

# Thurrock Planning Committee: Annual Training Session



9<sup>th</sup> June 2015

# Aims of the Session

- To help Councillors be clear about their role and how to engage in the planning system;
- To reinforce the importance of the plan-led system;
- To help Councillors to deliver consistent, open and transparent decision making.

# Agenda

1. The functions and role of Planning
2. The Thurrock context
3. The importance of the Green Belt
4. The decision making process
5. The role of Members
6. On-going training programme

# 1. The Functions and Role of Planning

About creating places where it is good to live, work, play and invest

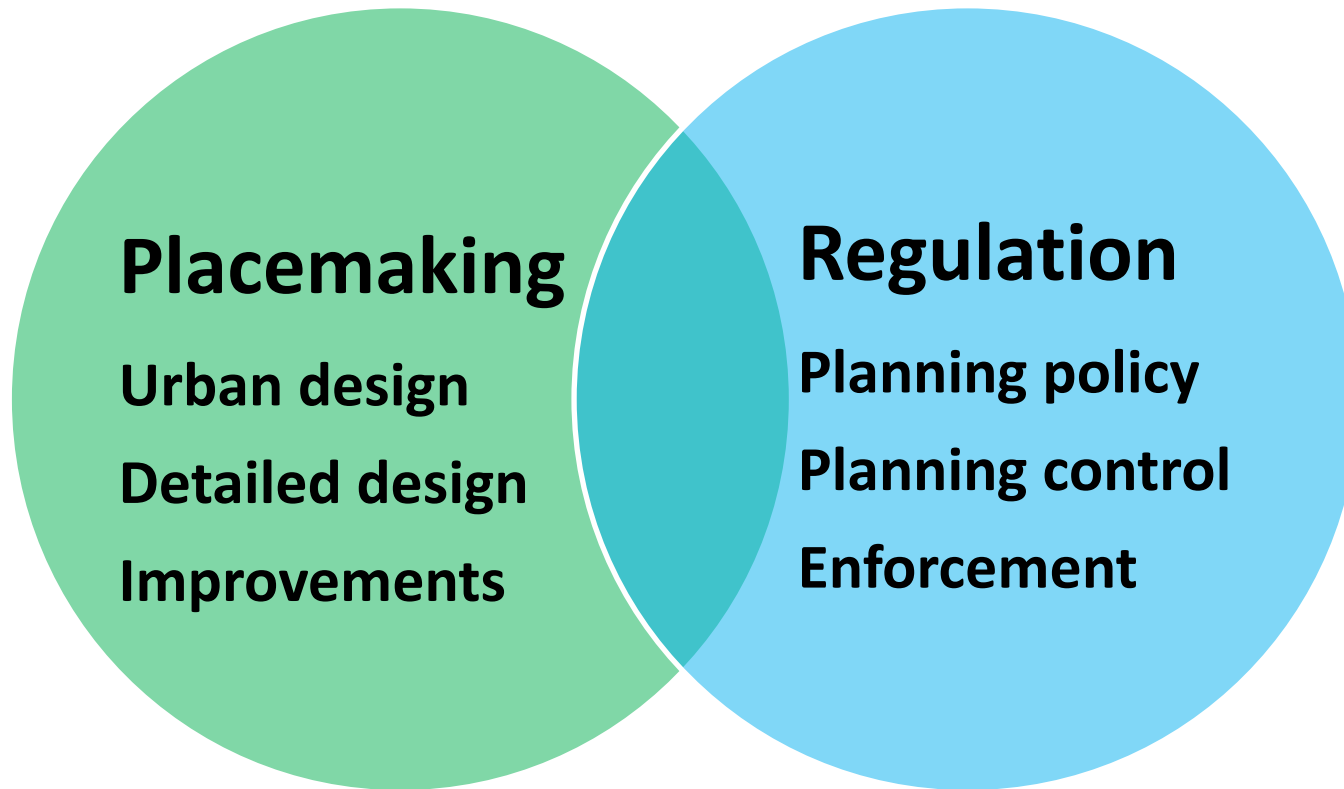
*A decision making framework* to reconcile positively competing uses for space by:

- setting out a *long term vision* for place;
- balancing economic, social and environmental needs;
- balancing the needs and interests of all sections of the community.

# 1. The Functions and Role of Planning

- ‘The purpose of the planning system is to contribute to the achievement of sustainable development’ (NPPF para.6)
- *Delivering* change on the ground.
- Providing *legitimacy* through effective consultation and testing of evidence.

# 1. The Functions and Role of Planning

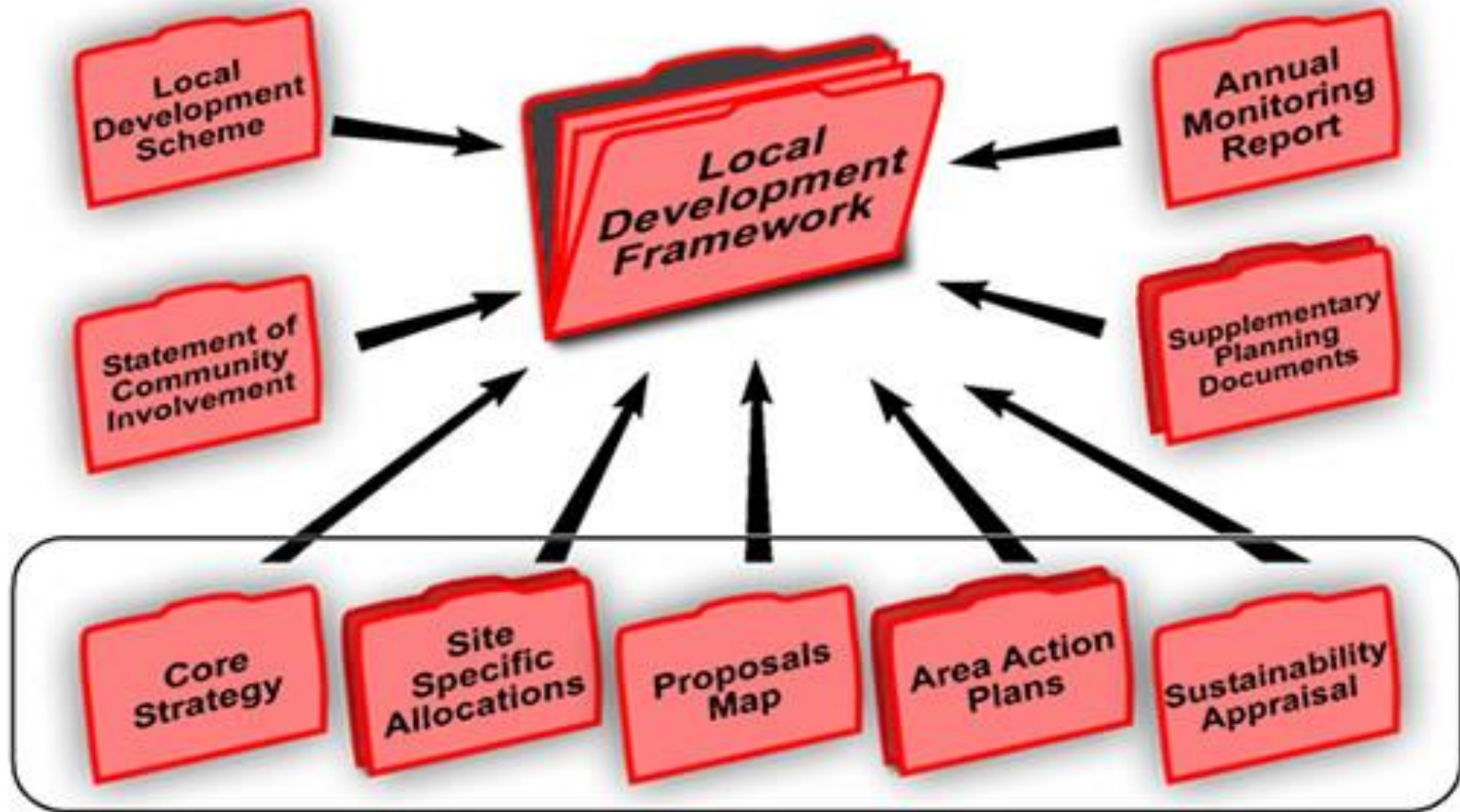


# 1. The Functions and Role of Planning

## Delivery

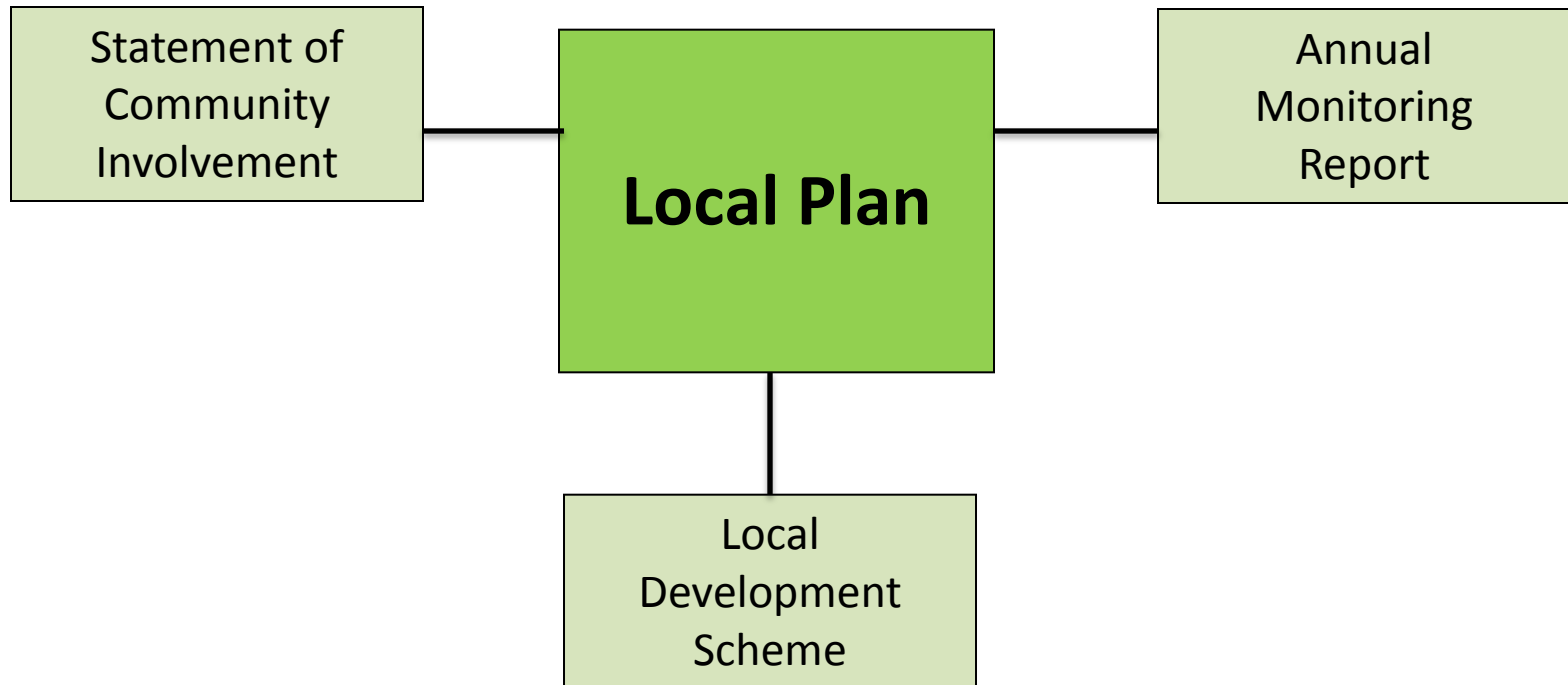
- Relationship with the Sustainable Community Strategy and Corporate Plan
- Develop consensus and ownership across the Authority and beyond ...
- Integration with other strategies

# 1. The Functions and Role of Planning





# 1. The Functions and Role of Planning



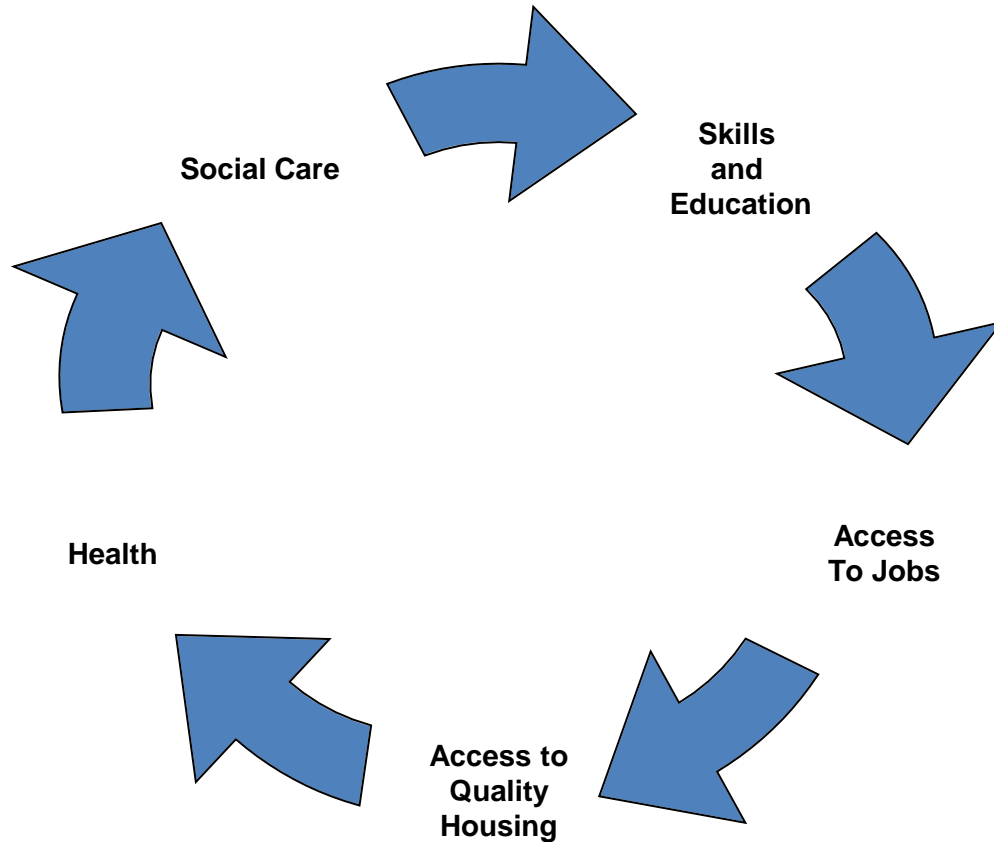
# 1. The Functions and Role of Planning

In summary ...

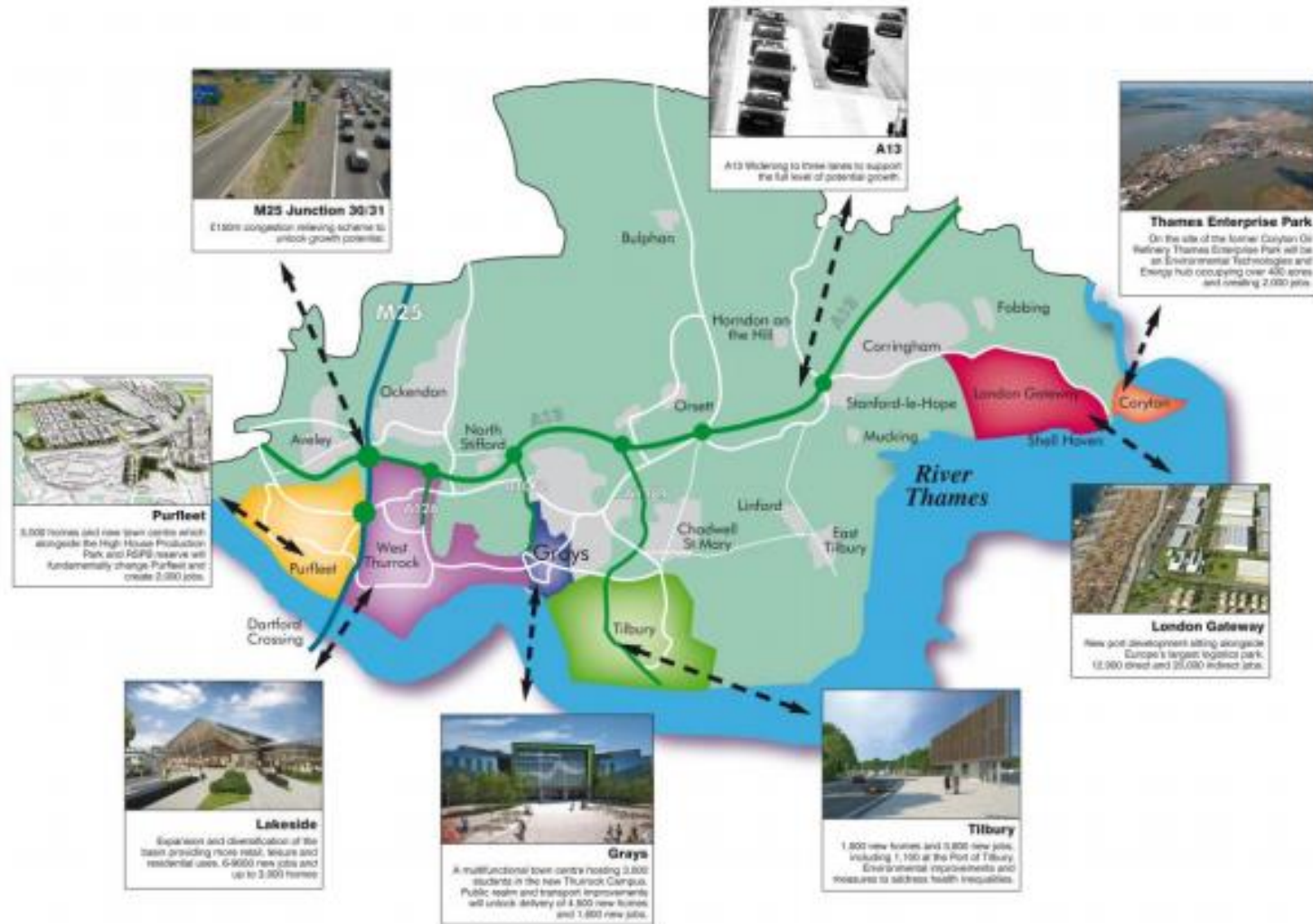
- Right development
- Right place
- Right time

# 2. The Thurrock Context

## Breaking the Cycle .....



# 2. The Thurrock Context



## 2. The Thurrock Context

- Facilitating Growth and Regeneration
- Pro-active, responsive Service
- Right development, right time, right place
- Promotion and protection
- Award Winning Service Delivery...



# 3. The Importance of the Green Belt



## **The Green Belt serves five purposes:**

1. To check the unrestricted sprawl of large built-up areas
2. To prevent neighbouring towns merging into one another
3. To assist in safeguarding the countryside from encroachment
4. To preserve the setting and special character of historic towns
5. To assist in urban regeneration by encouraging the recycling of derelict and other urban land

The **NPPF** states that a local planning authority should regard the construction of new buildings as **inappropriate** in Green Belt. The NPPF sets out a limited number of exceptions, namely:

- Buildings for **agriculture** and **forestry**;
- Provision of **appropriate facilities** for **outdoor sport**, **outdoor recreation** and for **cemeteries**, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- The **extension or alteration of a building** provided that it does **not** result in **disproportionate** additions over and above the size of the original building;
- The **replacement of a building**, provided the new building is in the **same use** and **not materially larger** than the one it replaces;
- **Limited infilling in villages**, and limited affordable housing for local community needs under policies set out in the local plan; or
- Limited infilling or the partial or complete redevelopment of **previously developed sites** (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which **would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.**



# Development in the Green Belt

- Certain **other** forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These are:
- **Mineral extraction;**
- **Local transport infrastructure** which can demonstrate a requirement for a Green belt location;
- The **re-use of buildings** provided that the buildings are of permanent and substantial construction;
- Development brought forward under a **Community Right to Build Order**



# Inappropriate Development

- Development which falls outside of the exceptions of the NPPF represents **inappropriate development**.
- Paragraph 87 of the NPPF makes it clear that **inappropriate development** is, by definition, harmful to the Green Belt and should not be approved except in “**very special circumstances**”.
- Paragraph 88 goes on to state that local planning authorities should ensure that **substantial weight is given to any harm to the Green Belt**.
- Very special circumstances will not exist unless
  - (i) the potential harm to the Green Belt by reason of inappropriateness, **and**
  - (ii) any other harm, is **clearly outweighed** by other considerations.

# R (Cherkley Campaign Limited) v Mole Valley DC [2013] EWHC 2582 (Admin)

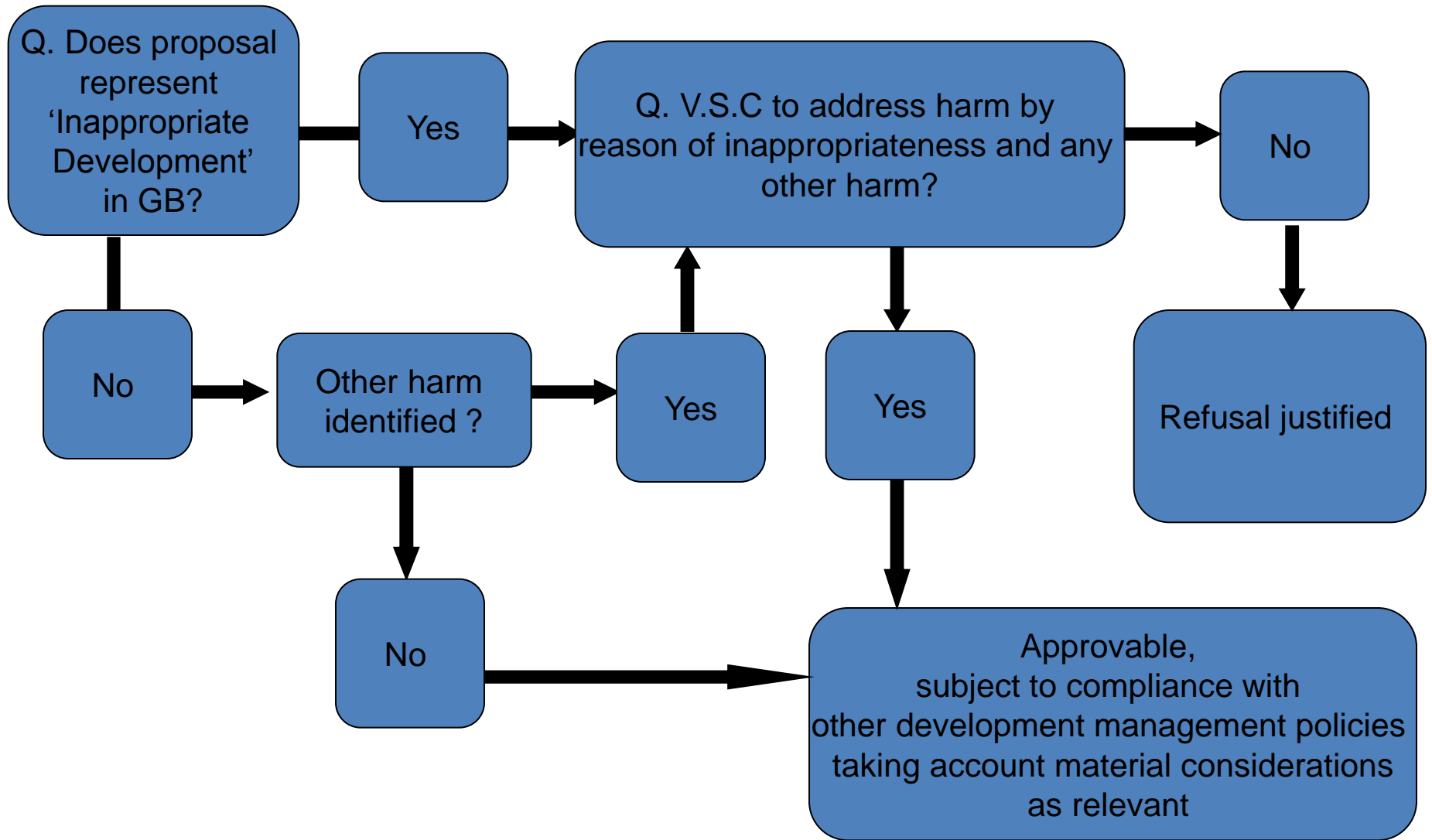
Local planning authorities must ask three separate sequential questions when applying Green Belt policy:

- (1) Is ***“inappropriate development”*** proposed?
- (2) Do ***“very special circumstances”*** exist?
- (3) Do such circumstances ***“clearly outweigh”*** the potential harm caused by the inappropriateness of the development and any other harm?
- Local planning authorities are also required to give *“substantial weight”* to *any* harm which might be caused to the Green Belt by the *“inappropriate development”*.
- It is only if a local planning authority has conscientiously considered each of these three questions and answered each “Yes”, and given substantial weight to any harm caused, can it be said properly to have applied Green Belt policy as laid down in the NPPF.

## **Development that is defined as ‘inappropriate’ in the Green Belt is by its very nature harmful ....**

- When attempting to prove very special circumstances the onus is on the applicant to prove that the exceptional nature of the proposal outweighs the harm that it would cause to the Green Belt
- Circumstances that have been accepted as being ‘very special’ are very rare, but will often involve a specific judgement being made that no other option is available in light of the unique circumstances of the case
- These circumstances are not common and are unique and ‘one-off’s’

# Consideration of planning application (summary)



# 4. The Decision Making Process

- Delegated and Committee Decisions
- Types of application
- The Development Plan
- Consultation and notification
- Material considerations
- Non-material considerations
- Appeals

# 4. The Decision Making Process

## Delegated and Committee Decisions

- 90% delegated;
- Procedures to ensure that Committee consider most significant or contentious applications;
- Call in procedure;
- Local democracy – opportunity for public to participate;

# Common types of application

- **'HHA'** : Householder application
- **'FUL'** : Full application
- **'OUT'**: Outline application
- **'REM'**: Reserved Matters application
- **'PHA'**: Larger home extension prior approval
- **'TEL'**: Telecoms application
- **'TBC'**: Application submitted by Thurrock Council
- **'ADV'**: Advertisement application
- **'CV'**: Section 73 application to vary / remove condition
- **'DVOB'**: Variation to s.106 legal agreement
- **'CLOPUD' & 'CLEUD'**: Certificate of Lawfulness applications
- **'TPO'**: Works to a preserved tree



# 4. The Decision Making Process

## The Development Plan

Section 38 of the Planning & Compulsory Purchase Act 2004:

‘If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, **the determination is to be made in accordance with the plan unless material considerations indicate otherwise**’

# 4. The Decision Making Process

## Consultation and Notification

- Pre-Application
- Community engagement – [particularly large scale strategic developments]
- Statutory consultation
- Non-statutory consultation
- Neighbour notification [notification letters / site notices / press adverts]
- [www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning) : Public Access

# 4. The Decision Making Process

## Material Considerations

- Layout, density
- Privacy
- Daylight / sunlight
- Access / traffic
- Local economy
- Design / appearance
- Noise / smell
- Previous similar decisions
- Emerging national policy

# 4. The Decision Making Process

## Non-material Considerations

- History/character of applicant
- Loss of view
- Commercial competition
- Impact on property value
- Restrictive covenants
- Ownership of land
- Matters of decency or taste
- Retrospective consent

# 4. The Decision Making Process

## Decision, Conditions, Obligations

- Reasons for refusal (and approval)
  - Section 38 of the Planning & Compulsory Purchase Act 2004]
  - Clear, consistent, policy based
- Planning conditions
- Section 106 Agreements
  - Need to be reasonable; NPPF indicates greater scrutiny of viability
  - Planning Obligation Infrastructure List (April 2015)

# 4. The Decision Making Process

If refused, applications can be resubmitted within 1 year (free go) or appealed within 6 months (3 months for HHA's). Appeals can be determined by:

- **Exchange of Written representations**
- **Informal hearing**
- **Public Inquiry**

Applications for costs [a claim for costs must satisfy the Inspector that the other side acted unreasonably. It is possible to win an appeal and lose costs, or vice versa]

# Useful links:

[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning): Thurrock's website [ where you can search for planning applications, make comments on applications, track applications, obtain general advice, report a breach of planning control, submit pre-application requests, call in applications and more]

[www.planningportal.gov.uk](http://www.planningportal.gov.uk): Government's Planning Portal [ where you can search for appeals, obtain general information, make an application and more. Also home to Planning Practice Guidance resource]

# 5. The Role of Members

## Rules and Codes

1. As a Ward Councillor ...  
... you can support or oppose an application and represent the views of your constituents
2. As a Planning Committee Member ...  
... doing so *may* compromise your (impartial) role on the Committee



# Interests

- ✓ Disclosable Pecuniary Interests (defined by legislation)
- ✓ Other Interests (in Thurrock's locally adopted code)
- ✗ Personal Interests
- ✗ Prejudicial Interests

# Disclosable Pecuniary Interest

- An interest of yourself, or
- An interest of –
  - Your spouse or civil partner
  - Person with whom you are living as husband and wife
  - Person with whom you are living as if you are civil partners

And you are aware that that other person has the interest.

# If you have a DPI

- You should -
  - ✓ Register the interest
  - ✓ Disclose it to a meeting
- But you should not –
  - ✗ Participate in the discussion
  - ✗ Participate in any vote
  - ✗ (Local Code) Remain in the room during discussion or vote

# Disclosure of Other Interests

- Declare an interest if:-
  - ✓ You are at a formal meeting of the Council; and
  - ✓ You have a significant interest in a matter considered (affects your wellbeing); or
  - ✓ It would be a DPI but for it relating to a member of your family other than your partner or relates to a close associate; or
- Decide whether to participate in discussion or voting on the matter.

# 5. The Role of Members

## Predetermination

### Localism Act

- Makes it clear that Councillors are entitled to campaign on issues, express views etc. without disqualifying themselves from participation in decision-making by reason of “bias” or “predetermination”
- Provides that failure to register or to declare interests may be a breach of criminal law

# 5. The Role of Members

## Predetermination

### Engage, but don't predetermine:

- Let other Councillors advocate for their areas
- Work with input from applicants as well as from parishes and the community
- Free to speak in advance, provided you are able to demonstrably retain an open mind – perception of others as well as intention

# 5. The Role of Members

## Predetermination

### Positive engagement but avoid the risks:

- Ensure you have all necessary information, including by neutral site visits
- Respect the professionalism of planning and other officers
- Do not exert undue pressure and also resist it
- Remain able to demonstrate you retain an open mind – perceptions as well as actions

## 6. On-going Training Programme

- Bi-monthly sessions
- Topic matters .....?



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[www.thurrock.gov.uk/planning](http://www.thurrock.gov.uk/planning)

