in the interests of the general public.

The Planning and Compensation Act 1991 was a response to changing attitudes towards Planning and the Environment introduced at the end of the ‘boom’ years of the 1980’s and along with the 1990 Act they amend and consolidate earlier Planning Acts in many key areas. Together these Acts comprise the Town and Country Planning code under which the development and use of all land and buildings in England and Wales is now controlled.

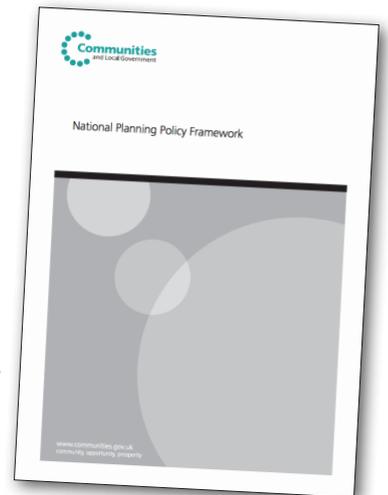
In 2004 the Planning and Compulsory Purchase Act was introduced. The Planning and Compulsory Purchase Act 2004 is a key element of the Government’s agenda for speeding up the planning system. The provisions introduce powers which allow for the reform and

speeding up of the plans system and an increase in the predictability of planning decisions, the speeding up of the handling of major infrastructure projects and the need for simplified planning zones to be identified in the strategic plan for a region.

The Planning system has unfortunately been inundated with changes introduced in a variety of different Acts of Parliament found and secondary legislation. These are too numerous to refer to each one so this Guide deals with the main legislation.

In 2012 the Government also introduced a new document known as the National Planning Policy Framework (“the Framework”) to streamline the previous system, which had consisted of Planning Policy Statements and Planning

Policy Guidance documents. This consolidated several thousand pages of guidance into 52 pages. There have been several revisions of the NPPF and the latest version was published on 5th September 2023. Alongside this, there is also a set of guidance known as the National Planning Practice Guidance.



### What is Development Management?

The Government wanted to promote a significant change in planning from a largely regulatory culture to one which is more aligned to the positive and proactive delivery of sustainable development. It sees the planning system as a key element in the strategic leadership of local authorities to deliver good places to live. This can best be delivered through a system of good plan preparation, good management of the development process and a proactive and positive approach to proposals for sustainable development. Sustainable Development for planning purposes is defined in the Framework **here**

The Government has highlighted a need for a review of the role and in particular, the remit and emphasis of development control work within all local planning authorities. Traditionally, the development control function was often seen as 'negative and reactive' and it typically had a reputation for preventing rather than enabling the delivery of development.

The Government has introduced several changes over recent years to the planning application process such as the introduction of Design and Access Statements and Validation Checklists, which have sought to provide tangible improvements to the quality of development. Other changes, such as the revision of permitted development rights for householders have sought to modernise and simplify development. The Government continues to issue consultations on further changes such as, streamlining information requirements and seeking views on whether to change publicity arrangements for planning applications.

Development management requires a proactive approach to evaluating and not stifling sustainable development. It goes beyond simply reacting to or controlling development through determining planning applications taking, an effective role in place making, planning needs to also:

- facilitate development opportunities
- influence planning proposals to achieve quality outcomes
- use problem solving to deliver sustainable development proposals

A more positive approach does not mean allowing development that is unacceptable, but it does mean working more closely in partnership with others to encourage and facilitate good development. In short, development management should help deliver the right development, in the right place, at the right time.

This shift did not happen overnight - it required a culture change and a wider range of skills. For some years, many local authority development control teams had been moving away from the traditional, limited development control function of scrutinising and determining applications and now have a positive input into policy formulation, engage in pre-application discussions and monitor outcomes. This is very much the case at Pendle. Indeed, many of the features of development management have become normal practice at Pendle. Examples of this approach include: -

- Improved availability of advice (principally the website)
- Implementation of Customer Service Improvement Plan
- Improved feedback to Applicants on the progress of applications
- Development Team Approach for major applications
- Introduction of Validation Checklist to ensure consistent good quality submissions for planning applications
- Adoption of Design Guidance – specifically, the Design Principles SPD and the Conservation Area Design and Development Guidance SPD.

A number of additional actions have already been identified as being necessary to make further steps towards DM. These include: -

- Use of Planning Performance Agreements for major applications (formally when introduced by Government, informally in the interim)
- Establish new ways of working with Partners and Agencies
- Renewal of Development Team Approach
- Greater emphasis on pre-application advice

## Development Management in Pendle

The Government is concerned to see that planning decisions are made on a transparent, rational, and consistent basis. There is however pressure on every Planning Authority to process applications quickly. At present planning functions in this area are split between Lancashire County Council and the District Councils. In this Country we have a Plan-led system.

Pendle Borough Council's Development Plan currently consists of the *Pendle Local Plan Part 1: Core Strategy* adopted 2015 and the saved policies of the replacement *Pendle Local Plan* adopted 2006. *The Trawden Forest Neighbourhood Plan* adopted 2019, *Barrowford Neighbourhood Plan* adopted 2019, *Kelbrook and Sough Neighbourhood Plan* adopted 2022 and *Colne Neighbourhood Plan* adopted 2023.

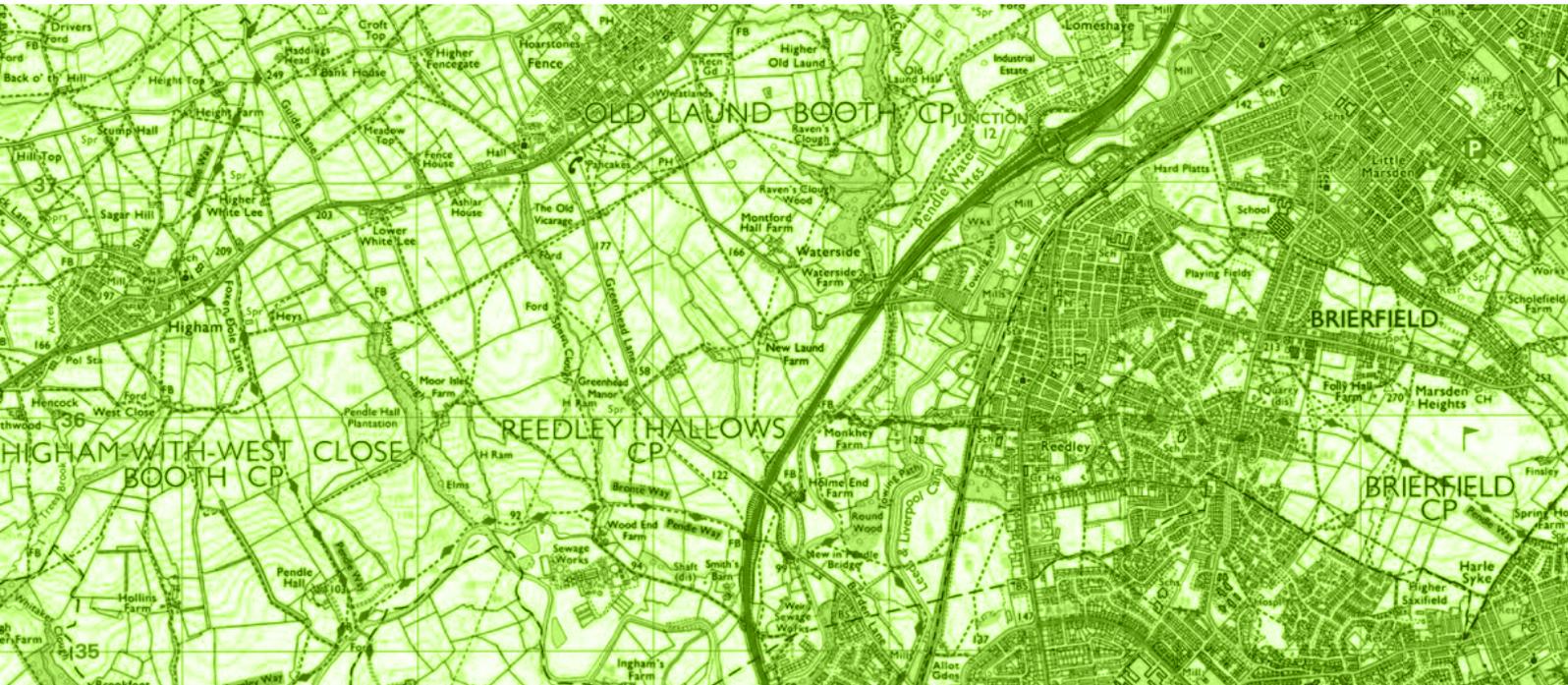
The Act requires, under Section 54A, that planning applications be determined in accordance with the Development Plan unless there are strong planning reasons not to do so. The community and developers should therefore normally expect consistent decisions. It is important that the policies in the Development Plan therefore reflect the interests of the wider community. Public interest in the Development Management process has never been greater. The Planning System is designed to promote sustainable development and to regularise the ambitions and intentions of the use of land by individuals with the wider interests of the community.

The Planning System has a positive role to play in guiding development to the right place as well as preventing development which is not acceptable.

Development Management is designed to mediate the conflicts which exist between different customers of the service in the interests of the whole community and not necessarily those of individuals.

Therefore, Development Management can be seen as the process by which Communities regulate changes to the physical environment.





## 02: The Need for Planning Permission

Generally “development” requires planning permission. The meaning of “development” lies at the heart of the Planning systems. Section 55 of the 1990 Act defines development as

***“The carrying out of Building, Engineering, Mining or other operations in, on, over or under land, or the making of a material change of use of any buildings or other land”.***

All of the words highlighted have special meanings in terms of planning and the interpretation of these definitions keeps many planning lawyers and other experts amply employed.

However, the net result is that operations and activities are either development or not, by definition. If it is deemed that something is not development, then it is outside any planning control. However not all development as defined requires a planning application. The Town and Country Planning (General Permitted Development) Order 2015 confers certain permitted development rights amongst others onto householders, farmers, industrial premises, the Local Authority and

other statutory undertakers. In effect this Order grants planning permission automatically for the development types it covers.

The Town and Country Planning (Use Classes) Order 1987 (as amended) also allows certain changes of use of land or buildings without the need for a planning application.

Similarly, many advertisements are exempt from the need to apply for advertisement consent. Development Management Officers are always willing to assist individuals in assessing whether the operations or uses which they propose are permitted without the express consent of the Local Planning Authority.

If you need to enquire if planning permission is required, you should do so in writing using the relevant form below:

1. **Householder Permitted Development Form**
2. **Other Applications Permitted Development Form**

Even if someone does not need planning permission, they may need Building Regulations Approval. It is important to check. Details of the work done by the Building Control section can be found here.

## 03: The Various Types of Planning Applications

### Planning Applications

There are three main types of Planning application: -

- Full planning applications which contain full details of the proposed development, and
- Outline planning applications which seek to establish the principle of a particular land use or building operation but reserves the details for a later stage.
- Permission in Principle which is an alternate to outline applications for minor development.

Reserved Matters applications are not a planning application in their own right and only submit matters reserved under an outline permission.

Technical Details have to be submitted if Permission in Principle has been approved. These need to be acceptable otherwise consent would not be granted.

Major applications are required to be advertised in the press, along with a notice displayed on the site. Other applications are often advertised in this way. Neighbours with a boundary adjoining the application site are always notified directly.

### Other Kinds of Applications

#### *Application for Listed Building Consent*

Buildings which are of Special Architectural or Historic Interest are contained within a list compiled by the Secretary of State for the Environment. Such buildings are commonly referred to as being “listed” and there are approximately 326 Listed structures in Pendle at present. There are three categories of listed buildings, Grade I, Grade II\* and Grade II. There are relatively few Grade I buildings in Pendle. (3 in total) and the majority are either Grade II\* or Grade II. Buildings are periodically added to the list and the District Council has powers to “spot list” buildings by serving a Building Preservation Notice.



There is also a provision to ‘de-list’ buildings in certain circumstances.

Listed Building Consent is needed to carry out any alteration or addition to the inside or outside of listed buildings where they affect the character or appearance of that building. Consent is also needed to demolish a listed building. Repairs to listed buildings may be exempted but it is advisable for anyone thinking of carrying out any works to a listed building or anything within its curtilage to contact the Planning and Building Control Service as soon as possible. It should also be noted that planning consent may be required in addition to listed building consent and vice-versa. When considering a planning application which affects a listed building special regard should be had to the likely effect upon the setting of that building (see section 66 of the Listed Building Act and section 16 of the NPPF)

Listed Building applications always have to be advertised in the press with neighbour notification the same as for planning applications.

#### **Conservation Area Consent**

Conservation area consent was abolished by the Enterprise and Regulatory Reform Act 2013 and replaced with a requirement for planning permission for demolition of a building in a conservation area. The circumstances in which such planning permission is required and the consequences of failing to apply for it when it is needed are the same as previously applied under conservation area consent.

A non-listed building in a conservation area is not to be demolished without the consent of the local planning authority, in accordance with Paragraph B1, Class B, Part 11, Schedule 2 Town and Country Planning (General Permitted Development) (England) Order 2015.

It is a criminal offence to fail to obtain such consent in the form of planning permission, however, a defence is available where the demolition was urgently necessary in the interests of health and safety, provided certain conditions are met. Liability for the offence can attach to either (or both) the person carrying out the works and/or the person authorising the works to be carried out. Not knowing that the building is in a conservation area is not a defence to criminal proceedings.

There are 25 conservation areas in Pendle. Full details of these can be found at **Conservation Area maps | Pendle Borough Council**.

In considering either planning applications or applications to demolish buildings in a Conservation Area special regard is had to the nature of the proposal to ensure that it preserves or enhances the character of the Conservation Area and the views into and out of the area.

Development in Conservation Areas is normally advertised in the press dependent on its scale. Neighbour notifications are the same as for planning applications.



## Felling of Trees in a Conservation Area

Trees are important to the character of historic areas. Before trees of a certain size (75mm + measured at 1.5m above ground) are felled, topped, or lopped in a Conservation Area it is necessary to give prior written notice to the Local Planning Authority (a Section 211 Notice). The reason is to establish whether the trees concerned are worthy of further protection by placing a Tree Preservation Order on individual specimens or groups of trees. Once a notice is received a full TPO must be made within 6 weeks. Until the end of the 6-week period the trees are afforded the same protection as if they were covered by a full TPO.

If anyone is aware of the indiscriminate and unauthorised removal of trees within Conservation Areas, they are requested to contact the Council's Tree Advisor immediately so that the situation may be checked.



## Application to Display an Advertisement

Many advertisements can be displayed without prior approval. Such advertisements benefit from a "deemed" approval under the Advertisement Regulations 2007. A guide entitled "Outdoor Advertisements" is available on the Planning Portal website. If "express consent" is necessary, an application is submitted to the Local Planning Authority and in determining whether the advert is acceptable special regard will be held to the impact of that advertisement upon the visual amenity of the area and upon public safety.

There are no requirements to carry out consultations on advertisement applications, but it is our practise to advertise them locally by way of a site notice or neighbour letter as appropriate.

## Certificate of Lawful Use or Development

An application can be made for a Certificate of Lawful Use or Development either for development or uses which are proposed to take place or to establish if an existing development is lawful. If development has been there for a long time, it may become lawful due to that length of time. See the Guide to Enforcement for full details.

To receive a certificate for an existing use it will be necessary to demonstrate one of the following:-

- i) Uninterrupted use of land or building for ten years prior to the time of application; or
- ii) That operations (i.e. building works) have been completed for 4 years, or
- iii) The conditions of a planning permission have been breached without enforcement action by the Local Planning Authority for at least 10 years.

The grant of a Certificate is effectively the same as the grant of a planning permission. Limited consultation may be carried out to assist in the establishment of facts depending on the merits of each application. It is important to note that consideration of such Certificates can only be made on factual evidence. The land use merits or otherwise of the development are not relevant in establishing what the lawful position is.

To receive a Certificate for a proposed use or operation is largely a matter for a technical, legal interpretation and applicants will therefore either be notified that planning permission is or is not necessary for what they propose. These determinations are legally binding on the Local Planning Authority.

Applications to establish whether a proposed use or operation would be lawful will not be the subject of public notification or advertisement, as they are matters of law not planning judgement.

## Farming and Forestry Permitted Development Notifications

Farmers continue to enjoy a large range of permitted development rights to erect buildings, make roads, quarry stone, dig ponds and move soil around etc., in the interests of their farming enterprise.

Whilst some farm buildings and operations require normal planning permission, most notably livestock buildings near to houses and development close to public roads, the majority of new development is permitted. However, in most cases a simplified notification needs to be submitted to the Local Planning Authority giving it 28 days in which to consider the siting and design aspects of the development.

These Notifications are not subject to public notification unless further details are sought and in such cases a site notice is displayed. These notifications must be submitted prior to the development starting. If development has started permitted development rights are lost.



## Other Permitted Development Notifications

There are a number of other classes of permitted development rights that require the submission of a notification to the Council. These include larger home extensions, flats above certain commercial premises, certain commercial buildings to dwellings, agricultural buildings to dwellings, agricultural buildings to commercial uses, agricultural buildings to state funded schools, commercial buildings to

state funded schools, temporary use for film making purposes, extensions to education, prison and hospital buildings, certain renewable energy developments and certain telecommunications developments (this is not an exhaustive list). The Government is significantly increasing the scope of permitted rights.

The notifications allow the Council the ability to take a limited range of considerations into account to determine whether prior approval is required for those considerations and, if so, whether prior approval is approved or refused. Each class has different considerations which are set out in the General Permitted Development Order together with timescales for determination and publicity requirements.

#### Notification of Demolition

Whilst demolition is now considered to be 'development' it is generally permitted without express permission. However, when someone wishes to demolish a dwelling house or a building adjacent to a dwelling house they have to give 28 days' notice of their intent to the Local Planning Authority to enable the Council to consider the means of demolition and site restoration.

These notifications are not subject to public consultation, but the applicant is required to display a site notice to advertise the demolition. Works of demolition and dangerous structures are otherwise covered by the Building Regulations.

#### Hazardous Substances Consent

Permission is required from the Local Planning Authority for the siting and storage of certain quantities of defined hazardous substances.

#### Tree Preservation Orders

The Council has powers to make Tree Preservation Orders in respect of individual specimens or groups of trees. It is an offence to carry out works to a protected tree without the necessary approval of the Council. Trees must have a good amenity value to be protected but once they are, there must be sound reasons to fell or carry out works to them.

#### Hedgerow Removal Notices

Under the Hedgerow Regulations, 1997 anyone intending to remove all or part of countryside hedgerow must normally submit a Hedgerow Removal Notice to the Local Planning Authority. The Regulations do not control hedgerow management such as trimming and also do not apply to domestic hedges.

The Council may only require a hedgerow to be retained if it is found to be "important" when assessed against detailed criteria set out in the Regulations.

#### What are relevant matters?

In deciding whether to grant planning permission the Council and the Parish and Town Councils must refer to Central Government Advice, the provisions of local plans and all other material considerations. Whilst the Government remains largely in favour of development it must be within the context of these plans and policies.

Planning Policy Guidance notes produced by the government play an important part in the determination of planning applications. These cover many areas of planning policy and are material considerations.

#### General Comments

The plans and policies referred to above are fundamental to all planning control. Planning decisions will be strongly influenced by adopted plans. For example there is little point in objecting to the principle of building houses in an area specifically allocated for that purpose in a Local Plan. The time to do this is when the Local Plan is reviewed.

Active participation in the consultation phases of the drawing up of the Local Plan remains the best way of ensuring the future development of your Town or Village is as you wish to see it.

#### Other Material Considerations

Listed below are some of the more important matters which are taken into account when considering a planning application.

### **Buildings and Structures**

- a) Siting:  
Including relationship with other buildings and spaces.
- b) Design and external appearance:  
Including colour and texture of external materials, architectural details such as windows and doors; the overall size, shape and proportion of the building and its appropriateness to the locality.
- c) Whether the proposed use of the building is appropriate to the area.
- d) Effect on existing buildings in the immediate area, particularly listed buildings, ancient monuments and building in Conservation Areas.

### **Environment and Amenity**

- a) The effect on the landscape and environmental quality of the surrounding area.
- b) The affect upon the privacy and amenity of residents of existing or proposed development.
- c) The provision of landscaping.
- d) General environmental consideration such as peace and quiet, amenity of neighbourhood, generation of litter, smell and vibration.
- e) The protection of existing natural features where they are of visual or scientific importance.
- f) Requirements for restoration or reclamation of land following temporary uses.
- g) The effect of developments on the quantity and quality of water.
- h) The effects on the safety of individuals and property from any development involving the use or storage of hazardous materials, including hazardous wastes.
- i) The stability of the land and whether the soil is contaminated.

### **Highway and Traffic**

- a) The effects of a development on speed, safety, and free flow of existing traffic and vehicular/pedestrian conflict.
- b) The means and design of access to a development.
- c) The capacity of existing highways to safely carry increased traffic volumes.
- d) Parking facilities both for delivery vehicles and others.
- e) Provision of turning areas.

- f) The effect of development on the line of proposed new roads and proposed road improvements.
- g) The blocking of public footpaths and bridleways.

### **General Considerations**

There are other general matters which may be taken into consideration including:

- a) The potential for the development to cause flooding.
- b) Provision of facilities for the disabled.
- c) The establishment of precedent which would adversely prejudice the Committee's freedom to determine future cases.
- d) In certain cases, the overall effects on the economic, social or cultural life of an area:-
  - the introduction of large scale housing growth in a small village
  - the effects on a town centre of out of town retail developments
  - the introduction of a holiday caravan development into a quiet rural area
- e) The economic effect of providing public services e.g. power lines and refuse collection
- f) Means of surface water and foul water drainage.
- g) Retaining the existing use of land and buildings beneficial to the community as a whole.

### **Matters that are not relevant**

Listed below are some of the matters which are not to be taken into account when considering an application. These are set by either national planning policy or by the courts.

#### **1. Matters Controlled under Alternative Legislation**

- a) Including public health, consumer protection and health and safety.
- b) The quantity and quality of the water supply. However, the effect of the water supply to other consumers is a proper consideration.

#### **2. Effects on Other Properties**

- a) Effect on private rights.
- b) Values of neighbouring properties.
- c) The retention or protection of an individual's view.

- d) The direct effects of competition on similar or other business premises.

**3. Circumstances of the Applicant**

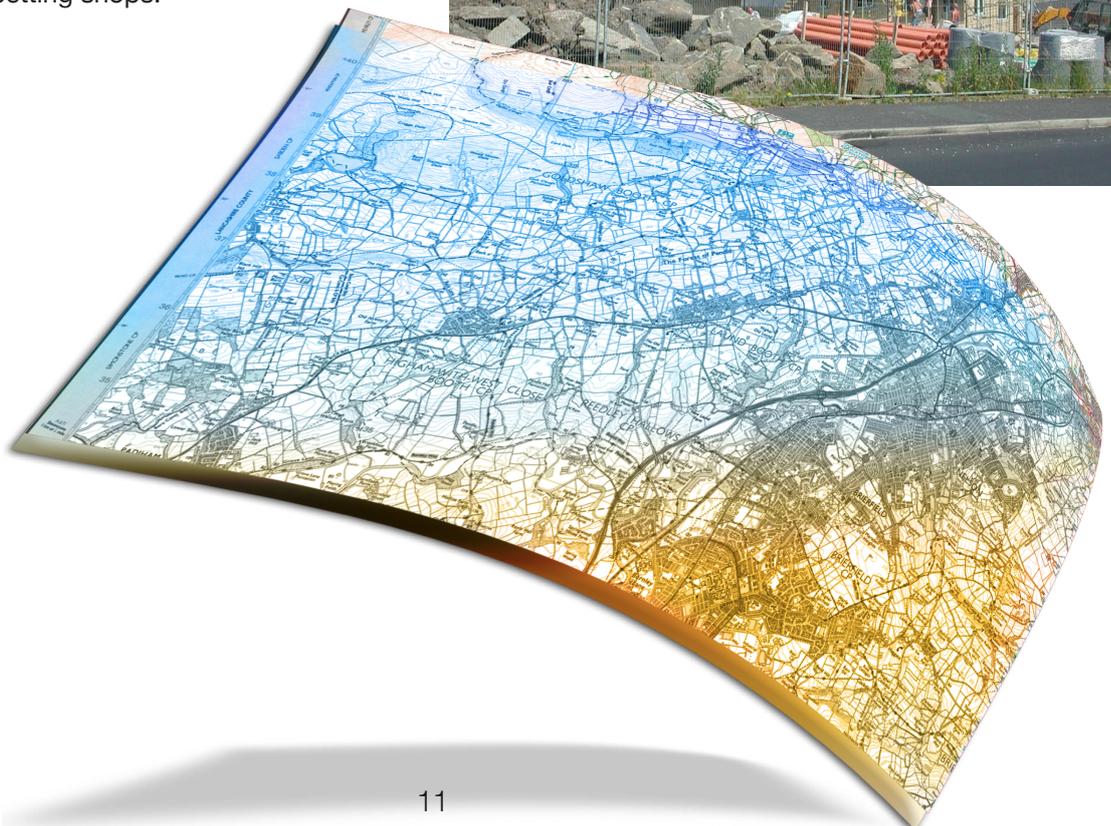
- a) The personal character, health, origin of the owner, occupant, applicant, or developer, including their financial situation are not normally relevant. Only when there is a finally balanced application, can personal circumstances top the balance.
- b) The cost of the site to the applicant - i.e. there is no valid planning argument that one site is cheaper to develop than another.

**4. Ownership of Land**

- a) Ownership of land or buildings is not generally relevant to a decision. An application can be made by someone who does not own a site, providing they notify the owner.
- b) The fact that the applicant does own the site (and, perhaps, no other site) is not a valid factor in a decision.

**5. General**

Moral issues e.g. in relation to public houses, amusement arcades, betting shops.



## 04: The Planning Process

### Speed and Efficiency

The government monitors the speed of processing planning applications as it considers this to be a good indication of the efficiency of the development control process. Councils who fail to provide a speedy process can have their planning powers transferred to the Planning Inspectorate.

The statutory period allowed for determining planning householder and minor applications is 8 weeks and for major applications is 13 weeks. Pendle Borough Council has a high-performance level in deciding planning applications. When applications are received, they are validated and allocated to the Planning Officers for determination. The approved Scheme for Delegation to Officers forms part of the Council's Constitution and governs which applications can be determined by Officers, and which must go before Committee.

Generally, only controversial applications go to the Area Committees and minor less controversial ones such as house extensions or reserved matters applications are delegated to the Assistant Director of Planning Building Control, & Regulatory Services to determine. The Government expects 90% of applications to be determined by the delegated route.

### Consultation

Article 16 of the Town and Country Planning (Development Management Procedure) Order 2015 provides the framework for notifying statutory consultees, and others of Planning Applications. Consultees need to submit their comments to the Local Planning Authority who are determining the application within 21 days of the notification to them of the application.

We publish a weekly list of all applications received throughout Pendle View and comment on a planning application | [View and comment on a planning application](#) | [Pendle Borough Council](#).

The Council is obliged by law to carry out certain

statutory consultations and uses the display of site notices and/or individual letters to seek the views of local residents. Some applications are also advertised in the local press.

In practice there is often an extended period of comment upon major or controversial applications as comments can be received right up to the date the application is determined. This obviously means that these comments will not appear in the Officer's report, but Committee are advised of all late comments.

### Quality

The Council will negotiate towards an approval unless an application is obviously unacceptable in the light of established policy. Negotiations on planning applications are designed to meet the legitimate concerns of consultees and to improve the quality of the built environment. It is government policy and the law that, applications should be determined in accordance with the statutory Development Plan, unless material considerations indicate otherwise.

Having reached a decision upon a planning application the Council can: -

- i) Grant planning permission without conditions (other than standard time conditions); or
- ii) Grant planning permission subject to appropriate conditions; or
- iii) Approve reserved matters (following a previous outline consent); or
- iv) Refuse planning permission

A full planning permission and listed building consent usually expires after 3 years unless the development approved has commenced.

An outline approval also lasts for 3 years; the last of the reserved matters shall be submitted for approval no later than the expiry of 3 years and thereafter the development must start within 2 years of the approval of the last of the reserved matters to be approved. Permissions which have been started, even partially, last forever.

Advertisement consent last for 5 years and then a renewal can be required.

## 05: The Decision, Appeals and Subsequent Changes

### Conditions

It is uncommon for the Authority to grant an unconditional approval and it is normal for conditions to be attached in accordance with the requirements of the NPPF - The Use of Conditions in Planning Permissions. All conditions must be: -

- a) necessary
- b) relevant to planning
- c) relevant to the development to be permitted
- d) enforceable
- e) precise
- f) reasonable

Sometimes planning conditions are not appropriate, such as in situations where a developer has to make a financial contribution to provide off site facilities. In these circumstances a legally binding legal agreement is necessary. Section 106 (of the Town and Country Planning Act) provides for Obligations (or Agreements) to secure, for example, off site highway improvements or the payment of monies for certain improvements.

### Who makes the decisions?

The planning decision will be made by either: -

- i) The Area Committees
- ii) There are occasions when Area Committees may wish to make decisions that are contrary to Policy, or which may lead to an award of costs should the application go to Appeal. In these situations, applications are referred to the central Development Management Committee for determination. Development Management Committee also determines applications for housing developments of 60 or more dwellings.
- iii) The Assistant Director for Planning, Building Control and Regulatory Services These are called delegated decisions.

- iv) Where a planning application raises issues of “more than local significance” the Secretary of State may decide that he should determine the application himself and “call in” the application. This is an extremely rare occurrence.
- v) The County Council can make planning decisions but only on mineral and waste matters. When an application is lodged with the County Council Pendle Borough Council is consulted on that proposal. The decision is however entirely in the hands of the County Council. The County will make decisions on mineral applications and waste disposal ones, alongside developments related to a function they administer such as an extension to a County controlled school.

All other applications are dealt with by Pendle Brough Council.

The Area Committees meet monthly and normally commence at 7:00pm. The meetings are open to the public who may speak in accordance with agreed procedures.

The Council’s Officers prepare an agenda for the meeting which contains reports on each application under consideration including a summary of the consultation responses received. A verbal or written update report is also made at the meeting to assist in the discussion of these applications.

### After the decision

Unless the decision is subject to a Section 106 Planning Obligation the decision will generally be issued before the end of the week following the Committee meeting.

### Subsequent changes

Should a developer change his mind about the design or other details of the approved scheme then they will have to formally apply to vary the scheme. There is a simplified way of dealing with minor amendments to scheme.

**Major changes** require a fresh planning application. If this is submitted within 12 months of the decision,

then there may be an opportunity to submit without the payment of another planning fee; after 12 months a fee will be necessary.

**Minor material amendments** If there is a condition attached to the permission which details the approved plans, it may be possible to obtain approval for minor revisions by applying to vary that condition, effectively substituting the plans.

**Minor non material amendments** Section 96A of the town and Country Planning act 1990 (introduced by s. 190 of the Planning Act 2008) makes it possible to apply to make a non-material amendment to existing planning permissions.

The Council operates a system where 'minor amendments' to a scheme can be considered as a way of allowing the planning system to respond in a reasonable and flexible manner to small changes to an approved scheme without seeking a fresh application. The Council will determine whether the amendments constitute a non-material revision to a planning permission which would not take it outside the scope of the original permission.

This following practice note sets out the circumstances in which minor amendments to approved planning applications will be accepted.

Practice Note (Revised February 2010)

All of the following criteria should be met for amendments to be approved although these are only guidelines, and each case will be considered on its own merits.

1. There would be no alteration to the application site boundary (red edge).
2. The amendment would not conflict with Development Plan Policies.

3. There would be no conflict with any conditions of the planning permission.
4. There would be no conflict with any comment expressed by any party on the planning application (e.g. no neighbour objection provided that the extension does not project beyond the end of a neighbour's patio)
5. No external wall will be moved outwards by more than 1 metre.
6. The height of the building or extension would not be increased.
7. The amendment would not result in any potential overlooking of any neighbouring property.
8. There are no other circumstances that would warrant refusal of the request.
9. The amendments must not result in a fundamental change in the design of the building.

Applications need to be submitted on standard application forms. The Council will endeavour to deal with all minor amendment requests within 28 days of receipt of a complete application.

If you are unsure whether your works are non-material, please contact our planning office on **01282 661333** for advice prior to submitting an application.

### Appeals

There is no right of appeal for third parties. The only challenge a member of public can make to a decision is to Judicially review it.

Section 4 of the Procedural Guide for Planning Appeals sets out the time limits in which a person must make an appeal, otherwise their right to appeal has passed.

Type of appeal and circumstance	Time limit
An appeal against refusal of a householder planning application	within 12 weeks from the date on the decision notice
An appeal against the LPA's failure to determine a householder planning application	within 6 months from the expiry of the period which the LPA had to determine the application
An appeal against the grant of permission on a householder planning application subject to conditions which the applicant objects to	within 6 months from the date on the decision notice
An appeal against refusal of an application for minor commercial development	within 12 weeks from the date on the decision notice
An appeal against the LPA's failure to determine an application for minor commercial development	within 6 months from the expiry of the period which the LPA had to determine the application (please see 4.3 for the LPA's deadline for deciding the application)
An appeal against the grant of permission on an application for minor commercial development subject to conditions to which the applicant objects	within 6 months from the date on the decision notice
An appeal in relation to an application for advertisement consent	within 8 weeks from the date on the decision notice or if the appeal is against the LPA's failure to decide the application, 8 weeks from the expiry of the period which the LPA had to determine the application
All other appeal types (for example, other planning applications or applications for listed building consent)	within 6 months from the date on the decision notice or within 6 months from the expiry of the period which the LPA had to determine the application

The appeal is passed to the Planning Inspectorate, based in Bristol.

Appeals can be dealt with in 3 ways, by:

- i. Written Representations,
- ii. An Informal Hearing, or
- iii. A Public Inquiry

The majority of appeals are determined by Inspectors who consider written submissions by the Local Planning Authority and the Appellant. In all cases the Inspector

visits the site. In a few cases involving major or important proposals the Inspector first reports to the Secretary of State who will make the final decision. Inspector's decisions are given in writing.

There is no further right of appeal and the Inspectors decision is binding unless he has "erred in law" in which case there may be reason to go to the High Court for a ruling, but this does not change the planning decision. If the High Court "quashes" a decision it is given back to the Secretary of State to reconsider the matter.

## 06: Monitoring and Enforcement

We have a separate guide to Enforcement which looks in more detail at the enforcement process in Pendle.

Enforcement is a discretionary power available to the Council to address serious breaches of planning control. Not every planning breach will result in formal action. The Council is not required to take enforcement action but must consider if it is expedient to do so. The Council can decide that it would not be in the public interest to pursue the matter and take no further action. Some breaches are minor in nature and would normally be granted planning permission. Some are technical breaches and do not cause harm to the local community. However where a breach is serious and is causing harm to residents or the local environment, the Council will need to consider the various powers it has available through legislation to secure a cessation of the breach.

Once planning permission has been granted, development can only be carried out in accordance with the approved plans and the planning conditions. If there is a deviation from the plan which has not been agreed, or conditions are not complied with, there is considered to be a “breach of the planning approval”. Similarly, if someone carries out development without planning approval, this is considered to be a “breach of planning control”.

To carry out development without planning permission is not a criminal offence but it does expose the owner of the land to possible Enforcement Action. However, carrying out unauthorised works to a Listed Building, the unauthorised display of an advertisement or the carrying out of unauthorised works to a protected tree is a criminal offence and can result in immediate prosecution.

Breaches of planning control are investigated by the Council’s enforcement team. This process is undertaken in accordance with the Council’s enforcement procedure. Breaches of planning are usually controlled by the issuing of an enforcement notice. For very serious breaches, which require immediate action, the Council can issue a Stop Notice or seek an Injunction. Only in exceptional circumstances are these pursued and if they are wrongly pursued the Council could face heavy financial penalties.

There is a right of appeal to the Secretary of State for the Environment against an Enforcement Notice. An Enforcement Notice may be withdrawn at any time by the Council if it is felt expedient to do so. Once an enforcement notice is served it then becomes an offence not to comply with it.

If there are planning conditions which are not being complied with, the Development Control Manager can resolve to serve a “Breach of Condition Notice”. There is no right of appeal against such a notice and the matter goes to the Magistrates Court, if the Notice is not complied with and fines can be imposed.

If the Council fails to receive a response from a landowner to reasonable requests for information in conjunction with a suspected breach of planning control, then it can serve a “Planning Contravention Notice” to request certain information. This is also a matter for the Magistrates and there are fines for not replying or for giving false or misleading information.

It should be stressed that enforcement action is taken as a last resort and only after negotiations have failed, but nevertheless it is an essential part of the development management process for it ensures that everyone is treated evenly and fairly in the interests of the wider Community.



SIDE ELEVATION



FRONT ELEVATION



REAR ELEVATION

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