

## **HOW THE PRESENT SYSTEM WORKS**

Ever since the introduction of the Town & Country Planning Act in 1947, every new building or other proposed development has had to go through the planning process. This means that developers first have to obtain "outline permission" from their local council's planning department for what they have in mind, and then submit detailed plans of what they intend to do. These plans are then publicised in the local area, so that local people know what is going on and have an opportunity to object or to support the proposal.

The council in charge of the process (the Local Planning Authority or LPA – in our case Wiltshire Council) then circulates the plans to the relevant Town or Parish Council, and to various statutory bodies including the Highways Agency, Environment Agency and National Rivers Authority, who all have an opportunity to comment, and the LPA's own planning officers also have a good look and decide whether they think it should be allowed to go ahead.

After a period of time (which should not be longer than eight weeks) the LPA's councillors (either in a full council meeting or, more usually, through a smaller planning committee) have to vote on the application. They can either refuse it, grant it in full, or grant it with certain conditions attached. They usually go along with the recommendation of their planning officers, but may also be swayed by the reactions of local people.

Since the 1970s, the deciding factor has usually been whatever it says in the Statutory Local Plan. This is a document drawn up by the LPA and approved by the Government, which sets out where in the area the council wants different types of development (eg. residential, commercial or industrial) to take place, and under what conditions it should or should not be approved. If the Local Plan says something should be approved, it almost invariably will be, with or without conditions attached.

If conditions are imposed, they must be justified. They may relate to details of the building itself (eg. it should not have a window overlooking its neighbours) or its appearance (eg. it must be built of a certain type of brick, or be painted a certain colour, to blend in with its surroundings). For large developments, LPAs may make a Section 106 order requiring the developer to provide or pay for additional infrastructure made necessary by the development, eg. extra school or playground provision, or a new road or junction.

## **PUBLIC INQUIRIES AND APPEALS**

If a developer doesn't like a LPA's decision, or if the LPA doesn't make a decision in a reasonable time, they can appeal to a public inquiry. This is like a court case, but less strictly formal, decided by an Inspector appointed by the Planning Inspectorate and, as well as the developer and the LPA, local residents also have the chance to appear and make their views known.

If the appellant (ie, the developer) is an ordinary person (eg. someone who has been refused permission to build a 'granny flat' on the side of their house), the LPA has the advantage of knowing the rules and the system, and the appellant may not be able to afford legal representation, or fear having to also pay the council's costs if their appeal is judged to be 'unreasonable'.

If the appellant is a large development company, the boot is on the other foot, as it will be the LPA which fears the costs of losing an inquiry, and councillors are likely to

be under pressure from their planning officers to avoid refusing big applications if they are likely to lead to an inquiry.

The Inspector usually makes the final decision, which must be justified in terms of planning law and the Local Plan. In exceptional cases involving the 'national interest', the Inspector's verdict can be 'called in' by the relevant government Minister, who makes the decision instead.

The only way to challenge the decision of an Inspector or Minister is by Judicial Review in the High Court. For this, the appellant or LPA must be able to prove that the decision was wrong in law, and / or 'Wednesbury unreasonable' (ie. so unreasonable that no sane person could have made such a decision). Even then, the court cannot change the decision, they can only refer it back to be made again.

## **THE GOVERNMENT PROPOSALS**

The proposals in the Government's White Paper would do away with huge chunks of the present system, in order to "simplify" the process and speed it up, in order to benefit big developers and Boris Johnson's policy objective of "Build, build, build".

Instead of (or possibly in addition to) locally consulted Neighbourhood Development Plans feeding into Local Plans (which are themselves subject to a Public Inquiry before being adopted), there would be nationally defined "Growth Zones" in which planning permissions would be immediate and automatic, so that developers could do whatever they liked, and neither local people nor their elected councillors would have any say whatsoever..

The present system allows local people, both as individuals and acting through organisations like WCA and its local member groups, to influence the thinking and behaviour of councillors. The way in which we can influence planning decisions is profoundly important in combatting climate change, because it determines the future of both the built environment and transport infrastructure, which together are responsible for a large majority of Wiltshire's greenhouse gas emissions.

They also want to do away with Section 116 orders, and replace them by a uniform Infrastructure Levy, based on the financial "value" of each development, rather than the cost of whatever extra infrastructure it requires.

These changes threaten to undermine not just the whole basis of the locally led planning system which has been in place for over 70 years, but the greater part of the basis of local democracy itself. Local councils have already lost most of their responsibility for education, which has been transferred to academies, for council housing which has been mostly privatised, and for business rates which are now set and collected by a centralised system, while they have very little leeway in varying Council Tax. They are left with a range of local services which they are obliged by law to provide as best they can on whatever money central government chooses to provide, and struggle to make up the shortfall with ever-increasing charges for parking, garden waste collection, and whatever else they are able to charge for.