

Planning Application Decision Making & The Role of Parish Councils

Tony Whitty
Development Management
Service Manager
7 December 2017



Programme



- Overview of Development Management Service at CDC
- How decisions are made
- Policy Context
- Material considerations
- The decision
- Appeals
- Online information

The DM Service Teams



Development Management
Service Manager

Tony Whitty

Major Applications and
Business Team

Development Manager
Joanna Bell

Principal Planning
Officer
Jeremy Bushell

(Minor) Applications
Team

Development Manager
Fjola Stevens

Principal Planning
Officer
Vacant

South Downs National
Park Team

Development Manager
John Saunders

Principal Planning
Officer
Derek Price

Delegated decisions



- Account for 95% of all decisions on planning applications
- Officer makes recommendation to Manager/Principal Officer
- Any Member may request an application is determined by the Planning Committee ('Red Card')
 - Ideally prior to the consultation expiry of the application
 - But can be anytime up to the point that the decision is agreed
- Examples of justification for Red Card
 - Major development (Not generally for minor development)
 - Exceptional level of public interest
 - Information to raise in debate on planning issues.

Other reasons for a Committee Decision

- **Parish objection** where the officers are recommending permission - does not include;
 - DOM/HOUS – domestic extensions
 - PLD/ELD/LDC – lawful development certificates
 - TPO/TPA/TCA – works to protected trees
- **Member** or **employee** of the Council, or spouse or partner
- Where the decision would be **significantly contrary to policy** in the Local Plan
- Where the **Council is the applicant**

The Planning Committee

- 15 Members
- Held every 4 weeks
- An element of public speaking
 - 3 individuals in objection
 - 3 individuals in support
 - Parish Council
 - Ward Councillor
 - WSCC Member
- Site visits may be agreed where characteristics of site cannot be adequately conveyed through the officer presentation



Role of Parishes



- Role of Parishes as statutory consultees
 - Represent local views
 - Provide local knowledge
 - Raise areas of concern
 - Inform debate and add value to the process
 - Neighbourhood planning – link between community and the Council, involved in local decisions on spending
 - Comments should ideally be relevant and appropriate – clear recommendation.

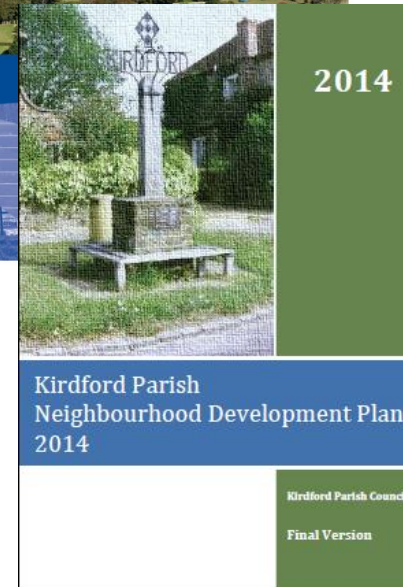
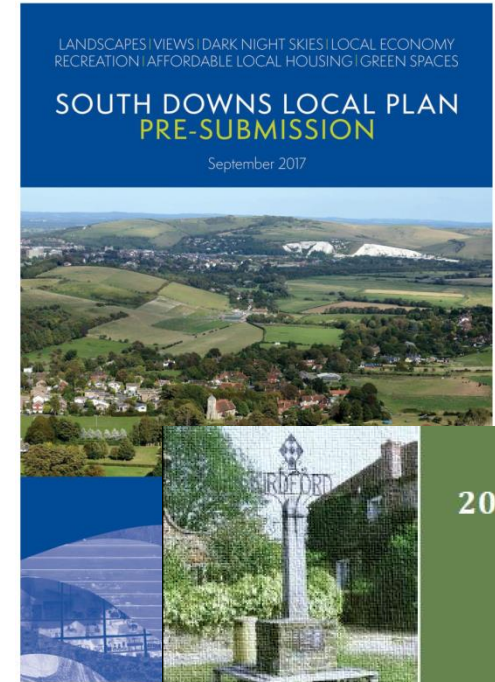
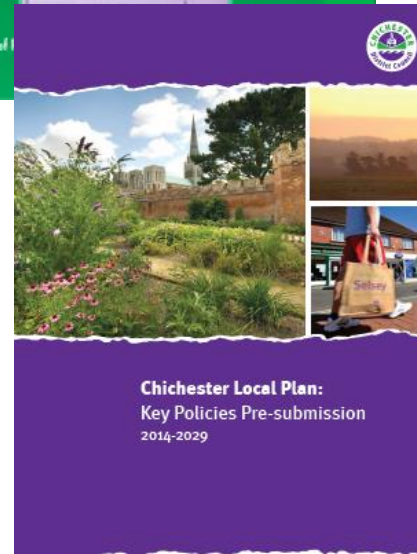
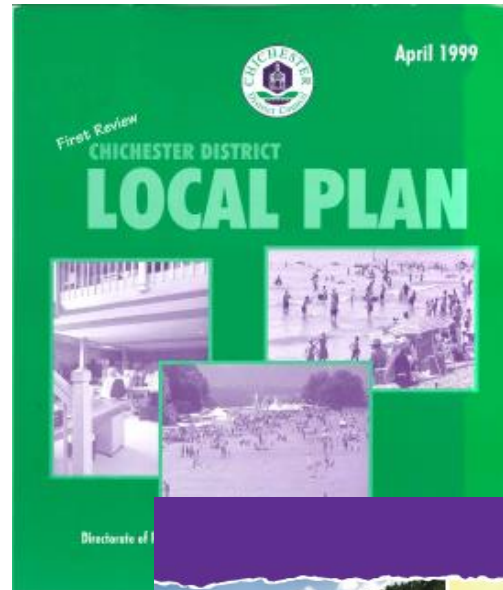
Basic principle: start with the plan



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”.

Town and Country Planning Act 1990,
section 70



2012

NPPF

The End of Town Planning

WE WERE WARNED

March

A George Osborne Production



National Planning Policy Framework

www.communities.gov.uk
community, opportunity, prosperity

What is a material consideration?

- In principle any consideration which relates to the use and development of land is capable of being a material consideration

However, they must be;

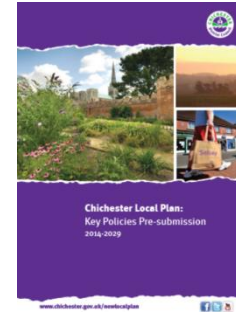
- Genuine planning considerations
- Matters of relevance to the development



Material Considerations?



Development Plan policies



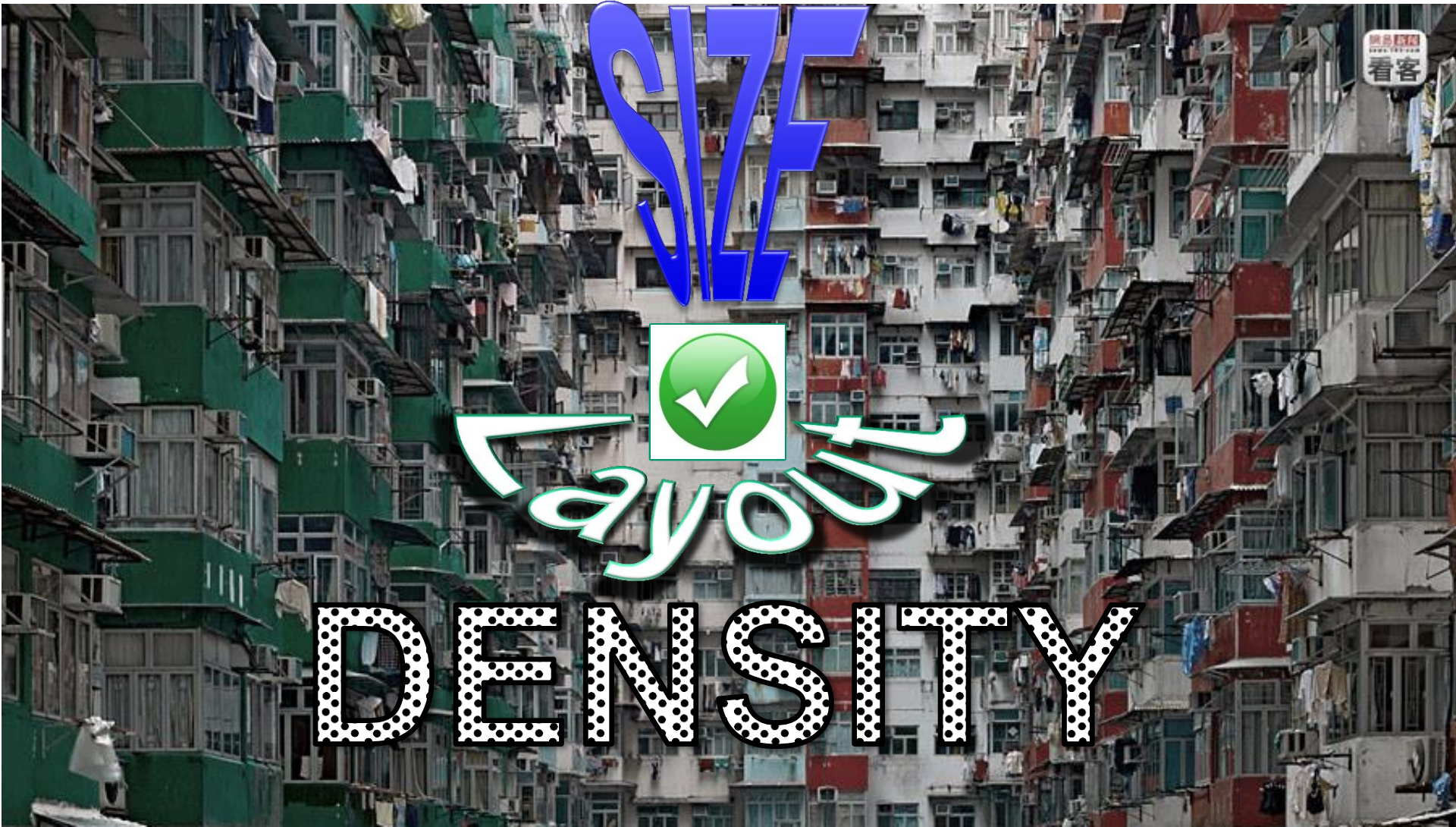
Government advice

Past Planning History/ appeal decisions



Planning
Inspectorate

Material Considerations?



Material Considerations?

Work that has
been done
without planning
permission...



WHEN FRED AND PENELOPE SET OUT
FOR THEIR MEETING WITH THE LOCAL
PLANNING OFFICER IT WAS WITH
A SENSE OF FOREBODING

Material Considerations?

Traffic generation & overall
highway safety

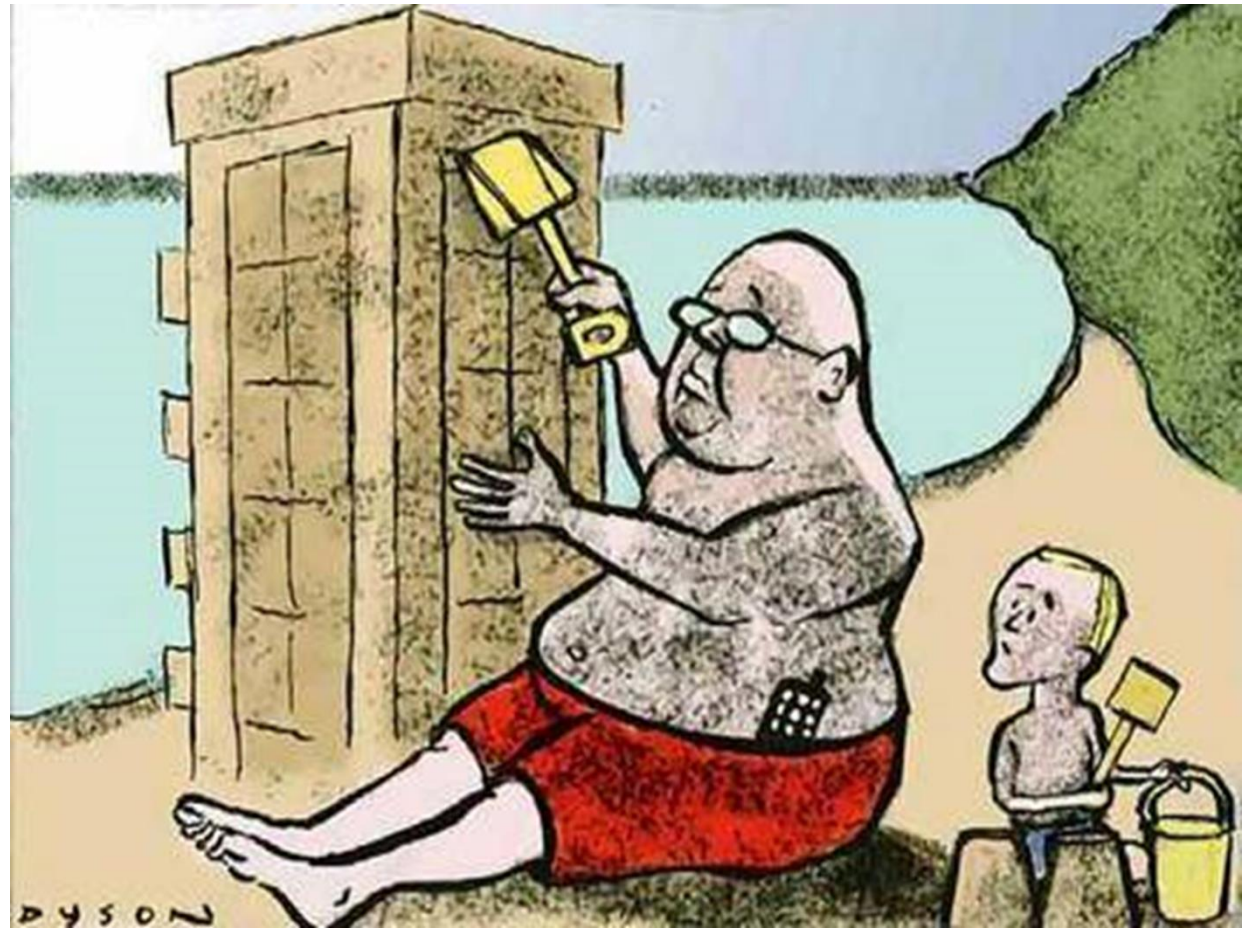


Adequacy of parking



Material Considerations?

Overshadowing and loss of light



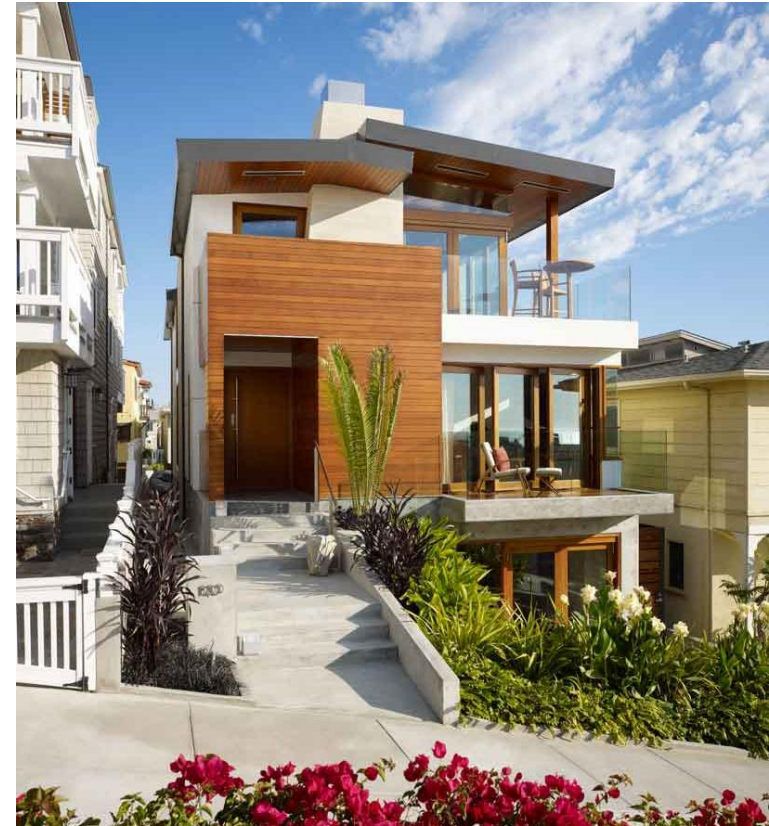
Material Considerations?



Loss of property value



Design, appearance & materials



Material Considerations?

Noise & disturbance:



From the use



From construction work



Material Considerations?



The effect on the street or area
(but not loss of private view)



Building Regulations

...and other matters
controlled under
other legislation



Material Considerations?

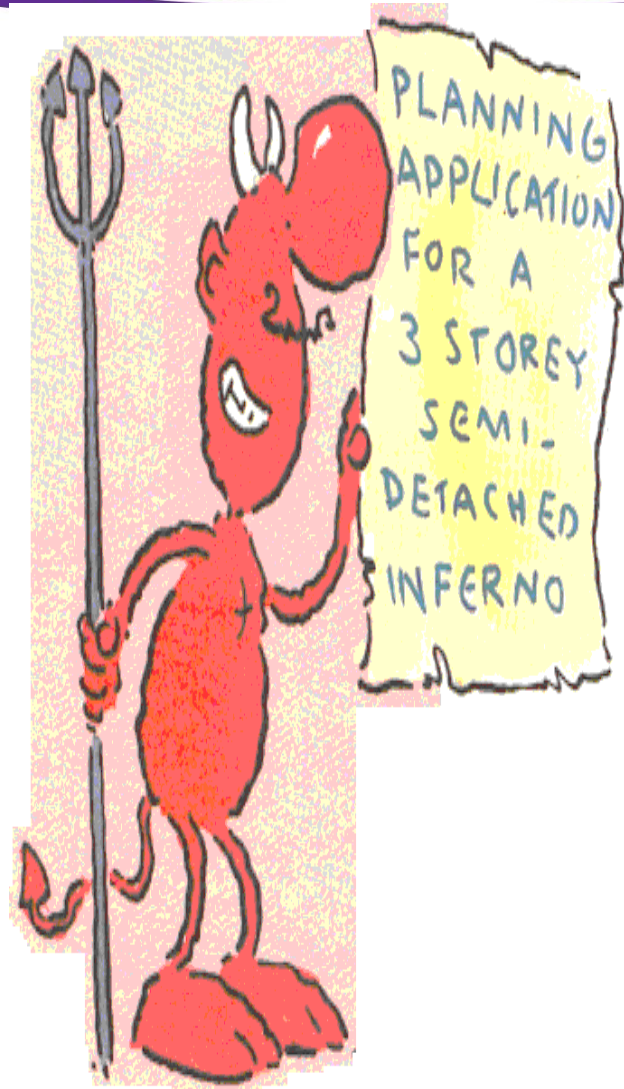
Competition




Ground contamination



Material Considerations?



Identity or personal characteristics of an applicant 

Personal circumstances of an applicant  

Personal need for development  

Material Considerations?



Overlooking and loss of privacy



Issues of Morality



Material Considerations?



Financial Considerations

When are financial consideration material?

- Section 143 of the Localism Act deals with local finance considerations
- Defined financial ‘benefits’ (significant New Homes Bonus and CIL) can be taken into in the determination of planning applications ‘where material to the application’.
- Issues of viability (open book)

Not Material Considerations



-  land & boundary disputes
-  land ownership
-  damage to property
-  private rights of way
-  deeds & covenants

Not Material Considerations



private Issues between neighbours



Not Material Considerations



Lots of
objectors

Still NOT a
reason for
refusal...



Conditions



Planning conditions should only be imposed where they are:

- necessary
- relevant to planning and to the development to be permitted
- enforceable
- precise and
- reasonable in all other respects

Pre-commencement conditions must be justified

Reasons for refusal



- Must be:
 - ✓ Robust
 - ✓ Directly related to the development proposal
 - ✓ Have regard to the development plan
 - ✓ Relate to material considerations
- Can you describe the **harm** that would result (in planning terms) if the development went ahead? And why conditions would not be sufficient to mitigate that harm?

Reasons for refusal



There are three stages in identifying a reason for refusal

- Identify the **specific** problem (it must be a relevant material planning consideration);
- Identify the harm that it would cause to the **public interest**;
- Set the objection in a **policy** context

Appeals



- against a refusal
- against a condition on permission
- against an enforcement notice
- against failure to determine within the statutory period

Appeals



3 types of appeal

- written representations
- hearings
- public inquiries

Judicial Review and Ombudsman

Award of costs



Costs for unreasonable behaviour (even when not sought) – decisions based on evidence?

- the other party must have behaved unreasonably, causing unnecessary expense or delay
- one of the parties could seek an award or an Inspector has the discretion to award.
- it can be for full or partial costs

Examples of circumstances which may lead to an award of costs



- Ignoring relevant national policy
- Failure to produce credible evidence to substantiate the reason for refusal
- Persisting in objections to a scheme:
 - that already has permission
 - where previous concerns have been overcome
- Refusing details as a way of re-visiting the principle

Appeal Decisions



- Must be given appropriate weight
- Content of whole decision letter must be considered
- Appeal decision is binding and there is no right of appeal unless on a point of law.



**Planning and Building
Control Information Online**
Guidance notes for practitioners

2nd edition. Version 1.2 August 2006



Working in Partnership



Background

- April 2011 – SDNPA became the Local Planning Authority for the National Park
- Agreement under S.101 of the Local Government Act between the SDNPA and host authorities – delegated the DM function back to CDC
- Recently renewed for a second time – Agreement now in place for a further three years – takes us through until March 2020
- CDC deals with Planning Applications on behalf of the SDNPA – CDC deals with approx 95% of all planning applications submitted in the CDC area of the NP
- SDNPA call in the more significant planning applications – significant in relation to the purposes of designation of the Park i.e. larger housing sites, significant landscape impact etc.
- 2000 applications of all types – simple pp requests – major housing schemes – householder – heritage related



Working in Partnership

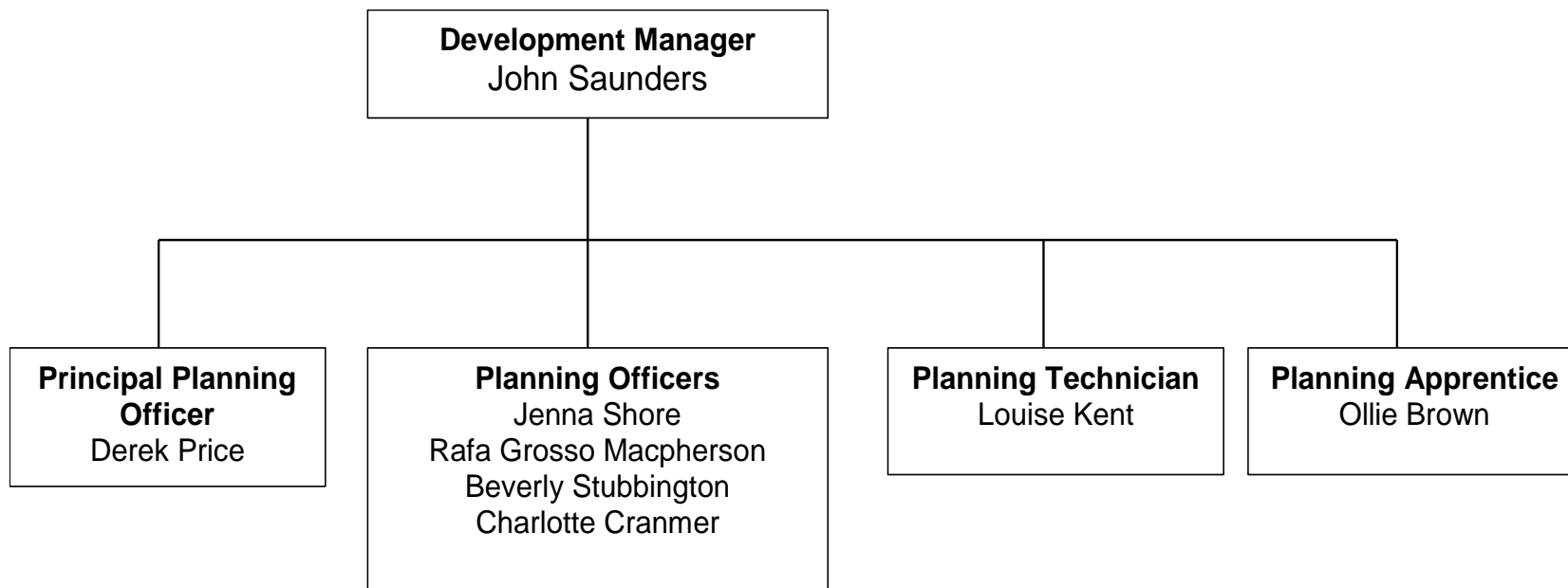


The framework for making planning decisions

- Planning decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise
- Development Plan for the area – Saved policies of the CDC Local Plan 1999 and any ‘Made’ Neighbourhood Plan – Fernhurst, Kirdford, Lavant, Milland, Wisborough Green
- Emerging South Downs National Park Local Plan – Plan for the whole of the NP – recently out to public consultation – Examination in Spring 2018 – Adoption Autumn 2018
- NPPF – para 115 – National Parks have the highest status of protection in relation to landscape and scenic beauty - we should give great weight to conserving landscape and scenic beauty and the conservation of its wildlife and cultural heritage
- DEFRA English National Parks and the Broads UK Government Vision and Circular 2010 – requires the LPA to have regard to the statutory purposes of designation and duty in the decision making process:
 - To conserve and enhance the natural beauty, wildlife and cultural heritage of the area
 - To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public – special qualities have been set out in the SDNP PMP and the LP



Working in Partnership



Henry Whitby – Tree Officer

Martin Mew – Senior Planning Officer – Pre-application enquiries

E-mail format for all officers is initial and last name together @chichester.gov.uk