

Planning - A Guide for Councillors

RESPONSIBLE COMMITTEE: P&L

This is a policy/procedure document of Saltash Town Council to be followed by both Councillors and Employees.

| Current Document Status | | | | | |
|-------------------------|-----------------|----------------|---------------------|-----------------------|---|
| Version | 2024/25 | | Approved by | FTC | |
| Date | 07.03.2024 | | Responsible Officer | AJT | |
| Minute no. | 367/23/24c | | Next review date | Annual or as required | |
| Version History | | | | | |
| Date | Version | Author/ editor | Committee/ date | Minute no. | Notes |
| 01.2023 | 1 | AJT | P&L 19.01.2021 | 32/20/21 | New – merged document to include all planning policies. |
| 04.2021 | 1 | AJT | ATM 20.05.21 | 46/21/22c(x) | Reviewed for reapproval – new council |
| 05.2022 | 1/2022 | AJT | ATM 05.05.2022 | 54/22/23b(xv) | Reviewed for reapproval |
| 05.2023 | 2023 | AJT | ATM 04.05.2023 | 65/23/24c(xii) | Readopted |
| 09.2023 | 9/2023 | AJT/FM | P&L 19.09.2023 | 68/23/24 | Amended section 4. Rec to P&F 14.11.2023. |
| 01.2024 | 2024 | AJT/FM | P&F 09.01.2024 | 133/23/24b | Approved – Rec to FTC 11.01.2024 |
| 01.2024 | 1/2024 | AJT/FM | FTC 11.01.2024 | 302/23/24c | Approved. |
| 02.2024 | 2.2024 DRAFT | AJT | P&F 27.02.2024 | 15/23/24c(12) | Reviewed for recommendation to FTC 03.2024 |
| 03.2024 | 2024 | AJT | FTC 07.03.2024 | 367/23/24c | Rec. from P&F. Approved. |

| Document Retention Period |
|---------------------------|
| Until superseded |

This handbook brings together protocols and guidance for Councillors to use when considering planning applications.

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1. Planning Applications – Guide for Town Councils (Cornwall Council)

Planning Application Consultations

A Guide for Parish/Town Councils by Application Type

Date 02/05/2019

Planning and Sustainable Development

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Introduction

This document has been produced for the use of Parish/Town Council and indicates consultations with Parish/Town Councils by planning application type.

In accordance with the Planning and Compulsory Purchase Act 2004 Planning have adopted a [Statement of Community Involvement \(SCI\)](#) which outlines how the Cornwall Council will involve local communities, businesses and other interested parties when preparing planning policies and determining planning applications. Information regarding how this document was prepared along with the previous version can be view on the [Statement of Community Involvement web page](#).

Information regarding consultations on planning applications as well as guidance on the planning process as a whole can be found in the [Day in the life of a Planning Application](#) interactive on-line planning tool.

Information regarding prior notification/approval use classes indicated below can be found in The Town and Country Planning (General Permitted Development((England) Order 2015

http://www.legislation.gov.uk/ukxi/2015/596/pdfs/ukxi_20150596_en.pdf - Please note that this order was updated in 2018 and changes can be viewed here <http://www.legislation.gov.uk/ukxi/2018/343/made> however the information regarding what each class relates remains the same.

Table 1 Consultations by Application Type

| Consultations by Application Type | | | |
|--|-----------|------------|---------------------------|
| Application Type | Consulted | Self-Serve | No Consultations Required |
| <u>Prior Notifications</u> | | | |
| Prior notification of agricultural or forestry development - proposed building (AF) | | | ✓ |
| Prior notification of agricultural or forestry development – proposed building (AF2) | ✓ | | |
| Prior notification of agricultural or forestry development - proposed road | | | 1 |
| Prior notification of agricultural or forestry development - excavation/waste material | | | 1 |
| Prior notification of agricultural or forestry development - proposed fish tank (cage) | | | 1 |
| Prior notification of proposed demolition | | | 1 |

| | | | |
|--|---|---|---|
| Prior notification of proposed development by telecommunications code system operators | ✓ | | |
| Prior Approval within Part 3 classes C,J,M,N,O,P,Q,R,S, and T | | 2 | |
| Prior Approval within Part 4 class E | | 2 | |
| Prior Approval within Part 7 class C | | 2 | |
| Prior Approval within Part 14 class J | | 2 | |
| Prior approval within Part 17 (all classes) | | | ✓ |
| Prior Approval of a Proposed Larger Home Extension | | 2 | |
| Prior approval for proposed mining and mineral exploration development | ✓ | | |
| <u>Lawful Development Certificates</u> | | | |
| Application for a Lawful Development Certificate for a Proposed use or development | | | ✓ |

| | | | |
|--|---|---|---|
| Application for a Lawful Development Certificate for an Existing use or operation or activity including those in breach of a planning condition | ✓ | | |
| <u>All other application types</u> | | | |
| Application for a non-material amendment following a grant of permission | ✓ | | |
| Application for discharge of a condition | | ✓ | |
| Application for approval of reserved matters following outline approval | ✓ | | |
| Application for Certificate Of Appropriate Alternative Development Land Compensation Act 1961, Section 17 as Substituted by Section 64 of the Planning Compensation Act 1991 | | | ✓ |
| Application for consent to display an advertisement(s) | ✓ | | |
| Application for hedgerow removal notice | * | | |
| Application for listed building consent for alterations, extension or demolition of a listed building | ✓ | | |
| Application for Outline Planning Permission | ✓ | | |

| | | | |
|--|---|--|--|
| Application for Planning Permission | ✓ | | |
| Application for Permission in Principle (PiP) | ✓ | | |
| Technical Details Consent | ✓ | | |
| Householder Application for Planning Permission for works or extension to a dwelling | ✓ | | |
| Application for Planning Permission for Mineral Extraction and Ancillary Operations/Developments | ✓ | | |
| Application for removal or variation of a condition following grant of planning permission | ✓ | | |
| Application for tree works: works to trees subject to a tree preservation order (TPO) and/or notification of proposed works to trees in a Conservation area | ✓ | | |
| Environment Act 1995 (Section 96 and Paragraph 9 of Schedule 13, Paragraph 6 of Schedule 14) Initial and Periodic Reviews Application for Determination of Conditions for Mineral Site / Mining Site | ✓ | | |
| Modification and Discharge of Planning Obligations (VS106 less than 5 years old) | ✓ | | |

| | | | |
|--|---|---|---|
| Modification and Discharge of Planning Obligations (VS106 more than 5 years old) | ✓ | | |
| Modification and Discharge of Planning Obligations (V52) | | | ✓ |
| Dead or Dangerous Tree Notice Form (Exception Notices) | | ✓ | |
| EIA Screening Opinion Requests | | | ✓ |
| EIA Scoping Opinion Requests | | | ✓ |
| <u>Additional Services Requests</u> | | | |
| Pre-Apps (Publically Available) | | ✓ | |
| Pre-Apps (Confidential) | | | ✓ |
| Do I Needs | | | ✓ |

*At the discretion of the Case Officer

1 These prior notifications are publically available however as they are notifications to take up permitted development rights no consultations are required.

2 These prior approvals are publically available however only consultations with neighbours are required. Comments can be received regarding the effect on the amenity of neighbours as and accuracy of information submitted.

Enquiries and Contact Information

Any queries relating to individual application should be directed to the Case Officer in the first instance.

For any general planning enquires please contact Planning General Enquiries on 0300 1234 151 or email planning@cornwall.gov.uk.

For any enquiries regarding information contained in this document or consultation arrangements please contact Donna Moore on 01872 224423 or email donna.moore@cornwall.gov.uk.

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May 2019

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Cornwall Council, County Hall
Treyew Road, Truro TR1 3AY

Email: comments@cornwall.gov.uk Telephone: **0300 1234 100** www.cornwall.gov.uk

2. Guiding Principles for Pre-Application Discussions

Pre-application discussions have an important role in all types of planning applications. Local Councils are particularly aware of the importance of public perception in planning and the need for transparency in the relationships with developers.

Pre-application meeting

In considering a request to meet with the developer prior to formal submission of a planning application, Saltash Town Council would expect that:

1. The meeting is open to the public to attend and has been reasonably advertised.
2. The developer meets all reasonable costs of hosting of the public meeting including the provision of large-scale paper plans for display purposes.
3. A public consultation or engagement event is either already scheduled, or firmly planned.

Saltash Town Council may wish to combine public engagement events with a scheduled council meeting rather than a separate event. Whilst for large developments an initial pre-app meeting and community engagement event may be far apart in time, the small applications, these could effectively be undertaken at the same meeting.

Saltash Town Council will not normally hold private meetings with developers unless there is a necessary and compelling reason which could be justified to the public (for example a strong commercial sensitivity, where a developer wishes to receive an initial steer before deciding whether to progress).

Pre-application community engagement (PACE)

Saltash Town Council will encourage developers to carry out engagement with the local community before submitting plans for significant or complex developments.

Any PACE meeting must meet the following expectations:

1. The venue is convenient and accessible in the community.
2. Sufficient and timely publicity within the community and to likely interested parties. The timing of the meeting should be appropriate to allow as wide a range of people as possible to attend.

3. That there is a genuinely open mind and willingness to adapt plans in response to community feedback.
4. The developer meets all reasonable costs of hosting a public meeting including the provision of large-scale paper plans for display purposes.

Saltash Town Councillors are advised not to attend separate private briefings as part of public consultation, but instead to attend a public event.

As well as working with the Town Council on public engagement events, developers also have the option of a formal pre-application community engagement forum facilitated by Cornwall Council for more significant or complex applications. Developers should contact Cornwall Council for further details on these options.

Pre-application process and the Code of Conduct for local councils

It is noted that some Town Councils are concerned about potential issues with encouraging early conversations with developers on pre-application proposals. These include requests for meetings with individual councillors and how feedback on the proposal could be viewed as predetermination.

It is recommended:

Individual Councillor's discussions

1. Councillors must be aware of their obligations under the Council's code of conduct.
2. Individual Councillors must not enter into informal discussions of possible future applications with the developer; to do so may lead to a complaint for a potential breach of the code.
3. Where a site meeting is needed, the Town Council will nominate at least two representatives to attend.

A developer should not attempt to lobby individuals; if this occurs, the Town Council reserves the right to withdraw from any pre-application process.

Pre-determination

Councillors should avoid expressing any detailed opinion or prior view which might be viewed as predetermination. To this end, a formal meeting arranged by the Town Council could include the following suggested wording on the meeting agenda or invitation:

‘While I/Councillors may express an opinion for or against the proposal at this meeting, my/our mind(s) is/are not closed and I/we will only come to a conclusion on whether are you/we should support the scheme or offer an objection after I/we have listened to the full debate.’

A similar statement could also be read out and clearly stated at the start of an informal meeting, to make it clear that the members of the Town Council attending are not pre-determining the position on a proposal. Local councillors could also include the words “in principle” or “subject to” when expressing their views to further emphasise that any opinions given at this stage are not prejudging a proposal in advance of a formal planning application.

3. Protocol for considering Planning Applications

This protocol relates specifically to the consideration of plans at the Planning and Licensing Committee. Subsequent consideration in relation to an officer response is covered in another protocol.

1. Expectations of councillors

It is an expectation of Saltash Town Council that:

- 1.1. All Councillors should be familiar with the basic details of all planning applications on the agenda.
- 1.2. All Ward Councillors should be familiar with the details of all planning application on the agenda and within their ward, including having closely examined the paper or electronic plans.
- 1.3. The Ward Councillors should have arranged for at least one ward member to have carried out a site visit and to report verbally, in writing, or via another councillor or member of staff, to the council.
- 1.4. In the case of a potentially contentious application, the Ward Councillors should have arranged for at least two ward members to have carried out a site visit, albeit not necessarily at the same time, and to report to the council as above.

2. Potentially contentious applications

An application will be considered to be 'potentially contentious' within the meaning of this protocol where:

- 2.1. It is on a site on which the council has, within the previous year, considered an application that was subsequently refused or
- 2.2. It is on a site relating to an extant application for a Public Right of Way or Town Green or
- 2.3. Councillors are otherwise aware, for example via press coverage or a number of communications from members of the public, that the application generates strong feelings.

These only apply where the councillor(s) involved is/are aware that the definition applies, but it is expected that councillors will share this information by email.

3. Site visits

3.1. All site visits carried out by Ward Councillors, by other councillors or by staff, are considered official business of the council, and members and staff are acting as representatives and not in an individual capacity, provided that:

3.1.1. In the case of a potentially contentious application (see above)

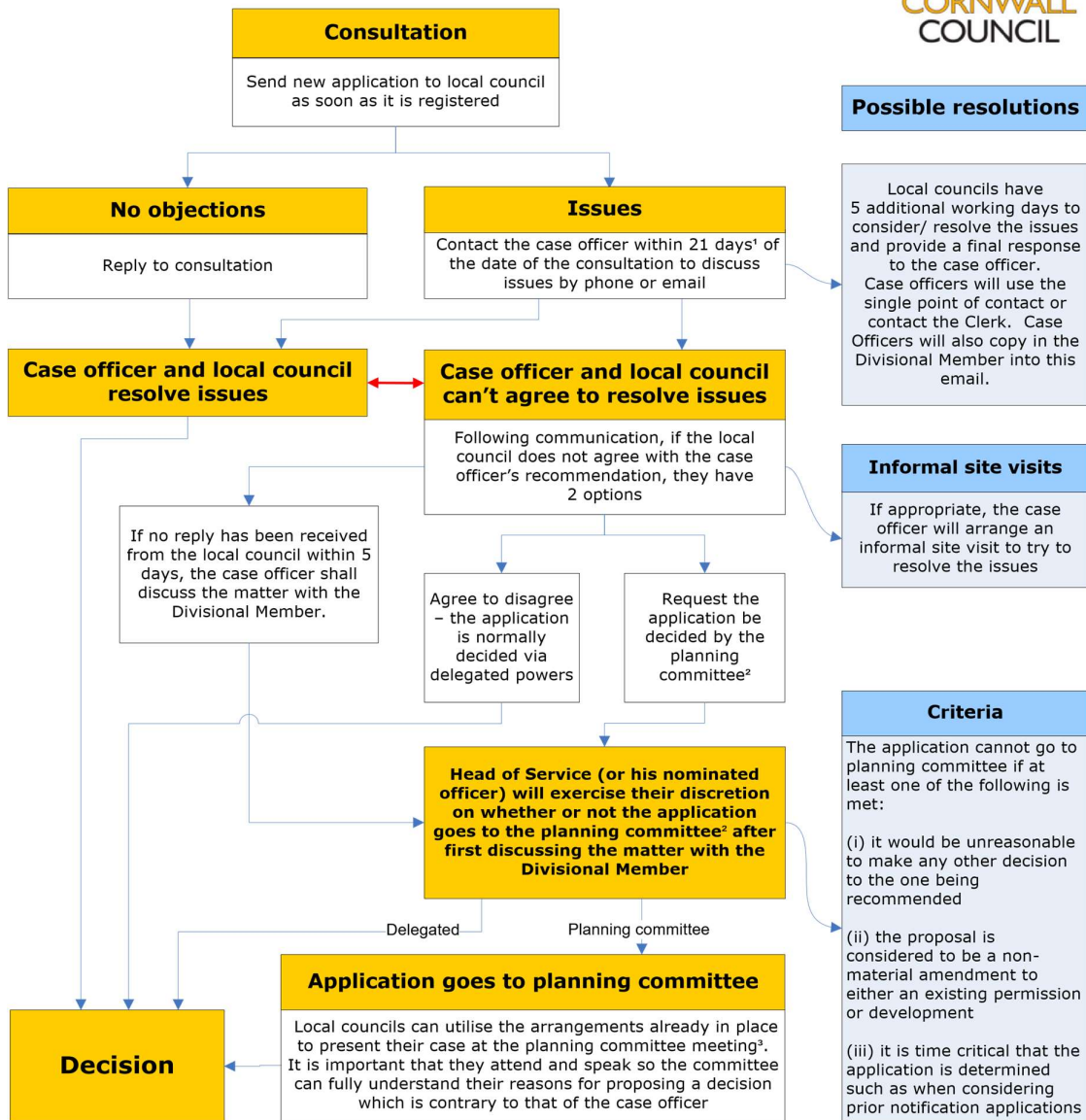
councillors are accompanied on any visit by another member of the council, or by a member of staff of the council.

3.1.2. Councillors take a form of ID - preferably but not necessarily an official Town Council ID. They must show this on request to any members of the public involved in the visit who may not be aware that they are councillors. This includes if they speak to them about the application or go onto their property.

3.2. There are no specific requirements for the contents of a site visit – in some cases it will be appropriate to go onto one or more properties or to speak to one or more members of the public. However, it for the member(s) visiting to judge the necessary steps to take.

4. Protocol For Local Councils (Cornwall Council)

PROTOCOL FOR LOCAL COUNCILS



Notes

¹21 days is the statutory time period - if an extension of time is required, the request and response must be in writing (or email) and is likely to be acceptable unless a decision is imminent.

²See page 2 for further information.

³Any written supporting statements must be submitted at least 3 working days before the committee meeting.

If a case officer is on leave or sick, contact your area team Group Leader or Principal who will be able to find out who is dealing with the application in the case officer's absence.

Should a case officer decide to change their recommendation at any point in the determination process after having communicated a different view, the case officer must inform the local Divisional Member(s).

Protocol For Local Councils

The objective of the Local Council and Member Protocols is to encourage dialogue and make sound planning decisions locally

Large scale planning applications that exceed specified thresholds are automatically considered by the Strategic Planning Committee.

Constitution [Responsibility for Functions]

This states that a Local Member can request any application falling under the 'Major' or 'Minor' category to be taken to a planning committee for consideration, so long as it is in writing/email and that sound planning, policy and other area reasons have been provided setting out why committee consideration is necessary.

Major and minor application types are:

New dwellings
Offices / research and development / light industry
General industry / storage / warehousing
Retail distribution and servicing
Gypsy and Traveller pitches
All other large scale major developments
All other small scale major developments
All other minor developments

Other application types are (and can be called to the planning committee by the Head of Service or his nominated officer):

Minerals Processing (ie ancillary mineral operations defined under the GPDO)
Change of use (no significant building or engineering work involved) Householder developments
Included in householder developments are extensions, conservatories, loft conversions, dormer windows, alterations, garages, car ports or outbuildings, swimming pools, walls, fences, domestic vehicular accesses, including footway crossovers, porches and satellite dishes.
Advertisements

Listed building consents to alter / extend
Listed building consents to demolish
Conservation area consents
Certificates of lawful developments
Notifications (where no planning application is required)
Discharge of planning conditions
Non-material amendments
Works to trees in a conservation area
Works to trees covered by a Tree Preservation Order
Deed of modifications (Remove/Vary Section 106 Obligations)

If you would like this information in another format please contact:

Cornwall Council, County Hall, Treyew Road, Truro, TR1 3AY.

Telephone: **0300 1234 100**

Email: enquiries@cornwall.gov.uk

www.cornwall.gov.uk

5. Planning Poll Protocol

This outlines the protocol for Local Councils giving Saltash Town Council the opportunity to reevaluate their original position on a particular planning application, in light of a Case Officers recommendation.

It is based on the principles that:

1. The Town Council may wish to reevaluate its original position given new information.

This should be done in such a manner that there is no confusion as to individual opinions using the following response options:

- 1.1. Stick with our original position and request a call-in;
 - 1.2. Accept the Officers position;
 - 1.3. Agree to disagree;
 - 1.4. Abstain.
2. This should not prevent email discussion of the merits of differing positions;
 3. There should be a clear majority of those voting in order to overturn any previous decision;
 4. The results of any deliberations in this manner should be placed on public record.

The protocol will operate with the following in mind:

1. Councillors will be free to debate the planning application by email, but only votes cast by poll will count towards the decision. No public statements of dissent or malicious briefings should be made.
2. Members of the public will still be entitled to be copied in on any correspondence, if so requested by emailing planning@saltash.gov.uk
3. Councillors will always have at least 72 hours from the email notifying a poll to vote in it. If this includes a Sunday it will be 96 hours.
4. Quorum for a poll to be effective is one third of councillors (including registered abstentions).
5. In line with the Protocol for Local Councils if a poll result does not agree with the Case Officers recommendation this will result in the particular application being called in (Stick with our original position and request call-in) to be decided by the Planning Committee. The Saltash Town Council Planning Administrator will submit this response automatically to the Case Officer from the result of the poll.

6. In the event of any tied or inquorate vote the Town Council's original position will stand.
7. Cornwall Councillors will vote on the information before them, but in light of further information received at Planning committee might vote differently at that meeting.
8. All Councillors will be responsible for ensuring that their vote is informed and based on proper planning guidance and application information.
9. Saltash Town Council poll results are available on the Saltash Town Council website https://www.saltash.gov.uk/planning_list.php or by contacting the Guildhall reception 01752 844846.

6. Protocol on pre application meetings for major developments. Guidance for councillors and developers

1. Preamble

Saltash Town Council recognises that pre-application discussions play an important role in major planning applications and welcomes the desire of many developers to consult both the council and the public more widely. However, the Town Council is also aware of the importance of public perception in planning and the critical need to avoid any appearance that the Town Council is conducting secretive negotiations or colluding with developers.

2. Pre-determination

In all meetings with developers members are reminded of the critical importance of not pre-determining their position on any future application, as this could require them to take no part in the discussion or leave them open to referral to the standards board. It is noted however that expressing a pre-disposition, for example of either 'welcome in principle' or 'concerns', is permissible.

3. Cornwall Councillors

It is understood that 'dual-hatted' Councillors may on occasion take part in meetings with developers in their capacity as Cornwall Councillors. In such cases councillors must be clear to distinguish, to both the developers and the public, their role as a Cornwall Councillor from that of a Town Councillor.

4. Individual members' discussions

Individual councillors may be approached by developers for informal discussions of possible future applications. Whilst it is left to the individual judgement of members whether to take part in such discussions, based on the nature and likely level of controversy of the application, they are advised:+

- 4.1. To carefully consider the public perception of such meetings.
- 4.2. To avoid any appearance of collusion in applications likely to cause controversy.
- 4.3. To avoid accepting hospitality in connection with such meetings.

4.4. To advise the Chairman of the Town Council, Chairman of Planning and Licensing and where possible the council, of such meetings.

Councillors must not purport to be representing the Town Council at such meetings, unless expressly authorised to do so by the Town Council.

5. Pre application briefings

5.1. The council is, in general, willing to hold meetings with developers prior to public consultation on the following two conditions:

5.1.1. Full public consultation is either already scheduled or firmly planned.

5.1.2. The meeting is open to the public to attend and has been reasonably advertised.

5.1.3. These meetings should take place at the Guildhall as they are briefings to the Town Council.

5.2. The general policy of the Town Council is not to hold private meetings with developers.

Exceptions to the above two rules may be agreed if:

5.3. there is a necessary and compelling reason for a developer to receive an initial steer before deciding whether to progress. This may include a strong commercial sensitivity requiring private discussion, or significant pre-application cost requiring a steer before deciding whether to proceed with public consultation. Such meetings would be subject to agreement that if the developer did decide to proceed public consultation would be carried out)

OR

5.4. there is a strong public consensus in favour of the principle of development and such discussions are likely to focus around the details of draft proposals prior to submission.

These exceptions do not negate the aspects of this protocol in relation to pre-determination or Cornwall Councillors.

6. Pre application public consultations

The Town Council strongly encourages developers to carry out full public consultation before submitting plans for major developments, on the following basis:

- 6.1. An accessible and convenient venue.
- 6.2. Sufficient publicity to likely interested parties, in good time.
- 6.3. Appropriate timings to allow as wide a range of people as possible to attend.
- 6.4. A genuinely open mind and willingness to adapt plans in response to feedback.

The Town Council does not allow such consultations to be held at the Guildhall, due to potential public confusion as to the position of the Town Council as both 'host' and 'authority'.

In general, Councillors are advised not to attend separate private briefings as part of public consultation, but instead to attend with the public.

7. Interpretation

This initial decision as to how these rules apply to a particular case shall be made by the Town Clerk in consultation with the Chairman of the Town Council and emailed to councillors. Any councillor may then choose to submit a motion, proposed and seconded under Standing Orders, to discuss the matter at Full Council and consider departing from the initial decision.