

Proposed Scheme of Delegation for Consideration By Planning Committee 5th
November 2014.

Powers and Functions Delegated by the Planning Committee (Table 3)

(Please note: This is how the constitution appears on the Council's website with the proposed changes highlighted)

Planning and New Communities Director / Head of New Communities/ Development Control Manager / Team Leaders

Powers and Functions delegated by the Planning Committee

A. Powers delegated to Planning and New Communities Director, Head of New Communities, Development Control Manager, and Team Leaders to be exercised in accordance with the provisions of the approved Development Plan and the Council's planning policies.

1. The determination, with or without conditions, of applications for or amendments to:

- (a) Planning Permission (Outline and Full Applications)
- (b) Listed Building Consent
- (c) Advertisement Consent
- (d) Approval of Reserved Matters
- (e) Hazardous Substance Consent
- (f) Consent to cut down, top, lop, uproot or destroy trees under Section 198 of the Town and Country Planning Act 1990
- (g) Consent under Sections 36 and 37 of the Electricity Act 1989 (i.e., generating stations and overhead lines) (Circular 14/90)
- (h) All types of prior notifications of permitted development
- (i) Applications under Article 21 of the General Development Procedure Order for the discharge of conditions.
- (j) Certificate of Lawful Development (existing and proposed)
- (k) Certificate of Lawfulness for Proposed Works to a Listed Building
- (m) Application under section 73 of the 1990 Planning Act to Vary or remove planning conditions.
- (n) Applications to remove protected hedgerows.
- (o) Applications for non-material minor amendments to existing planning permissions; or
- (p) Any other type of new planning application as may be introduced by the government.

Except where any one of the following applies:

(i) For Major or Minor Developments a recommendation of approval would conflict with written representations on material planning grounds received from a Parish Council within the specified consultation period where such representations would not substantially be satisfied through the imposition of conditions. Provided that this exception shall not apply in the case of a reserved matters application where the Parish Council has expressed in writing an objection that relates solely to the principle of development approved by the outline planning permission.

(ii) An elected member of the District Council has, within 21 days of the date of registration of an application, requested in writing and the Planning and New Communities Director, Head of New Communities or Development Control Manager has agreed that Committee

determine the application with or without a site visit by members. Such written requests should set out the material planning reason(s) why the application is suitable for determination by Committee. Such requests shall be considered by the Planning and New Communities Director, Head of New Communities or Development Control Manager in consultation with the Chairman of Planning Committee, taking into account:

Relevant material considerations raising significant planning concerns
Significant implications for adopted policy
The nature, scale and complexity of the proposed development

The member will be expected to attend the Committee meeting at which the application they referred is to be discussed.

(iii) A proposed recommendation of approval would be contrary to the provisions of the approved Development Plan and would need to be referred to the Secretary of State.

(iv) The application is submitted by or on behalf of a councillor of the District Council (or by their spouse / partner), by any member of staff of the District Council's Planning & New Communities Service (or their spouse / partner) or by any member of the District Council's Management Team (or by their spouse / partner).

(v) The application for Major or Minor development is submitted by or on behalf of the District Council or on land owned by the District Council except for the approval of developments to which no objection on material planning reasons has been received.

(vi) The application proposes affordable housing on an exception site outside a village framework in the approved Development Plan and the Parish Council disagrees with the District Council on material planning grounds.

(vii) The Planning and New Communities Director, Head of New Communities, Development Control Manager, and Team Leaders (as the case may dictate) considers that the application should be presented to Committee for decision.

2. (1) To make all discretionary assessments referred to in the statutory provisions listed in sub-paragraph 2 (5) below, subject to the following safeguards:

(a) the Chairman of Planning Committee and the local member(s) should first be consulted but no assessment or action shall be invalid by reason of any failure to consult

(b) in the following cases any assessment shall be referred to Planning Committee (with the appropriate officer's recommendation) and shall not be determined by officers:

if he thinks the matter is too important or controversial for him to decide and in any event if it is an assessment whether or not it is expedient to revoke any planning permission or listed building consent or to seek any injunctive remedy; or

if any member (whether or not a member of the Planning Committee) so requires; or

if the determination of the assessment has been specifically reserved to it by the Planning Committee.

2. (2) to delegate to the Planning and New Communities Director to issue, serve, suspend or withdraw such notices, to make, suspend or withdraw such orders and notifications, to grant such permissions or consents, with such conditions or limitations as he may think fit, and to take such proceedings as he shall think fit or as may be required by law consequent upon any of the discretionary assessments referred to above, subject if discretionary to the same qualifications as assessments referred to in 2(1) (a) and (b) above;

2. (3) that before any such legal proceedings are instituted (other than for injunctions, which is specifically reserved to committee) the Legal Office shall be consulted and its recommendation shall be communicated to the Chairman of Planning Committee and the

local member(s) before any discretionary assessment is made or other consequent action is taken;

2. (4) all references in 2(1) and (2) above to the Planning and New Communities Director shall also include the Head of New Communities, Development Control Manager, Team Leaders (as the case may dictate).

2 (5) (a) Town and Country Planning Act 1990 S.72: Whether there should be conditions on planning permission

(b) Ibid S.171C: Whether there appears to have been a breach of planning control – Breach of Condition Notice

(c) Ibid S.172: Whether there appears to have been a breach of planning control and whether it is expedient to issue – Enforcement Notice

(d) Ibid S.183: Whether it is expedient that relevant activity should cease – Stop Notice

(e) Ibid S.198: Whether it is expedient to make provision for the preservation of trees or woodlands – TPO

(f) Ibid S.207: Whether tree replacement or conditions of tree replacement are not complied with – TPO

(g) Ibid S.215: Whether the amenity of area is adversely affected by condition of land – Amenity Notice

(h) Listed Building Act 1990 S.3 (1): Whether a building not listed is of special interest and in danger – Building Preservation Notice

(i) Ibid S.4: Whether so urgent that notice should be fixed to the building – BPN

(j) Ibid S.38: Whether works to listed building involved a contravention of listed building control and whether it is expedient to issue – Listed Building Enforcement Notice

(k) Town and Country Planning (Assessment of Environmental Effects) Regulations: SI 1999 293: Whether it appears that an application for planning permission is a Schedule 1 or Schedule 2 application and to adopt screening and scoping opinions

(l) Town and Country Planning (Control of Advertisements) Regulations 1992 SI 1992 666, regulation 4(3): Whether an advertisement should be limited or restricted in the interests of amenity or public safety

(m) Town and Country Planning (Environmental Assessment and Unauthorised Development) Regulations SI 1995. 2258, regulation 4(1): Whether breach of planning control in an enforcement notice includes 'unauthorised' (Schedule 1, or Schedule 2 with significant effects on the environment) development

(n) Hedgerow Regulations SI 1997. 1160, regulation 8: Whether a hedgerow has been removed in contravention – Replanting Notice

(o) Town and Country Planning (General Development Procedure) Order 1995. SI 1995. 419, regulation 5: Whether a planning application is invalid – notification to applicant

(p) Ibid, regulation 24: Whether application for Certificate of lawful use or development is invalid – notification to applicant

B. The following powers and functions are delegated to the Planning and New Communities Director, Head of New Communities, Development Control Manager, and Team Leaders, and Legal and Democratic Services Manager to be exercised individually:

1. The determination of applications for:

(a) Lawful Development Certificates

(b) The making of Tree Preservation Orders and Building Preservation Notices in cases of emergency subject to notification of any such action to be made as soon as practicable to a meeting of the committee

2. The service of:

(a) Planning Contravention Notices (delegated powers also to the Enforcement Officer)

(b) Breach of Condition Notices

but not the power to prosecute for non-compliance of the above Notices unless authorised by the committee.

Notes

For the purposes of the Delegation Powers specified in Table 3 the following definitions apply:

Major Developments

For dwellings: where 10 or more are to be constructed (or if number not given, area is more than 0.5 hectares).

For all other uses: where the floorspace will be 1000 sq. metres or more (or site is 1 hectare or more).

Minor Developments

is development that does not meet the criteria for Major Development or the definitions of Change of Use, or Householder Development.

Other Developments

Change of Use (*if it does not concern a major development and no building or engineering work is involved*)

Householder development

Other Application Types

Advertisement Consents

Listed Building Consents

Conservation Area Consents

Certificates of Lawfulness

Other decisions including certificates of appropriate alternative development and notifications under Circular 14/90.

Approval of Reserved Matters

Hazardous Substances Consents

Consent to cut down, top, lop, uproot or destroy trees under Section 198 of the Town and Country Planning Act 1990

Consents under Sections 36 and 37 of the Electricity Act 1989 (i.e. generating stations and overhead lines) (Circular 14/90)

Prior notifications of permitted developments

Applications under Article 21 of the General Development Procedure Order

General Development Procedure Order

Town and Country Planning (General Development Procedure) Order 1995