



Material Planning Considerations

Extract from DCLG publication: The Planning System: General Principles
(www.communities.gov.uk/documents/planningandbuilding/rtf/155391.rtf)

Determining planning applications

Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies are relevant and up to date. The 2004 Act provides that if there is a conflict between policies in an RSS or policies in a DPD, the most recent policy will take precedence.

Other material considerations

"In principle...any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances" (Stringer v MHLG 1971). Material considerations must be genuine planning considerations, i.e. they must be related to the development and use of land in the public interest. The considerations must also fairly and reasonably relate to the application concerned (*R v Westminster CC ex parte Monahan 1989*).

The Courts are the arbiters of what constitutes a material consideration. All the fundamental factors involved in land-use planning are included, such as the number, size, layout, siting, design and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood and the availability of infrastructure.

The Courts have also held that the Government's statements of planning policy are material considerations which must be taken into account, where relevant, in decisions on planning applications. These statements cannot make irrelevant any matter which is a material consideration in a

particular case. But where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them. If they elect not to follow relevant statements of the Government's planning policy, they must give clear and convincing reasons (*E C Grandson and Co Ltd v SSE and Gillingham BC 1985*).

Emerging policies, in the form of draft policy statements and guidance, can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review; and the circumstances which have led to that review may need to be taken into account.

In those cases where the Development Plan is not relevant, for example because there are no relevant policies, or policies in the DPDs pull in opposite directions so that there is no clear guide for a particular proposal, the planning application (or planning appeal) should be determined on its merits in the light of all the material considerations.

Local planning authorities may sometimes decide to grant planning permission for development which departs from a Development Plan if other material considerations indicate that it should proceed. Significant departures must be notified to the Secretary of State so that he can decide whether he wishes to intervene.

Material considerations are many and extraordinarily varied. They include all the fundamental factors involved in land-use planning, such as:

- the number, size, layout, siting, density, design and external appearance of buildings,
- the proposed means of access,
- landscaping,
- impact on the neighbourhood, and
- the availability of infrastructure.

Examples of factors that **may** be taken into account as material considerations in the decision making process include:-

- Planning history of the site
- Overshadowing
- Overlooking and loss of privacy
- Adequate parking and servicing
- Overbearing nature of proposal
- Loss of trees
- Loss of ecological habitats
- Archaeology
- Contamination by a previous use
- Effect on Listed Building(s) and Conservation Areas
- Access and highways safety
- Traffic generation
- Noise and disturbance from the scheme
- Disturbance from smells

- Public visual amenity
- Flood risk
- Planning gain

Examples of factors that **cannot** normally be considered as material planning considerations are:-

- Loss of value to an individual property
- Loss of a private individual's view
- Boundary disputes including encroachment of foundations or gutters
- Private covenants or agreements
- The applicant's personal conduct or history
- The applicant's motives
- Potential profit for the applicant or from the application
- Private rights to light
- Private rights of way
- Damage to property
- Loss of trade to individual competitors
- Age, health, status, background and work patterns of the objector
- Time taken to do the work
- Building and structural techniques
- Matters covered by other statute
- Alcohol or gaming licence