

Appendix 1- Tracked version Scheme of Delegation to officers for the determination of planning applications and planning related matters

1. The Director of Regeneration and Place has authority to determine all major, minor and other applications submitted to, by or on behalf of the Wirral Borough Council (“the Council”) and determine such other related matters, including enforcement matters, other than those listed under 1a and 1b below:

a. subject to the following categories which shall be determined in consultation with the Chair and Party spokespersons;

i. Any personal or private application made by any Member of the Council, or any member of staff employed in the Council’s Planning Service;

ii. Any application where an Elected Member is involved in any capacity as an agent or consultant where at least one objection has been received;

iii. Applications other than householder applications where it is proposed to make a decision that is contrary to the development plan;

iv. Decisions that would need to be referred to the Secretary of State with the exception of applications for Planning Permission or Listed Building Consent to Grade I listed buildings, where there are statutory objections;

v. Recommendations to not take enforcement action relating to Priorities 1, 2 and 3 of the adopted Planning Enforcement Policy on the grounds of non-expediency.

vi. Any decision to revoke a Tree Preservation Order and not replace it.

vii. Any application made under section 73 of the Town and Country Planning Act 1990 that seeks to vary a planning permission that was determined by Planning Committee, unless the section 73 application is recommended for refusal.

viii. Any decision to inform the appellant and Planning Inspectorate that the Council will not seek to defend reason(s) for refusal at an appeal against a planning decision, in cases in which the advice of the Director of Law and Corporate Services is that that the specific reasons are unreasonable and/or likely to undermine or weaken the Council’s case, provided that any such action does not overturn the substantive decision of the Committee.

b. Applications and matters to be determined by Committee:

i. the following categories of applications for planning permission:

- large-scale major developments recommended for approval. Large scale development is defined by the Department for Levelling Up and Local Communities as residential developments of 200 houses or more, or where the number of dwellings is not specified a site area of 4 hectares or more, and non-residential developments of 10,000 square metres or more or where the site area is 2 hectares or more.
- planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility where the application is recommended for approval;
- significant applications by Wirral Borough Council to develop any land owned by the Council, or for development of any land by the Council or by the Council jointly with any other person (Regulation 3 applications);
- any application where the Director of Regeneration and Place considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses;
- Decisions where a claim for compensation from the Council may arise or which otherwise may involve a financial payment.

ii. Applications (save for applications made pursuant to sections 191 and 192 of the Town and Country Planning Act 1990) where any Elected Member has, prior to the last date for comment as published on an application for either their Ward or a Ward which would be substantially affected by the proposals within the application, made a written request to the Director of Regeneration and Place that the application be referred to the Planning Committee and has given sound and reasonable planning grounds for that request. In the event that the Elected Member does not register their intention to speak to the item at Committee consent may be sought from the Committee to withdraw the agenda item to enable it to be determined under officer delegation.

iii. Applications (save for applications made pursuant to sections 191 and 192 of the Town and Country Planning Act 1990) that, within the specified consultation period attract a qualifying objection of either:-

- one or more petitions of objection totalling 25 or more individual signatories; or
- 15 individual objections in writing, unless the application is being recommended for refusal, in which case, the application shall remain under officer delegated powers. The lead petitioner will be informed of the recommendation to refuse under delegated power.

c. to take enforcement action on all matters relating to the issue, modification, service and withdrawal of Enforcement Notices, Planning Contravention Notices, Breach of Condition Notices, Discontinuance Orders, Stop Notices and Temporary Stop Notices, and to take direct action in respect of any breach of planning control.

d. to refuse applications in relation to telecommunications development;

e. where it is proposed to recommend any proposals requiring prior notification approval, after consultation with the Chair and Party Spokespersons of the Planning Committee, to determine applications in relation to such developments which, following the receipt of a petition or referral by an elected member, cannot be dealt with by the Planning Committee within the statutory period,;

f. to determine all planning and related applications where decisions would require a planning or legal agreement (eg Section 106 obligation, unilateral undertaking, or agreement under section 111 of the Local Government Act 1972) unless those applications are caught by section 1b above.

2. The Director of Regeneration and Place is authorised to undertake the following functions and powers:

a. To exercise all the powers and duties of the Council in respect of the Town and Country Planning Act 1990 (as amended) (“the Act”) as follows:

i. To reject an outline application because of insufficient details;

ii. To require owners to carry out proper maintenance of land where its condition detracts from the amenity of the immediate surrounding area, including the service of appropriate statutory notices under Section 215 of the Act;

iii. To serve planning contravention notices and to hold discussions as a result of the “time and place” procedure under Section 171(C) of the Act;

iv. To make Tree Preservation Orders under section 198 and section 201 of the Act and to subsequently confirm Tree Preservation Orders, except where five or more objections have been received, in which case the matter shall be determined by Planning Committee;

v. To determine applications for the lopping, felling or topping of trees covered by Tree Preservation Orders and require such replanting as is considered necessary;

vi. To issue screening opinions and scoping opinions (under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017;

- vii. To authorise entry on to land under Sections 196 214(b) and 324 of the Act and under Section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
 - viii. To consider Conservation area protection notifications under Section 211 of the Act;
 - ix. To present and defend the Council's case in any appeal made against a planning decision including appeals against non-determination and enforcement appeals;
 - x. To enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);
 - xi. To make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee's decision; and
 - xii. To issue Enforcement Warning Notices pursuant to Section 172ZA of the Town and Country Planning Act 1990,
- b. To exercise all the powers and duties of the Council arising under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 relating to listed buildings and conservation areas.
 - c. To exercise all the powers and duties of the Council arising under the provisions of the Planning (Hazardous Substances) Act 1990.
 - d. To exercise all the powers and duties of the Council arising under the Town and Country Planning (Control of Advertisements) Regulations 2007 or any amendments to those regulations.
 - e. To exercise all the powers and duties of the Council arising under the provisions of the Hedgerows Regulations 1997.
 - f. To respond to consultations from neighbouring local planning authorities on planning applications.
 - g. To respond to all consultations on proposed changes to relevant legislation or national guidance.
 - h. To exercise all the powers and duties under Part 8 of the Anti-Social Behaviour Act 2003 to consider and determine complaints about high hedges, to issue any remedial notices and to defend the Council's decision in any appeal made.
 - i. To determine the requirements for, and amend when necessary the local validation list for planning applications.

j. To exercise all the functions of the Council in respect of applications for development consent for Nationally Significant Infrastructure Projects made to the Examining Authority arising under the provisions of the Planning Act 2008