

## PLANNING COMMITTEE

### SCHEME OF DELEGATIONS TO OFFICERS

#### DELEGATIONS TO THE CHIEF OFFICER PLANNING AND HIGHWAYS

(from the post holder taking up office and prior to that to  
the Assistant Director (Planning) and the Director of  
Environment

#### Definitions

In the Scheme set out below:

**“authorised legal officer”** means the Assistant Chief Executive (Law and Governance) and Solicitor to the Council or such officer duly appointed to fulfil the role of Solicitor to the Council from time to time.

**“authorised planning officer”** means either Chief Officer Planning and Highways or a Manager in the Planning Department or in their absence any duly appointed officer in the Planning Department fulfilling those respective roles from time to time

**“ 1990 Act”** means the Town and Country Planning Act 1990

**“DMPO 2015”** means the Town and Country Planning (Development Management Procedure) Order 2015

**“GPDO 2015”** means the Town and Country Planning (General Permitted Development) Order 2015

**“material planning considerations”** do not include:

- trade objections (where the complaint directly relates to anticipated competition from the development proposed);
- objections relating to trespass on the objector’s property;

- noise and other forms of disturbance arising during and solely as a result of any building operations involved in the development;
- the question of future maintenance of the objector's property;
- perceived loss of value to the objector's property;
- drainage and other issues covered by Building Control procedures;
- issues which are covered by other legislation and over which planning controls do not exist;
- alleged unauthorised activities or works not directly relating to the proposal under consideration and which might be dealt with through other planning investigations;
- matters of a personal nature including of a discriminatory nature;
- the wording or content of a proposed advertisement

**“planning permission”** does not include other consents under the Town and Country Planning Act 1990 such as conservation area consent, listed building consent, advertisement consent, hazardous substances consent, prior approval, consent to do works to protected trees, reserved matters approval, etc.

**“statutory”** means by virtue of an Act of Parliament or any statutory instrument. Any reference to an Act of Parliament or statutory instrument includes any amended or updated version.

## **Planning Services**

### **Delegation**

Schedule 3 below sets out those matters in respect of which the authorised planning officer does not have delegated authority and which will be dealt with by the Council's Planning Committee subject to the exceptions set out in the schedule.

Subject to those exceptions, the authorised planning officer shall have delegated authority to determine, deal with, authorise, make or implement any of the matters set out in Schedule 1 and Schedule 2 below in respect of any land (including Crown land)

within the district of the Council and to issue decisions, notices or other documentation and correspondence in respect of those matters.

Any matters not included within Schedules 1 and 2 shall be dealt with by the Council's Planning Committee

## **Schedule 1**

### **(General delegations)**

#### **General**

- (1) To undertake communication in any form arising from or relating to any of the Council's planning functions.
- (2) To respond to any statutory or other consultation by third parties including Government Consultation on planning legislation and other related matters where such response would not be in conflict with the policies of the Council.
- (3) That the Assistant Chief Executive (Law and Governance) be authorised to make all consequential amendments to these delegations to reflect both legislation that is subsequently superseded and changes to the responsibilities of specific officers and office holders otherwise lawfully made.
- (4) In matters which are the responsibility of this Committee, the Assistant Chief Executive (Law and Governance) has authority to take any legal and administrative (including ancillary) action not limited to but including:
  - (a)(i) To prosecute, institute, defend or appeal in any legal proceedings whether in the name of the Council or not, and
  - (ii) In the name of the Council, to make representations in the interests of the inhabitants of the area at any Public Inquiry held by or on behalf of any Minister or Public Body under any enactment.
  - (b) To make, issue, determine or serve, or to accept or receive any notice, order certificate, consent, approval or other document or matter, formal or otherwise and whether or not in contemplation of or pursuant to any proceedings or other matters.

Any authorisation set out in this delegation includes authority to negotiate in respect of, or settle, or otherwise discontinue, any proceedings or other matter.

### Conditions in Planning Permissions

- (5) To impose one or more conditions in respect of a planning permission granted pursuant to this scheme.
- (6) To amend or vary any condition proposed to be attached to a planning permission pursuant to a resolution to grant planning permission either by the Planning Committee or pursuant to this scheme where the variation or amendment does not in the opinion of the authorised planning officer adversely affect the overall principle of the original decision.

### Planning Obligations

- (7) To secure a planning obligation by way of undertaking or agreement required in connection with a resolution to grant planning permission by the Planning Committee or pursuant to this scheme.
- (8) To secure a planning obligation by way of undertaking or agreement to meet a planning objective in circumstances other than in relation to a planning application.
- (9) To amend or vary any planning obligation secured pursuant to a resolution to grant planning permission either by the Planning Committee or pursuant to this scheme where the variation or amendment does not in the opinion of the authorised planning officer adversely affect the overall principle of the original decision.
- (10) To substitute a planning obligation for a planning condition and vice versa where that substitution addresses the subject matter in the same way.

- (11) To determine an application pursuant to section 106A of the 1990 Act to modify any planning obligation secured pursuant to this scheme where the variation or amendment does not in the opinion of the authorised planning officer adversely affect the overall principle of the obligation and, in respect of the discharge of the obligation, where the authorised planning officer is satisfied that the obligation no longer supports any planning objective.
- (12) To determine a request to modify or discharge an agreement made pursuant to section 52 of the Town and Country Planning Act 1971 where the variation does not in the opinion of an authorised planning officer adversely affect the overall principle of the agreement or, in respect of the discharge of the agreement, where the authorised planning officer is satisfied that the provisions secured by the agreement are obsolete.

### Appeals

- (13) To defend any appeal to the Secretary of State or other tribunal or panel against any decision of the Council or for non-determination in respect of any application, notice, notification or other matter within the planning function of the Council under the 1990 Act or otherwise.

### Enforcement and Entry

- (14) To issue a planning contravention notice pursuant to section 171C of the 1990 Act.
- (15) To authorise any person to enter any land pursuant to any enactment or regulation permitting entry by a person who is duly authorised by the Council to do so including but not limited to sections 196A, 214B and 325 of the 1990 Act, section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990, section 74 of the Anti-social Behaviour Act 2003 and Regulation 12 of The Hedgerows Removal Regulations 1997.

- (16) To respond to an apparent breach of planning control of any description (including any such breach under the Planning (Listed Buildings and Conservation Areas) Act 1990) and to determine whether or not enforcement action is necessary or expedient.
- (17) To administer a non-statutory caution to an offender in respect of any criminal offence for which the Council has the power to prosecute.
- (18) To authorise the issue service modification and withdrawal of Enforcement Notices under Section 172 of the 1990 Act.
- (19) To authorise the issue service and withdrawal of Breach of Condition Notices under Section 187A of the 1990 Act.
- (20) To authorise the issue service and withdrawal of Temporary Stop Notices under Section 171E of the 1990 Act and Stop Notices under Section 183(1) of the 1990 Act.
- (21) To authorise the issue of Notices under Section 215(1) of the 1990 Act to require the proper maintenance of land.
- (22) To authorise service of a discontinuance notice pursuant to regulation 8 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

### Process

- (23) To exercise the power to require that an application for planning permission is not considered in outline form.
- (24) When considering or determining any application or other matter, to exercise any statutory powers or duties of a Local Planning Authority to require or provide any statement, report, information or other details by or to the Local Planning Authority, including the need for assessment of environmental effects.

- (25) To issue directions requiring further details or evidence in relation to an application.
- (26) To take all steps required in connection with the registration, validation, determination and disposal of any application pursuant to any statutory requirement
- (27) To decline to determine subsequent planning applications and overlapping planning applications pursuant to sections 70A and 70B of the 1990 Act
- (28) To carry out above and beyond any statutory requirement, as an authorised planning person shall think fit, such consultations and/or advertising of planning and other applications within the planning function
- (29) To determine an application for any consent agreement or approval required by condition or limitation attached to a planning permission granted by the Council
- (30) To refuse planning permission in any case where there have been no material changes in circumstances since the date of an earlier refusal of a similar proposal on the same site irrespective of the nature of consultation responses.
- (31) To renew planning permission previously granted either by the Planning Committee or under delegated powers where there has been no material change in policy or other material planning matters irrespective of the nature of consultation responses or other representations received.

- (32) Under paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites as the case may be, are to be subject.

## **Schedule 2**

### **(Particular applications delegated)**

All applications for permission, approval or consent under the following statutory provisions:

#### **Permissions Pursuant to the 1990 Act**

- (1) Application for planning permission (part III).
- (2) Application to develop land without compliance with conditions subject to which a previous planning permission was granted (section 73).
- (3) Application for planning permission for development carried out before the date of the application (section 73A).
- (4) Application for a non-material amendment following a grant of planning permission (Section 96A of the 1990 Act).

#### **Applications Pursuant to the GDPO 2015**

- (5) Application for reserved matters approval pursuant to any outline planning permission granted previously.
- (6) Application to discharge a condition attached to any planning permission granted previously.
- (7) Application for a replacement planning permission subject to a new time limit.

#### **Permitted Development**

- (8) In relation to parts 1, 3, 4, 6, 11, 14, 16, 17 and 18 (Permitted Development rights) of Schedule 2 to the GPDO 2015 (a) approval or agreement required for any element of a proposal or (b) for determination as to whether or not prior

approval or agreement to any element of a proposal is required and, where such prior approval is required by the Council, determination of the details of that element.

Advertisements Pursuant to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

- (9) Application for express consent for the display of advertisements and related powers and duties.
- (10) Service of a discontinuance notice pursuant to regulation 8 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Hazardous Substances Pursuant to the Planning (Hazardous Substances) Act 1990

- (11) Application for hazardous substances consent and related powers.
- (12) Application for removal of conditions attached to hazardous substances consent.
- (13) Revocation of a hazardous substances consent pursuant to section 14(2) of the Planning (Hazardous Substances) Act 1990.

Listed Buildings and Conservation Areas Pursuant to the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990

- (14) Application for listed building consent and conservation area consent and related powers.
- (15) Application for variation or discharge of conditions.

Certificate of Lawfulness

- (16) Application for a Certificate of Lawfulness of Proposed Use or Development under Section 192 of the 1990 Act.

### Completion Notices

- (17) To serve a completion notice under section 94 of the 1990 Act.

### High Hedges

- (18) Determination of a complaint pursuant to the Anti-social Behaviour Act 2003 and the issue, withdrawal or relaxation of any remedial notice thereunder.

### Hedges and Hedgerows Pursuant to the Hedgerows Regulations 1997

- (19) Determination of notice in respect of hedgerows removal.

### Trees Pursuant to the 1990 Act

- (20) The authorisation of the making of a tree preservation order pursuant to sections 198 and 199 and subsequent modification or revocation thereof.
- (21) Determination of applications for consent under a tree preservation order pursuant to section 198.
- (22) Determination of applications in respect of replacement of trees subject to a tree preservation order pursuant to sections 206 and section 213.
- (23) Determination of notices received in respect of trees within conservation areas pursuant to section 211.

### Public Footpaths and Bridleways

- (24) The making of Orders under sections 257 and 258 of the 1990 Act for the diversion, stopping up or extinguishment of public footpaths and bridleways.

### **Schedule 3**

#### **(Exceptions in respect of which the application will be dealt with by the Council's Planning Committee)**

- (1) Other than Householder applications (which will remain delegated) where the proposed decision in respect of an application for **planning permission** (as defined – see “Definitions”) would be contrary to a written expression of support or objection by a Parish, or Town Council PROVIDED THAT the views expressed are, in the opinion of the authorised planning officer, material planning considerations and the issues raised have not been resolved by negotiation and/or the use of appropriate conditions.
- (2) Where any Member of the Council or the Chief Executive has requested that the decision on an application for **planning permission** (as defined – see “Definitions”) or an application for Prior Approval under Part 16 (Communications) of Schedule 2 to the GPDO 2015 be taken by the Planning Committee provided that such a request in respect of Householder applications (as defined in the DMPO 2015) is made within 21 calendar days of the application being listed on the Council's published weekly list of applications received:

***In every case where the matter is determined by the Planning Committee pursuant to a valid request, the person making the request and the stated reasons for the request (being reasons related to material planning considerations relevant to that application) will be identified in the relevant Committee Report***

- (3) Other than Householder applications (which shall remain delegated) where the proposed delegated decision by the authorised planning officer to grant **planning permission** (as defined – see “Definitions”) would be contrary to the views expressed in writing by a member of the public PROVIDED THAT the views expressed are received within

the period specified for representations and are, in the opinion of the authorised planning officer, material planning considerations and the issues raised have not been resolved by negotiation and/or the use of appropriate conditions.

- (4) Where the application (except an application for discharge/approval of conditions attached to an existing planning permission) is submitted by or on behalf of the Borough Council and either the authorised planning officer is minded to refuse the application or if the proposed delegated approval by the authorised planning officer would, in the opinion of the authorised planning officer, be contrary to the development plan for the area, contrary to the Council's approved planning standards, or contrary to the views expressed in writing by a member of the public PROVIDED THAT the views expressed are received within the period specified for representations and are, in the opinion of the authorised planning officer, material planning considerations and the issues raised have not been resolved by negotiation and/or the use of appropriate conditions.
- (5) Where the application (except an application for discharge/approval of conditions attached to an existing planning permission) is submitted by or on behalf of an officer employed or contracted to work in the Planning and Highways Service Area or by or on behalf of a member of that officer's immediate family (being (grand)father, (grand)mother, (grand)son, (grand)daughter, spouse or partner) and the proposed delegated decision by the authorised planning officer would, in the opinion of the authorised planning officer, be contrary to the development plan for the area, contrary to the Council's approved planning standards or contrary to the views expressed in writing by a member of the public PROVIDED THAT the views expressed are received within the period specified for representations and are, in the opinion of the authorised planning officer, material planning considerations and the issues raised have not been resolved by negotiation and/or the use of appropriate conditions.

*(NB It is the Officer's responsibility to identify any such application upon submission to the Chief Officer Planning and Highways and, in their absence, to the Assistant Chief Executive (Law and Governance)).*

- (6) Where the proposed delegated decision by the authorised planning officer in respect of an application would conflict with a decision to refuse or grant an earlier application made by the Planning Committee within the two years prior to the date of such application where:
  - (i) the earlier decision was contrary to the recommendation of an Officer; and
  - (ii) in the opinion of an authorised planning officer the current application repeats the development proposed by the earlier application. (For the avoidance of doubt, this exception does not apply to an application which proposes a variation or amendment of an earlier application which the Planning Committee had resolved to grant and which, in the opinion of an authorised planning officer, does not affect the principle of the development permitted by that earlier decision).
  
- (7) Where the proposed delegated decision by an authorised planning officer on an application would conflict with a condition imposed upon the grant of an earlier application where the decision to grant was made by the Planning Committee within the two years prior to the date of the current application where (i) such condition was imposed in addition to those recommended by an authorised planning officer (if any) specifically at the request of the Planning Committee and (ii) in the opinion of an authorised planning officer the current application repeats the development proposed by the earlier application.

- (8) Where the proposed delegated decision by an authorised planning officer on an outline or full planning application for the creation of new dwellings would be to permit or refuse permission for more than 1 hectare of residential development or for the erection of more than 20 dwellings.
- (9) Where the proposed delegated decision by an authorised planning officer on an outline or full planning application would be to permit or refuse permission for development of more than 500 square metres involving either a change of use to, from or within the A and B Use Classes or the creation of new floorspace within the A and B Use Classes.

**DELEGATIONS TO THE  
ASSISTANT CHIEF EXECUTIVE  
(LAW AND GOVERNANCE)**

The Assistant Chief Executive (Law and Governance) shall have delegated authority to determine, deal with, authorise, make or implement any of the matters set out in Schedule 4 below insofar as they relate to the planning function of the Council:

**Schedule 4**

- (1) To undertake all legal work in respect of those notices required by the authorised planning officer to be issued pursuant to paragraphs 16 to 19 of Schedule 1
- (2) Applying for Injunctions under Sections 187B and 214A of the 1990 Act to restrain breaches of planning control .
- (3) Determination of applications for Certificates of Lawfulness of Existing Use or Development under Section 191(4) of the 1990 Act.
- (4) The modification variation or discharge of planning obligations made under Section 106 of the 1990 Act regulating development or use of land if satisfied, after consultation with the authorised planning officer, that the relevant planning interests and objectives are properly safeguarded
- (5) Prosecutions under the Acts, Regulations or Orders for which the Planning Committee is responsible.
- (6) Conducting proceedings of any nature in any court arising from any planning appeal including any decision by or on behalf of the Secretary of State or his/her Inspector

**DELEGATIONS TO THE  
DIRECTOR OF ENVIRONMENT AND CHIEF OFFICER  
PLANNING AND HIGHWAYS**

- (1) Authority to exercise the Council's powers under Section 50 of the New Roads and Street Works Act 1991 to grant a Street Works Licence.
- (2) Duty under Section 130 of the Highways Act 1980 to assert and protect the rights of the public to use and enjoyment of highways.

**DELEGATIONS TO THE  
DIRECTOR OF ENVIRONMENT AND CHIEF OFFICER  
REGULATORY SERVICES AND CULTURE**

- (1) Subject to consulting with Ward Councillors, to exercise the following powers and duties of the Council in relation to public rights of way, provided that no significant objection has been made to the application, proposal or matter concerned:-
  - Power under Section 118 of the Highways Act 1980 to stop up footpaths and bridleways
  - Power under Section 118ZA and 118C(2) of the Highways Act 1980 to determine applications for public path extinguishment orders
  - Powers under Section 118A of the Highways Act 1980 to make a rail crossing extinguishment order
  - Powers under Section 118B of the Highways Act 1980 to make a special extinguishment order
  - Powers under Section 119A of the Highways Act 1980 to make a rail crossing diversion order

- Powers under Section 119C(3) of the Highways Act 1980 to require an applicant for an order to enter into an agreement
- Powers under Section 119D to the Highways Act 1980 to make an SSSI Diversion Order
- Powers under Section 121C of the Highways Act 1980 to decline to determine certain applications
- Duty under Section 130A of the Highways Act 1980 to serve notice of proposed action in relation to an obstruction
- Power under Section 130B(7) of the Highways Act 1980 to apply for the variation of an Order under Section 130B of the Highways Act 1980
- Powers under Section 135 of the Highways Act 1980 to authorise temporary disturbance of surface of footpath or bridleway
- Powers under Section 135A of the Highways Act 1980 temporarily to divert a footpath or bridleway
- Functions under Section 135B of the Highways Act 1980 relating to the making good of damage and removal of obstructions
- Powers under Section 32 of the Acquisition of Land Act 1982 to extinguish certain public rights of way
- Powers under Section 3 of the Cycle Tracks Act 1984 to designate a footpath as a cycle track
- Powers under Section 294 of the Housing Act 1981 to extinguish public right of way over land acquired for clearance

- Powers under Section 247 of the Town and Country Planning Act 1990 to authorise the stopping up or diversion of a highway
  - Powers under Section 35 of the Countryside and Rights of Way Act 2000 to enter into agreements with respect to means of access
  - Powers under Section 37 of the Countryside and Rights of Way Act 2000 to provide access in the absence of an agreement
- (2) To exercise the following powers and duties of the Council under the Wildlife and Countryside Act 1981.
- Duty under Section 53 of the Act to keep definitive map and statement under review
  - Power under Section 53A of the Act to include modifications in other Orders
  - Duty under Section 53B of the Act to keep register of prescribed information with respect to applicants under Section 53(5) of the Act
  - Duty under Section 54 of the Act to reclassify roads used as public paths
  - Powers under Section 57A of the Act to prepare map and statement by way of consolidation of definitive map and statement