

**This scheme of delegation is made under the powers contained in Section 101 of the Local Government Act 1972, the Town and Country Planning Acts, Part 8 of the Anti-social Behaviour Act 2003, the Council's Constitution and all other enabling powers. It was approved by the Regulatory and Appeals Committee of the Council on 11 August 2015 and took effect on 12 August 2015**

# **CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL**

**DEPARTMENT OF REGENERATION AND CULTURE**

**Scheme of Delegation of Planning Decisions 2015**

## **General Matters and Definitions**

1. When making decisions in the exercise of the following delegated powers the relevant officers shall act in their own name.
2. When issuing formal determinations on behalf of the Council (e.g., grants or refusals of planning permission, certificates of lawfulness), relevant officers shall do so in the name of the Strategic Director Regeneration and Culture or the Assistant Director of Planning, Transportation & Highways.
3. Any decision taken in pursuance of this scheme must comply with:-
  - a) any statutory requirements with regard to the matters to be taken into consideration in making the decision;
  - b) The Council's Constitution;
  - c) The general principles of the Human Rights Act 1998 & Equality Act 2010;
  - d) The Members' Planning Code of Conduct;
  - e) Any other relevant protocols adopted by the Council from time to time.
4. In exercising these powers, officers shall have regard to any relevant policies or plans adopted by the Council, and shall have general regard to the desirability of referring any matter to the Area Planning Panel/Regulatory and Appeals Committee for decision. Officers shall at all times be entitled to decline to exercise any of the powers delegated by this scheme and to refer the matter to a higher level of decision making.

5. Officers shall accede to any request in writing or by electronic format made (unless the matter relates to an item where the Council has previously made a decision relating to an identical or substantially similar application in the previous 24 months) by a member of parliament or ward councillor for the application site or for the constituency/ward where the applicant resides specifying the material planning issue upon which the request for referral is founded; or pursuant to a resolution of the Council or of a committee or sub-committee, that an item be referred to the next level of decision making as set out in this Scheme of Delegation for to the appropriate Area Planning Panel/Regulatory and Appeals Committee.

**For the avoidance of doubt, this provision does not apply with respect to applications made for Certificates of Lawfulness under C20, C21 and D4 of this Scheme of Delegation, applications made for approval of discharge of planning conditions under C27 and C28 of this Scheme of Delegation, or applications made for non material amendments of planning applications under C29 of this Scheme of Delegation.**

6. This scheme is additional to and without prejudice to the powers of the Strategic Director Regeneration or other relevant officer to make decisions under the general powers delegated to officers in the Council's Constitution.
7. For the avoidance of doubt no decision under this Scheme of Delegation shall be taken by any officer who has also written the relevant technical report for the item.
8. In this scheme of delegation an "application" includes all or any of the following:-
  - (i) an application for planning permission;
  - (ii) an application for listed building consent;
  - (iii) an application for advertisement consent;
  - (iv) an application for approval of reserved matters;
  - (v) an application for the grant of hazardous substance consent;
  - (vi) an application to carry out works to trees protected by a tree preservation order.
9. "Planning permission" means approval of an outline or full application for planning permission (including change of use).
10. "Enforcement Action" means authorising the issuing of:-
  - (i) a breach of condition notice;
  - (ii) an enforcement notice;
  - (iii) a listed building enforcement notice;
  - (iv) a Section 215 notice (adverse affect on amenity);
  - (v) a tree replacement notice;
  - (vi) a stop notice;

- (vii) a temporary stop notice;
  - (viii) an advertisement discontinuance notice, or
  - (ix) proceedings for an injunction to restrain a breach or impending breach of planning or related control.
11. Decisions shall not be made by any officer under this scheme of delegation which relate to applications which are for or are likely to involve:-
- (i) a development which is for or includes the provision of 150 or more dwellings except in the case of applications where the principle of development has already been established by a previous planning permission (for example applications seeking the renewal of a previous permission or variations of house types or similar changes on an already approved scheme)
  - (ii) a development which is for or includes the provision of over 5000 square metres of office, commercial or retail development except in the case of applications where the principle of development has already been established by a previous planning permission (for example applications seeking the renewal of a previous permission or variations of house types or similar changes on an already approved scheme)
12. Where reference is made in this scheme to a statute or statutory instrument, that reference shall include any statute or statutory instrument revoking and re-enacting the original statute or statutory instrument with or without modification.
13. For the avoidance of doubt any development which is EIA development as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 shall be determined under Part D of this scheme.

***The following powers to act on behalf of the Council as local planning authority are delegated.***

## **PART A**

### **Arboricultural Officers**

- A1 Power to authorise the making of Tree Preservation Orders
- A2 Power to determine applications for works on trees protected by Tree Preservation Orders and to impose appropriate conditions on any consent.
- A3 Power to decide to take no further action where notice of intent for works to a tree in a conservation area has been received.
- A4 Power to determine matters relating to the Hedgerows Regulations 1997.

## **PART B**

### **Senior Enforcement Officers**

- B1 Power to determine that no further action be taken in a complaint about a matter which could have been the subject of Enforcement Action where:-
- (a) it is considered that the matter complained of has not occurred, or
  - (b) that the matter complained of is not a breach of planning control, or does not otherwise fall within the statutory powers relating to Enforcement Action.
- B2 Power to determine whether development constitutes permitted development under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
- B3 Power to determine whether an advertisement has deemed consent to be displayed under the provisions of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.
- B4 Power to agree the detailed terms of any notice defined in General Matters and Definitions paragraph 10(i)-(v) previously authorised under paragraph C7 below or by the appropriate Area Planning Panel/Regulatory and Appeals Committee.

### **Planning Contravention Notices etc**

- B5 Power to issue a Planning Contravention Notice under Section 171C of the Town and Country Planning Act 1990.
- B6 Power to issue a requisition for information under section 330 of the Town and Country Planning Act 1990.

### **Closing enforcement cases**

- B7 Power to close an enforcement case or investigation into breaches of planning control where no significant matters remain outstanding or where, having consulted with the relevant Area Planning Panel or Regulatory and Appeals Committee chair, it is not considered expedient to take enforcement action with the exception of those matters referred to the respective Area Planning Panel and to the Regulatory and Appeals Committee for a decision.

Exercise of this power is subject to the requirement that where an officer proposes to make a decision that it is not expedient to take enforcement action with regard to a breach of planning control they shall accede to any request in writing or by electronic format from a Ward Councillor (received prior to a formal decision having been made) for the matter to be referred to the Area Planning Panel (or the Regulatory and Appeals Committee if appropriate) for a decision.

Any decision by an officer made under this power shall be reported to the appropriate Area Planning Panel/Regulatory and Appeals Committee for information.

## **PART C**

### **Principle Planning Officer (Minerals & Waste) & Senior Planning Officers (Development Management and Design and Conservation)**

The following powers to determine an application and make other determinations shall be exercised under this part provided no written representations to the proposal have been received, which are contrary to the recommendation of the relevant case officer, from:

- a Member of Council (subject to the provisions in Section 5);
- a Member of Parliament (subject to the provisions in Section 5);
- 6 or more individuals specifying the material planning issue(s).
- A petition signed by 6 or more individuals (where each individual appears to be from a separate address) specifying the material planning issue(s).

C1 All the powers under Parts A and B above.

#### **Householder Developments**

C2 Householder development within the curtilage of a dwelling house, except proposals to create a separate dwelling

#### **Domestic Garages**

C3 Construction of 1 or more garages used for domestic purposes on land outside a residential curtilage, such as on garage “colonies”.

#### **Accesses**

C4 Construction of vehicle accesses including dropped crossings

#### **Drainage**

C5 Septic tanks and soakaways

#### **Flats**

C6 Extensions and alterations to up to 9 existing flats

#### **Construction of up to 9 dwellings & Residential Annexes**

C7 Residential developments which provide between 1 and 9 dwellings inclusive (including replacement dwellings) or where the number of dwellings is not specified in the application, a site area of less than 0.5 hectares, and free standing residential annexes within the curtilage of a dwellinghouse (excluding proposals within the green belt except where it is proposed to refuse the application).

### **Change of Dwelling Type**

- C8 Change of dwelling type of between 1 and 9 dwellings inclusive on an approved residential scheme including where the residential element is part of an approved mixed-use scheme.

### **Non-residential Buildings & Extensions**

- C9 Construction of non residential buildings and extensions or additions to existing buildings, which is defined as “Minor” development by the Department of Communities and Local Government (or equivalent Department).

### **External Alterations, Engineering & Other Operational Development**

- C10 External alterations to non residential buildings, including new shop fronts, security measures (e.g. shutters/grilles), flues/ducts and satellite dishes.
- C11 Engineering or other operational development which is defined as “Minor” development by the Department of Communities and Local Government (or equivalent Department).

### **Changes of use**

- C12 Changes of use not defined as “Major” development by the Department of Communities and Local Government (or equivalent Department), including those where elements of new build and any material alterations to the building are included, subject, where residential units are being created, to between 1 and 9 dwellings inclusive .

### **Postal Boxes**

- C13 Postal pouch boxes

### **Variation etc of Planning Conditions**

- C14 Power to determine applications under Section 73 of the Town and Country Planning Act 1990 for the modification, variation or deletion of planning conditions.

### **Reserved Matters**

- C15 All reserved matters applications where siting and means of access have been previously approved except where, with respect to any particular application, this power has been reserved by the appropriate Area Planning Panel/Regulatory and Appeals Committee.

### **Regulation 3 Applications**

- C16 Power to determine applications under Regulation 3 of the Town and Country Planning General Regulations 1992 which are defined as “Minor” and “Other” development by the Department of Communities and Local Government (or equivalent Department).

### **Listed Buildings**

- C17 Extensions, alterations and demolition of Grade 1, Grade II\* and Grade II listed buildings under Section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990

### **Relevant Demolition**

- C18 Power to determine applications for relevant demolition of an unlisted building in a conservation area under section 70 of the Town and Country Planning Act 1990.

### **Advertisement Applications**

- C19 Power to determine advertisement consent applications advertisements under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

### **Certificates of Lawfulness**

- C20 Power to determine applications for Certificates of Lawfulness of Proposed Use or Development of land or buildings submitted under Section 192 of the Town and Country Planning Act 1990 (as amended).
- C21 Power to determine applications for Certificates of Lawfulness of Proposed works to a listed building submitted under Sections 26H & I of The Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Electricity**

- C22 11kv overhead power lines and notifications under Circular 14/90 (electricity generating stations and overhead lines).

### **Hazardous substances**

- C23 All hazardous substance consents where the presence of hazardous substances is not likely to have significant effects on the immediate locality.

### **Mineral planning consents**

- C24 Power to determine applications under the Environment Act 1995 for the review of mineral planning consents and new conditions in respect thereto.

### **Minerals, waste management, waste treatment and waste disposal proposals etc**

- C25 Power to determine applications for plant, machinery and buildings (where the gross floor space of the area upon which the plant or machinery is to be sited or of the building does not exceed 1000 sq metres) on operational waste management facilities (including facilities for the deposit treatment or storage of waste), mineral extraction or land reclamation sites or in respect of such sites where planning permission has been granted for such activities but the development has not yet been begun.

- C26 Power to determine applications for waste management facilities including facilities for the deposit treatment or storage of waste), where the gross floor area of the application site does not exceed 1000 sq metres, the proposed throughput does not exceed 50000 tonnes per annum and the waste is not municipal, hazardous, commercial or industrial waste.

### **Planning Conditions**

- C27 Power to approve and refuse details and other such matters required to be submitted by a planning condition under Article 30 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended);
- C28 Power to give written confirmation of compliance and non compliance with conditions imposed on permissions

### **Non Material Amendments**

- C29 Power to determine non-material amendments to planning applications in accordance with Section 96A of the Town and Country Planning Act 1990.

### **Decline to Determine**

- C30 Power to decline to determine applications under Sections 70A, 70B and 70C of the Town and Country Planning Act 1990
- C31 Power to decline to determine listed building applications under Sections 81A and 81B of the Planning (Listed Building and Conservation Areas) Act 1990.
- C32 Power to finally dispose of applications as defined in Article 36(13) of the Town and Country Planning (Development Management Procedure) (England) Order 2010

### **Prior Notification Applications**

- C33 Power to determine prior notification applications made under Part 6 (Agriculture & Forestry) of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995 (as amended) ("the GPDO")
- C34 Power to determine of prior notification applications made under Part 11 (Heritage & Demolition) of Schedule 2 of the GPDO (as amended)
- C35 Power to determine prior notification applications made under Part 16 (Communications) of Schedule 2 of the GPDO (as amended)
- C36 Power to determine prior notification applications made under Part 1 (House Extensions) of Schedule 2 of the GPDO (as amended)
- C37 Power to determine prior notification applications made under Part 3 (Changes of use) of Schedule 2 of the GPDO (as amended)
- C38 Power to determine prior notification applications made under Part 14 (Photovoltaics) of Schedule 2 of the GPDO (as amended)
- C39 Power to determine prior notification applications made under Part (Click & Collect Facilities) of Schedule 2 of the GPDO (as amended)



- C40 Power to determine prior notification applications made under Part 4 (Temporary Use of Buildings & Land for Film-making) of Schedule 2 of the GPDO (as amended)

**Planning Contravention Notices etc**

- C41 Power to issue a Planning Contravention Notice under Section 171C of the Town and Country Planning Act 1990.
- C42 Power to issue a requisition for information under section 330 of the Town and Country Planning Act 1990.

**Tree Preservation Orders etc**

- C43 Power to authorise the confirmation of Tree Preservation Orders.

**High hedges complaints**

- C44 Power to determine not to proceed with a complaint made under Part 8 of the Anti-social Behaviour Act 2003 where:
- (a) the complaint does not meet the relevant valid legal tests; or
  - (b) the complainant has not taken all reasonable steps to resolve the matters complained of without involving the Council; or
  - (c) the complaint is frivolous or vexatious.

**PART D**

**Delegation to Major Developments Manager, Area Planning Managers, Planning Manager (Enforcement and Trees) and Team Leader Landscape, Design and Conservation**

- D1 All the powers under Parts A, B and C above but without the restrictions imposed by the recitals to those Parts, together with the following powers.

**General**

- D2 Subject only to the need to have regard to the impact, sensitivity and possible controversial nature of any proposal and the corresponding need where this applies to refer the matter to the appropriate Area Planning Panel/Regulatory and Appeals Committee power, and to article 11 of General Matters and Definitions above, to make decisions on behalf of the Council on all planning matters that are under the Council's Constitution the responsibility of the Area Planning Panels and the Regulatory and Appeals Committee. This includes the power to determine applications made on behalf of the Council under Regulations 3 and 4 of the Town and Country Planning General Regulations 1992.

### **Regulation 4 Applications**

- D3 Power to determine applications under Regulation 4 of the Town and Country Planning General Regulations 1992 which are defined as “Minor” and “Other” development by the Department of Communities and Local Government (or equivalent Department).

### **Lawful Development Certificates**

- D4 Power to determine applications made for Certificates of Lawfulness of Existing Use or Development of land or buildings under Section 191 of the Town and Country Planning Act 1990 (As amended).

Planning obligations and Section 278 agreements - Authorised by Panel or Committee

- D5 After receiving general authorisation from the appropriate Area Planning Panel, the Regulatory and Appeals Committee or Council (and subject to consulting with the Legal and Democratic Services Director on content and drafting), the power to approve the detailed provisions of any planning obligations under Section 106 or 106A of the Town and Country Planning Act 1990 and related agreements under Section 278 of the Highways Act 1980, or similar such enabling powers.

### **Planning obligations and Section 278 agreements - Authorised by Officers**

- D6 Power to authorise the entering into, modification or variation of, and the acceptance of, planning obligations, including (subject to consulting with the Legal and Democratic Services Director on content and drafting) approving the detailed provisions of such documents under Section 106 or 106A of the Town and Country Planning Act 1990 and related agreements under Section 278 of the Highways Act 1980, or similar such enabling powers.

### **Discharge of Planning Obligations**

- D7 Power to certify the discharge of any planning obligations entered into under Section 106 or 106A of the Town and Country Planning Act 1990 and related agreements under Section 278 of the Highways Act 1980, or similar such enabling powers.

### **Screening & Scoping Opinions**

- D8 Power to determine screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

### **Enforcement Action (excluding Stop Notices and Injunctions)**

- D9 Power to authorise Enforcement Action as defined in General Matters and Definitions paragraph 10(i)-(v) only, where the breach of planning control relates to development which, had an application been made for such development, it could have been determined under delegated powers in Part A or C or this Part of this scheme. In all cases regard shall be given to the seriousness, magnitude and effect of the breach.

In authorising Enforcement Action the relevant officer must ensure that:-

- (i) a written report is prepared and submitted detailing the alleged breach of control, the planning history and the material planning considerations; and
- (ii) a formal minute of the decision is prepared and signed detailing the alleged breach, the steps required to remedy the breach, the time limit for compliance and the reasons why it is expedient for a notice to be issued/served.

Any enforcement Action authorised under this power shall be reported to the appropriate Area Planning Panel/Regulatory and Appeals Committee for information.

#### **Enforcement Action (content of notice)**

- D10 Power to agree the detailed terms of any notice defined in General Matters and Definitions paragraph 10(i)-(v) previously authorised under paragraph D9 above or by the appropriate Area Planning Panel/Regulatory and Appeals Committee.

#### **High hedge remedial notice etc**

- D11 Power to determine whether a high hedge affects the complainant's reasonable use of their property, and if so, what action should be taken to remedy the problems caused by the high hedge and to prevent them from recurring.
- D12 Power to issue a remedial notice under Part 8 of the Anti-social Behaviour Act 2003.

#### **Prosecutions**

- D13 Power to authorise prosecution proceedings for non-compliance with any of the following:-
- a) an enforcement notice;
  - b) a breach of condition notice;
  - c) a planning contravention notice;
  - d) a listed building enforcement notice;
  - e) an advertisement discontinuance notice;
  - f) a section 215 notice (adverse affect on amenity);
  - g) a tree replacement notice;
  - (h) a stop notice or a temporary stop notice;
  - (i) a remediation notice under part 8 of the Anti-social Behaviour Act 2003;
  - (j) a section 330 notice; or

- (k) any other offences committed under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, Advertisement Regulations 2007 (unauthorised advertisements) or the Planning (Hazardous Substances) Act 1990.

D14 Power to authorise action in default in respect of matters relating to the following:

- a) an enforcement notice;
- b) a breach of condition notice;
- d) a listed building enforcement notice;
- e) an advertisement discontinuance notice;
- f) a section 215 notice (adverse affect on amenity);
- g) a tree replacement notice;
- h) a remediation notice under part 8 of the Anti-social Behaviour Act 2003;

## **PART E**

### **Delegation to the Strategic Director Regeneration and Culture, Assistant Director Planning, Transportation & Highways, Development Services Manager and Planning and Transport Strategy Manager**

E1 All the powers under Parts A, B, C and D but without the restrictions imposed by the recitals to those Parts, together with the following powers.

#### **General**

E2 Power to make decisions on behalf of the Council on all planning matters that are under the Council's Constitution the responsibility of the Area Planning Panels and the Regulatory and Appeals Committee (subject to article 11 of General Matters and Definitions above).

#### **All Enforcement Action (including stop notices, temporary stop notices and injunctions).**

E3 Power to decide to take any Enforcement Action as defined in General Matters and Definitions Paragraph 10, including agreeing the detailed terms of any notice subject to the same provisos as set out under D9 above.

E4 Where a stop notice is proposed, the power to determine any special reasons justifying the shortening of the time period by when the Stop Notice takes effect (to be recorded in writing), and in all cases before use of the power to carry out a cost/benefit analysis as to why a stop notice should be issued.

E5 Power to determine that proceedings be begun to obtain an Injunction to restrain any actual or apprehended breach of planning control.

Any Enforcement Action authorised under these powers shall be reported to the appropriate Area Planning Panel/Regulatory and Appeals Committee for information.

- E6 Power to determine applications for EIA development as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011

## **PART F**

### **Delegation to the Principal Environmental Services Manager, the Principal Health Protection Manager and the Head of Service (Environmental Protection)**

#### **Section 215 Notices**

- F1 Power to issue a notice under Section 215 of the Town and Country Planning Act 1990 following consultation with the relevant Area Planning Manager and to agree the detailed terms of any such notice.
- F2 Power to determine to take the steps required by a section 215 notice where the recipient has failed to comply with it, and to recover the costs of taking such steps from the owner of the land.
- F3 Power to authorise prosecution proceedings for non-compliance with the terms of a section 215 notice.
- F4 Provided that any decision to issue a Section 215 notice or prosecution authorised under this power shall be reported to the appropriate Area Planning Panel/Regulatory and Appeals Committee for information.