

Planning Decisions FAQ's

Why has planning permission been granted when there were objections from local residents?

Planning decisions have to be made on the basis of national and local policy. Locally policies are set out in the [Local Plan](#) which sets out the rules by which planning applications will be judged. Within planning law there is a presumption in favour of development, that is to say permission should always be granted unless there are compelling planning reasons to refuse.

The fact that someone has objected to an application is not in itself a reason to refuse planning permission. We carefully consider all objections that are received but sometimes the weight they carry may be reduced because they are not relevant to planning. It is also sometimes possible to address concerns raised in objections by attaching conditions to a planning permission.

You can view the officers report and the decision notice [on our website](#) . The decision notice will set out the reasons for the decision and any conditions attached to the permission. Some conditions will be attached to protect neighbouring residents, for example by requiring certain windows to be obscure glazed, or restricting the hours of operation of a business.

If you believe that any conditions are not being complied with you can contact us at enforcement@hastings.gov.uk, telephone 01424 451090 and we will investigate.

I don't think my objections were taken into account.

When determining a planning application we can only take certain considerations into account.

We can take into account things like:

- The appearance and character of the area or street, including the design and materials of buildings, landscaping and tree loss;
- Other environmental issues (e.g. noise);
- Traffic generation and road safety;
- Employment and the local economy;
- Impact on public services;
- Effects on the landscape and the need to protect open land in the Area of Outstanding Natural Beauty or land used for agriculture;
- Ecology and wildlife
- Impact of a building on its neighbours, (e.g. in terms of privacy or the physical effect of the building, it's bulk or position, and loss of light).

If the application had a DS reference and was for the approval of details following a previous outline permission (with an OA reference) the principle of the development

will already have been agreed at the outline stage, and we will only have been able to consider the details of the development, not whether or not the development should be allowed at all.

We cannot normally take into account the following matters:

- The personal circumstances of the applicant as sometimes put forward in support of an application. These will seldom outweigh the more general planning consideration;
- The business name of the applicant, for example one supermarket as opposed to another. Planning permission is granted for a particular use, or development, not to a particular applicant.
- The fact that development may have already begun. (If permission is refused, we have powers to rectify the matter);
- “Trade Objections” from potential competitors;
- Moral arguments, (e.g. opposition to betting shops or amusement arcades);
- The belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- The loss of an attractive view from private property;
- The fear that an objector’s house might be devalued;
- The fact that the applicant does not own the land;
- Allegations that a proposal might affect private rights, such as restrictive covenants, rights of way, or “ancient lights”. (These are usually private matters on which objectors may need to get legal advice);
- The fear that a building may be used for a different purpose in the course of time. (Decisions have to be made on applications as submitted);
- Matters normally covered by other legislation such as the Building Regulations or Health and Safety at Work Act.

Human Rights

Planning decisions are made in the context of the Town & Country Planning legislation. However, in the exercise of its public functions, including planning, we are also required to take into account The Human Rights Act 1998.

When will building work start?

A condition is attached to most permissions requiring work to start within a certain period, usually 3 years, and the applicant can start work anytime within that period, providing they comply with any conditions attached to the permission. If the permission is not implemented within that time it will lapse, although an application can be submitted to extend the time limit. Once a permission has lapsed the applicant could make another application for the same development, but that application would then be considered in the light of planning policies in force at that time, which may have changed since the previous permission.

Planning permission has been refused by the Council, is that the end of it?

Possibly not.

Where planning permission has been refused the applicant has the right to appeal to the Planning Inspectorate. If an appeal is lodged the proposals will be reconsidered by an independent Inspector from outside the town. There are different types of appeal – Written Representations, Informal Hearings and Local Inquiries

If an appeal is lodged to an application that you have commented on, we will write to you again and explain the process.

In some cases where permission has been refused an applicant will revise their proposals and submit a new application which aims to overcome the reasons for refusal. If they submit a new application we will contact all those people who were written to, or commented on the original application.

Can I complain?

Where planning permission has been refused the applicant has the right to appeal to the planning Inspectorate. However, there is no right of appeal for local residents who are unhappy about a decision to grant permission.

If you feel that the decision is wrong in law you can seek a judicial review. You would need to take your own legal advice on that, and you need to be aware that there is only a very short time within which an application for a judicial review can be lodged.

If you feel that the Council's procedures were not followed properly you can first of all [complain to us](#) , and if you remain dissatisfied complain to the Local Government Ombudsman

What about disturbance during building work?

In many cases we attach a condition restricting the hours that work can be carried out on site. You check the decision notice to see whether a condition has been attached to the permission that affects you [on our website](#). If the builders do not comply with the condition you can contact us at enforcement@hastings.gov.uk, telephone 01424 451090 and we will investigate.

If you experience a nuisance from excessive noise or pollution from a building site you can contact our pollution hotline 01424 451079, email environmentalhealth@hastings.gov.uk

Deliveries to a building site can sometimes cause inconvenience to local residents, but this is not normally something that is controlled through the planning system. Vehicles blocking the road are a matter for the [Police](#), or [East Sussex County Council](#) who enforce on street parking in Hastings

What about ownership, boundary issues and covenants?

The planning legislation does not override other people's property rights. It is the applicants responsibility to ensure that they have the right to undertake the work. For example:

- If they are a leaseholder, they may need to get permission from the freeholder.
- If they are working on a party wall, the [Party Wall etc Act 1996](#) requires them to get the consent of the person sharing the wall. This can affect floors between flats.
- If they are building right up to the boundary they must ensure that the foundations do not extend onto their neighbours property unless they have their consent.
- There are sometimes covenants affecting land which restrict what it can be used for, or what development can be undertaken. These are separate from the planning legislation, and you may need to take your own legal advice

If you do not know the owner of the property or land, or have concerns about the precise location of a boundary you will need to contact the [Land Registry](#), because the Council does not have ownership details.