

MUNICIPAL YEAR 2021/2022

MEETING TITLE AND DATE:

PLANNING COMMITTEE

21st September 2021

REPORT OF:

Head of Planning

Contact officer:

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Agenda – Part: 1

Subject:
Scheme of Delegation for Planning Applications and Planning Enforcement

Wards: All Wards

1. EXECUTIVE SUMMARY

- 1.1 This report updates the Scheme of Delegation enabling officers to determine matters pertaining to planning applications and planning enforcement, investigations.
- 1.2 The report updates the existing scheme of delegation to reflect changes in personnel and amendment to the Town and Country Planning General Permitted Development Order 2015 (as amended)

2. RECOMMENDATIONS

- 2.1 That the Planning Committee agrees to the revised scheme of delegation.

3. BACKGROUND

- 3.1 This report sets out changes to the scheme of delegation, reflecting recent appointments and changes to roles within the Planning Service.
- 3.2 There are minor changes to the scheme of delegation to reflect changes in permitted development regulations. In addition, the requirement for schemes to be reported to Planning Committee for determination where CAG have objected. This is because the Conservation Advisory Group no longer exists within the Council's constitution.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 No other options are considered appropriate. To avoid legal challenge, the Council needs to have an up to date scheme of delegation.

5. REASONS FOR RECOMMENDATIONS

- 5.1 This is an ongoing process to ensure that the Council has effectively and legally delegated its statutory powers to officers.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 There are no specific financial implications arising from these recommendations

6.2 Legal Implications

- 6.2.1 Under Section 101 of the Local Government Act 1972, Local Authorities have a general power to discharge their functions through officers.

- 6.2.2 Part 2 of the Council's Constitution authorises the Director of Law and Governance to institute, defend or participate in any legal proceedings. The delegation of authority sought in this respect will continue the existing arrangement to provide parallel authority to that vested in the Director of Law and Governance.

- 6.2.3 The current arrangements within the legal department are adequate to ensure that there is compliance with the Constitution arrangements of the Council and the legal requirements needed to discharge their functions through officers for prosecutions work in the Council.

6.3 Property Implications

N/A

7. KEY RISKS

- 7.1 The Council is at risk of legal challenge to any of its decision making where staff operate with powers that have not been properly delegated.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The recommendations in this report will help to ensure that the Council has a defined and transparent scheme of delegation to ensure effective decision making and that the Council is able to demonstrate a clear risk-based approach in responding to reports of unlawful development or use of land and property.

8.2 Growth and Sustainability

The recommendations in the report fully accord with this Council priority.

8.3 Strong Communities

The recommendations in the report fully accord with this Council priority.

9. PERFORMANCE MANAGEMENT IMPLICATIONS

The delegation arrangements ensure an effective performance management framework for planning application and enforcement.

Background Papers

Appendix 1

SCHEME OF DELEGATION **PLANNING APPLICATIONS AND PLANNING ENFORCEMENT**

The Executive Director Place, the Head of Planning, the Head of Development Management, Planning Decisions Manager (s) and Principal Planning Officers (Subject to limitations imposed by the Head of Planning or Head of Development Management) will determine all applications for planning permission and other development, including tree matters under the Planning Acts, the Planning and Compensation Act 2004, Section 11 of the London Local Authorities Act 1995, Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976 and any statutory re-enactment or modification thereof and subordinate legislation made there-under. These are detailed in the schedule of powers below at points (a) – (r) inclusive, (nn) and (oo).

The Executive Director Place, the Head of Planning, the Head of Development Management, the Planning Enforcement Manager, Planning Decisions Manager (s) and Principal Planning / Enforcement Officers (subject to limitations imposed by the Head of Planning or Head of Development Management), may determine the enforcement matters, the Planning and Compensation Act 1991, Section 11 of the London Local Authorities Act 1995, Sections 23-26 of the Local Government (Miscellaneous Provisions) Act 1976 and any statutory re-enactment or modification thereof and subordinate legislation made there-under. These are detailed in the schedule of powers detailed at points (r) to (oo) inclusive.

Planning Enforcement Officers (Subject to limitations imposed by the Head of Planning / Head of Development Management, may determine enforcement matters detailed at points (r), (s), (gg) and (hh).

The Head of Planning, Head of development Management, Planning Decisions Managers and the appointed Tree Officer (Development Management) may determine all tree and hedge matters detailed in the schedule of powers below at points (m) and (n), and may determine enforcement matters detailed at points (z),

(gg) and (hh)

The Principal Planning Officer for Planning Enforcement and the Principal Planning Officer for Commercial Nuisance (Subject to limitations imposed by the Head of Planning or Head of Development Management), may determine enforcement matters detailed at points (aa) and (bb).

Subject to the following **EXCEPTIONS**:

1. Detailed applications for the erection of 10 or more residential units.
2. Outline applications for residential development with a site area of more than 0.5 hectares.
3. Detailed applications for the erection of non-residential development (excluding extensions to existing buildings), in excess of 1,000 sq. metres (gross).
4. Outline applications for the erection of non-residential development with a site area of more than 1 hectare.
5. Applications for the mining and working of minerals or the use of land for mineral working deposits.
6. Applications which are advertised as a departure from the DMD and which are recommended for approval.

Note - Applications in categories 1 to 6 may be refused under delegated authority. Applications for industrial or warehouse development (B1, B2 and B8) where they are located in designated Strategic Industrial Locations may be determined under delegated authority, including SIL

7. Applications submitted by or on behalf of a Councillor (or their spouse/partner) or by any member of staff (or their spouse/partner) responsible to the Assistant Director (Regeneration & Planning) of this Council. Private applications made by or on behalf of a Director, the Assistant Director (Regeneration & Planning) and the Chief Executive of this Council and their respective spouses/partners; or other members of staff who regularly attend Planning Committee.
8. Applications that have been considered by a Panel of the Planning Committee.
9. Applications which any Councillor requests in writing to the Assistant Director (Regeneration & Planning) within 21 days of the circulation of details of the application should be determined by Committee, subject to agreement of the Chairman.
10. Any other application or issue which, by reason of its scale, impact upon the environment, or the level of public or likely Councillor interest, should, in the opinion of the Assistant Director (Regeneration & Planning), be determined by the Committee.

SCHEDULE OF POWERS TO BE DELEGATED

This list includes those planning powers most often exercised by this Council

<u>Category</u>		<u>Relevant Legislation</u>
Planning Applications: -		
(a)	Planning Permission.	S57 - 63; S.70; S.299; of Town & Country Planning Act 1990. Town & Country Planning (General Development Procedure) Order 1995. Planning & Compensation Act 2004 Planning Act 2008
(b)	Advertisement Consent.	S220 of Town & Country Planning Act 1990. S9 - 14 of Part III of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended). LBE advertisements (including roundabouts)
(c)	Listed Building Consent.	S10 - 19 of Planning (Listed Buildings & Conservation Areas) Act 1990.
(d)	Conservation Area Consent.	S74 of Planning (Listed Buildings & Conservation Areas) Act 1990.
(e)	Certificates of Lawfulness of Development (Existing and Proposed) – to confirm lawful against the Town and Country Planning General Permitted Development Order 2015 (as amended) – all Classes in Schedule 1 & 2 Certificates of Alternative Use / Development	S191 - 192 of Town & Country Planning Act 1990. S10 of Planning and Compensation Act 1991. Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
(f)	Prior Approval	
	Telecommunications / Communications	Part 16 of Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Temporary uses of buildings and land	Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Agriculture & Forestry	Part 6 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
Non domestic extensions, alterations etc.	Part 7, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Development relating to roads including Development by Highway Authorities	Part 9, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Heritage & Demolition	Part 11 of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended and applications for 'relevant demolition'
Development by Local Authorities	Part 12 of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Water and Sewerage	Part 13 of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Renewable Energy	Part 14 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Power Related Development	Part 15 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Miscellaneous development	Part 18 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Construction of New Dwellinghouses	Part 20 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Development within the curtilage of a dwellinghouse	Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as

	amended)
Change of Use (Various)	Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Change of Use - casino, betting office, pay day loan shop or hot food takeaway to commercial, business and service	Schedule 2, Part 3, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Drinking establishments with expanded food provision	Schedule 2, Part 3, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Change of use - retail, betting office or pay day load shop or casino to restaurant or cafe	Schedule 2, Part 3 Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Change of Use - commercial, business and service or betting office or pay day loan shop to mixed use	Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Change of Use – mixed use to retail commercial, business and service or betting office or pay day loan shop	Schedule 2 Part 3 Class H of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Change of Use - Development consisting of a change of use of a building from any use falling within Class B2 (general industrial) of Schedule 1 to the Use Classes Order, to a use for any purpose falling within Class B8 (storage or distribution) of that Schedule.	Schedule 2 Part 3 Class J of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Change of Use of a building from any use falling within Class B2 (general industrial) of Schedule 1 to the Use Classes Order, to a use for any purpose falling within Class B8 (storage or distribution) of that Schedule.	Schedule 2 Part 3 Class I of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Change of Use to a use falling within launderette, betting office, pay day loan shop, hot food	Schedule 2 Part 3 Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as

	takeaway to Residential (C3)	amended)
	Change of Use - commercial, business and service uses to dwellinghouse (C3)	Schedule 2 Part 3 Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Change of use – specified sui generis use to dwellinghouse	Schedule 2 Part 3 Class N of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Change of use – offices to dwellinghouses	Schedule 2 Part 3 Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Change of use – storage or distribution to dwellinghouses	Schedule 2 Part 3 Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Change of Use - Premises in light industrial use to dwellinghouses	Schedule 2 Part 3 Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Changes of use – agricultural buildings to dwellinghouses	Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Changes of use – agricultural buildings to flexible commercial use	Schedule 2 Part 3 Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Changes of use – agricultural buildings to state-funded school or registered nursery	Schedule 2 Part 3 Class S of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Change of use – commercial, business, hotels etc. to state funded schools or registered nursery	Schedule 2 Part 3 Class T of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
	Change of Use - use permitted under a permission granted on an application	Schedule 2 Part 3 Class V of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

(g)	Development by the Council. 'Other' applications where no objections are received	Regulations 3 and 4 of Town & Country Planning General Regulations 1992.
(h)	Other Authority Development.	Article 10 of Town & Country Planning (General Development Procedure) Order 1995.
(i)	Reserved Matters.	S92 - 93 of Town & Country Planning Act 1990.
(j)	Variation and discharge of Conditions.	S73 of Town & Country Planning Act 1990.
(k)	Legal agreements associated with applications determined under delegated authority including modification of extant agreements	S106 of Town & Country Planning Act 1990. S106a of the Town and Country Planning Act 1990 S278 of the Highways Act 1980
(l)	Environmental Impact screening and scoping opinions	Town and Country Planning (Environmental Impact Assessment) Regulations 1999 2011 (as amended)
(m)	Works to trees Works to hedgerows	S198 and 211 of the Town and Country Planning Act 1990, (Tree Preservation) Regulations 2012 The Hedgerows Regulations 1997
(n)	The making and confirmation of a Tree Preservation Order	S198, 199, 201, 300 of the Town and Country Planning Act 1990, (Tree Preservation) Regulations 2012
(o)	Non Material Amendment	S96A of the Town and Country Planning Act 1990 (as amended)
(p)	Minor Material Amendment	S73 of the Town and Country Planning Act 1990 (as amended)
(q)	Hazardous Substances Consent	S6-9, 13,14,17,18 Planning (Hazardous Substances) Act 1990 S5 The Planning (Hazardous Substances) Regulations 2015
(r)	Permission in Principle / Technical Details Consent	Town and Country Planning (Permission in Principle) Order 2017 (as amended) Town and Country Planning (Brownfield Land Register) Regulations 2017

Enforcement Action: -		
(r)	Planning Contravention Notices	S171C of the Town and Country Planning Act 1990. S1 of the Planning and Compensation Act 1991.
(s)	Request for information as to the interest in land	Section 330 of the Town and Country Planning Act 1990
(t)	Breach of Condition Notices	S187A of the Town and Country Planning Act 1990 S2 of the Planning and Compensation Act 1991.
(u)	Enforcement Notices	S.172 of the Town and Country Planning Act 1990.
(v)	Listed Building Enforcement Notices	S38 of the Planning (Listed Building and Conservation Areas) Act 1990
(w)	Conservation Area Enforcement Notices	S74 of the Planning (Listed Building and Conservation Areas) Act 1990
(x)	Special Enforcement Notices – Crown land	S94 of the Town and Country Planning Act 1990.
(y)	Completion Notices	S94 of the Town and Country Planning Act 1990.
(z)	Tree Notices Replacement Trees Dangerous Trees High Hedge Replacement Hedgerows	S207 of the Town and Country Planning Act 1990. S23, 24 of the Local Government (Miscellaneous Provisions) Act 1976 Part 8 of the Anti-Social Behaviour Act 2003 The Hedgerows Regulations 1997
(aa)	Notices – maintenance of land and hazardous substances	S215 of the Town and Country Planning Act 1990. S24 of the Planning (Hazardous Substances) Act 1990
(bb)	Unauthorised Placards, Posters and Advertisement Hoardings	S224, 225 of the Town and Country Planning Act 1990. S10 and S11 London Local Authorities

		Act 1995
(cc)	Advertisement Discontinuance Notices	S224, 225 of the Town and Country Planning Act 1990.
(dd)	Stop Notices	S183 of the Town and Country Planning Act 1990.
(ee)	Temporary Stop Notices	S171E of the Town and Country Planning Act 1990.
(ff)	Injunctions	S187B and S214A of the Town and Country Planning Act 1990. S3 of the Planning and Compensation Act 1991. S94 of the Community Infrastructure Levy Regulations 2010 S44A Planning (Listed Buildings and Conservation Areas) Act 1990 S11 of the The Hedgerows Regulations 1997
(gg)	Notice of right to entry without a warrant.	S196A, S214B and S324 of the Town and Country Planning Act 1990. S88 of the Planning (Listed Building and Conservation Areas) Act 1990 SS36 and 36A of the Planning (Hazardous Substances) Act 1990 S74 of the Anti-Social Behaviour Act 2003 S109 of the Community Infrastructure Levy Regulations 2010 S12 of the Hedgerows Regulations 1997
(hh)	Right of entry under a warrant	S196B and S214C of the Town and Country Planning Act 1990. S88A of the Planning (Listed Building and Conservation Areas) Act 1990 S13 of the Hedgerows Regulations 1997
(ii)	Decisions not to take enforcement action	Planning Enforcement Policy
(jj)	Prosecutions relating to failure to comply with the requirements of any enforcement action or a breach of the law that carries criminal sanctions without the	Planning Enforcement Policy

	need for a notice to be served.	
(kk)	Works in default action	<p>Under the legislation referred to in this schedule, where applicable, including</p> <p>S178 and S219 of the Town and Country Planning Act 1990</p> <p>S42 and S74 of the Planning (Listed Building and Conservation Areas) Act 1990</p> <p>S77 of the Anti-Social Behaviour Act 2003</p> <p>S97 of the Town and Country Planning Act 1990</p> <p>S102 of the Town and Country Planning Act 1990</p> <p>S209 of the Town and Country Planning Act 1990</p>
(ll)	Powers to execute urgent works to preserve a listed building	S54 and S55 of the Planning (Listed Building and Conservation Areas) Act 1990
(mm)	CIL Stop Notices	S89 of the Community Infrastructure Levy Regulations 2010
(nn)	Revoke, Revision and Modifications of Planning Permissions	<p>S97 of the Town and Country Planning Act 1990</p> <p>S23 of the Planning (Listed Building and Conservation Areas) Act 1990</p>
(oo)	Discontinuance of Use or Alteration of Building or Works	S102 of the Town and Country Planning Act 1990