

Appendix 1 – Amendments to the Constitution

Article 14 – Finance, Contracts and Legal Matters

14.05 Common Seal of the Council (*amendments in track changes*)

The Common Seal of the Council will be kept in the custody of the Council Solicitor/~~Strategic Head of Legal Service - s~~Legal and Governance. A decision of the Council, or of any part of it under the Constitution, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Council Solicitor/ Strategic Head Service – Legal and Governance should be sealed. s ~~or by one of them and either the Director of HR, Governance & Engagement, the Chief Executive~~ The affixing of the Common Seal will be attested by either the Chief Executive, the Council Solicitor/Strategic Head Service - Legal and Governance or any person authorised in writing by either of them and an entry of every sealing of a document shall be made in a book to be provided for the purpose and shall be signed by the person ~~or persons~~ who ~~have~~ has attested the Seal.

Part 3 Section 16 – Officer Scheme of Delegation

Director of HR, Governance & Engagement (Vacant 13/09/21) (*amendments in track changes*)

7. To approve land transactions in accordance with the Council's Financial Regulations and (subject to recommendations by the Head of Growth and Development) approve all claims for compensation under Part 1 of the Land Compensation Act 1973

Strategic Director Place

Planning Powers - (proposed amended provisions)

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 is 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;
 - 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 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.
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.

Part 3, Section 3 Planning & Highways Committee

Planning Powers – (Proposed amended provisions)

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.