

**North Warwickshire
Borough Council**



**Scheme of Delegation to
the Head of Development Control and the
Head of Legal Services in respect of the
Determination of Planning Applications and
Enforcement**

April 2023

1. INTRODUCTION

1.1 This Scheme of Delegation enables the Head of Development Control to undertake certain functions without reporting first to the Council's Planning and Development Board. The legal basis for this delegation from the Board is contained in Section 101 of the Local Government Act 1972, as amended.

1.2 In practice, delegation means the Head of Development Control taking executive action on behalf of the Council. In the delivery of the planning control service, that means determining planning applications, and making decisions on related matters. The 'boundaries' for this delegation are outlined below by clearly stated and published rules.

2. THE PURPOSE OF DELEGATION

2.1 The purpose of delegation is to:

- ❖ leave the Board to focus its time and effort on the most significant matters that affect planning policy;
- ❖ help reduce the time taken for making the more straightforward decisions on planning applications, and related matters, when they are consistent with Council policy as set out in the Development Plan;
- ❖ help the Council to achieve a more flexible and responsive planning control service, so that it can speed up the process of decision making in line with Government guidance, any relevant Performance Indicators and Council objectives;
- ❖ simplify procedures so as to concentrate effort and resources where they are most needed; and
- ❖ release staff time so that it can be redirected to securing better quality development.

2.2 Hence this Scheme of Delegation, by operating within clear guidelines, will be able to deliver planning control decisions which are consistent with the Development Plan, routinely, and with greater speed than where little advantage is taken of delegation.

3. THE CONTEXT OF DELEGATION

3.1 This Scheme of Delegation takes into account the following matters which have provided the background against which it has been adopted.

- ❖ **The Development Plan:** The Planning legislation describes the concept of a "plan-led" decision making process, whereby planning decisions should be taken in accordance with the Development Plan. The Council's approach to new development proposals is thus already laid out in this Plan, and decisions on individual planning applications can be made accordingly.
- ❖ **The Human Rights Act 1998:** This Act requires the Council to act in a way which is compatible with European Convention Rights. This Scheme of Delegation has been prepared in this knowledge.

3.2 The basis for delegation has generally been accepted by all Local Planning Authorities. It has worked successfully in achieving a more flexible service responding to the variety of calls placed upon an Authority's planning control function. The Scheme outlined below will

take North Warwickshire Borough Council's planning control service forward with an improved service delivery.

4. THE SCHEME OF DELEGATION

A) Applications

4.1 The following applications that are submitted to North Warwickshire Borough Council for determination, will be decided by the Planning and Development Board, following consideration of a written report from the Head of Development Control which will contain a written recommendation in all cases:

- a) All applications that constitute material departures from the Development Plan.
- b) All applications that are required to be accompanied by an Environmental Impact Statement.
- c) any application where a request has been made by either the Chair or Vice-Chair of the Planning and Development Board, or the local ward member(s), and when an approval would involve a legal agreement under planning legislation.
- d) All applications that are made wholly, jointly, by or on behalf of North Warwickshire Borough Council, whether on Borough Council land or not, and any application that is made on Borough Council land.
- e) All major applications that are made by the County Council, or that are made jointly, or on behalf of Warwickshire County Council whether on its own land or not, within North Warwickshire.
- f) Any application that is submitted by or on behalf of any Member of the Council; a member of the family of a Member or a person with whom there is a close association, and any member of staff employed by the Council.
- g) Any application where a request based on material planning considerations is made in writing to the Head of Development Control by any Borough Councillor for referral of that application to the Board.
- h) Any application where the Head of Development Control considers it appropriate to report to the Board for determination.
- i) Any application where a consultee has submitted an objection in writing, but yet where a recommendation of approval is to be made by the Head of Development Control.
- j) Any application where, following the receipt of representations that are contrary to the Head of Development Control's recommendation, and where either the Chair or Vice Chairman of the Planning and Development Board, or the Local Ward Member(s), disagree with that recommendation.

4.2 In all other cases, the determination of applications is delegated to the Head of Development Control. Each determination shall be accompanied by a written report outlining the reasoning for that determination.

4.3 For the purpose of the Scheme of Delegation, the terms “application” and “Consultee”, are defined in Annexe ‘A’ to this Scheme.

B) Consultations

4.4 When an application is:

- ❖ submitted to the Warwickshire County Council as the Minerals Planning Authority, or the Waste Local Authority for determination, and North Warwickshire Borough Council has been consulted for its observations on that application, or
- ❖ when an application is submitted to a neighbouring Local Planning Authority for determination, and that Authority has consulted North Warwickshire Borough Council for its observations on that application, or
- ❖ when the Council is consulted by others on matters under legislation other than planning legislation, but where these matters are related to planning considerations, then the principles outlined in paragraph 4.1 will apply as to whether the observations of the Council shall be made by the Head of Development Control under delegated powers, or by the Planning and Development Board.

4.5 In all of the above cases, where the observations are forwarded by the Head of Development Control under delegated powers, then:

- ❖ he will report to the Planning and Development Board on the observations made, and
- ❖ include on the file, the reasoning behind these observations.

4.6 For the purposes of this Scheme of Delegation, examples of the other legislation referred to in paragraph 4.4 is included in Annexe A to this Scheme.

5. MEMBER INVOLVEMENT

5.1 Members and officers work together to determine planning applications. This Scheme of Delegation recognises that there are good reasons for, and advantages in, delegating some decisions to the Head of Development Control. However, given the high public profile of planning matters, it is inevitable that Members will often become involved in the planning control service during the passage of a planning application through the process. In order to ensure that there is a strong partnership of Members and Officers, but that their respective roles are identified and maintained, the following Best Practice guidelines will be followed:

- ❖ For the purposes of paragraph 4.1 (g) and (j) above, as soon as it becomes apparent that the recommendation of the Head of Development Control will be contrary to the nature of representations received on any application, then the case officer will contact the Local Ward Member(s), together with the Chair and Vice Chairman of the Planning and Development Board. If no adverse comments are received within seven days, then the matter will be dealt with in line with the Head of Development Control’s recommendation under delegated powers. A record of this contact will be kept on the case file. Contact will be made as early as possible via e-mail, in order to ensure full Member involvement.
- ❖ Ward briefings, either individually or on a group basis, will be held with Members at their request so that they can be kept up to date with applications and their

progress towards determination, and other significant 'ward' issues. Current applications and plans can be made available for discussion.

- ❖ All 'significant' applications to be reported to the Board and Ward Members, to enable site visits to be organised at an early stage.
- ❖ Issues and progress reports will be circulated to the Board and Ward Members either by notification or through a report on major and/or sensitive applications, prior to the determination report, so that the material considerations and key matters can be made explicit at an early stage.
- ❖ Regular post-decision site visits to be made to assess the quality of the decision, and to see the implementation of the scheme, so that there can be continuous monitoring of the quality of decision making.

5.2 The procedure outlined above in respect of Member involvement, will also apply to proposed amendments to development proposals.

6. ENFORCEMENT

6.1 Following the decisions of the Planning & Development Board on 6 March 2023 and Full Council on 19 April 2023, Appendix A to this Scheme of Delegation will apply in relation to Planning Enforcement.

7. REVIEW DATE

7.1 This Scheme of Delegation will be reviewed by May 2024.

ITEMS FOR CLARIFICATION

A) For the purposes of this Scheme, 'application' includes:

applications for:

All types of planning permission
Reserved matters
Discharge, non-compliance or variation of conditions and minor amendments
Advertisement Consent
Listed Building Consent
Conservation Area Consent
Works to Trees subject to Tree Preservation Orders
Hazardous Substances Consent
Hedgerow Removals
Certificates of Lawful Development
Prior Notifications and Determinations in respect of agricultural and telecommunications developments together
Proposed Amendments to previously approved developments.

B) For the purposes of this Scheme, 'other legislation' includes:

Forestry Act 1967 Electricity Act 1989 Land Compensation Act 1961 Local Government (Miscellaneous	e.g. Felling Licences e.g. Overhead Lines e.g. Certificates of Alternative Development
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Provisions) Act 1982 Transport Act 1968	
e.g. Car Boot Sales Notices e.g. Goods Vehicle Licensing	

- C)** For the purposes of this scheme, “Consultee” means those organisations referred to in the table contained in Articles 18, 19 and 20, and Schedule 4 to the Town and Country Planning (Development Management Procedure) Order 2015, as amended.
- D)** For the avoidance of doubt and notwithstanding his general delegation in relation to urgent matters, the Chief Executive may also take any action which the Head of Development Control could take under this Scheme of Delegation.