

# The Local Planning Authority – Decision on Planning Applications

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## The five day protocol

### 1.0 Background

This guidance covers the process for managing disagreement between the Parish Council and Cornwall Council (LPA) when planning decisions differ. The Parish Council may be asked to reconsider their original decision within **five working days** of the Officer's advice note. This is called the Five Day Protocol.

### 2.0 After the Parish Council has made their decision at a Public Meeting

Following posting of the Parish Council comments on the Cornwall Council Planning Portal, the Planning Officer will note what has been decided, and review their own recommendations. This may result in the following :-

**Both parties may Agree**, the Officer will include Councillor's comments in Cornwall's decision.

**The Parish Council may Disagree**, the Officer will write to the Parish Clerk and ask that the Parish Council reconsider their decision. There are three choices provided :-

1. Agree with the recommendation from the Planning Officer
2. Agree to disagree and the Parish Council maintains their position even in the light of further information.
3. Maintain support for the original proposal against the Officer's recommendation and request Committee consideration by the Planning Committee (which they will then discuss with the Divisional Member who may or may not agree with the Parish Council views).

**One of the above options should be chosen within five working days from the date of letter or communication from Cornwall Council. Whilst the (LPA) will have the final say, the Parish Council are entitled to lodge their views and maintain their position.**

### 3.0 How does the Parish Clerk advise the Parish Council in making their decision?

Botus Fleming Parish Council has under **Standing Order 8** an Item which prevents previous resolutions being reversed within 6 months and a strict timescale attaching.

' A resolution shall not be reversed within 6 months accept by either a special motion, which requires written notice by at least **4 members** to be given to the Proper Officer in accordance with Standing Order 9, or by a motion moved in pursuance of the recommendation of a Committee or a Sub-Committee '

**When the Planning Officer issues the 5 day protocol challenge, the Parish Clerk will need to consider the request on its own merit and then to advise the Chair and Vice Chair as to how to proceed.**

### 3.1 Items to consider

The Parish Council must review the paper trail from the previous decision to determine whether the Application was contentious or controversial.

- Were there any items in the Application identified as having an impact or a significant impact?
- If there were, how were they resolved, was the decision Refusal or Recommended with conditions?
- Was the original vote unanimous or majority?
- Was there a site visit?
- Was expert opinion sought externally or internally?
- What comments, if any, were posted online from residents **For** or **Against**?
- What was the view of other consultees and were these considered at the Public Meeting?
- Were any representations made at the Public Meeting in person?

### 3.2 What reason does the Planning Officer give for the disagreement?

- New evidence / New plans submitted
- Weight of other consultee opinions
- Application of Planning Regulations or the Cornwall Local Plan.

In the event of new evidence ( revised plans ) does it :-

- Give the Council information not sought at the time OR did not have available in order to make a decision
- Might have influenced Councillors in making their decision if the information had been available at the time
- If Yes, would the influence in the decision have been significant and produced an alternative decision?

### 4.0 Advising the Chair

The Clerk will, upon receipt of new information, or invitation to a Five Day Protocol discuss the matter at the earliest opportunity with the Chair and Vice Chair to agree what action can be taken. Three Options are available :-

#### 4.1 Option 1

Should the weight of new evidence suggest that Councillors may have decided differently at the Public meeting, then the Chair or Vice Chair can select Option 1 ( Agree with the Planning Officer and change the decision of the Parish Council).

**In order to endorse this**, the Chair or Vice Chair may :-

- Take informal advice from other Councillors (**email or telephone is acceptable**)
- Take informal advice from people or organisations who expressed views on the planning application (**email or telephone**)
- Post a notice inviting new comments
- Call a Public meeting (**with three days' notice required**)

Should a Public Meeting **NOT** be called, the Chair or Vice Chair must report back at the next Public Meeting with notice of the Parish Council's decision.

#### 4.2 Options 2 or 3

If, after considering any new evidence, the Chair or Vice Chair are minded to maintain the Parish Council's decision, they may still follow the options listed above. Whatever choice is made, the outcome must be made known at the next Public Meeting.

Please note that the strength or weight of feeling amongst Residents and Councillors may influence the Chair or Vice Chair in deciding which of the two options to choose.

#### **4.3 How much time can the decision take?**

The Local Planning Authority (LPA) has agreed **five working days**. Should there be a need to call a Public Meeting, **three working days** are required to advertise it. Time is of the essence, and the Parish Clerk must be mindful of the constraints of time and opinion gathering when advising the Chair or Vice Chair. As under 3.1 the notes already made and the paper trail created will provide evidence to support the Chair or Vice Chair reviewing the Application.

#### **4.4 At the public meeting**

Include as a separate item in the Planning section of the Agenda, and circulate any comments, already posted by the Parish Clerk on the Planning Portal, to Councillors **prior** to the Public Meeting. Councillors are able to view the comments online Portal system prior to any Public Meeting. The Chair or Vice Chair should propose a Resolution to confirm Councillor's responses.

Christopher Cook

Parish Clerk & RFO

7<sup>th</sup> February 2019