

SCHEME OF DELEGATION TO OFFICERS

Development Services Group Manager – Development Management functions

1.0 Planning and related Applications

1.1 The Council has delegated its planning responsibilities to the Planning Committee. In order to assist Councillors to focus on the more significant and contentious proposals, and to improve the speed of decision-making on minor and uncontentious matters, the majority of planning applications are delegated to the Development Services Group Manager. Subject to the safeguards set out below the Development Services Group Manager has the authority to deal with a range of issues on behalf of the Planning Committee including the following:

- Planning applications
- Environmental Impact Assessment Screening and Scoping Opinions
- Reserved matters applications
- Applications for Lawful Development Certificates
- Advertisement Consent applications
- Listed Building Consent applications
- Conservation Area Consent
- Non-material minor amendments
- Approval of details required by, and discharge of, conditions
- Permitted development prior approval notifications
- Applications for works to trees subject of Tree Preservation Orders
- Notifications of works to trees in conservation areas
- Hazardous Substance Consent
- Other notifications and consultations received by the Council as Local Planning Authority, including those from statutory undertakers and other local authorities

1.2 Under the terms of the Scheme, the Development Services Group Manager has authority to approve or refuse submissions subject to the safeguards set out at Paragraph 1.5. In all cases observations from Town/Parish Councils, Councillors, the local community and other consultees will be taken into account where they have been received before a decision is issued or representations are made.

1.3 The Development Services Group Manager also has the authority to refuse to determine applications under section 70A of the Town and Country Planning Act 1990, or section 81A of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Development Services Group Manager will 'finally dispose' of applications under the provisions of the Town and Country Planning (Development Management Procedure) (England) Order 2010 where it is appropriate to do so.

1.4 It should be noted that this Scheme of Delegation relates solely to the Development Management functions and no other functions currently delegated to the Development Services Group Manager. The Development Services Group Manager can nominate an Officer to exercise some or all of their delegated powers.

1.5 Planning and related applications - Safeguards

1. The Development Services Group Manager cannot grant permission for a proposal which is clearly contrary to the approved policies of the Council, or where the Planning Committee has specifically required that an application be determined by the Committee.
2. Councillors are notified of all planning and related applications/notifications via the Council's Public Access system. Any Councillor who is concerned about a proposal which would normally be delegated will notify the Case Officer in writing within 21 days of receiving the list. If, after discussing the application with Officers, a Councillor wishes the proposal to be determined by the Committee, the application will be referred to the Planning Committee.
3. The opportunity to enhance, amend or otherwise improve proposals in accord with the fairness and good neighbour yardstick, the general planning interest and the Council's policy will be taken where appropriate.
4. The Development Services Group Manager will use their discretion to refer any proposal to the appropriate Committee if they are not satisfied that the matter should be dealt with under delegated powers.
5. Planning and related applications will not be dealt with under delegated powers and shall instead be referred to the Planning Committee for a decision in the following circumstances:
 - (i) Applications where a Town or Parish Council has submitted a written objection raising substantive planning issues has been received within the normal consultation/publicity period and it has not been addressed by discussion, amendment, or by written response.
 - (ii) Applications submitted by the Council, by or on behalf of, a Tewkesbury Borough Councillor or by, or on behalf, of an employee of the Council.
 - (iii) Full or outline applications for the erection of 10 or more residential units.
 - (iv) Reserved Matters applications involving more than 20 dwellings.
 - (v) Applications for the use of land involving the stationing of five or more caravans for permanent residential use.

- 1.6 The above safeguards shall be subject to and not affect the authority of the Development Services Group Manager to act in respect of those cases where strict statutory time limits are involved for making a decision or taking action, for example in cases of agricultural buildings, demolitions and telecommunications determinations and in respect of notifications of works to trees in Conservation Areas, and any other matters where non-action within a set period automatically gives consent.

2.0 Planning Enforcement

2.1 The Development Services Group Manager, in consultation with the Borough Solicitor, has the authority to carry out the following:

- a. To issue Notices in respect of clear breaches of planning and listed building control and all other planning related legislation if it is considered expedient to take such action.
- b. To issue a Planning Contravention Notice or Requisition for Information.
- c. To issue any Notices under Section 215 of the 1990 Planning Act to require the proper maintenance of land.
- d. To issue/serve any urgent notices under the Town and Country Planning Act 1990, Planning (Listed Buildings and Conservation Areas) Act 1990 and all other planning related legislation.
- e. To take action pursuant to the Rights of Entry under the Town and Country Planning Act 1990, Planning (Listed Buildings and Conservation Areas) Act 1990, Part 8 of the Anti-Social Behaviour Act 2003 and all other planning related legislation.
- f. To issue a Discontinuance Notice under Regulation 8 of the Town and Country Planning (Control of Advertisements) Regulations 2007.

2.2 The Borough Solicitor, in consultation with the Development Services Group Manager has the authority to carry out the following:

- g. To convene proceedings in the Magistrates Court for failure to return information pursuant to a Planning Contravention Notice or Requisition for Information.
- h. To apply to the courts for injunctions to restrain breaches of planning and listed building control.
- i. To instigate prosecution proceedings against non-compliance with any of the above matters.

3.0 Listed and Unlisted Heritage Assets

3.1 The Development Services Group Manager has the authority to respond to consultations from, or make proposals to, the relevant organisations on potential amendments to the Statutory List of Buildings of Special Architectural or Historic Interest.

3.2 The Development Services Group Manager has the authority to make amendments to the local list of heritage assets.

4.0 S106 Obligations

4.1 Some planning proposals, which would otherwise be unacceptable in planning terms, can be made acceptable by the provision of a legal agreement or undertaking under section 106 of the Town and Country Planning Act 1990

- 4.2 The Development Services Group Manager has the authority to negotiate, and to instruct the Borough Solicitor to progress and enter into, s106 legal obligations in respect of any matter being dealt with under delegated powers (including appeals). In cases which have been subject to a Planning Committee decision, the authority will be subject to the terms of that resolution.
- 4.3 The Development Services Group Manager has the authority to agree deeds of variation of existing s106 obligations and to modify/discharge obligations under the Town and Country Planning Act 1990.
- 4.4 The Development Services Group Manager will use their discretion to refer any proposal to the appropriate Committee if they are not satisfied that the matter should be dealt with under delegated powers.

5.0 Trees

- 5.1 The Development Services Group Manager has the authority to carry out the following:
- to make and confirm Tree preservation Orders which are not the subject of objection which cannot be resolved;
 - to revoke or vary existing orders, which are not the subject of objection which cannot be resolved; and
 - to serve Tree Replacement Notices.
- 5.2 Tree Preservation Orders, or proposals to revoke or vary existing orders which are subject to objection, shall only be confirmed by the Tree Panel.

6.0 High Hedges

- 6.1 The Development Services Group Manager has authority to issue, withdraw, waive or relax a Remedial Notice under Part 8 of the Anti-Social Behaviour Act 2003 and, in consultation with the Borough Solicitor, to commence and instigate prosecution proceedings in relation to the failure to comply with the terms of a Remedial Notice served under Part 9 of the Act.

7.0 Public Rights of Way

- 7.1 The Development Services Group Manager has authority to make orders affecting public rights of way under the Town and Country Planning Act 1990 and to make observations on consultations from other authorities on public rights of way matters.

8.0 Miscellaneous

- 8.1 The Development Services Group Manager has the authority:
- a. To make minor changes to the charging for Pre-Application Planning Advice Scheme as necessary.
 - b. To commission appropriate specialist consultants in order to properly carry out the Council's Development Management functions, including appeals.
 - c. To deal with consultations and proposals in respect of hazardous materials.
 - d. To make representations on applications for heavy goods operators' licences to establish or continue vehicle operation centres.

- e. To undertake any other actions and decisions as a local planning authority and/or the hazardous substances authority under the Town and County Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990, Planning (Hazardous Substances) Act 1990 and all planning related legislation, except as specifically allocated to or by Council].