

REPORT OF:	THE STRATEGIC DIRECTOR PLACE
TO:	PLANNING AND HIGHWAYS COMMITTEE
ON:	16th SEPTEMBER 2021
ORIGINATING SECTION:	PLANNING SERVICE
WARDS AFFECTED:	ALL
COUNCILLORS:	ALL

TITLE OF REPORT:

Revisions to the Officer delegated planning powers for the Strategic Director of Place

1.0 PURPOSE OF THE REPORT

1.1 To seek agreement to the changes to the scheme of delegation to officers in respect of planning applications.

2.0 BACKGROUND & RATIONALE

2.1 The Scheme of Delegation was previously changed and approved by the Council Forum in October 2015 in relation to Central Government's performance regime on which local planning authorities are measured, and was then updated on the 22nd July 2021, to take account of the recent changes to the Strategic Director's portfolio responsibilities. Since that time in 2015, Government have revised their definitions of planning application categories, which need to be reflected in the current officer scheme of delegation – pages 84-85 of the Council's Constitution (refer to Appendix 1 attached to this report).

3.0 PROPOSAL

3.1 It is proposed to make the scheme of delegation more clearer, precise and easier to understand for officers and the layperson. In 2016, Central Government removed the "largescale major" category, so it is proposed to remove this definition. In addition, it is considered necessary to clarify what is meant by the "development plan", and also "commercial development". A couple of functions (transport, and markets etc) are also showing as being removed as they have been moved to the Director of Place, which are reflected in the July 2021 changes to the constitution (refer to Appendix 2 attached to this report).

3.2 The reciprocal amendments to the Planning and Highways Committee powers are referred to in Appendix 3 of this report.

4.0 POLICY IMPLICATIONS

4.1 None

5.0 FINANCIAL IMPLICATIONS

5.1 None.

6.0 LEGAL IMPLICATIONS

6.1 Changes to the Officer Scheme of Delegation and powers of the Planning & Highways Committee will require amendments to the Constitution and subject to approval from the Council at the next Council Forum meeting.

7.0 RESOURCE IMPLICATIONS

7.1 None.

8.0 EQUALITY IMPLICATIONS

8.1 None.

9.0 CONSULTATIONS

9.1 These new changes have been presented to the Cross Party Member's Planning Working Group at their meeting on the 14th September 2021.

10.0 RECOMMENDATION

10.1 To recommend that the changes are presented to the next available Council Forum on the 7th October 2021, to allow for the Council's Constitution to be amended relating to the Scheme of Delegation and the powers of the Planning & Highways Committee.

Contact Officer: Gavin Prescott, Planning Manager (Development Management)
Date: 26th August 2021
Background Papers: None

**APPENDIX 1:
CURRENT OFFICER SCHEME OF DELEGATION (STRATEGIC DIRECTOR OF
PLACE) – PAGES 84 – 85 (COUNCIL CONSTITUTION (JULY 2021)):**

STRATEGIC DIRECTOR PLACE

All powers shall be exercised in compliance with the law and the Council's Constitution, policies, rules and controls issued by the Council from time to time including specifically the Financial Procedure Rules and the Contract and Procurement Procedure Rules

The Strategic Director be authorised to exercise all the Authority' powers, functions and responsibilities in relation to services delivered by the Place Departments.

Planning Powers

- 1 To seek planning permission on behalf of the Council.
- 2 To determine applications for planning permission, except where one or more of the following apply:
 - 2.1 The application is one of the following:
 - A largescale major development as defined within the definition for the time being prescribed by central government from time to time and is not for 'Commercial Development' (see paragraph 3 below).
 - A Smallscale Major Development for dwellings where the number of residential units to be constructed is over 50. However, where the number of dwellings to be constructed is not given in the application then for a site area of 2 hectares or more. For all other uses a Smallscale Major Development is one where the floor space to be built is 1,000 square metres or more or where the site area is 2 hectares or more,

and is not for 'Commercial Development' as defined in paragraph 3 below.

and is not for Commercial Development as defined in paragraph 3 below.

NOTE: Smallscale Major Developments for the construction of less than 50 dwellings and Minor Developments are delegated to the Strategic Director.

- 2.2 The decision would be contrary to the development plan or prejudicial to Council policy;
- 2.3 The application is referred to the Planning & Highways Committee under the Member Referral Scheme;
- 2.4 The Chair (or the Vice-Chair in his/her absence) of the Planning & Highways Committee has requested that the application be determined by the Committee;
- 2.5 The application is by or on behalf of a Member of the Council;
- 2.6 The application is by or on behalf of the Council's senior management team, a service unit head, an officer of the Planning Service or any other officer with direct input to, and therefore could influence the application

PROVIDED ALWAYS that in circumstances where the Strategic Director Place has notified the Chair (or the Vice Chair in his/her absence) of the Planning & Highways Committee that a 'Performance Trigger' (as defined below) is met, exceptions 2.1 to 2.4 above will not apply, and the Strategic Director Place shall determine those planning applications in consultation with the Chair (or the Vice Chair in his/her absence) of the Planning & Highways Committee.

A Performance Trigger will be met if the Council's performance as regards the speed of determining planning applications, as measured against performance indicators set from time to time by Central Government, has fallen or is about to fall below a level which would result in the Council's Planning Service being placed in Special Measures.

3. For the purposes of applying these delegation arrangements, "**Commercial Development**" is defined as new building, a change of use, or alterations to existing buildings, which is proposed on land that is designated as industrial/business development land in the adopted Local Plan, AND which is in one or more of the following categories:
 - 3.1. All uses falling within Use Classes A and B of the current Town and Country Planning (Use Classes) Order;
 - 3.2. Any use, including Sui Generis uses, not falling into these Use Classes but determined by the Strategic Director Place to be similar in nature;
 - 3.3. Any use which is not one of the uses set out in 3.1 or 3.2, but which is applied for as part of a planning application which also includes one or more of those uses.
4. To determine applications in relation to protected trees and hedgerows and issue any subsequent Orders arising from such applications.

5. To determine applications for lawful development certificates.
6. To authorise the service of planning contravention notices, breach of condition notices and stop notices and any other subsequent actions under Part VII of the Town and Country Planning Act 1990 (or equivalent replacement or re-enactment) except action under Section 178 (including Section 215 notices).
7. To deal with formal complaints and to set and adjust fees in relation to formal complaints under the Anti-Social Behaviour Act 2003 (Part 8, High Hedges Legislation).
8. Where urgent action is required and following consultation with the Chair of the Planning and Highways Committee to exercise all powers of the Council as local planning authority including the service of enforcement notices, stop notices, planning contravention notice or breach of condition notice, building preservation notices and to authorise applications for injunctions in respect of breaches of planning control and listed buildings
9. To determine on all matters relating to all Prior Notification/Prior Approval applications made under the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2013."
10. To exercise the functions relating to building control.
11. To manage the delivery of the Council's Growth Programme for employment, housing and town centre development sites.
12. To exercise all the functions of a commons registration authority and of a town or village green registration authority save for decisions (1) to amend the Register of Commons and the Register of Town or Village Greens and (2) to set fees.
13. To consider and determine Reviews of the Listing of Assets of Community Value under the Assets of Community Value (England) Regulations 2012, following consultation with the Executive Member for Finance & Governance and the Executive Member for Growth & Development and other consultees as appropriate. Powers and duties relating to the corporate property including buildings and assets of the Council.
15. Responsibility for the development of corporate plans and longer term strategies for future growth and prosperity of the Borough.
16. Responsible for the 'Hive' and key relationships with private sector business in the Borough including Growth Lancashire.

APPENDIX 2 – PROPOSED CHANGES OFFICER SCHEME OF DELEGATION (STRATEGIC DIRECTOR OF PLACE)

The Planning Powers of the delegations (page 84-85) would read:

- 1 To seek planning permission on behalf of the Council.
- 2 To determine applications for planning permission, except where one or more of the following apply:
 - 2.1 the application comprises one of the following:
 - residential proposals for more than 50 dwellings or a site area of 2 hectares or more where the number of dwellings is not specified; or
 - non-residential proposals where the floor space to be built is 1,000 square metres or more, or where the site area is 2 hectares or more.
 - NOTE: This does not apply in relation to an application for a ‘Commercial Development’ (as defined in paragraph 3 below) and the Strategic Director Place shall have delegated powers to determine all applications for ‘Commercial Development’ (as defined and referred to in paragraph 3 below).
 - 2.2 The decision would be contrary to the development plan (as defined in Section 38 of the Planning and Compulsory Purchase Act 2004);
 - 2.3 The application is referred to the Planning & Highways Committee under the Member Referral Scheme;
 - 2.4 The Chair (or the Vice-Chair in his/her absence) of the Planning & Highways Committee has requested that the application be determined by the Committee;
 - 2.5 The application is by or on behalf of a Member of the Council;
 - 2.6 The application is by or on behalf of the Council’s senior management team, a service unit head, an officer of the Planning Service or any other officer with direct input to, and therefore could influence the application.

PROVIDED ALWAYS that in circumstances where the Strategic Director Place has notified the Chair (or the Vice Chair in his/her absence) of the Planning & Highways Committee that a ‘Performance Trigger’ (as defined below) is met, exceptions 2.1 to 2.4 above will not apply, and the Strategic Director Place shall determine those planning applications in consultation with the Chair (or the Vice Chair in his/her absence) of the Planning & Highways Committee.

A Performance Trigger will be met if the Council’s performance as regards the speed of determining planning applications, as measured against performance indicators set from time to time by Central Government, has fallen or is about to fall below a level which would result in the Council’s Planning Service being placed in Special Measures.

3. For the purposes of applying these delegation arrangements, the Strategic Director Place may determine planning applications for “Commercial Development”, which is defined as new building, a change of use, or alterations to existing buildings or structures, which is proposed on land that is designated as an employment land

allocation, a primary employment area or a secondary employment area in the adopted Local Plan, AND which is in one or more of the following categories:

- 3.1. All uses falling within Use Classes B, E and F2(a) of the Town and Country Planning (Use Classes) Order (as amended);
- 3.2. Any use, including Sui Generis uses, not falling into these Use Classes but determined by the Strategic Director Place to be similar in character;
- 3.3. Any use which is not one of the uses set out in 3.1 or 3.2, but which is applied for as part of a planning application which also includes one or more of those uses.
4. To determine applications in relation to protected trees and hedgerows and issue any subsequent Orders arising from such applications.
5. To determine applications for lawful development certificates.
6. To authorise the service of planning contravention notices, breach of condition notices and stop notices and any other subsequent actions under Part VII of the Town and Country Planning Act 1990 (or equivalent replacement or re-enactment) except action under Section 178 (including Section 215 notices).
7. To deal with formal complaints and to set and adjust fees in relation to formal complaints under the Anti-Social Behaviour Act 2003 (Part 8, High Hedges Legislation).
8. Where urgent action is required and following consultation with the Chair of the Planning and Highways Committee to exercise all powers of the Council as local planning authority including the service of enforcement notices, stop notices, planning contravention notice or breach of condition notice, building preservation notices and to authorise applications for injunctions in respect of breaches of planning control and listed buildings.
9. To determine on all matters relating to all Prior Notification/Prior Approval applications made under the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town & Country Planning (General Permitted Development) (Amendment) (England) Order 2013.”
10. To exercise the functions relating to building control.
11. To manage the delivery of the Council’s Growth Programme for employment, housing and town centre development sites.
- ~~12. To exercise the Council’s functions in relation to public transport.~~
- ~~13.~~ 12 To exercise all the functions of a commons registration authority and of a town or village green registration authority save for decisions (1) to amend the Register of Commons and the Register of Town or Village Greens and (2) to set fees.
14. 13 To consider and determine Reviews of the Listing of Assets of Community Value under the Assets of Community Value (England) Regulations 2012, following consultation with the Executive Member for Finance & Governance and the Executive Member for Growth & Development and other consultees as appropriate. Powers and duties relating to the corporate property including buildings and assets of the Council.
- ~~15. To take action in connection with the Management of the Borough’s Market undertakings and Fairs.~~

~~16. To approve Temporary Markets with charitable elements subject to conditions set out.~~

.14 Responsibility for the development of corporate plans and longer term strategies for future growth and prosperity of the Borough.

15. Responsible for the 'Hive' and key relationships with private sector business in the Borough including Growth Lancashire.

APPENDIX 3 - PLANNING AND HIGHWAYS COMMITTEE - Planning Powers (Proposed reciprocal amendments)

The Committee shall have the power to exercise the Council's powers as local planning authority to:

- a) Determine applications for planning permission and to grant permission for development already carried out,
- b) Decline to determine an application for planning permission,
- c) Determine applications to develop land without compliance with conditions,
- d) Make determinations, give approvals and agree other matters in respect of permitted development rights in accordance with Schedule 2 parts 6,7,11,17,19,20,21 to 24, 26, 30 and 31 of the Town and Country Planning (General Permitted Development) Order 1995,
- e) Authorise the entering of agreements regulating development or the use of land,
- f) Issue a certificate of existing or proposed lawful use or development,
- g) Authorise the serving of a completion notice,
- h) Determine applications for consent for the display of advertisements,
- i) Require the discontinuance of a use of land,
- j) Authorise the issue of enforcement notices, stop notices, planning contravention notices breach of condition notices, building preservation notices, any other subsequent actions under Part VII or the Town and Country planning Act 1990 (or equivalent replacement or re-enactment) including section 178 of that Act and to authorise applications for injunctions in respect of breaches of planning control and listed buildings,
- k) Determine applications for hazardous substances consent and related powers,
- l) Determine conditions relating to mining sites,
- m) Require the proper maintenance of land,
- n) To authorise all action in respect of High Hedges Legislation under Anti-Social Behaviour Act 2003,
- o) Determine applications for listed building consent and conservation area consent,
- p) Serve a building preservation notice and related powers and the power to execute urgent works under the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990

NOTE:

The powers of the Planning and Highways Committee do not include agreeing development briefs, removing permitted development rights or declaring conservation areas. These are all Executive functions.

In relation to the above planning powers the following applications shall be referred to the Planning and Highways Committee:

- 1) Where the decisions would be contrary to the development plan (as defined in Section 38 of the Planning and Compulsory Purchase Act 2004).
- 2) Where the application is a residential proposals for more than 50 dwellings or a site area of 2 hectares or more where the number of dwellings is not specified.
- 3) Where the application is a non-residential proposal where the floor space to be built is 1,000 square metres or more, or where the site area is 2 hectares or more. 4) Where the application fulfils the requirements of the current Members Referral Scheme. (See below)
- 5) Where the application is by or on behalf of a Member of the Council.
- 6) Where the application is by or on behalf of the Council's senior management team, a service unit head, an officer of the Planning Service, or any other officer with direct input to, and therefore could influence the application.