

## **Powers Delegated to the Senior Officer responsible for Planning**

The following powers are delegated to the Senior Officer responsible for Planning, who may nominate and appoint such officer(s) to assist them to undertake the functions and duties:

### **Delegated scheme for decisions by officers on planning applications**

In order to assist members to concentrate their limited time on the more significant proposals, and to reduce the inevitable delays associated with preparing reports for presentation to a monthly committee, the following areas of responsibility are delegated to the Senior Officer responsible for Planning. Categories of applications subject to delegation are set out below. The scope of delegation may be amended by a majority of the members present at a meeting of the Planning and Licensing Committee to which a report is submitted and there will be no requirement to comply with the procedure for amending the constitution. Changes to officer titles, onward delegations and minor drafting changes can be made without referral back to the committee.

Any reference to legislation, rules, orders or regulations in the schedules shall be read as a reference to any subsequent amendment or re-enactment of the same.

### **Proper Officer Functions**

**Compilation and identification of lists of background papers** - For the purpose of section 100(D)(1)(a) and section 100(D)(5)(a) of the Local Government Act 1972 for the compilation and identification of lists of background papers for reports prepared in the name of the Senior Officer responsible for Planning or, where first named, in joint reports.

**Protected buildings**- For the purpose of schedule 16 paragraph 28 of the Local Government Act 1972 in relation to the receipt on deposit of lists of protected buildings (section 2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **General Powers**

All powers necessary and appropriate for the operational discharge of those functions for which the Senior Officer responsible for planning is responsible, whether mandatory or discretionary, delegated or allocated to the Council by statute, regulation, ministerial or European directive, law or agreement are deemed delegated to the Senior Officer responsible for planning without the necessity of a specific resolution of Council unless the specific statute, regulation, etc. requires a positive resolution of Council or a specific procedure to be adopted before the function may be undertaken by the Council. Such delegated powers are to be exercised with due professional skill and diligence relevant to the post and are subject to the limitations, if any, set by the Council and budgetary resources and must be exercised in compliance with and consistent with the principles of this constitution, the policy framework and the law. Senior Officer responsible for planning

is authorised to appoint such officers from amongst the staff in the group, as they consider necessary to assist in the discharge of the functions.

This general power will be interpreted as including those specific powers delegated to the Senior Officer responsible for planning of the Council up to and including the adoption of this constitution.

Note: 'Operational discharge of functions' relates to those decisions and actions, which are required to be made or taken to undertake the day to day operational activities arising with regard to those functions allocated to the Senior Officer responsible for planning .

### **Enforcement**

All enforcement powers are delegated to the Senior Officer responsible for Planning, including but not limited to:

1. To authorise named officers to enter land under the following provisions:-
  - a. Section 324 of the Town and Country Planning Act 1990
  - b. Sections 196a and 196b of the Town and Country Planning Act 1990.
  - c. Sections 214b and 214c of the Town and Country Planning Act 1990.
  - d. Sections 88a and 88b of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. To serve Requisitions for Information and Planning Contravention Notices under the following enactments:-
  - a. Section 330 of the Town and Country Planning Act 1990.
  - b. Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
  - c. Section 89 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
  - d. Section 171c of the Town and Country Planning Act 1990.
3. To serve breach of condition notices
4. To serve enforcement notices
5. To serve Notices under section 215 of the Town and Country Planning Act for remedying the condition of land and to undertake consequent legal or direct action in default to secure compliance with the notice and recover expenses reasonably incurred
6. In cases of urgency the following matters:
  - a. Issuing Article IV Directions
  - b. Issuing and Serving of a Listed Building Enforcement Notice
  - c. Issuing and Serving a Stop Notice
  - d. Issuing and Serving and Temporary Stop Notice
  - e. Tree Preservation Orders
  - f. Building Preservation Orders

7. Powers of action under Section 225 of the Town and Country Planning Act 1990 relating to fly posting and/or as amended or extended by the Clean Neighbourhoods and Environment Act 1990
8. Applications under the Transport Act to the Licensing Authority for Goods Vehicle Operator's Licence: authority to make observations on the application to the Licensing Authority.
9. To determine that no further action is required in respect of a breach of planning control which could have been dealt with under delegated powers through the grant of a planning permission had an application been submitted.
10. To withdraw Enforcement Notices and Breach of Condition Notices when they have clearly been complied with and it is no longer possible for breaches to occur.
11. The power to withdraw Article 4 Directions where it is no longer expedient to remove permitted development rights.

## **Trees**

The following powers are delegated in relation to trees and tree management:

1. The making, revoking or amending of a Tree Preservation Order
2. Authority to confirm an unopposed Tree Preservation Order
3. Authority to determine:
  - a. any application to carry out work to a tree(s) subject to a Tree Preservation Order (subject to consultation with the Ward Member(s) in any case where the officer is recommending refusal or where objections have been received)
  - b. any notification to carry out work to a tree within a Conservation Area (subject to consultation with the Ward Member(s) in any case where the officer intends serving a TPO or an objection has been received)
4. To authorise named officers to enter land under the following provisions:
  - a. Section 324 of the Town and Country Planning Act 1990
  - b. Sections 196a and 196b of the Town and Country Planning Act 1990
  - c. Sections 214b and 214c of the Town and Country Planning Act 1990
5. To exercise the Council's powers under Section 23 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to dangerous trees, including rights of entry onto land and into buildings
6. To determine Hedgerow Removal Notices and ancillary matters
7. Authority to deal with complaints about High Hedges under Part 8 of the Anti-Social Behaviour Act 2003
8. To deal with any consultation (subject to their being no objections) by the Forestry Commission under:
  - a. Felling licence regulations
  - b. The Forestry Grant Scheme
  - c. Dedication scheme

or such schemes and regulations as may replace or supplement any of the above.

9. To determine, that no further action is required in respect of a breach of control which could have been dealt with under delegated powers had an application been submitted.

### **Development Management**

1. To authorise named officers to enter land under the following provisions:-
  - a. Section 324 of the Town and Country Planning Act 1990.
  - b. Sections 196a and 196b of the Town and Country Planning Act 1990.
  - c. Sections 214b and 214c of the Town and Country Planning Act 1990.
  - d. Sections 88a and 88b of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. To determine whether the prior approval of the Local Planning Authority is required for development falling within the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
3. Authority to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) and to offer screening and scoping opinions.
4. To determine (with or without planning conditions or obligations) all planning applications and applications for Advertisement Consent, Listed Building Consent, Conservation Area Consent (as amended), Certificates of Lawfulness, Time Limit Extensions, Variation of Conditions (S73) or Prior Approval under the General Permitted Development Order under delegated powers, with the following exceptions:-
  - a. Planning Applications where a District Councillor requests (in writing) that it be determined by the Committee, stating the planning reasons for such referral, and where such referral has been agreed in accordance with the referral process set out in the Planning Protocol.
  - b. Applications where the intended decision would be a material departure from the provisions of the approved or draft development plan or other approved or adopted Council planning policies or Supplementary Planning Guidance.
  - c. Applications submitted by or on behalf of the Council or which, in the opinion of the Senior Officer with responsibility for Planning or the Senior Officer with responsibility for Assets affect Council owned land and/or buildings.
  - d. Applications for floodlight masts exceeding 6m in height when operational and Planning Applications for telecommunications masts (with the exception that additional antennae may be allowed provided that the Government's safety guidelines are met) (NB Applications for telecommunication masts

under the prior approval process can be determined under delegated powers)

- e. Applications submitted by or on behalf of a Member of the Council or by a relative or partner of a Member, or which relates to land which is owned by a Member (or they have a beneficial interest in)
- f. Applications submitted by or on behalf of an employee of the Council or Publica which relate to land in their ownership or in which they have a beneficial interest (or their spouse/partner) , with the exception of applications made by non-planning staff (excluding those in politically restricted posts) for minor works to a dwelling, such as extensions, alterations and works within the curtilage.
- g. Applications which involve the proposed variation or discharge of a section 106 deed that materially differs from the Council's standard models or departs from the reasons for the original imposition of the obligation
- h. Applications which the Senior Officer with responsibility for Planning considers should be referred to the committee for determination.
- i. Applications where the views of the Town Council or Parish Council are clearly contrary to the proposed recommendation and cannot be resolved by condition or negotiation (with the exception of householder development or advertisement consent, which may continue to be delegated)
- j. Applications submitted within one year of a dismissed appeal on the site where it is intended that the application be approved (other than where the approval would reflect the clear views of the Inspector when determining the initial appeal)

***Note: In relation to 4. above the following apply:***

- For applications where one or more objections have been received the officer will, at least one calendar week before the determination deadline (statutory or extended by agreement), consult the Ward Member prior to determining the application.
- The restrictions set out in categories (a) to (j) above shall not apply to applications for a resubmission of an extant valid planning permission or to applications where the principle of the development has already been agreed by a previous permission/consent and the new proposal contains details generally consistent with the earlier permission and planning circumstances have not changed
- The restrictions set out in categories (a) to (j) above shall not apply to any application seeking Reserved Matters consent where the principles have previously been agreed and the details are consistent with the criteria set out in the outline permission.
- The determining officer shall only exercise the delegated powers after taking into account all material planning considerations, including any written planning objections or representations which may have been received.

- The determining officer shall only exercise the delegated powers in accordance with planning legislation, regulations and procedures under which provision may be made for reference of applications to the Secretary of State or other statutory body.
  - The determining officer shall only exercise the delegated powers following the expiry of the relevant consultation periods (with the proviso that where, because of the submission of the application in relation to the meeting date, it is not possible to deal with an application within the statutory period, then the application shall be referred to the committee in advance of the expiry of the consultation period for Members to determine whether they wish to delegate determination of the application to Officers).
5. To determine discharge of conditions applications, Minor and Non Material Amendments
  6. To respond to applications for the winning and working of minerals or the use of land for mineral- working deposits (a “County matter” and, therefore, not determined by this Council which has only a consultee role) following consultation with the Ward Member, and with the Chair of the Planning and Licensing Committee and the Leader of the Council.
  7. To respond to applications for waste development (a “County matter” and, therefore, not determined by this Council which has only a consultee role) following consultation with the Ward Member, and with the Chair of the Planning and Licensing Committee and the Leader of the Council.
  8. Applications under the Transport Act to the Licensing Authority for Goods Vehicle Operator's Licence: authority to make observations on the application to the Licensing Authority.
  9. Authority to submit observations on Traffic Orders to the Highway Authority.
  10. To decide whether to decline to determine applications under sections 70a and 70b of the Town and Country Planning Act and sections 81a and 81b of the Planning (Listed Buildings and Conservation Areas) Act 1990
  11. To determine applications for Permission in Principle and Technical Details Consent
  12. To determine applications where a decision to return the matter to committee would result in the potential for the application fee to be refunded as no extension of time has been agreed
  13. To advertise applications for footpath diversions
  14. To respond to Gloucestershire County Council in respect of Regulation 3 and Regulation 4 proposals

### **Conservation Areas**

With the exception of either the designation of or an amendment to the boundaries of a Conservation Area, to exercise the Council’s functions in relation to Conservation Areas.

## **Safeguards**

The referral procedure may be invoked if a member of Council is concerned about the planning merits of any proposal which would normally be delegated. This right of referral does not apply to applications for a certificate of lawfulness or where information requested by the officers has not been received from the applicant.

The Senior Officer responsible for Planning cannot grant permission where:

- the proposal is contrary to the adopted policies of the Council;
- raises a significant material consideration not addressed by adopted standards or where approval is recommended contrary to the advice of a statutory consultee

The Senior Officer responsible for Planning will have discretion to determine proposals where objections are received relating to submissions that have strict, statutory time limits for making decisions or taking action. These applications, e.g. agricultural buildings; demolitions and telecommunications determinations under the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent replacement or amendment; in respect of notifications of works to trees in Conservation Areas, etc.; or may result in an automatic permission if no response is submitted on behalf of the Council. Any objection received will be considered by the Senior Officer responsible for Planning and, at their sole discretion, efforts may be made to resolve the objection before the expiry period, but the existence of the objection will not alter their authority in those instances to make a decision.

All applications will be subject to normal consultations, publicity and notifications and no delegated decisions will be made until after the expiry of any consultation or publicity periods.

The Senior Officer responsible for Planning will use their discretion to refer any proposal to the committee if they are not satisfied that they should deal with the matter under delegated powers, particularly where there is significant public concern.

### **Planning Applications by the Council itself:**

All applications which are submitted by the Council itself must be reported to the Planning and Licensing Committee for a decision rather than being dealt with in accordance with the scheme of delegation to officers. However, once the principle of development has been established subsequent applications to discharge conditions or for minor variations may be determined in accordance with the scheme of delegation.

### **Planning Application by an Employee of the Council or Publica:**

Applications submitted by or on behalf of an employee of the Council or Publica (or their spouse/partner) which relate to land in their ownership or in which they have a beneficial

interest , will be reported for determination by the committee. Exceptions may be made for non-planning staff (excluding those in politically restricted posts) for applications for minor works to a dwelling, such as extensions, alterations and works within the curtilage.

**Planning Applications from Members or their relatives:**

All applications which are submitted by or on behalf of a Member of the Council or by a relative or partner of a Member, or which relates to land which is owned by a Member (or they have a beneficial interest in) must be drawn to the attention of the Senior Officer responsible for Planning, and will be reported to the Planning and Licensing Committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to Officers