

Commenting on a Planning Application

The basis for making Planning Decisions is the Town and Country Planning Act 1990. The Act states that a Local Planning Authority “*may grant planning permission, either unconditionally or subject to such conditions as they think fit, or they may refuse planning permission*”. They “*shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations*”.

The law has made a clear distinction between whether something is a **Material Consideration** and the **Weight** it should be given.

The former is a question of law. The latter is a question of planning judgement which is entirely a matter for the planning authority. Provided that the planning authority has regard to all material considerations, it is at liberty (within the test of “reasonableness”) to give whatever weight the planning authority thinks fit or no weight at all...

Lord Hoffman, Court of Appeal (1995)
Tesco Stores Ltd -v- Secretary of State for the Environment

When considering applications, the Local Planning Authority, Appeals Inspectors and the Secretary of State must take into account all Material Considerations, each case on its own merits. These include National, Regional and Local Planning Policy, Factors on the Ground and the Views of Consultees.

SOME FACTORS “ON THE GROUND”	
MATERIAL	NOT MATERIAL
Visual Impact	The Applicant
Privacy / Overbearing	Land Ownership
Daylight / Sunlight	Private Rights (e.g. Access)
Noise, Smell etc	Restrictive Covenants
Access / Traffic	Property Value
Health and Safety	Competition
Ecology	Loss of View
Crime and fear of Crime	“Better” Site or “Better” Use
Economic Impact	Change from Previous Scheme
Planning History	
Related Decisions	
Cumulative Impact	
Personal Factors (VERY rarely!)	

Consider these points when commenting on an application, either to support or object to an application. Remember they apply whether you are a consultee or the applicant!