

# Planning Committee Scheme of Delegation to Officers

Effective from 9<sup>th</sup> June 2022



Version Control	Adopted
v.1	9th June 2022
v.2 Addition of paragraphs 1.8 – 1.17 inclusive Amendments to paragraphs 1.28, 1.42, 1.46h), 146j) and 1.51	xxx

## Planning Committee Scheme of Delegation to Officers

The Terms of Reference for the Council's Planning Committee require it to adopt a Scheme of Delegation to Officers, including the ability for District Councillors to reserve matters to Committee in circumstances prescribed by the Scheme; the Scheme to be reviewed as necessary and at least annually.

All of the following delegated powers relating to planning can also be exercised by the Business Manager – Planning Development, who may also delegate to other suitable qualified and/or experienced officers in accordance with an agreed Scheme of Delegation.

### 1. Business Manager – Planning Development shall have authority to:

- 1.1. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 1995.
- 1.2. Respond to preliminary consultations received from Nottinghamshire County Council on applications for the diversion, creation and extinguishment of public paths.
- 1.3. Exercise of all function for the diversion, creation and extinguishment of public paths.
- 1.4. Serve notices concerning the addition to deletions from or amendment to the list of buildings for special architectural or historic interest, as required by the Department of Culture, Media and Sport.
- 1.5. Apply to the Magistrates Court for Warrant to enter land and/or buildings in accordance with powers provided in the Town and County Planning Act 1990, Planning and Compensation Act 1991 and Planning (Listed Buildings and Conservation Area Act) Act 1990.
- 1.6. To authorise entry onto land under Section 196A and Section 196B of the Town and Country Planning Act 1990.
- 1.7. To enter any land for the purposes of surveying it in connection with the functions of the Council as the local planning authority under Section 324 of the Town and Country Planning Act 1990.
- 1.8. **To enter any land for the purposes relating to planning controls for hazardous substances under Section 36 of the Planning (Hazardous Substances) Act 1990 and Section 36A in relation to warrants.**
- 1.9. **To enter onto land for the purposes of executing works required by a listed building enforcement notice under Section 42 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 43 (failure to comply with an enforcement notice).**
- 1.10. **To enter onto land for the purposes of surveying listed buildings on it under Section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 88A in relation to warrants. These provisions shall apply to other individuals, employed by the**

**local planning authority engaged in a professional or advisory capacity engaged to survey the listed buildings.**

- 1.11. **To enter onto land to carry out works required by an enforcement notice if the owner/developer fails to do so under Section 178 of the Town and Country Planning Act 1990 and Section 196B in relation to warrants.**
- 1.12. **To enter land to carry out any steps required by a discontinuance order, a prohibition order, suspension order or supplementary suspension order and recover expenses under Section 190 of the Town and Country Planning Act 1990 and Section 196B in relation to warrants.**
- 1.13. **To enter onto land in relation to tree protection functions of local planning authorities under Section 214B of the Town and Country Planning Act 1990 and Section 214C in relation to warrants.**
- 1.14. **To enter land to execute and recover the costs of works required by a Section 215 notice under Section 219 of the Town and Country Planning Act 1990.**
- 1.15. **To enter onto land where there is reasonable grounds for suspecting that an offence under Section 160 or 161 is being, or has been, committed on or in respect to the land under Section 163 of the Planning Act 2008.**
- 1.16. **Power for the local planning authority to authorise the issue of a warrant to a person to enter land in accordance with Section 164 of the Planning Act 2008.**
- 1.17. **To enter onto land for the purposes of determining whether a chargeable development has commenced in accordance with Regulation 109(1) of the Community Infrastructure Levy Regulations 2010.**
- 1.18. **Formulate and issue decision notices following consideration by the Planning Committee in accordance with the resolution of the Planning Committee or 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 in order to provide precise and robust conditions or reason(s) for refusal.**
- 1.19. **Power to approve or refuse details pursuant to a planning condition and to discharge or refuse to discharge planning conditions attached to a planning permission or any other relevant consents.**
- 1.20. **Determine all applications for non-material amendments to planning permissions or other forms of consent.**
- 1.21. **Determine all applications for Certificates of Lawfulness under Section 191 (Existing Use/Development) or Section 192 (Proposed Use/Development) of the Town and Country Planning Act 1990.**

- 1.22. Determine all applications for Certificate of Lawfulness for Proposed Works to a listed building under Section 26H and 26I of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 1.23. Determine applications for works and felling of trees covered by a Tree Preservation Order.
- 1.24. Respond to notifications for works to/the felling of trees in Conservation Areas.
- 1.25. Approve the making, varying and revoking of Tree Preservation Orders.
- 1.26. Power to review objections prior to making, varying or revocation of Tree Preservation Orders.
- 1.27. Determine hedgerow removal notices, including the serving of hedgerow retention and replacement notices with regard to important hedgerows.
- 1.28. Serve Tree Replacement Notices; to respond to appeals made in respect of Tree Replacement Notices, **enter land to execute the works and** secure the costs of works required by such notices under Section 209 of the Town and Country Planning Act 1990.
- 1.29. Issue screening and scoping opinions in respect of the need for, and content of, Environmental Assessments in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).
- 1.30. Serve and withdraw notices in respect of the following:
 

Town and Country Planning Act 1990 (TCPA) and Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) as amended:

  - (i) Section 187A (TCPA) – Breach of Condition Notices;
  - (ii) Sections 183 to 187 (TCPA) – Stop Notices;
  - (iii) Sections 171A to 182 (TCPA) – Enforcement Notices in connection with Stop Notices;
  - (iv) Section 215 (TCPA) – Land adversely affecting the amenity of the neighbourhood;
  - (v) Section 172 – 173A (TCPA): Enforcement Notices following notification with the Chair and Vice Chair of the Committee and the relevant Ward Member(s);
  - (vi) Section 38(PLBCA): Listed Building Enforcement Notice following notification with the Chair and Vice Chair of the Committee and the relevant Ward Member(s);
  - (vii) Sections 171E – H (TCPA): Temporary Stop Notices;
  - (viii) Section 171C (TCPA): Planning Contravention Notices;
  - (ix) Section 187B (TCPA); 44A (LBCA) and 214A (TCPA): apply to the Court for injunctions directed at restraining actual or apprehended breaches of planning control; unauthorised work to Listed Buildings; and actual or apprehended damage to Conservation Area Trees;
  - (x) Section 48 (LBCA): Listed Building Repairs Notices;
  - (xi) Section 220 1 (TCPA) and/or Section 224 1b (TCPA) – Discontinuance Notices in accordance with Regulation 8 of the Town and Country Control of Advertisement Regulations 2007;
  - (xii) Section 54 (LBCA): Urgent works to preserve listed buildings;

- (xiii) Section 55 (LBCA): Recovery of expenses of works under s. 54;
- (xiv) Section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 – issuing of advance warnings and Community Protection Notices;
- (xv) Section 3 of the Planning (Listed Building and Conservation Areas) Act 1990 -Power to serve a Building Preservation Notice;
- (xvi) Section 94 of the Town and Country Planning Act 1990: completion notice;
- (xvii) S330 of the Town and Country Planning Act 1990 (Requisition for Information);

except in the circumstances where the Business Manager – Planning Development considers it appropriate for that matter to be determined by Planning Committee.

- 1.31. Section 171BA (TCPA): the application to the court for a Planning Enforcement Order.
- 1.32. Section 171BB (TCPA): the issue of Certificates under this section confirming the date on which evidence of a breach sufficient to justify an application under Section 171BA was identified.
- 1.33. Section 172A (TCPA): the issue and withdrawal of assurances (by letter) to parties on whom an Enforcement Notice has been served concerning prosecution.
- 1.34. Section 210 4C (TCPA): the issue of Certificates confirming the date on which evidence sufficient to prosecute for non-compliance with a Tree Preservation Order came to the prosecutors knowledge.
- 1.35. Section 224 (9) (TCPA): the issue of Certificates confirming the date on which evidence sufficient to prosecute for advertisement offences came to the prosecutor’s knowledge.
- 1.36. Section 225A (TCPA): the removal of unauthorised structures used for advertisements displays.
- 1.37. Sections 225A (3-6) (TCPA): the service of removal notices in respect of unauthorised advertisement display structures.
- 1.38. Section 225A (7) (TCPA): the recovery of expenses incurred in the Council’s removal of unauthorised advertisement display structures.
- 1.39. Section 225B (TCPA): the response to appeals made in respect of Notices served under Section 225A.
- 1.40. To decide whether the Councils case at planning appeal should be by way of written representations, hearing or public inquiry and to agree the nature and extent of the case to be presented.
- 1.41. Section 225 (TCPA): to remove or obliterate placards or posters which are in contravention of the Advertisement Regulations, including:
  - (i) Section 225A (TCPA): the service of Action Notices in respect of persistent unauthorised advertisement display structures;

- (ii) Section 225C (TCPA): the undertaking of the requirements of Action Notices and the recovery of the costs incurred in doing so;
- (iii) Section 225D (TCPA): the response to appeals made against Action Notices;
- (iv) Sections 225F, G and H (TCPA): the remedy of the defacement of premises by means of the service a notice under these sections;
- (v) Sections 225F, G and H (TCPA): the undertaking of the requirements of a notice issued under these sections and the recovery of costs incurred in doing so;
- (vi) Section 225J: the remedy of the defacement of premises at the request of the owner/occupier and the recovery of reasonable costs incurred in doing so.

1.42. To instigate legal proceedings and recover costs under the following provisions:

- (i) Section 171D (TCPA): non compliance with Planning Contravention Notices;
- (ii) Section 171G (TCPA) non compliance with Temporary Stop Notices;
- (iii) Section 179 (TCPA) non compliance with Enforcement Notices;
- (iv) Section 187 (TCPA) non compliance with Stop Notices
- (v) Section 178A (TCPA) non compliance with Breach of Condition Notices;
- (vi) Section 43 (LBCA) non compliance with Listed Building Enforcement Notices;
- (vii) Section 59 (LBCA) unauthorised work to Listed Buildings;
- (viii) Section 210 (TCPA) non compliance with Tree Preservation Orders;
- (ix) Sections 211 – 212 (TCPA): non - preservation of trees in Conservation Areas;
- (x) Sections 215 and 216 (TCPA) non compliance with Section 215 (Untidy Land) Notice;
- (xi) Section 224 (TCPA) unauthorised advertisement display;
- (xii) Section 97 (Environment Act 1995) contravention of the Hedgerow Regulations;
- (xiii) Section 330 (TCPA) Requisition for Information;
- (xiv) Part 4 Chapter 1 of Anti-social Behaviour, Crime and Policing Act 2014 Community Protection Notice – Power to issue a Community Protection Notice and Fixed Penalty Notice; **and**
- (xv) Section 3 of the Planning (LBCA) Act 1990 -Power to serve a Building Preservation Notice.

1.43. Power to respond to consultation by neighbouring local planning authorities, other consultees or the Secretary of State.

1.44. Make observations on County Matter applications or applications submitted by Nottinghamshire County Council under Regulation 3 of the Town and Country Planning General Regulations 1992.

1.45. Power to assess and determine applications subject to the Conservation of Habitats and Species Regulations 2017 (as amended).

1.46. Determine all applications submitted to Newark and Sherwood District Council as required by the Town and Country Planning Act 1990 (as amended), Town and Country Planning (Control of Advertisement) Regulations 1992, and Planning (Listed Buildings and Conservation Areas) Regulations 1990, with the exception of the following:

- a) Environmental Impact Assessment - Applications where an Environmental Impact Assessment has been provided.

- b) Major Developments - All major (defined as 10 or more dwellings, where new floor space would be 1,000m<sup>2</sup> 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 considerations<sup>1</sup> relevant to that application unless the recommendation is for refusal based on a response by a Statutory Consultee (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015; or
  - The recommendation is one of approval, contrary to the response received from a Statutory Consultee (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- c) Major Developments (S73) - Major applications made under Section 73 of the Act where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed where the previous application was dealt with by Planning Committee.
- d) Minor Developments (S73) - Proposals of 1 to 9 dwellings under Section 73 of the Act, where the application was previously dealt with by Planning Committee and the Officer recommendation is one of approval contrary to the views of the host Town or Parish Council (or Parish Meeting) and where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed and the relevant Ward Member(s) has requested the application be determined by Planning Committee within 5 working days of the notification of the recommendation by Officers. The request should include:
- a statement outlining material planning reasons why the proposal needs to be considered by Committee; and
  - a list of related Development Plan policies (or part of).
- e) Parish or Town Council/Community or Voluntary Organisation Application- The application has been submitted by a community or voluntary organisation, a town or parish council 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 for refusal.
- f) Minor Dwellings - Proposals of 1 to 9 dwellings, where the Officer recommendation is one of approval contrary to the views of the host Town or Parish Council (or Parish Meeting), and the relevant Ward Member(s) has requested the application be determined by Planning Committee within 5 working days of the notification of the recommendation by officers. The request should include:
- a statement outlining material planning reasons why the proposal needs to be considered by Committee; and
  - a list of related Development Plan policies (or part of).
- g) Referrals - Applications recommended for approval and requested be determined by Planning Committee by the relevant Ward Member in writing seeking a refusal within 21 calendar days of circulation of the weekly list, subject to:



- i. The Member having discussed the application with the case officer or Authorised Officer. The request should set out:
  - a statement outlining material planning 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).
- ii. Where an application is referred by a Member whose ward is not either within or immediately adjacent to the application site, the referring Member must also set out how:
  - in their opinion the application would have a material planning 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, and
  - shall notify the relevant Ward Member(s) 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.

Exceptions to the referral process are those applications which are subject to strict time limits for determination including, but not limited to, Works to Trees in a Conservation Area, Prior Notifications, Prior Approvals and Certificate of Lawfulness proposals.

- h) Should amendments be received including plans/documents that are subject to re-consultation/notification which result in new material planning impacts not previously notified of, the relevant Ward Member or adjoining Ward Member may refer the application to Planning Committee within the timescales given in the notification for a response and subject to all of the bullet points set out within **1.46g**).
- i) Authorised Officer Referral - Any application which raises significant issues such that in the opinion of the Authorised Officer, it would be prudent to refer the application to Planning Committee for decision.
- j) Departure - Applications where the principle of development would represent a material departure from any policy within the Development Plan **where the recommendation is for approval**.

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.

- 1.47. Decline to determine planning applications in accordance with the relevant provisions of the Town and Country Planning Act 1990 as amended.
- 1.48. Make representations on behalf of the Council as Local Planning Authority, on relevant applications under the Licensing Act 2003.
- 1.49. In consultation with the Planning Committee Chairman and Vice Chairman, issue a grant of permission without a Section 106 agreement first being signed, where the original Planning Committee resolution requires the prior completion of a Section 106 legal agreement or payment on Community Infrastructure Levy, but where a consultee who required the

agreement no longer considers an agreement is necessary and a planning condition can be used to cover their requirements.

- 1.50. To exercise the Council's powers with regard to the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.51. Power to enter into, vary or modify agreements regulating development or use of land under s106 of the Town and Country Planning Act 1990 **and the power to enter onto a building site to investigate and enforce any requirement under the planning obligation.**
- 1.52. Power to determine applications for hazardous substances consent and related powers under the Planning (Hazardous Substances) Act 1990.
- 1.53. Power to pursue those convicted through the courts of a planning breach under The Proceeds of Crime Act 2002 (or as amended).
- 1.54. To serve a Certificate of Appropriate Alternative Development where land is proposed to be acquired by local authority under Section 65 of the Planning and Compensation Act 1991.
- 1.55. Power to make minor alterations to the Planning Application Validation Checklist.
- 1.56. To grant permission-in-principle under Part 2 of the Town and Country Planning (Permission in Principle) Order 2017 for sites on the Part 2 Brownfield Register under the Town and Country Planning (Brownfield Land Register) Regulations 2017.
- 1.57. Power to make payments or provide other benefits in cases of costs awarded against the Council in respect to planning and related appeals, 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.