

## **Specific delegation of exercise of planning functions to the Executive Director – Environment & Planning**

**The following planning functions of the Council (set out in bold below) are delegated to the Executive Director - Environment & Planning, and to such officers as that Director may approve.**

### **1.1 Determining applications made under the Planning Acts.**

1.1.1 Councillors have the right to request in writing to the Executive Director – Environment & Planning/that **within 28 days of the publication of the weekly Planning Register of Applications, 21 days of the date of any re-consultation on amendments (see note 9)** that a planning application (including reserved matters), listed building application, or application for advertisement consent should be determined by the Planning Committee. Members must only call-in such applications within their own Ward, unless exceptional circumstances dictate otherwise, and Members must give a reason for calling-in an application to Committee.

1.1.2 Subject to 1.1.1, the Executive Director –Environment & Planning shall have powers delegated to determine planning applications, listed building applications, and applications for advertisement consent under delegated powers except :

a) where the relevant Parish or Town Council have commented (within 21 days of the date of consultation) on planning applications for Major and Minor developments (not householders or variation of condition applications to householders), or within 21 days of the date of re-consultation on an amended scheme (see note 9), and this is contrary to the officer recommendation, and where :

- 1) the comments raise issues deemed to be material planning considerations relevant to that application; or
- 2) the issues raised have not been resolved by negotiation or are not capable of resolution through the imposition of conditions;

The exceptions to 1.1.2 a) above are where :

- i) the Parish Council continues to object to a reserved matters application, on the same grounds in principle raised through the original outline; or
- ii) the Parish Council continues to object on the same ground on a subsequent application, where substantially

the same proposal has previously been approved, and there have been no material change in circumstances.

In these circumstances these matters can be dealt with under delegated powers.

b) where a statutory consultee's comment is contrary to the officer recommendation and where:

- the comments raise issues deemed to be material planning considerations; and
- the comments are made in the stipulated time span (21 days); and
- the comments raise issues which have not been resolved by negotiation or capable of resolution through the imposition of conditions.

c) when it relates to a new telecommunications mast over 30m in height.

d) when it relates to a development proposal submitted by or on behalf of a Councillor of the Authority (or their spouse/partner or another direct relative) or by any member of the Council's staff (or their spouse/partner) who is involved in the planning or development process.

e) an application submitted by or on behalf of the Council for its own developments except for the approval of minor and other developments to which no objection has been received within 28 days of the applications publication on the weekly list.

f) where the site is subject of a previously dismissed appeal for substantially the same development, and the recommendation is to approve.

1.1.3 Delegated authority is granted to the Executive Director – Environment & Planning to enter into S.106 legal agreements, that do not involve the payment of financial contributions above £60,000, unless they are in accordance with the Council's affordable housing policy when contributions can exceed this sum, and can vary existing S.106 legal agreements.

1.1.4 The Executive Director –Environment & Planning may call-in applications that he considers should be presented to the Planning Committee for determination, usually through the issues it raises or through the scale of concerns relating to planning issues.

## **1.2 Sifting Panel**

1.2.1 Applications due to go to Planning Committee under 1.1.2 – 1.1.4 may be subject to a Planning Committee Sifting Panel process. The Sifting Panel may resolve that an application that would usually need to go to Planning Committee under 1.1.2-1.1.4, can be determined under officer delegated powers.

## **1.3 Other planning related functions delegated to the Executive Director – Environment & Planning**

1.3.1 The determination of discharge of conditions and dealing with non-material amendments to approved schemes.

1.3.2 Respond to consultations from other bodies on their applications.

1.3.3 Serve, modify and withdraw Tree Preservation Orders (TPO's). Where an objection to a proposed TPO is received the proposed TPO will need to be determined by the Planning Committee.

1.3.4 Determine applications for works to protected trees (those subject to a TPO and qualifying trees in a conservation area).

1.3.5 To enter land and buildings for any purpose under the Planning Acts.

1.3.6 To carry out screening and scoping opinions under the Environmental Impact Assessment Regulations.

1.3.7 The determination of lawful development certificates, prior notifications/approvals or other similar processes forming part of the statutory planning process.

1.3.8 To exercise all other planning related functions whether by the making of operational decisions, service of notices, making or confirmation of orders, directions, dispensations or opinions, issue of determinations or certificates, lodgement of comments or objections upon consultation, commencement of proceedings, carrying out appeal work, withdrawal or discontinuance of any matter or action, responding to any matters served upon the Council or otherwise.

## **1.4 Enforcement of Planning Control under the Planning Acts**

1.4.1 Authority is delegated to the Executive Director – Environment & Planning for the obtaining, signing, service, varying or withdrawal of:

(a) enforcement notices (which term shall also include listed building enforcement notices and special enforcement notices);

(b) stop notices and temporary stop notices;

(c) breach of condition notices;

(d) Requisitions for Information notices (S.330 notices), & planning contravention notices;

(e) S.215 ('tidy-up') notices;

(f) injunctions and their enforcement;

(g) completion notices;

(h) urgent works notices;

(i) listed building repairs notices

(j) advertisement removal notices

(k) discontinuance notices

1.4.2 To prosecute for non-compliance of formal notices served under the planning acts, and to take operational decisions relating to those prosecutions, having regard to the council's combined enforcement policy;

1.4.3 Undertaking other enforcement related tasks, investigations, operational decisions, investigations and service of notices relating to trees and hedges, the historic environment, advertisements, and hazardous substances, all under the relevant legislation.

## **1.5 High hedges**

1.5.1 To determine, under the Anti-Social Behaviour Act 2003, applications for works to a high hedge, to serve remedial notices as appropriate and prosecute & take direct action against non-compliance with notices.

## **1.6 Other legislation**

1.6.1 To serve notices and respond to consultations relevant to the planning function as necessary under the provisions of the following pieces of legislation, as updated and amended:

a) Local Government (Miscellaneous Provisions) Acts 1976 & 1982

b) Building Act 1984

c) Environment Act 1995

d) Communications Act 2003. Under this act any applications to remove phone boxes can only be dealt with under delegated powers should there be no objection from the relevant Parish Council

This shall also include all relevant statutory instruments and secondary legislation associated with the above primary legislation.

### **Notes**

- 1) All prosecutions and injunctions, and decisions associated with them, shall be made only with the agreement of the Assistant Director for Legal Services (or equivalent title), or in their absence an Executive Director. The relevant Ward Member, Portfolio Holder – Development, and the Chairman & Vice-Chairman of the Planning Committee will be notified of decisions relating to prosecutions and injunctions.
- 2) Enforcement action is authorised only if the taking of such action has not been specifically excluded by the Planning Committee in any particular case.
- 3) The service of any formal notices or taking of action in section 1.4 and 1.5 must be authorised by either the Assistant Director of Legal Services (or equivalent title), Executive Director – Environment & Planning, or Assistant Director - Environment & Planning
- 4) References to the Executive Director – Environment & Planning shall also relate to the Assistant Director – Environment & Planning.
- 5) As set out in the agreed ‘Code of Good Practice for Planning’, where a Member refers an application to the Planning Committee, that Member will be asked to confirm his/her attendance preferably by e-mail to the relevant Planning Officer prior to the publication of the Agenda at the meeting to which it is referred. If the Member is unable to confirm their attendance or fails to attend, except in exceptional circumstances which would be at the discretion of the Chairman, the application may not be considered and could be referred back to officers to determine.
- 6) Reference to the ‘Planning Acts’ shall include the:

- Town & Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Planning and Compulsory Purchase Act 2004
- Planning Act 2008

This list may change over time as new legislation comes forward and it shall also include all relevant statutory instruments and secondary legislation associated with the primary legislation.

- 7) The Sifting Panel shall usually be made up of the Chairman & Vice-Chairman of the Planning Committee, Portfolio Holder – Development and Regeneration, another Member of the Planning Committee, and two of the Executive Director, the Assistant Director or the Planning Control Manager. It will require a minimum of one officer and two Councillors to be quorate. The Panel shall meet as required. The precise operation of the Panel will be as directed by the Executive Director and Portfolio Holder – Development and Regeneration.
- 8) Reference to 'own development' in 1.1.2 d) does not include when a councillor is working as a planning agent, as part of their business or employment, and therefore has no other interest in an application apart from acting on behalf of a third party.
- 9) There is no legal requirement to formally reconsult on amendments to planning applications, unless they relate to an application which includes an Environmental Impact Assessment. However, officers will re-consult on those changes deemed more than minor, and which are considered to be material changes requiring further consideration. These changes can often be to overcome objections raised earlier in the consultation process.