

Parish Councillor Update

September 2023

Kate Bishop – Head of
Regulatory Services

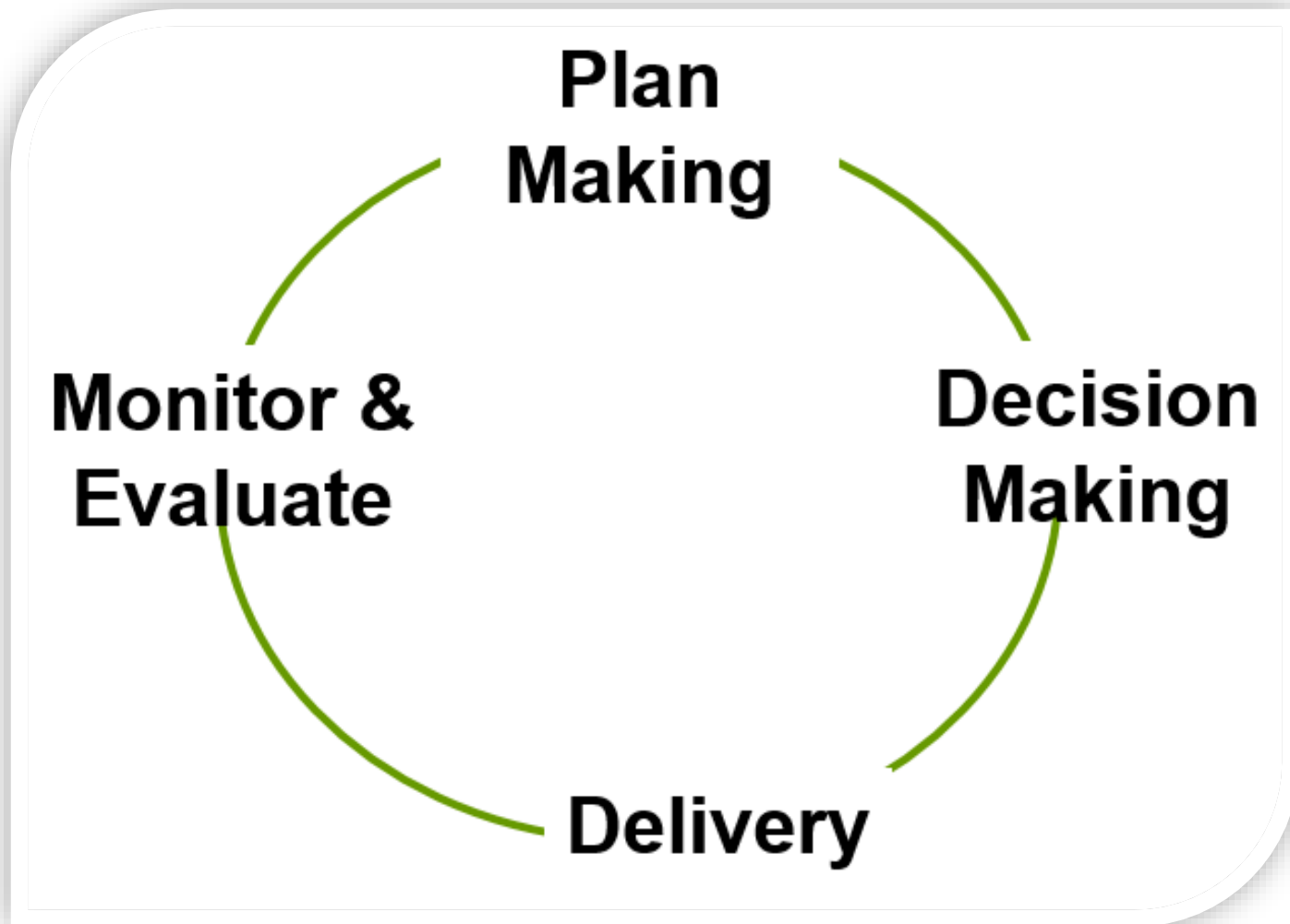
Tracy Harvey – Interim Head of
Planning



Contents:

Planning – General
New Local Plan and Evidence
Neighbourhood Plans, Community
Infrastructure Levy and s106
Planning Enforcement
Building Control

The circle of planning



Planning...

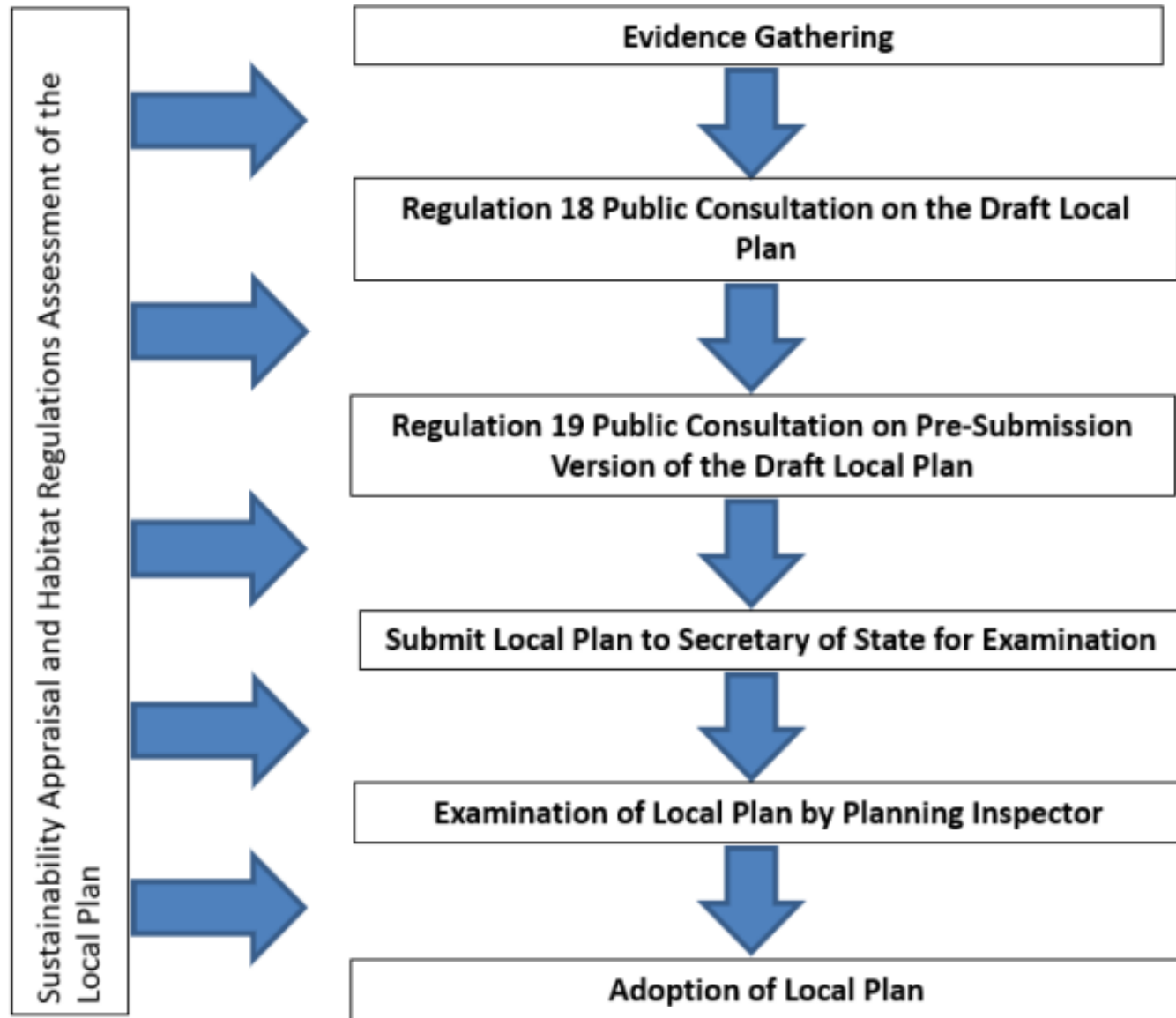
- sets out a **long term vision** for places
- provides a **decision making framework** to manage competing uses for space
- **balances** economic, social and environmental needs.
- provides **legitimacy** through consultation and testing of evidence
- **delivers change** on the ground

New Local Plan and Evidence

Economy & Development



Local Plan Process



Planning in England is policy-led

- National policy
 - National Planning Policy Framework (NPPF)
 - National Policy Statements
 - G&T policy
 - Planning Practice Guidance
- Local policy
 - development plan
- Neighbourhood policies
 - neighbourhood plans



Local Plan Evidence Work

- Key appointments let and upcoming opportunities to engage:
 - Housing Need (including specialist housing)
 - Employment Need and Land
 - Swindon Futures Economic Vision 2050/55
 - Retail and Town Centre Uses
 - Integrated Sports Assessment
 - Strategic Flood Risk and Water Cycle Study

Local Plan Evidence Work

Other commissioned work:

- Strategic Transport Model.
- Integrated Sustainability Appraisal.

Tenders to publish September 2023:

- Habitats Regulations Assessment Update.
- Gypsy and Traveller Accommodation Assessment.

Future commissioning:

- Minerals and Waste.
- Ecology Surveys.
- Burial and Interment Strategy – [future input welcome.](#)
- Whole Plan Viability Assessment and CIL Review.



Local Plan Evidence Work

Work by SBC on evidence and / or approach to be further developed:

- Green Infrastructure Strategy
- Landscape Character and Landscape Impact
- Heritage Impact Assessments
- Bio-diversity Net Gain / Nature Recovery / Natural Capital
- SHELAA and Site Assessments
- Infrastructure Delivery Plan

Increased priorities:

- Climate Change and Carbon reduction – current CE chaired corporate group and smaller technical working groups
- Swindon Town Development Framework / Town Centre Strategy

SBC Cabinet and Formal Consultations:

- Updated Local Development Scheme (LDS) (November 2023)
- Updated Statement of Community Involvement (SCI) – Consultation January – February 2024.



Neighbourhood Plans, Community Infrastructure Levy and S106

Community Infrastructure Levy

CIL and Neighbourhood Planning

Parish council ✓ Neighbourhood Plan ✓ = 25% uncapped, paid to Parish	Parish council ✓ Neighbourhood Plan X = 15% capped at £100 / dwelling, paid to Parish
Parish council X Neighbourhood Plan ✓ = 25% uncapped, local authority consults with community	Parish council X Neighbourhood Plan X = 15% capped at £100 / dwelling, local authority consults with community

*where there is an up to date Neighbourhood Plan

Current status of Designated NP Areas

Nb. 25% CIL for Plan "in place" – reverts to 15% on expiry

Plan Adopter	Area of Coverage	Stage	Made	Date Made	Expires	Parish
Wroughton Parish Council	Whole of Parish Boundary	Complete and Made (Adopted)	YES	14th July 2016	2026	Wroughton
Highworth Town Council	Whole pre-2017 Parish Boundary (Note adopted NP boundary now incl area of South Marston Parish)	Complete and Made (Adopted) Work commenced on NP Review August 2021 At Pre Reg 14 stage	YES	13th July 2017	2026	Highworth
Blunsdon Parish Council	Not Whole of new Parish Area (excludes area south of A419)	Complete and Made (Adopted)	YES	22nd June 2021	2026	Blunsdon
Chiseldon Parish Council	Whole of Parish boundary	NDP commenced – decision to designate issued 31 January 2022 At Pre Reg 14 stage	NO			Chiseldon
Hannington Parish Council	Whole of Parish Boundary	Complete and Made (Adopted)	YES	8th November 2018	2026	Hannington
South Marston Parish Council	Not whole of Parish - Boundary cover a locally defined Village Area only	Complete and Made (Adopted)	YES	9th November 2017	2026	South Marston
Stratton St Margaret Parish	Covers whole of Parish	Complete and Made (Adopted)	YES	22nd June 2021	2026	Stratton St Margaret
Wanborough Parish		Ceased production July 2017	NO			Wanborough

NPPF Paragraph 14 and out-of-date policies

NPPF Para 14

In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to (emphasis added) significantly and demonstrably outweigh the benefits, provided all (emphasis added) of the following apply (footnote 9):

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made – all adopted neighbourhood plans are now greater than 2 years old.*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement - mixture of strategic fit to SD2 and allocations.*
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74) – 3.6 to 4.6 years.*
- d) the local planning authority's housing delivery was at least 45% of that required over the previous three years – HDT last published results for 2021 (January 2022) indicates 92%.*

NPPF Paragraph 14 and out-of-date policies

Out-of-date either means:

a) deemed out-of-date

NPPF footnote 8 establishes a technical threshold, with the most important policies considered 'out-of-date' with reference made to 5 YHLS position and housing delivery position.

Or

b) policies which are "overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason"

So, within context of statutory primacy of development plan the "acid test" for whether or not a policy is out of date is the extent to which it is consistent with the NPPF. (planning judgement needed)

Note NPPF Para 12 caveat - The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision -making.

CIL Reporting: Reminder (as relevant)

Parish / Town Councils receiving CIL receipts under the CIL neighbourhood proportion are required to

- a) Produce and publish on its website a report annually for any year in which they receive CIL receipts.
- b) Send a copy of that to the Charging Authority from which it received the receipts

This needs to be complete and published by 31 December of the following financial year.

S106 Planning Receipts recently approved for transfer

In March 2023 Cabinet approved a no. of s106 receipts for transfer to Parish / Town Councils .

These are in the following Parish /Town Council areas:

- Central Swindon South PC
- Haydon Wick PC
- Highworth TC
- South Marston PC
- Stratton St Margaret PC
- Wanborough PC

Letters will soon be issued to instigate the transfer process. Please keep an eye out for the letter

S106 Planning Obligations Update 3: s106 receipts transferred and status of use

Parish / Town Councils will be asked annually on the status of s106 receipts it has received:

Please check that:

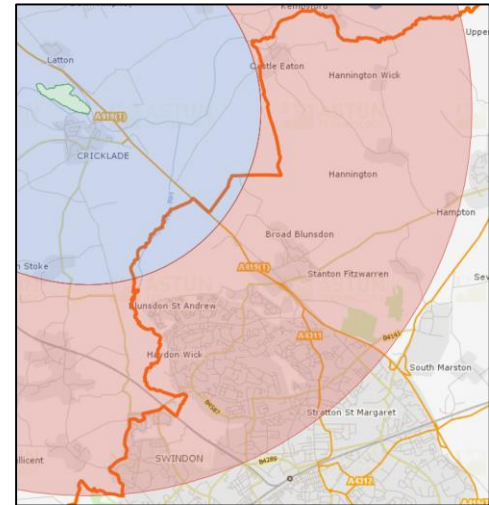
- a) Each s106 item that has been transferred is being tracked
- b) Records are kept on the date allocated and for what purpose it was to be used and the minute reference for the local approval
- c) Keep the allocation / spend status up to the date recording the date it was fully spent (this needs to include spend in each financial year if it splits across financial years).

The Council will be approaching Parish Town Councils for this information

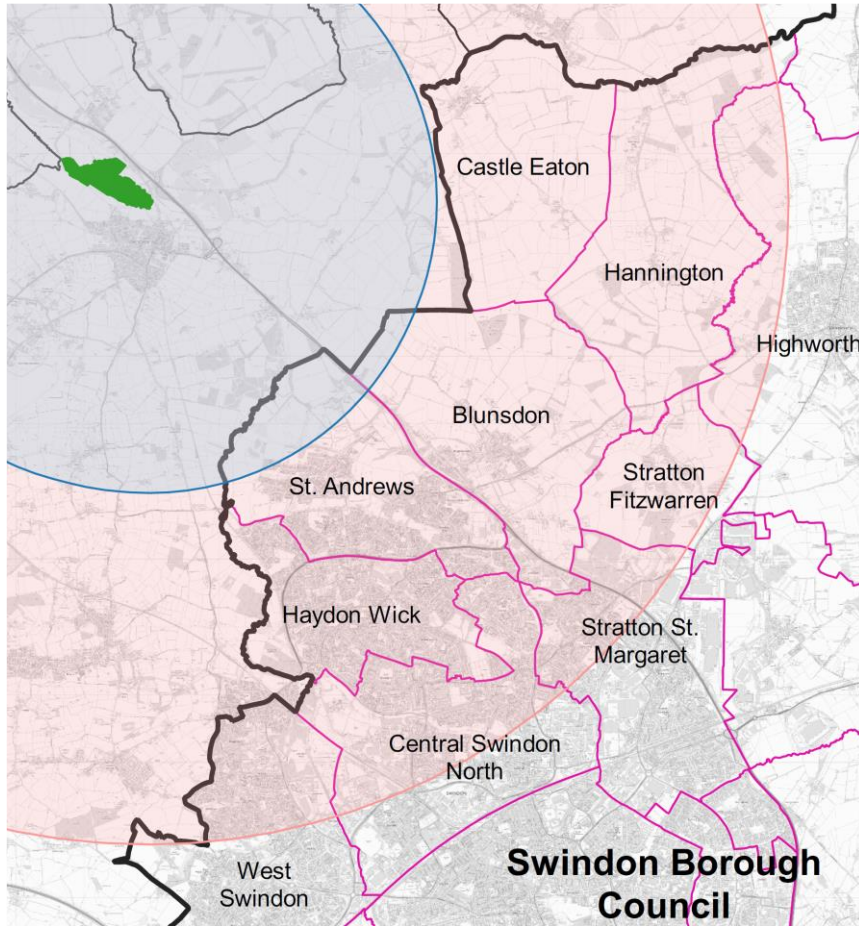
North Meadow Special Area of Conservation mitigation strategy

Recreational pressure on North Meadow

- Designated Special Area of Conservation protected through requirements Habitats Regulations 2017 (as amended)
- Also a Site of Special Scientific Interest (SSSI), a National Nature Reserve (NNR) and part of the site is Registered Common Land.
- Natural England identified harm caused by increased recreational pressure on the site:
 - Walking and trampling/path widening
 - Dogs off lead (prohibited), dog poo in hay, lost sticks and balls interfering with management practises
- Visitor Survey identified the 'Zone of Influence'
- Strategic mitigation package developed (behaviour, wardening, signage)
- Measures funded by financial contribution per unit basis - must legally agree to pay before permission granted



North Meadow SAC and developer contributions



Zone of influence mapped against Parish Boundaries

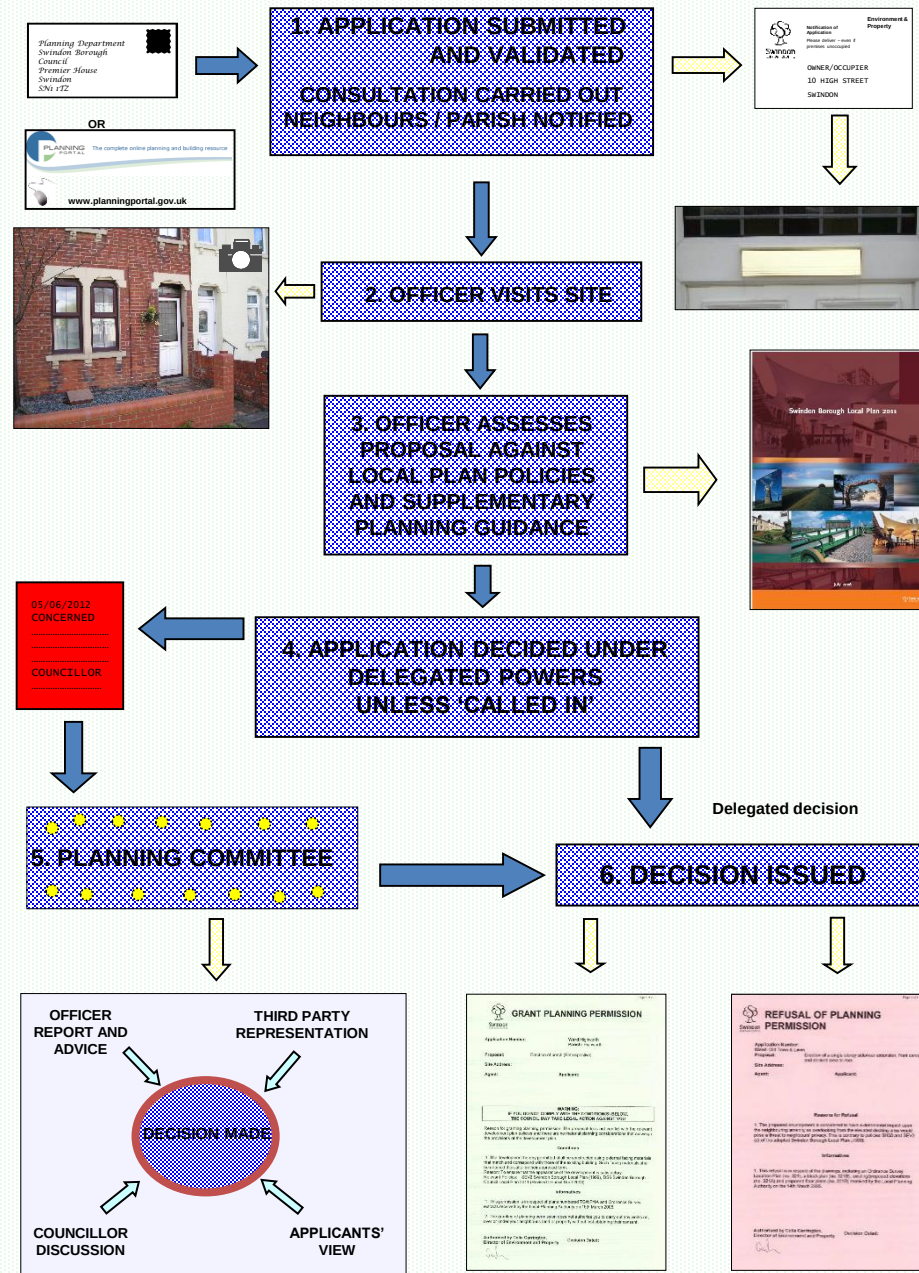
More information:

https://www.swindon.gov.uk/info/20030/planning_and_regeneration/1323/habitats_ecology_and_bio-diversity

Economy & Development

Planning Applications and Making Parish Council Responses

JOURNEY OF A PLANNING APPLICATION



Swindon Borough Council Planning Committee

The Planning Dept. deal with over 2000 planning and related applications each year.

Over 90% of applications dealt with will not go before the committee but will be determined under delegated powers

Under the scheme of delegation, Parish councils can 'call in' applications to planning committee and are required to give reasons for doing so.

Reasons are required to be given by a Parish Council why the development is considered to raise significant planning issues or is locally controversial.

The Planning Committee like to see a Parish representative attending committee to explain further their reasons for doing so

Considerations

Under a Plan led system, the starting point for determining applications is the Development Plan. The law requires

that decisions must be made in accordance with the plan unless material considerations indicate otherwise.

The Development Plan comprises;
The Swindon Borough Local Plan 2026 (2015)
The Swindon Central Area Action Plan
Wiltshire and Swindon Minerals Core Strategy
Wiltshire and Swindon Waste Core Strategy
Neighbourhood Plans.



Exercise

What is a material Planning
Consideration?

Material Considerations

Other relevant considerations and documents include;

National Planning Policy Framework (NPPF)

Planning Practice Guidance – (superseding Govt. circulars.)

Supplementary Planning documents and guidance notes e.g.

Residential extensions and alterations, Parking Standards and the Swindon Residential Design guide, (includes Backland and infill).

Impact upon Heritage Assets (Listed Buildings, Conservation Areas, Buildings of Local Importance), AONB

Precedent

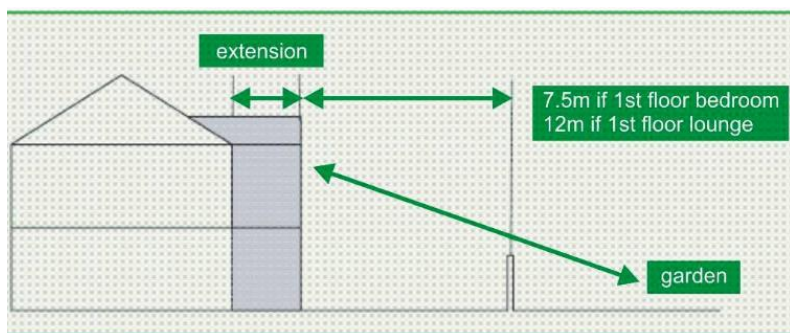
Planning history / existing use rights

Planning obligations (S106)

Representations by statutory consultation

Material Considerations

- Overlooking / loss privacy
- Loss of light / overshadowing
- Effect on listed building
- Layout, density
- Development plan
- Previous decisions/appeals
- Natural environment
- Flood risk
- Parking
- Highway safety
- Traffic
- Noise
- Design, materials
- Govt. policy
- Disabled access



Non-material Considerations

- House prices and house insurance
- Personal circumstances
- The conduct of the applicant
- The strength or volume of opposition / objection
- Loss of a *private* view
- Damage to property or Party Wall Act matters
- Loss of trade
- Boundary disputes or covenants



The decision can be challenged

- Appeal; Secretary of State, PINS
- Costs for unreasonable behaviour
- Judicial Review and Ombudsman



The Planning
Inspectorate



Local Government &
Social Care
OMBUDSMAN

Basic principle': start with the plan

- “.....have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations”.



Ask yourself.....

- What is the “**evidential basis**” for the decision?
- Is it clear **why** permission is refused?
- Can you describe the **harm**...
- ... and why conditions would not be sufficient ?
- Is it clear what the **policy support** is for the decision?
- Have **other material considerations** been given the appropriate weight?



Taking a house extension as an example:

Impact upon street scene	Too Large Too Prominent Out of Character Introduces alien features Materials Fenestration (windows / doors) Effect upon planting / landscape features e.g. protected trees
Impact upon host building	Design Materials Scale / height Bulk Mass
Overbearing impact upon neighbours	Location Orientation Loss of daylight Loss of sunlight
Loss of privacy / overlooking	Views into habitable/ sensitive rooms Views into private amenity space Separation distances Windows on or close to boundary
Over-development	If 'too large', what is the impact? Extensions larger than guideline may be ok if no harm is caused
Parking / Access	Is Parking adequate / unusable Does provision accord with standards, if not, are there any mitigation measures? Can alternative provision be made?
Accord with policy	May satisfy some but not all Duty to consider all material considerations and reach a balanced decision
Could a condition make it acceptable	E.g. different materials Prevent windows in certain elevations
Access	Is it safe? What is the evidence to counter an 'expert' view

Planning Services

Tips

Do try and limit to planning reasons

We have to be mindful of Permitted Development rights

If calling in explain why the proposal is considered to raise **significant planning issues** or is **locally controversial**.

If in doubt about a concern – list it and let the local planning authority determine if its relevant.

A parish won't be liable to costs! However, SBC can be if permission is refused on unjustified or non-evidenced grounds

Only ask for extended periods of time to respond exceptionally as we may not be able to agree to the request.

Planning Enforcement

September 2023

Kate Bishop



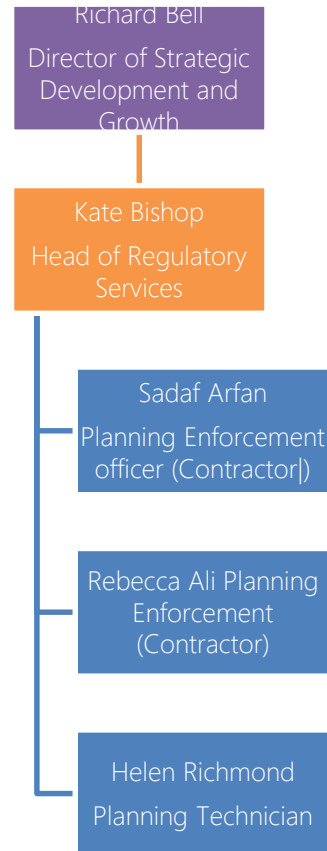
Areas to cover

1. Planning Enforcement

- The team and regulation
- Planning enforcement regulation, policy and prioritisation
- Key considerations
- Types of cases dealt with by the Planning Enforcement Team
- How to report a breach
- Service demand

2. Questions

Team Structure

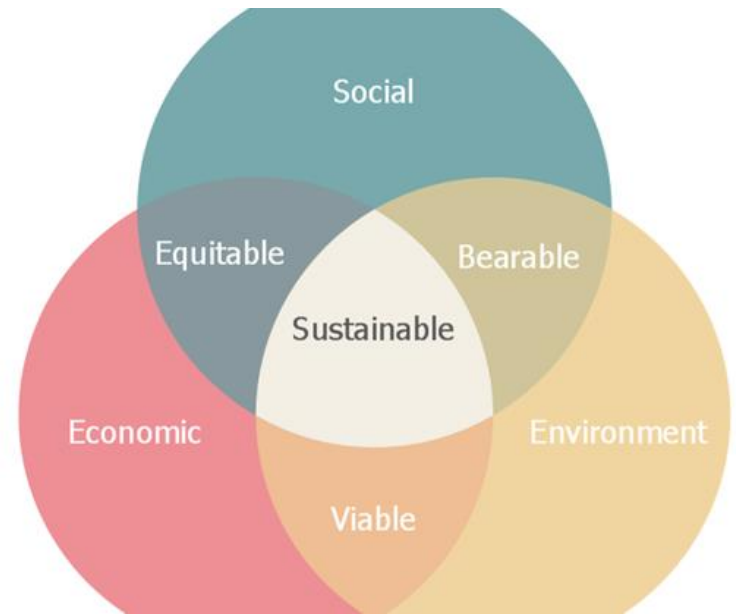


Regulatory Services

Planning Enforcement Regulation

National Planning Policy Framework (NPPF) – Paragraph 59 of 223

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”



The Royal Town Planning Institute (RTPI)

Published guidance



<https://www.rtpi.org.uk/practice/2020/may/planning-enforcement-handbook-for-england/>

Regulatory Services



Some things to note



- Failing to get planning permission is not a criminal offence
- Enforcement powers within planning enforcement are discretionary
- Local authorities have discretion about when to take enforcement action and should act proportionately if there is:
 - A development being constructed without the required planning permission; or
 - A failure to comply with any condition or limitation subject to which planning permission has been granted
- Enforcement action can be taken by the Council if it is expedient to do so having regard to the development plan and other material considerations

What does planning enforcement cover?

1. Unauthorised building or engineering works
2. Change of use of land without consent
3. The display of unlawful advertisements
4. Unauthorised work to a listed building
5. A building not built in accordance with the planning permission (approved plans)
6. The breach of conditions attached to a planning permission or listed building consent
7. The unauthorised demolition in a conservation area
8. Unauthorised works to protected trees (tree preservation order or trees within a conservation area)
9. Failure to comply with a section 106 agreement
10. Failure to properly maintain land so that it adversely affects the amenity of the area



Planning Enforcement Policy

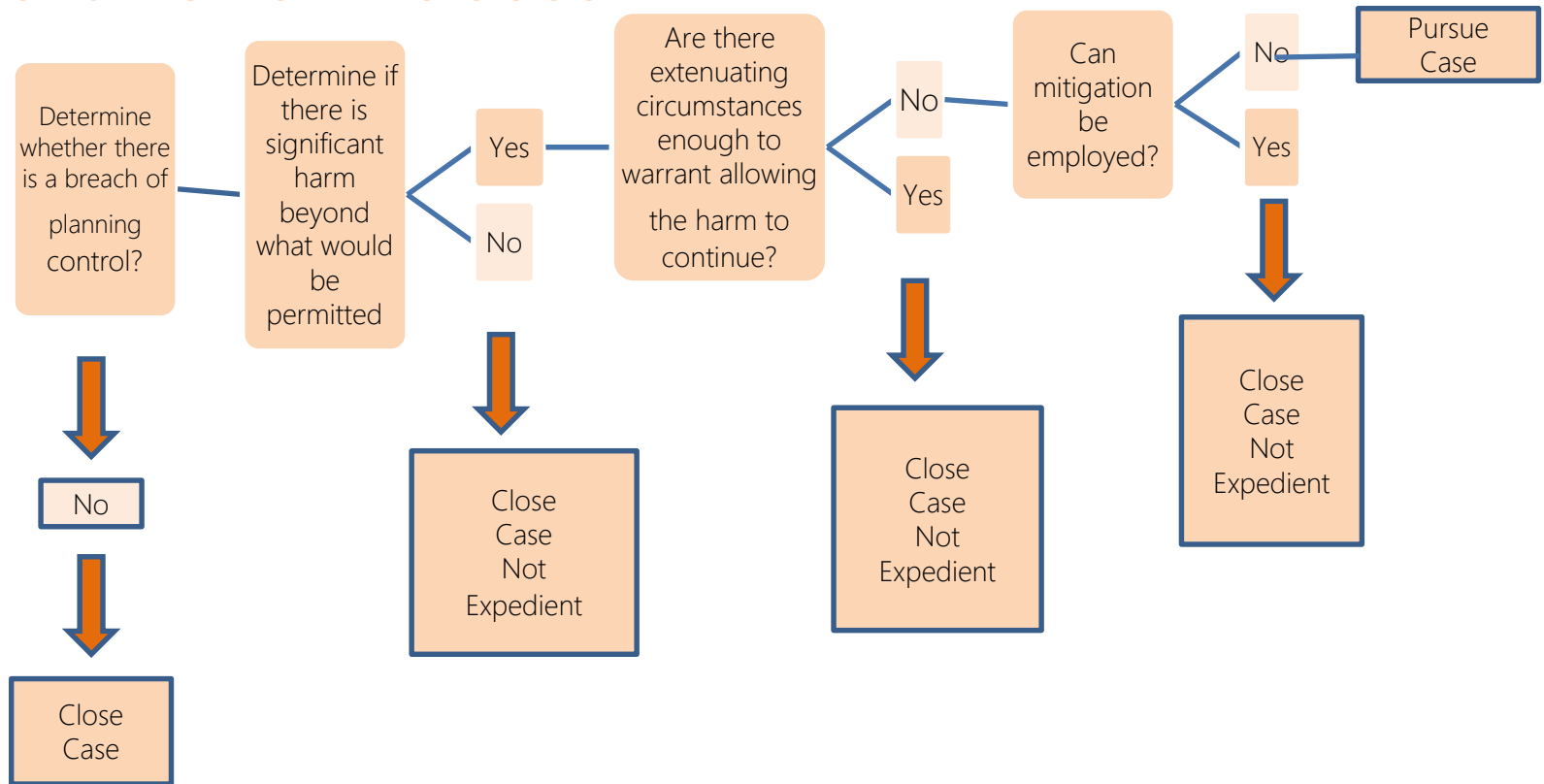
The Enforcement Policy for Planning Enforcement was approved in October 2022

It sets out the approach and expectations of the service and details the prioritisation and response times the service will be using.



Priority 1 Danger to the public Direct and potentially irreversible harm	Priority 2 Significant or unacceptable harm on individuals or the environment	Priority 3 Loss of amenity Other minor breaches of control which does not cause immediate/long term harm or loss of amenity.
Examples include: • a breach resulting in a risk to public safety • unauthorised works to a listed building • unauthorised works to a protected tree	Example include: • unauthorised building operation, such as residential or commercial extensions • a material deviation from an approved development • the change of use of residential property to a business. • significant breaches of conditions • unauthorised changes of use	Example include: • an untidy site / building or any other minor breach which creates little or no harm to the amenity of the area. • unauthorised signage and advertisements • unauthorised fences, walls and gates
We aim to visit 80% of these sites within 24 hours of the notification being registered	We aim to visit 90% of these sites within 10 working days of the notification being registered	We aim to visit 90% of these within 20 working days of the notification being registered
We aim to respond to all complainants within 28 days of receipt of their request for service with an update on the case		
We aim to reach a decision on 90% of cases within 6 weeks of receipt of their request for service		

Breaches of Planning Control – Considerations Process



Criminal Offences

- Enforcement Order (wilful concealment)
- Breach of an Enforcement Notice
- Breach of a Breach of Condition Notice
- Breach of Section 215 Notice (untidy site)
- An advertisement that does not have consent
- Works to a listed building can, in certain situations, also be a criminal offence
- Failure to respond to a requisition notice



Examples of successful action – Old School (Before)



Regulatory Services

After



Regulatory Services

Ramsbury Avenue



Regulatory Services

Bollingbrook, Moredon



Before

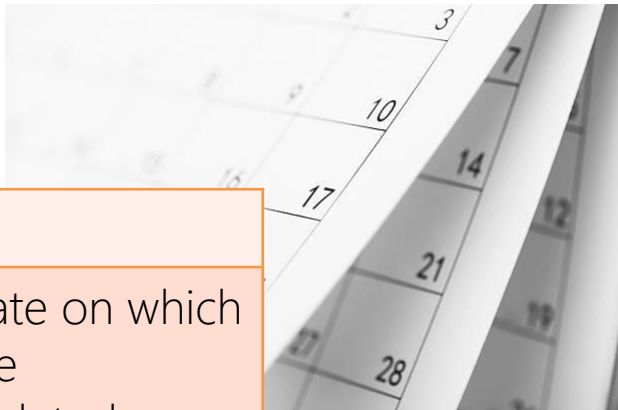


After

Situations when there is unlikely to be a breach

- Most complaints result in conclusion of no breach because:
 - Development is permitted development
 - The activity is not development
 - The matter is a civil issue
 - The development is immune
 - Works took place prior to listing
 - The breach does not match that contained within the condition or there is no condition
 - Subject to time limits

Time Limits



Activity	Time Limit
Operational development (carrying out a building engineering, mining or other operations in, on, over or under land	4 years from the date on which the operations were "substantially" completed
Breaches of planning control consisting in the change of use of any building (includes part of a building) to 'use as a single dwelling house	4 years from the date of the breach
Any other breach of planning control	10 years from the date of the breach

The expiry of the time period does not make the development authorised; it simply means that it is immune from enforcement action

How to make a request for service

Planning enforcement referral form

https://www.swindon.gov.uk/forms/form/349/en/planning_enforcement_referral_form

We do not accept anonymous complaints

Data

Activity	2019	2020	2021	2022
Number of service requests	199	614	769	413
Number of notices issued	1	3	3	1
Main complaint types				
• Unauthorised Development				
• Change of Use				
• Breach of Condition				
• Non-compliance with approved plans				

Summary

- Enforcement is an important tool for the planning authority
- Action is always discretionary
- Action has to be reasonable and proportionate
- Service of notices is the last resort

Building Control

Economy & Development



Statutory service

Many people confuse Building Control with Planning.

Building Control is a separate statutory regulatory service operating under different legislation. It is about the construction of buildings:

- **meeting regulatory requirements**
- **safeguarding the health and safety of persons in and about buildings**
- **dealing with a range of other matters such as fire and structural safety**
- **Building Control also deals with issues of public safety in relation to dangerous structures, demolition and safety at sports grounds and events.**

Local Authority duty and function



The Building Act 1984

Duties of local authorities

91.—(1) It is the duty of local authorities to carry this Act into execution in their areas, subject to—

- (a) the provisions of this Act relating to certain other authorities or persons,
- (b) the provisions of Part I of the Public Health Act 1936 relating to united districts and joint boards,
- (c) section 151 of the Local Government, Planning and Land Act 1980 (urban development areas), and
- (d) section 1(3) of the Public Health (Control of Disease) Act 1984 (port health authorities).

(2) It is the function of local authorities to enforce building regulations in their areas, subject to sections 5(3), 48(1) and 53(2) above and (as to inner London) to Part V of Schedule 3 to this Act.

Building Control Competition

Building Control is the only Local Authority regulatory service to operate in an open commercial market.

Local Authority or Approved Inspector

Approved Inspector's currently regulated by CICAIR

ALL Building Control Professionals will be regulated by BRS (HSE) from April 24

Chargeable functions

**Assessment of plans and
passing/rejection of application.
Site inspections during construction.**

Assessment of a Building Notice during
construction and checking of details

Assessment and action in respect of
unauthorised work including work passed
to the local authority by an Approved
Inspector which often brings its own
challenges.



Non-chargeable functions

Dealing with dangerous structures



Work solely for the benefit of disabled people



Parishes – Planning Application Consultations

When issuing a comment on a Planning Application most Parishes are emailing the planning validation team or the Planner direct.

To simplify the process please use the Planning page on the SBC website to submit your comments.

<https://pa.swindon.gov.uk/publicaccess/>

Internal Consultees that are already using Public Access are finding it quick and easy to use. The process is also a more efficient way in how the validation team receive and process the comments.

We would like all Parish Planning consultations to come through the SBC Website/Planning Portal by end of October 2023.

A quick guide is available to all.

Please let me know of any questions or help with using the portal to submit your comments. crhodes@swindon.gov.uk

Advantages to Parishes

Once registered the process is quick and easy to use.

Allows users to see previous comments on applications.

Easy to monitor responses.

Advantages to SBC

All comments received will be in the same format.

A more efficient use of officers time.

Thank you

www.swindon.gov.uk



Useful Web Links

- [Planning Applications Online Database](#)
- [SBC Guide to Planning](#)
- [Planning Protocol](#) (how applications are dealt with)

Need advice for your particular project?

Contact us on:

Tel: 01793 466050 or email:

bcontrol@swindon.gov.uk

Building Control Service Lead:

Neil Ashman