



BEDFORD
BOROUGH COUNCIL

Planning Committee Scheme of Delegation to Officers

DELEGATIONS TO THE CHIEF OFFICER
PLANNING, INFRASTRUCTURE AND ECONOMIC GROWTH

Extent of Delegation to Authorised Planning Officers under the control of the Chief Officer of Planning, Infrastructure and Economic Growth:

Authorised Planning Officers will have delegated powers to determine all applications for permission, approval or consent, permission in principle, prior approval, requirements for assessment, issuing of notices and completion or modification of agreements or obligations under the following legislation (or any subsequent amendment to or replacement of that legislation), or any subordinate rules, orders or regulations made under such legislation:

- Town and Country Planning Act 1990;
- Planning (Listed Buildings and Conservation Areas) Act 1990;
- Town and Country Planning (General Permitted Development) Order 2015;
- Town and Country Planning (Development Management Procedure) Order 2015;
- Planning (Hazardous Substances) Act 1990;
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017;
- Environment Act 1995;
- Town and Country Planning (Control of Advertisements)(England) Regulations 2007;
- Hedgerow Regulations 1997 and the Anti-Social Behaviour Act 2003 as it relates to 'high hedges';
- Community Infrastructure Levy Regulations 2010.

Authorised Planning Officers will also have delegated powers to determine and perform functions related to all other matters required to be dealt with as part of the management and administration of the Council's Planning, Planning Enforcement and Planning Appeals function and powers, including (but not exclusively):

- Consultation and communication with and representation to other bodies and third parties on planning matters;
- Amendments to approved plans;
- Details submitted pursuant to conditions, including variation or deletion of conditions;
- Negotiations on and securing of a planning obligation, including any amendment/modification to or discharge of a completed obligation or an obligation which has yet to be completed;
- Administration of the Community Infrastructure Levy;

- Enforcement of planning control;
- Appeals, including Judicial Reviews, statutory applications and consideration of the acceptability of development in relation to all appeals on the grounds of non-determination or in cases where there has been a material change in policy or context in the interim period between the original decision and subsequent appeal being heard;
- Screening and scoping opinions under the Environmental Assessment Regulations;
- Decline to determine powers contained within the Town and Country Planning Act 1990;
- Tree Preservation Orders.

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

Extent of Delegation from Planning Committee

The Chief Officer for Planning and Infrastructure Development will not exercise their delegated authority in respect of applications for planning permission where one or more of the following criteria is met:

- The application for **planning permission** is submitted by or on behalf of the Borough Council and is not of a minor nature,
- The applicant for **planning permission** is a serving Borough Councillor of the Council and the application is recommended for approval,
- The applicant for **planning permission** is a staff member of the Council's management team, a service unit head or a staff member of the planning service and the application is recommended for approval,
- The application for **planning permission** is accompanied by an Environmental Statement and the application is recommended for approval,
- The application for **planning permission** is for the erection of 10 or more dwellings on an **unallocated** site and the application is recommended for approval,
- The application for **planning permission** is **called-in** by the ward councillor in whose ward the application is made (or the ward councillor of an adjoining ward if the proposal would have a significant impact on their ward), in accordance with the call-in procedure detailed in Appendix 1 of this Scheme of Delegation unless that call-in is subsequently withdrawn by the relevant ward Councillor,
- The application for **planning permission** is not a **householder application** and receives an objection from the relevant Parish or Town Council within with detailed reasons, in accordance with the call-in procedure detailed in Appendix 1(5) of this Scheme of Delegation, and is recommended for approval, unless that objection is withdrawn by the relevant Parish or Town Council,
- The application for **planning permission** is not a **householder application** and receives three or more letters of objection (stating material planning reasons

for objecting) from separate addresses within the application's statutory publicity period and is recommended for approval, unless objections are subsequently withdrawn to reduce the number of objections to less than 3,

- A new material consideration arises after a resolution of the planning committee on an application for **planning permission** and before the decision notice is published.

The Chief Officer for Planning and Infrastructure Development will also not exercise their delegated authority to determine putative reasons for refusal or approval where an application for **planning permission** which would have met one of the above committee triggers becomes a 'failure to determine' appeal before the Planning Inspectorate, other than in cases where the Chief Officer for Planning, Infrastructure and Economic Growth considers that there is insufficient time available to planning and appeal officers in advance of any 'statement of case' submission date set by the Planning Inspectorate to submit a report to the planning committee.

DEFINITIONS for the purpose of Interpreting this Scheme of Delegation to the Chief Officer of Planning and Infrastructure Development

“authorised planning officer” means either the Chief Officer Planning, Infrastructure and Economic Growth 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.

“called-in” means the process that ward councillors must follow for an application to be able to be considered by the planning committee. See Appendix 1 to this Scheme of Delegation for the detailed call-in procedure. For the purpose of ward councillor “call-ins” only, the definition of “planning permission” (defined below) is extended to include **reserved matters (major)** applications.

“householder application” means proposals to alter or enlarge a single house, including works within the boundary/garden of a house, such as extensions, conservatories, loft conversions, dormer windows, garages, car ports, outbuildings and annexes.

“planning permission” includes any application submitted for Full, Outline, Hybrid, S73, S73A or Change of Use but does not include other application types, such as but not limited to, listed building consent, advertisement consent, hazardous substances consent, prior approval, permission in principle, consent to do works to protected trees, discharge of conditions, non-material amendments (s96A), etc.

“reserved matters (major)” means applications submitted following the grant of outline planning permission for the approval of layout, scale, appearance, landscaping and/or access details for one of the following development types:

- (a) the winning and working of minerals or the use of land for mineral working deposits;
- (b) waste development;
- (c) the provision of dwelling houses where:
 - i. the number of dwelling houses to be provided is 10 or more; or
 - ii. the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within subparagraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more.

“reserved matters (minor)” are all other reserved matters applications that fail to meet the definition of major above.

“unallocated” means a site not allocated for residential purposes in an adopted Local Plan or an adopted Neighbourhood Plan.

NOTES

In the case of a management reorganisation, any officers with similar duties to the officers and the job titles specified in this scheme will have the powers assigned to the officers and the job titles in this scheme.

A petition submitted for or against a development proposal is registered against the first name and address on the petition and will only count as one letter of support or objection for the purpose of this scheme of delegation.

*** This Scheme of Delegation will continue to be applicable to any legislative amendments or replacements to the Acts and Orders or the relevant sections of those Acts and Orders referred to in this Scheme of Delegation.***

DELEGATIONS TO THE MONITORING OFFICER

The Monitoring Officer shall have delegated authority to determine, deal with, authorise, make or implement any of the matters set out below insofar as they relate to the planning function of the Council:

- (1) To undertake all legal work in respect any planning enforcement action/notices required by the authorised planning officer to be issued pursuant to the Scheme of Delegations to the Chief Officer of Planning, Infrastructure and Economic Growth
- (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 their Inspector

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**DELEGATIONS TO THE
DIRECTOR OF ENVIRONMENT AND
CHIEF OFFICER PLANNING, INFRASTRUCTURE AND ECONOMIC GROWTH**

- (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 under the Highways Act 1980 and other relevant legislation, provided that no significant objection has been made to the application, proposal or matter concerned. This delegation shall include but not be limited to:-
 - 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

NOTES

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*** This Scheme of Delegation will continue to be applicable to any legislative amendments or replacements to the Acts and Orders or the relevant sections of those Acts and Orders referred to in this Scheme of Delegation.***

APPENDIX 1 – MEMBERS’ PLANNING APPLICATION CALL-IN PROCEDURE AND PARISH / TOWN COUNCIL RESPONSES

1. Introduction and Background

- a) Most planning applications are determined by Planning Officers in line with the Scheme of Delegation as set out in the Council’s constitution.
- b) The Scheme of Delegation sets out when officers can determine applications and when they must refer matters to the Planning Committee. In Bedford Borough’s case the Chief Officer of Planning, Infrastructure and Economic Growth will not exercise their delegated authority where an application for **planning permission** which is not a householder application meets the criteria set out above.
- c) This delegation allows the Planning Committee to concentrate on those applications that have the biggest impact upon the Borough or are of relevant interest for public decision making and therefore ought to be scrutinised democratically within the public arena of a Committee Meeting.
- d) However, even when the delegation authorises officers to determine the application, Councillors may request a relevant application to be taken to Committee if they have made a valid request, in time, and have a reasonable and material planning ground upon which to make the request.
- e) Planning decisions are not based on an exact science and rely on informed judgement within a firm policy context. Officers involved in the processing and determination of planning applications must act in accordance with the Council’s code of conduct and their professional code of conduct, primarily the Royal Town Planning Institute’s Code of Professional Conduct. As a result, planning officer views, opinions and recommendations are developed with suitable training and experience and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decision of individual councillors or Planning Committee members.
- f) Applications and development proposals vary in their complexity, and some are particularly contentious and generate considerable local interest. Opposing views are often strongly held by those involved and Councillors need to ensure that they do not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- g) Ward councillors are likely to be approached by their electorate and asked to call-in an application on their behalf at times, sometimes on the basis that they consider they will receive a more favourable outcome from the Planning Committee than by way delegated officer decision.
- h) It is not the case that just because a member of the public requests a call-in that this should be actioned by Councillors.

- i) It is the responsibility of Councillors to consider whether there are sufficient planning reasons for disagreeing with an officer recommendation of approval that merit intervention of the Planning Committee.
- j) Councillors approached by their electorate should not call-in applications simply to appease their electorate if they do not feel the issues justify the Planning Committee's attention.
- k) If the issues raised do not appear to justify the attention of the Committee then it is the expectation that Ward Councillors will explain to their electorate that they cannot justify a call-in of the planning application.
- l) Only where Councillors feel the issues posed warrant a full democratic debate amongst the Planning Committee should they call-in the application.
- m) Councillors who feel that a call-in is warranted are required to call-in the planning application through a formal set procedure as outlined below. The Councillor calling-in the application is expected to attend the Planning Committee at which the application they referred is to be discussed to address the Committee and explain their views on the planning application and expand on their call-in reasons. By calling-in an application Councillors are indicating that they feel the issues are genuine and require debate at the Planning Committee.
- n) If a call-in is not made following the call-in procedures, the call-in will not be valid and the application will follow the usual routes set out in the Scheme of Delegations.

2. How to make a call-in

- a) Councillors must use the online call-in request form. The form has fields that prompt the necessary information required in order to demonstrate that the call-in is made on legitimate planning grounds and provides all of the information that the planning service needs to in order to process a Councillor call-in efficiently and effectively and to maintain an auditable and transparent process.
- b) It is important that the form is filled in fully, stating the reasons for the call-in, including the material planning considerations that the Ward Councillor feels warrant scrutiny by the Planning Committee.
- c) The call-in form will be placed on the application file and will be accessible to view on the Council's website. Councillors should therefore ensure that a member of the public who has approached them to call-in an application is aware that any personal information they provide may be made public when it is incorporated into the call-in form. The Committee report will also give the name of the Councillor making the call-in and the reason for the call-in.
- d) Material considerations are many and extraordinarily varied. They include all the fundamental factors involved in land-use planning, such as:

- The number, size, layout, siting, density, design and external appearance of buildings
- The proposed means of access
- Landscaping
- Impact on the neighbourhood, and
- The availability of infrastructure

Examples of factors that may be taken into account as material considerations in the decision making process include but are not limited to:

- Planning history of the site
- Overshadowing
- Overlooking and loss of privacy
- Inadequate parking and servicing
- Overbearing nature of proposal
- Loss of trees
- Loss of ecological habitats
- Contamination by a previous use
- Effect on Listed Building(s) and Conservation Areas
- Access and highways safety
- Traffic generation
- Noise and disturbance from the scheme
- Disturbance from smells
- Public visual amenity
- Flood risk

Examples of factors that **cannot** normally be considered as material planning considerations are:

- Loss of value to an individual property
- Loss of a private individual's view
- Boundary disputes including encroachment of foundations or gutters
- Private covenants or agreements
- The applicant's personal conduct or history
- The applicant's motives
- Potential profit for the applicant or from the application
- Private rights to light
- Private rights of way
- Damage to property
- Loss of trade to individual competitors
- Age, health, status, background and work patterns of the objector
- Time taken to do the work
- Noise and other forms of disturbance arising during and solely as a result of any building operations involved in the development
- Building and structural techniques
- Matters covered by other legislation and over which planning has no control
- Alcohol or gaming licence

- e) Most if not every planning application will raise material planning issues, however, Councillors must as part of the call-in request state why the matters warrant scrutiny by the Planning Committee.
- f) As noted in Part 1(n) above, if a call-in is not made following the call-in procedures and on relevant material planning grounds the call-in will not be valid and the application will follow the usual routes set out in the Scheme of Delegations.
- g) Validity of call-ins is determined by the service Manager of Development Management or a Development Management Team Leader delegated in their absence and may be declined, in consultation with the Chair of the Planning Committee, if it does not refer to relevant planning grounds or has been inappropriately made.
- h) All call-in requests must be made before the end of the public consultation period on the application, as stated on neighbour notification letters, site notices or newspaper adverts (as relevant) for it to be valid. Late requests will not be accepted (except in circumstances set out in paragraph i) to ensure that the application can be determined within the statutory determination period.
- i) If the public consultation period is extended, so shall the member call-in period to the same date.
- j) The date of the call-in will be the date that the call-in request form is received.

3. Pre-disposition, pre-determination and bias

- a) Members of the Planning Committee need to avoid any appearance of bias or having predetermined their views before taking a decision on a planning application.
- b) Councillors must declare on the call-in form any relationship or actions on their part or impact the application may have on any of their interests declared in the register of interests which could be construed in the public's mind as being liable to bias, predetermination or having a closed mind.
- c) It is the obligation of Councillors to recognise where they have an interest in the application and members' attention is drawn to the Members Code of Conduct for Planning Matters which can be found in the Council's Constitution. Failure to declare an interest may put the decision taken by the Planning Committee at risk of a legal challenge.

4. Valid and invalid call-ins

- a) Upon submitting a call-in form Councillors will receive an acknowledgement email.

- b) The Manager for Development Management or a Development Management Team Leader delegated in their absence will assess the call-in application and determine:
- If the form has been completed correctly as far as reasonable;
 - That the call-in has been made within the relevant timeframe as set out in this scheme of delegation, including any extensions;
 - That the call in is based on a relevant material planning consideration; and
 - That the call-in is valid in all other respects in line with the scheme of delegation.
- c) If the call-in does not fulfil the criteria above the Development Management department will email the Councillor advising that the call-in is not valid as soon as possible, stating the reason(s) why and – if the remaining time before the call-in and the email being received is less than 24-hours, an additional 24-hours will be given to facilitate the submission of a valid call-in. If no further call-in is received, the application will then follow the delegated route, unless a subsequent valid call-in is received within the relevant timeframe.
- d) If the call-in request is valid the Development Management department will confirm this by email.
- e) When a call-in is valid the application will be referred to the Planning Committee in due course. The Councillor requesting the call-in will be notified of the date in which the item will be taken to Committee and the Councillor is expected to attend or send a proxy Councillor to the Committee Meeting to explain their views on the planning application and expand upon their call-in reasons. By calling-in an application Councillors are indicating that they feel the issues are genuine and require debate at Committee, so they should be prepared to present their views in person.
- f) Note that the application will not always be referred to the Planning Committee immediately, e.g where the consultation is still current, where negotiation is ongoing or where further information may be sought.
- g) The application will be written up in accordance with the officer's workload and will be taken to the first Committee where the report can be published on the Agenda in accordance with the Council's timeframe for access to agendas and reports prior to a Committee meeting. This may result in a decision on an application falling outside of the statutory timeframe, which is not ideal; however, it ensures probity in decision making ensuring that call-ins are not a method of expediting an application through the planning system.
- h) The applicant, agent and any objectors will be advised that the application will be decided at Committee because it is the subject of a call-in.
- i) Officers, as a matter of routine, address and consider all relevant material planning considerations. Where during discussion, a Councillor

asks a question or makes a comment or assertion that officers believe requires correction or clarification, the officer(s) will, with the Committee Chair's leave, answer or provide the necessary correction or clarification before the Committee votes on the officer's recommendation.

5. Parish and Town Council Consultation Responses

- a) Parish and Town Councils are often consulted during the course of a planning application and depending on the response provided to that consultation a planning application may have to be determined by the Planning Committee instead of by the planning officer under delegated powers. (Note this is not the case for **householder applications** though, which remain delegated to planning officers).
- b) In order for a Parish or Town Council response to trigger Planning Committee consideration of a non-householder planning application (as specified in the Scheme of Delegation) the Parish or Town Council is required before the expiry of the consultation period stated on the consultation letters to explicitly state whether they support or object to the application and the material planning considerations why they support or object to the application having regard to the material considerations advice provided in Clause 2(d) above.
- c) Parish and Town Councils should where possible submit their response using a similar form to that used by Borough Councillors in responding to Planning Applications.
- d) If a Parish or Town Council submits their response after the expiry date of the consultation period (and has not agreed in writing with the planning officer an extension of time to that consultation period) or does not explicitly state whether they support or object to a proposal or give material planning reasons why they have formed that view, their response will be regarded as commentary only and the application will be determined by the planning officer under delegated powers.