

PLANNING AND TRANSPORTATION DIVISION

PROCEDURE

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TITLE: DEVELOPMENT CONTROL PROCEDURE ADVICE NOTE 14

DELEGATED AUTHORITY AND DECISIONS:

1.0 INTRODUCTION

- 1.1 This PAN details the working of the scheme of delegation relating to all Development Control functions.
- 1.2 Delegation is the confirmed authority for a person to make a decision, or carry out a task on another's behalf.
- 1.3 Most planning applications and enforcement cases may be dealt with under delegated authority conferred by the Council's Constitution.

2.0 THE COUNCIL'S CONSTITUTION AND DELEGATED AUTHORITY

- 2.1 The constitution, operational since October 2001, allocates functions to the Council's Regulatory Committees, including the Development Control Committee.
- 2.2 Unless expressly forbidden by the Constitution, officers may discharge any function of a Regulatory Committee falling within or to any extent touching upon their area of responsibility.
- 2.3 The Constitution expressly forbids officers from refusing any application for planning permission under Section 70 of the Town and Country Planning Act 1990 that involves major category development.
- 2.4 Major category applications are those involving:
 - (a) the winning and working of minerals or the use of land for mineral working deposits;
 - (b) all waste developments, meaning any development designed to be used wholly or mainly for the purpose of treating, storing, processing or depositing of refuse or waste materials;
 - (c) the provision of dwellinghouses where:
 - (i) the number to be provided is ten or more, or

- (ii). the development site area is 0.5 hectare or more and it is not known whether the development falls within category (c)(i);
- (d) the provision of a building or buildings where the floorspace to be created by the development is 1,000 sq m or more; or
- (e) development of a site having an area of one hectare or more.

2.5 All other application and enforcement determinations are delegated to officers

2.6 The operation of the delegated powers given by the Constitution was subject of a report to the Development Control Committee on 14th March 2005. The following operation was discussed informally with the Committee and agreed on 22nd May 2006 on a trial basis and confirmed by Members as a permanent operation on 22nd January 2007.

3.0 OPERATION OF THE SCHEME OF DELEGATION FOR DEVELOPMENT CONTROL

3.1 Use of the authority conferred by the Constitution must be subject to the discretion of officers, in particular the Chief Planning Officer and Head of Development Control, in the interests of probity and to safeguard against actual or perceived maladministration.

3.2 The following arrangements are therefore to be adhered to in using the authority conferred by the Constitution relating to Development Control.

3.3 Officers to use Delegated Authority

3.3.1 The only officers to determine applications, to authorise the seeking of warrants and prosecutions are:

The Chief Executive
The Chief Planning Officer
The Head of Development Control

3.3.2 In the absence of the Head of Development Control, Development Control Area Team Leaders may determine applications.

3.3.3 All the above officers may determine enforcement cases.

3.4 Applications

3.4.1 All applications may be determined by delegated authority except for the following:

- Major category planning applications recommended for refusal.

- Planning, listed building and conservation area consent applications recommended for approval where (a) a valid planning objection(s) has been received from the owners or occupiers of properties directly affected by the proposal and (b) the Chairman (or Vice-Chairman) requests the application to be decided by the Development Control Committee.
- Planning applications recommended for approval involving either a formal departure from the Development Plan, which would require referral to the Secretary of State.

3.4.2 Additionally, applications containing inadequate or incorrect or unclear information are delegated for officer decision where this is a primary reason for refusal.

3.4.3 For the avoidance of doubt, all applications relating to the following may be determined by delegated authority:

- Advertisements
- Tree Preservation Order
- Prior Approvals
- Certificates of Lawfulness
- Hazardous Substances

3.4.4 Any application may be referred for Development Control Committee decision, or Chairman's agreement for a delegated decision to be made, at the discretion of the Chief Planning Officer or the Head of Development Control.

3.5 Enforcement

3.5.1 Unless in exceptional circumstances and as directed by the Chief Planning Officer or Head of Development Control, all enforcement cases may be determined by delegated authority except for the following:

- (a) Cases recommended for authorisation to serve an Enforcement Notice

3.5.2 For the avoidance of doubt, all requests for Planning Contravention Notices, Breach of Condition Notices and Section 215 Notices may be authorised by delegated authority.

3.6 Other Development Control Matters

3.6.1 Observations on Circular 18/84 applications, the determination of any matters pursuant to applications relating to the Town and Country

Planning (Assessment of Environmental Effects) Regulations 1988, and comments to other authorities when the Council is consulted on development proposals may all be dealt with under delegated authority.

3.7 Proviso

3.7.1 Any matter normally dealt with under delegated authority may be referred to the Development Control Committee at the discretion of the Chief Planning Officer or the Head of Development Control. Similarly, Area Team Leaders or case officers may request such referral.

4.0 PROCEDURE FOR DELEGATED APPLICATIONS

4.1 The following points should be checked by the case officer.

- (a) Consultations, if any, have been received.
(Unless period for response has expired).
- (b) The publicity period (normally 21 days) has expired and the correct neighbours have been notified and the correct earliest decision date is noted on the worksheet and Acolaid.
- (c) Site visit and explanatory notes, and all correspondence (in date order) are included and Officer inspection date entered in Acolaid.
- (d) Plans are stamped and dated, any amended plans and superseded plans are clearly marked as such.
- (e) The original description is correct – this may change if amendments received or following the site visit.
- (f) Any representations received are on the file; check on Acolaid consultation screen.
- (g) Finalised decision and recommended decision type entered in Acolaid.
- (h) Conditions and reasons are entered in Acolaid.
- (i) Notes to applicant are entered in Acolaid eg. Notes regarding landfill gas comments.

4.2 The case officer then passes the application to the Area Team Leader for agreement.

4.3 The application is then passed to the Head of Development Control for determination as appropriate.

5.0 PROCEDURE FOR DELEGATED ENFORCEMENT CASES

5.1 Cases recommended for action

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- 5.1.1 Summary report agreed by case officer with Area Team Leader
- 5.1.2 Report and file passed to the Head of Development Control for approval and signature authorising action.
- 5.1.3 File, with copy memo, passed to Enforcement Technician for input of details on to Acolaid and follow-up action.
- 5.1.4 The case officer should then proceed as if a Committee decision had been taken. The steps described in PAN.31: - "Planning Enforcement: Procedure Following Committee" should therefore be followed from step 2.3 as if references to Committee decisions are references to the Delegated decisions made.

5.2 Cases recommended for no further action

- 5.2.1 Detailed letter to complainant agreed by case officer with Area Team Leader, who signs the letter and the file.
- 5.2.2 Subsequent procedure same as at 5.1.3 and 5.1.4 above.

Date:

Approved by