

## 5.7 Joint Director of Planning in respect of planning and development control

### Service area delegations

- Planning Service
- Building Control (3C service)
- Dangerous Buildings, structures and excavations
- Street Naming
- Regulatory functions under the Buildings Act and other legislation concerned with safety, sanitation, health and structural condition of buildings.  
Specific area delegation by the Executive
- To approve grants from the Historic Buildings Fund and to approve Access Grants up to the value of £5,000
- To operate and negotiate building control fees as necessary (recording the fees agreed) in response to the dictates of the market and other relevant circumstances in adjusting fee levels on major developments that are likely to be subject to particular competition from private Approved Inspectors as long as overall budget targets are met

### Specific regulatory power delegated

- To act as the proper officer under Section 191 of the Local Government Act 1972 with respect to ordnance survey.

### Delegated by Planning Committee/ Executive

A1 To determine, and to make decisions in connection with the determination of, all forms of planning and other applications, and all forms of consent and other notifications (as set out in the schedule below) submitted under the Town and Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008) and the Planning (Listed Buildings and Conservation areas) Act 1990 **except** in any of the following circumstances:

- The application is for ‘Major’<sup>1</sup> development (see note for definition of ‘Major’ at end of A1) where:
  - There are third party representations on planning grounds that are contrary to the officer recommendation for approval or refusal.
- The application is advertised as a formal departure from the Development Plan policy and where the officer recommendation is for approval.

- The application is for development of between 1-9 dwellings, where there are third party representations on planning grounds that are contrary to the officer recommendation and that cannot be resolved by planning condition.
- The application is for development involving a change of use where there are third party representations on planning grounds that are contrary to the officer recommendation and that cannot be resolved by planning condition.
- The application involves the City Council as applicant or landowner and the development is not of a minor nature.
- The application is for the demolition of a listed building or a Building of Local Interest.
- The application is submitted by a Member or officer of the City Council.
- The application is for a 'non-material' change/amendment in relation to a development that was previously approved by Planning Committee or an Area Committee, and the Chair, Vice-Chair and Spokesperson of that Committee object to the exercise of the delegated power within 14 days of notification.
- The application is one where, within 21 days of the date of publication of the weekly list, or within 14 days of receipt of any subsequent significant amendment to the still current proposal, any Member (including County Council Members representing City Wards) requests in writing (including e-mail sent in accordance with the Council's guidelines), that the application should be determined by Committee, stating the planning grounds on which the request is based.
- The application requires a Planning Obligation (or any subsequent amendment thereof) containing terms that are not in accordance with, or are additional to, those required by the Council's Planning Obligation Strategy.
- The application is one that in the opinion of officers should be determined by Committee because of special planning policy or other considerations.

**Note:** <sup>1</sup> Major development comprises:

- 10 or more dwellings, or a site area of 0.5 ha. or more where the number of dwellings is not shown;
- Other developments where the floor space to be built is 1000 square metres (gross) or more, or where the site area is 0.5 ha. or more in size.

A2. To serve Requisitions for Information, Planning Contravention Notices, Breach of Condition Notices, Notices of Intended Entry, Section 215 Notices, and Discontinuance Notices for advertisements (subject to prior consultation with the Head of Legal and Practice).

A3. To instruct the Head of Legal Practice to commence prosecution proceedings for the display of illegal advertisements (including fly posting) and for non-compliance with any formal notices issued.

A4. To instruct the Head of Legal Practice to serve enforcement notices under S172 of the Town and Country Planning Act 1990 to remedy a breach of planning control following the refusal of retrospective planning permission.

A5. To instruct the Head of Legal Practice to serve Listed Building Enforcement Notices under S38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

A6. To instruct the Head of Legal Practice to serve notices requiring urgent works to unoccupied Listed Buildings under S54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

A7. To decide whether to serve a Remedial Notice under Part 8 of the Anti-Social Behaviour Act 2003 where there are no third party representations that are contrary to the officer recommendation (subject to prior consultation with the Head of Legal Practice) and to instruct the Head of Legal Practice to commence prosecution proceedings for non-compliance with a Remedial Notice or to carry out works in default.

A8. To make representations as a 'responsible authority' on applications for public entertainment licenses under the Licensing Act 2003.

B1. To determine all applications for works to trees under the Town and Country Planning Act 1990, and for works to hedgerows under the Environment Act 1995, **except** in any of the following circumstances:

- The application is one where there are third party representations on amenity grounds that are contrary to the officer recommendation and that cannot be resolved.
- The application is one where, within 14 days of being notified, any Member (including County Council Members representing City Wards) requests in writing (including e-mail sent in accordance with the Council's guidelines), that the application should be determined by Committee, stating the grounds on which the request is based.

B2. To serve, and unless objections are received, confirm Tree Preservation Orders and Hedgerow Replacement Notices.

B3. To instruct the Head of Legal Practice to take enforcement action or instigate proceedings under part (viii) of the Town and Country Planning Act 1990 relating to violations against protected trees, and under S97 of the Environment Act 1995 relating to violations against protected hedgerows.

**Note:** Notwithstanding the provisions contained within this Scheme of Delegation, officers will use their discretion and judgment to decide whether to refer any matter contained within this Scheme to Committee for determination, which in their view raises contentious, sensitive or significant policy issues, or where it would be otherwise beneficial for the decision to be made by Members.

### **Schedule referred to in Delegation A1 above**

Applications and other forms of consent/notification referred to in Delegation A1 include:

- Outline and full planning permission and any subsequent applications for post-decision 'non-material' changes/amendments.
- Reserved matters following outline planning permission and any subsequent applications for post-decision 'non-material' changes/amendments.

- Renewals of planning permission and any subsequent applications for post-decision 'non-material' changes/amendments.
- Removal/variation of planning conditions.
- Discharge of conditions.
- Agreeing the terms of Planning Obligations under S106 of the Town and Country Planning Act 1990.
- Advertisement Consent.
- Lawful Development Certificates.
- County Council Regulation 3 applications.
- Prior notifications and approvals under a Development Order.
- Goods Vehicle Operating Licences.
- Listed Building Consent.
- Conservation Area Consent.
- Consultations from neighbouring authorities.
- Screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, or any subsequent amendment or successors to those Regulations.
- Screening and scoping opinions under the Conservation (Natural Habitats, etc) Regulations 1994 or any subsequent amendments or successors to those Regulations
- Screening and scoping opinions under the Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) Regulations 2001 or any subsequent amendments or successors to those Regulations

**Planning enforcement:**

Delegation to Shared Director of Planning (in consultation with Head of Legal Practice and Chair/Vice Chair/Spokes of Planning Committee):

A To take direct action or works in default as required in relation to Section 178 (Non Compliance with an Enforcement Notice) and Section 219 (Non Compliance with a Section 215 Notice) of Town and Country Planning Act 1990 (as amended) and to recover from the person who is then the owner of the land any expenses reasonably incurred by the Council in undertaking this work under Regulation 14 of the Town and Country Planning General Regulations 1992

B For commencement of prosecution following non-compliance with an Enforcement Notice under Section 179 or Planning Contravention Notice under Section 171D of the Town and Country Planning Act 1990 (as amended)

C To seek an injunction to restrain a breach of planning control under Section 187B of the Town and Country Planning Act 1990 (as amended)

D To make an application for a Confiscation Order under the Proceeds of Crime Act 2002 (as amended)