

Appendix 1

PART 2 of the Constitution, Scheme of Delegation

The following functions are those of the Local Planning Authority which under the Constitution are delegated to the Planning Committee. It is then for the Planning Committee to allow further delegation to Authorised Officers.

“PLANNING COMMITTEE

Remit

- 1.0 To discharge functions relating to town and country planning and development management, including:
 - 1.1 Power to determine applications for planning permission.
 - 1.2 Power to determine applications to develop land without compliance with conditions previously attached.
 - 1.3 Power to grant planning permission for development already carried out.
 - 1.4 Power to decline to determine any application for planning permission.
 - 1.5 Duties relating to the making of determinations of planning applications.
 - 1.6 Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
 - 1.7 Power to respond to consultation by neighbouring local planning authorities, other consultees or the Secretary of State.
 - 1.8 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
 - 1.9 Power to determine applications for Non Material Amendments to a planning permission.
 - 1.10 Power to discharge or refuse to discharge planning conditions attached to a planning permission or any other relevant consents.
 - 1.11 Power to enter into, vary or modify agreements regulating development or use of land.
 - 1.12 Power to issue a certificate of existing or proposed lawful use or development, including those under Listed Building powers.
 - 1.13 Power to serve a completion notice.
 - 1.14 Power to grant consent for the display of advertisements.
 - 1.15 Power to authorise entry onto land.
 - 1.16 Power to require the discontinuance of a use of land.
 - 1.17 Power to determine whether ~~it is expedient~~ **and what level of enforcement action to take in accordance with the Council’s Planning Enforcement Plan** in instances where there has been a **suspected** breach of planning, **listed building or other planning** related control.
 - 1.18 Power to serve a planning contravention notice, breach of condition notice, temporary stop notice or a requisition for information or stop notice.
 - 1.19 Power to **serve, vary and withdraw** ~~issue~~ an Enforcement Notice and/or community protection notice.
 - 1.20 Power to apply for an injunction restraining a breach of planning control.
 - 1.21 Power to determine applications for hazardous substances consent and related powers.
 - 1.22 Duty 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.
 - 1.23 Power to require proper maintenance of land.

- 1.24 Power to determine applications for listed building consent and related powers granted to local authorities pursuant to the Listed Building and Conservation Areas Act 1990.
 - 1.25 Power to determine applications for Permissions in Principle and the related Technical Details Consent.
 - 1.26 Duties relating to applications for listed building consent, -conservation areas, Listed Building Heritage Partnership Agreements, and Local Listed Building Consent Orders.
 - 1.27 Power to serve a Building Preservation Notice and related powers.
 - 1.28 Power to issue enforcement notices and related powers.
 - 1.29 Power to take action under Sections 224 and 225 of the Town and Country Planning Act 1990 - enforcement of control over advertisements, and regulations made under section 220 thereof.
 - 1.30 Powers to acquire a listed building in need of repair and to serve a Repair Notice.
 - 1.31 Power to apply for an injunction in relation to a listed building.
 - 1.32 Power to execute Urgent Works and recover costs by any appropriate means.
 - 1.33 Rights of way functions for which the Council is responsible.
 - 1.34 Protection and preservation of trees and hedgerows, including as necessary the making, confirmation, modification and revocation of Tree Preservation Orders.
 - 1.35 Power to determine applications for works and felling of trees covered by a Tree Preservation Order.
 - 1.36 Power to determine notifications for works to Trees in Conservation Areas.
 - 1.37 To exercise the Council's powers with regard to the Hedgerows Regulations 1997.
 - 1.38 To exercise the Council's powers with regard to the Community Infrastructure Levy Regulations 2010 (as amended).
 - 1.39 Power to determine prior approval, notifications and consents.
 - 1.40 Power to make screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).
 - 1.41 Power to pursue those convicted through the courts of a planning breach under The Proceeds of Crime Act 2002 (or as amended).
 - 1.42 Power to issue Community Protection Notices.
 - 1.43 Power to withdraw enforcement and other notices. 1.44 Power to issue Tree Replacement Notices.
 - 1.45 Power to make minor alterations to the Planning Application Validation Checklist.
 - 1.46 Power to determine Section 73 applications under Town and Country Planning Act 1990 and Section 19 applications under the Town and Country (Listed Building and Conservation Areas) Act 1990 (as amended) (subject to the caveat set out below in relation to major **and minor** applications).
 - 1.47 Formulate and issue decision notices following consideration by the Planning Committee in accordance with the resolution of the Planning Committee and to make minor non-material amendments to planning conditions, Section 106 legal agreements or reasons for refusal prior to issuing a decision notice, where the decision has been made by the Planning Committee, where those changes are minor and non-material and subject to the changes having no impact on the substance and terms of the planning decision so as to provide precise and robust conditions or reason(s) for refusal.**
- 2.0 To consider and make recommendations to the Policy & Finance Committee and/or Council on the formulation of the Local Development Framework and other plans, policies, protocols or guidance impacting on functions within the remit of the committee.
- 3.0 Power to make payments or provide other benefits in cases of maladministration and in respect of the local settlement of complaints pursuant to Section 92 of the Local Government Act 2000 in respect of matters falling within the remit of the planning function.

4.0 To make recommendations to the Policy & Finance Committee and Council on the formulation of the budget insofar as it impacts on the remit of this Committee.

The functions set out above are delegated to officers with the exception of the following functions, which are expressly reserved to committee for determination and cannot be discharged by an officer:

1. Planning applications which involve a ~~significant~~ departure from the statutory development plan **and are recommended for approval.**
2. Applications submitted on behalf of the Council or where the Council has an interest in the development save for any applications submitted on behalf of the Council or where the Council has an interest in the development as part of its HRA housing development programme **or comprises an extension to a dwelling forming part of the HRA housing stock.**
3. Matters of significance to the district or which may potentially give rise to significant financial consequences **when the recommendation is one of refusal** except in cases of extreme urgency where delegated powers may be exercised.
4. All major (defined as 10 or more dwellings, where new floor space would be 1,000m² or greater or have a site area of 1 hectare or greater) applications where:
 - The recommendation is contrary to the response received from the Town or Parish Council or Parish Meeting, provided that such a response is based on material planning considerations¹ **relevant to that application** unless the recommendation is for refusal based on **a recommendation of refusal** by The Environment Agency's representations or Highways England direct refusal of an application regardless of whether or not other consultees support the application; or
 - The recommendation is **one of approval**, contrary to the response received from a statutory consultee.
5. The relevant planning application has been submitted by a community or voluntary organisation, a town or parish council or a social enterprise and could in the opinion of the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended by officers for refusal.
6. Applications which have been submitted by District Councillors, Senior Officers* or Officers who may otherwise have a direct involvement in the determination of the application or where Councillors or Officers have a direct interest in the application, will be determined by Planning Committee. (*Senior Officers shall be defined as Chief Officers and Deputy Chief Officers as defined by the Local Government and Housing Act 1989 (currently members of the Corporate Management Team and Business Managers).
7. Where an Authorised Officer has delegated powers he or she may refer the matter to Planning Committee for determination rather than exercise that delegated authority themselves particularly where, in their judgement, the specifics of an application warrant determination by the Planning Committee.

Caveats

- A) Where a major **or minor (proposing between 1 and 9 dwellings)** application is made under Section 73 of the Act to vary or remove planning conditions these will only be considered by the Planning Committee where they raise new material planning impacts arising from the subject of the condition(s) **being varied/removed themselves**.
- B) For proposals of between 1 and 9 dwellings, where the officer recommendation is **one of approval** contrary to the views of the host Town or Parish Council (or Parish Meeting), the relevant Ward Member(s) shall be first notified in writing and given the opportunity to request 'referral' (see Section ~~87~~ for process) to the Planning Committee. The 'referral' shall be within 5 working days of the notification **and should include**
- **a statement outlining material reasons why the proposal needs to be considered by Committee; and**
 - **a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).**

Where the above is not provided, the Case or Authorised Officer will contact the relevant Ward Member to seek clarification on their referral reason.

otherwise the application will be determined under delegated authority.

- Enforcement Notices (including requisitions for information, stop and temporary stop notices), and Notices under Section 215 of the Town and Country Planning Act 1990 (as amended) relating to untidy land may be served by an Authorised Officer and the matter pursued through to prosecution at magistrates court when notification has first taken place with the Ward Member(s) where possible or it has been agreed with Chairman of Planning Committee where it has not been possible to do this.

8. Local Members can request that planning applications/functions be determined by Planning Committee rather than the Officers (this being known as a 'referral' request) acting under delegated powers in the following circumstances:

- The Member discusses the application with the Authorised Officer (or case officer) and a written request is made to the Authorised Officer **or case officer** within 21 **calendar** days of circulation of the weekly list otherwise the application will be determined by officers acting under delegated powers;
- The request **should** sets out ~~clear planning reasons behind the referral request and the Authorised Officer, Chairman and Vice Chairman agree that it raises material planning considerations that warrant debate by the Committee;~~
 - **a statement outlining material reasons why the proposal needs to be considered by Committee; and**
 - **a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).**

Where the above is not provided, the Case or Authorised Officer will contact the relevant Ward Member to seek clarification on their referral reason.
- The recommendation of officers is **one of approval and** different to the opinion of the Member having made the referral request having regard to the interests of their ward which must be specified.

~~In the event that the Authorised Officer, in consultation with the Chairman and Vice Chairman, does not consider that material planning considerations have been raised such that the application should be debated by the Committee, the Member will be notified in~~

~~writing. The Member may then challenge this decision with the Chief Executive within 5 working days of receipt of the written notification. The Chief Executive will have the final decision.~~

Caveats

- A) Where a referral is made by a Member of an adjacent ward immediately adjoining the ward in which the application is situated, the relevant ward member(s) has/have been notified prior to the referral request being made.
- B) Where an application is referred by a Member ~~who's~~ whose ward is not either within or immediately adjacent to the application site, the referring Member must set out how:
 - i. in their opinion the application would have a material impact on the whole or part of their ward (or the district as a whole or part) having regard to the nature of the development, or
 - ii. for the reason that the application will set a precedent for the whole or part of the District; and
 - iii. the relevant ward member(s) has/have been notified prior to the referral request and the Group Leader of the relevant group of the Member making the referral request has agreed to the referral.
 - iv. **the referral should include:**
 - **a statement outlining material reasons why the proposal needs to be considered by Committee; and**
 - **a list of related Development Plan policies (or part of) and, where applicable national planning policies (including paragraph numbers).**

The “Authorised Officer(s)” for the purposes of this part of the Constitution shall be the Chief Officer whose remit for the time being includes responsibility for planning, the relevant Business Manager with responsibility for the discharge of the development management function or an Officer authorised in writing by them to act on their behalf.

Membership

15 Members. (A link to the current membership of the committee can be found on the Constitution home page).”