

# Planning and Building Control Scheme of Delegation

## Harrow Council Planning Committee

### DELEGATION TO THE DIVISIONAL DIRECTOR OF PLANNING

[16 November 2011]

Key:  
Bold italic text = New provisions  
Plain text = same/substantially the same

#### General Matters

1. The Divisional Director of Planning is authorised specifically to act in exercise of the functions of the Planning Committee in respect of all applications and matters set out in the categories listed in Parts 1, 2 and 3 of this scheme of delegation subject to the restrictions and conditions indicated.

2. ***Any reference to an Act of Parliament, Regulation or Order in this scheme of delegation shall be deemed to include reference to any statutory re-enactment or replacement thereof for the time being in force***

3. ***The powers set out in this scheme of delegation shall apply to the Divisional Director of Planning (or any equivalent replacement post).***

#### Provisos to Part 1, Part 2 and Part 3

Unless otherwise indicated, this scheme of delegation is given subject to the following provisos:

- A) ***All decisions must be taken in accordance with the Principles of Delegation which state that "Officers should exercise delegated powers unless, in their opinion, the matter should be decided by Members". Examples of matters which should be determined by Members include matters not covered by an approved policy or guidance; those with unusual features; matters which may have political or other significance; or public interest matters.***
- B) Where the Chair of the Planning Committee or a Nominated Member has requested ***in writing*** that an application or a matter covered in Part 1 or Part 3 of this scheme of delegation be reported to the Planning Committee ***and the request has not been resolved under the procedures outlined in the Member Referral Protocol***, such application/matter shall not be decided under the delegated powers granted by this scheme of delegation;
- C) The powers granted under Part 1 of this scheme of delegation shall not extend to an application which involves development:
- (i) on land owned by the Council save for applications falling within category 1(h) of Part 1 of this scheme of delegation; or
  - (ii) on land owned by an employee of the Council (or the spouse/partner of such an employee); or
  - (iii) on land in which a member (or the spouse/partner of such a member) has an interest
- D) No application shall be approved under this scheme of delegation where, in the opinion of the Divisional Director of Planning Services, the proposals constitute a ***material*** departure from the policies in the Development Plan for the time being applicable in the borough or the proposals ***materially*** conflict with national guidance or guidance contained in an adopted Supplementary Planning Document.
- E) No application shall be approved under this scheme of delegation where, in the opinion of the Divisional Director of Planning Services, the proposals would have a significant impact on the environment, would be potentially controversial, or otherwise likely to be of significant public interest
- F) Any decision on taking enforcement action on matters falling within Part 3 of this scheme of delegation shall be reported to the Planning Committee.

- G) These provisos are particularly important for matters that will require additional financial resources or have a potential adverse impact on the Council's reputation, such as Injunctions, Stop Notices and Temporary Stop Notices.

## **Part 1**

### **General Development Management**

#### 1. Applications for Planning Permission

To determine applications for planning permission in the circumstances listed in (a) to (h) below:

- (a) All residential extensions and related development, including:
- Extensions and alterations
  - Erection of domestic garages or car ports
  - Erection of ancillary garden buildings
  - Fences and other means of enclosure
  - Hardstandings
  - Means of access
  - Satellite antennae
- (b) Applications for construction of up to two new dwellinghouses.
- (c) Minor<sup>1</sup> development within the curtilage of non-residential buildings, including, but not limited to:
- Shopfronts
  - Material alterations to elevations
  - Single and/or first floor storey rear or side extensions of up to an including 400m<sup>2</sup> floorspace
  - Installation of satellite antennae
  - Provision and alteration of parking areas
  - Fencing and other means of enclosure
  - Plant and machinery
  - Other operations
- (d) Development of up to and including 400m<sup>2</sup> of non-residential floorspace or involving up to 0.1ha of land
- (e) Residential conversions to provide up to and including 6 units in the following buildings:
- single family dwellinghouses
  - houses in multiple occupation
  - non-residential premises
- (f) Changes of use of up to and including 400m<sup>2</sup> of floorspace
- (g) Provision of means of access to a highway
- (h) Minor development of up to and including 100m<sup>2</sup> of floorspace on land/building owned, or where an interest is held by, the Council including:
- disabled access facilities
  - small extensions to schools
  - storage buildings etc.

#### 2. Applications for Listed Building Consent on Area Consent

***To determine applications for listed building consent:***

***- in cases where a companion application for planning permission falling within category 1 (a), (b), (c), (d), (e), (f) and (h) above has been submitted to the Council***

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<sup>1</sup> Development that does not fall within the category of "Major". Major development is defined as development of 10 or more dwellings or residential development on sites of 0.5ha or more, or in the case of non-residential, floorspace of 1000m<sup>2</sup> or more, or with a site area of 1ha or more

**- in cases where the Planning Committee has delegated authority for the determination of the planning application for the same development to the Divisional Director of Planning Services**

**-in all other cases involving minor external or minor internal alterations to Grade II listed buildings including new shop fronts and security measures**

3. Applications for Conservation Area Consent

To determine applications for conservation area consent:

- in cases where a companion application for planning permission falling within category 1 (a), (b), (c), (d), (e), (f), (g) and (h) above has been submitted to the Council; or
- in all other cases where the Planning Committee has delegated authority for the determination of the planning application for the same development

4. Advertisement Consent Applications

To exercise the Council's functions in relation to applications for consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the London Local Authorities Act 1995

5. Certificates of Lawful Use or Development

- (a) To determine applications for certificates of lawfulness for all existing use or development submitted under section 191 of the Town and Country Planning Act 1990
- (b) To determine applications for certificates of lawfulness for all proposed use or development submitted under section 192 of the Town and Country Planning Act 1990

6. Permitted Development Prior approvals:

-To determine, before the exercise of a permitted development right, whether the prior approval of the local planning authority will be required for development in the following categories:

- (a) Telecommunications Development comprising the erection, installation or replacement of the following:
  - **telecommunications masts and apparatus**
  - public call boxes
  - **equipment cabins for the delivery of telecommunications services**
  - radio equipment housing with a volume less than 2.5m<sup>3</sup>
  - development ancillary to radio equipment
- (b) Agricultural Buildings and Operations
- (c) Demolition of Buildings
- (d) **Postal boxes used for the distribution of letters/mail**

**- Where the local planning authority gives notice that prior approval is required for developments falling within categories 6 (a) to (d) above, to grant or refuse such approval pursuant to the Town and Country Planning (General Permitted Development) Order 1995 (as amended)**

7. Variation of Conditions

To determine all applications to modify or delete conditions previously attached to a planning permission, except where in the opinion of the Divisional Director of Planning Services, the application raises substantial amenity issues or affect the validity or basis of the original planning permission

8. Approval of Reserved Matters and Details Pursuant to Conditions

- (a) To determine all applications for approval of reserved matters, required by a condition on an outline planning permission **except where this power has been reserved by the Planning Committee on any particular application**
- (b) To determine applications for the discharging of details pursuant to planning conditions **except where this power has been reserved by the Planning Committee on any particular application.**

9. Amendments of conditions post Committee Decision

**To modify conditions imposed by the Planning Committee post the committee decision on the relevant application/item in the following instances:**

- in order to conform with stage II consultation responses received from the Greater London Authority

- where the Planning Committee has expressly delegated authority to modify the condition or conditions to the Divisional Director of Planning Services

10 **Minor Material Amendments**

To determine all applications made under section 73 of the Town and Country Planning Act 1990 for minor material amendments to existing planning permissions.

11 **Non-Material Amendments**

To determine all applications made under section 96A of the Town and Country Planning Act 1990 for non-material amendments to existing planning permissions

12 **Consultation from Other Authorities**

- (a) To consider and respond to consultations or notifications from neighbouring authorities, statutory undertakers or other bodies
- (b) To consider and respond to all consultations by a Government Department, non Departmental Governmental Organisation or other Regional Agency or organisation on behalf of the Local Planning Authority.
- (c) **To respond to and participate in the development of statutory development plan documents and guidance prepared by other Local Planning Authorities, individually or jointly.**

13. **Petitions**

To consider petitions received to applications falling within any of the categories listed in this schedule of delegation and to determine the relevant application unless, in the reasonable opinion of the Divisional Director of Planning Services, the application should be referred to the Planning Committee

14 **Departures from Development Plan**

To decide whether, in the opinion of the Divisional Director of Planning Services, a planning application constitutes a **material** departure from the development plan, and to decide whether the application should be referred to the Secretary of State, or the Greater London Authority

15 **Publicity on Planning Applications and Related Matters**

To decide the level of publicity required for planning and related applications under the terms of Circular 15/92, the Town and Country Planning (Development Management Procedure) (England) Order 2010, the Town and Country Planning (General Permitted Development) Order 1995 as amended, and the Council's Statement of Community Involvement

16. **Planning Appeals**

- To prepare, submit and present the Council's statement or case at planning or enforcement appeals including the submission of conditions and claims for costs
- **On behalf of the LPA, to respond to notification from PINS regarding the procedure to be adopted for determination of a planning or enforcement appeal made against the LPA**

17. **Extensions to time limits for Implementing Permissions**

To determine applications for extensions to the time limits for implementing planning permissions granted under delegated authority on or prior to 1<sup>st</sup> October 2009 unless the power to do so has been revoked by legislation

18. **Environmental Impact Assessment**

In accordance with the requirements of the relevant Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations:

- (a) Screening opinion
  - (ii) To consider whether an applicant needs to submit an Environmental Impact Assessment (EIA) with a planning application
  - (ii) To determine, where requested, any written requests from prospective applicants for a "screening opinion" on the need to submit an EIA with a planning application
- (b) Scoping opinion
  - To determine written requests for a "scoping opinion" about the information required in an EIA

19. **Stopping Up and Diversion Orders**  
**In consultation with the Highways Authority to determine applications for stopping up, diversion and creation of highways or extinguishment of rights over highways made under Part X of the Town and Country Planning Act 1990**
20. Tree Preservation  
 (a) To determine applications for consent for the cutting down, topping, lopping, or felling of trees subject to a Tree Preservation Order (or trees in Conservation Areas not protected by a Tree Preservation Order) or consents to carry out other works to such trees under the provisions of the Town and Country Planning Act 1990 and associated legislation and regulations except where a decision to refuse consent would involve the payment of compensation  
 (b) **To make and confirm provisional Tree Preservation Orders and other Tree Preservation Orders**  
 (c) **To authorise the planting of a replacement tree where unauthorised works have been carried out on an unprotected tree in a conservation area or a tree subject to a Tree Preservation Order**
21. Conservation Areas and Areas of Special Control  
 To exercise the Council's functions in relation to conservation areas, listed buildings and areas of special control that have been designated and defined by the Council or Cabinet under the Town and Country Planning Act 1990 and/or the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant Town and Country Planning (Control of Advertisements) Regulations respectively.
22. **Section 106 Obligations**  
 (a) **To authorise the negotiation, preparation and execution of agreements under Section 106 of the Town and Country Planning Act 1990 in respect of applications falling within Part 1 of this schedule of delegation**  
 (b) **To determine applications for modification, variation or discharge of all planning obligations made under Section 106A of the Town and Country Planning Act 1990 unless, in the reasonable opinion of the Divisional Director of Planning Services, the application should be referred to the Planning Committee**
23. Strategic Planning  
 To keep under review matters affecting the development of the Borough and to institute surveys as required under the Local Authorities (Functions & Responsibilities)(England) Regulations 2000 as amended, subject to periodic progress reports being made to Cabinet and Planning Committee.
24. Fees  
 To determine the level of fees payable for applications submitted to the local planning authority
25. **Validity of Applications**  
**To determine whether any application submitted to the local planning authority constitutes a valid application**
26. **Power to decline to determine applications**  
**To decline to determine applications in accordance with sections 70A and 70B of the Town and Country Planning Act and Sections 81A and 81B of the Planning (Listed Buildings and Conservation Areas) Act 1990**
27. Nature Conservation  
 To make an assessment under the Conservation (Natural Habitats and Conservation) Regulations 1994 where an objection is lodged on conservation grounds by a statutory consultee

## **Part 2**

### **Building Control**

1. **Applications under the Building Act and Regulations**

*To determine all applications made to the local authority under the Building Act 1984 (and the regulations made pursuant to that Act) including applications for relaxation of building regulations*

2. **Initial Notices etc**

*To discharge the Council's functions related to the acceptance or rejection of Initial Notices and/or Amendment Notices submitted by approved inspectors under section 47 of the Building Act 1984*

3 **Deposit of Plans**

*- To pass, reject or rescind plans of proposed work deposited with the local authority under the Building Act 1984 (and any relevant regulations made pursuant to that Act)  
- Pursuant to section 32 of the Building Act 1984, to determine that the deposit of plans with the local authority is of no effect*

4. **Notices**

*To authorise the issuing and service of all notices and orders required under the Building Act 1984 (and any regulations made under that Act)*

5 **Certificates**

*To authorise the issuing of all certificates required under the Building Act 1984 (and any regulations made under that Act)*

6 **Fees**

*To determine the level of fees for chargeable building control functions and advice pursuant to the Building (Local Authority Charges) Regulations 2010*

7 **Appeals**

*To prepare, submit and present the Council's case at appeals instituted by or against the local authority under the Building Act 1984 (or any regulations made under that Act)*

## **Part 3**

### **Enforcement**

#### **1. Enforcement (General)**

##### Planning Contravention Notices

- (a) To issue and serve Planning Contravention Notices pursuant to Section 171C of the Town and Country Planning Act 1990 in respect of alleged breaches of planning control,
- (b) To instruct the Director of Legal and Governance Services to take legal proceedings for offences under Section 171D of the Town and Country Planning Act 1990 in respect of failure to comply with the requirements of a Planning Contravention Notice.
- (c) To consider any offer or representations which the recipients of a Planning Contravention Notice may wish to make regarding any alleged breach of control.

##### Section 330 Notices and s16 notices

- (d) To authorise the issue and service, by the Director of Legal and Governance Services, of notices under Section 330 of the Town and Country Planning Act 1990 and notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- (e) To instruct the Director of Legal and Governance Services to take legal proceedings for offences under Section 330(4) and (5) of the Town and Country Planning Act 1990 and section 16 (2) of the Local Government (Miscellaneous Provisions) Act 1976 in respect of failure to comply with the requirements of a section 330 notice and section 16 notice, respectively.

##### Breach of Condition Notices

- (f) To authorise the issue and service, by the Director of Legal and Governance Services, of Breach of Condition Notices under Section 187A of the Town and Country Planning Act 1990 in respect of alleged breaches of planning condition (s).
- (g) To authorise the withdrawal, by the Director of Legal and Governance Services, of Breach of Condition Notices under section 187A (6) of the Town and Country Planning Act 1990.
- (h) To instruct the Director of Legal and Governance Services to commence legal proceedings for offences under Section 187A (8) and (9) of the Town and Country Planning Act 1990 in respect of failure to comply with the requirements of a Breach of Condition Notice.

##### Enforcement Notices

- (i) To authorise the issue and service, by the Director of Legal and Governance Services, of Enforcement Notices under section 172 of the Town and Country Planning Act 1990 in respect of alleged breaches of planning control.
- (j) To authorise the variation or withdrawal, by the Director of Legal and Governance Services, of Enforcement Notice (s) under section 173A of the Town and Country Planning Act 1990.
- (k) To authorise and pursue direct action (following consultation with the Director of Legal and Governance Services) under section 178 of the Town and Country Planning Act 1990 by entering the land, subject of an extant Enforcement Notice, and taking all the steps required to secure the remedy of the breach of planning control as set out in the notice.
- (l) To instruct the Director of Legal and Governance Services under section 178 (1)(b) of the Town and Country Planning Act 1990 to recover the expenses reasonably incurred by the Council in taking direct action to secure compliance with an Enforcement Notice.

- (m) To instruct the Director of Legal and Governance Services to take legal proceedings for offences under Section 179 of the Town and Country Planning Act 1990 in respect of a failure to comply with the requirements of an Enforcement Notice.

Section 215 Notices

- (n) To authorise the issue and service, by the Director of Legal and Governance Services, of Notices under Section 215 of the Town and Country Planning Act 1990 for remedying the condition of land, and to take any subsequent direct action to carry out the works in default.
- (o) To instruct the Director of Legal and Governance Services under section 219 (1)(b) of the Town and Country Planning Act 1990 to recover the expenses reasonably incurred by the Council in taking direct action to secure compliance with a section 215 Notice.
- (p) To instruct the Director of Legal and Governance Services to take legal proceedings for offences under Section 216 of the Town and Country Planning Act 1990 in respect of a failure to comply with the requirements of a section 215 Notice.

Injunctions

- (q) The Corporate Director – Place Shaping shall authorise the Director of Legal and Governance Services to take Injunctive action under Section 187B of the Town and Country Planning Act 1990, Section 222 of the Local Government Act 1972, Sections 9 and 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Section 214A of the Town and Country Planning Act 1990 in exercise of the Council's functions as a Local Planning Authority.

Temporary Stop Notices and Stop Notices

- (r) To authorise and instruct the Director of Legal and Governance Services to:
- i) Issue and serve temporary stop notices and stop notices under sections 171E and 183 of the Town and Country Planning Act 1990;
  - ii) Commence legal proceedings for offences under sections 171G and 187 of the Town and Country Planning Act 1990 in respect of temporary stop notices and stop notices.

(s) **Right of Entry**

- (i) **To authorise relevant officers within planning and building control services to enter land/premises for the purpose of exercising functions contained in:**
  - the Town and Country Planning Act 1990 (as amended)
  - the Planning (Listed Buildings and Conservation Areas) Act 1990
  - the Planning (Hazardous Substances) Act 1990
  - the Town and Country Planning (Control of Advertisement) Regulations 1992
  - any regulations made pursuant to any planning legislation
  - the Hedgerow Regulations 1997
  - the Building Act 1984 (and any regulations made pursuant to that Act)
- (ii) **Where a power to do so is given in any of the legislations referred to above, to authorise the commencement of proceedings against a person(s) who wilfully obstructs an authorised officer exercising such a right to enter land/premises**
- (iii) **To authorise applications for warrants to enter land/premises for a purpose specified in any of the legislations referred to above**



## 2. **Section 106 Obligations**

- (a) **To authorise and instruct the Director of Legal and Governance Services to commence injunctive proceedings to enforce an obligation/covenant made in a section 106 Agreement**
- (b) **Subject to consultation with the Director of Legal and Governance Services, to authorise the taking of direct action under section 106(6)(a) of the Town and Country Planning Act 1990 by entering the land, subject of a section 106 Agreement, and carrying out any operations required to remedy the breach of an obligation(s) contained in the Agreement**
- (c) **Pursuant to section 106(6)(b) of the Town and Country Planning Act 1990, to instruct the Director of Legal and Governance Services to recover the expenses reasonably incurred by the Council in taking direct action to secure compliance with an obligation in a section 106 Agreement**

## 3. **Tree Preservation**

- (a) To instruct the Director of Legal and Governance Services to take legal proceedings in relation to unauthorised works on unprotected trees in conservation areas and trees subject to a Tree Preservation Order
- (b) To authorise the service of a tree replacement notice under Section 207 of the Town and Country Planning Act 1990
- (c) Following consultation with the Director of Legal and Governance Services, to take direct action under Section 209 of the Town and Country Planning Act 1990 to secure compliance with a tree replacement notice served by the Local Planning Authority.
- (d) To authorise and serve notices under the Hedgerow Regulations 1997 including proceedings to secure compliance

## 4. **Advertisements, Listed Buildings, Conservation Areas and Areas of Special Control**

The Divisional Director of Planning may exercise the Council's functions in relation to conservation areas, listed buildings and areas of special control that have been designated and defined by the Council or Cabinet under the Town and Country Planning Act 1990 and / or the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 respectively.

## 5. **Advertisement Controls**

- (a) To exercise the Council's functions of enforcement under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the London Local Authorities Act 1995.
- (b) To authorise or instruct the Director of Legal and Governance Services to:
  - (i) issue and serve all notices and commence all associated procedures contained within Part III of the London Local Authorities Act 1995
  - (ii) issue, serve, vary or withdraw discontinuance notices in accordance with Regulation 8 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007;
  - (iii) commence legal proceedings for offences under section 224 of the Town and Country Planning Act 1990;
  - (v) recover expenses reasonably incurred in securing compliance with any notice served under Part III of the London Local Authorities Act 1995
- (c) To take direct action (following consultation with the Director of Legal and Governance Services) to secure compliance with any notice served under Part III of the London Local Authorities Act 1995.

- (d) Pursuant to section 225 of the Town and Country Planning Act 1990, to authorise the obliteration or removal of any placard or poster displayed in contravention of the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

6. **Listed Buildings**

- (a) To authorise the Director of Legal and Governance Services to issue and serve, Building Preservation Notices and Emergency Building Preservation Notices under sections 3 and 4 of the Planning (Listed Buildings and Conservation Areas) Act 1990 .
- (b) To authorise the Director of Legal and Governance to issue and serve Urgent Works Notices in respect of Listed Buildings in accordance with section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to recover expenses reasonably incurred carrying out urgent works under section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (d) To authorise the Director of Legal and Governance Services to issue and serve Listed Building Enforcement Notices under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- (e) To instruct the Director of Legal and Governance Services to commence legal proceedings for offences under sections 9 and 43 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. **Building Control**

- (a) **To authorise the issuing and service of notices for contravention of the provisions of the Building Act 1984 (and/or the provisions of any regulations made pursuant to that Act)**
- (b) **To instruct the Director of Legal and Governance Services to commence legal proceedings for any offence under the Building Act 1984 (and/or the provisions of any regulations made pursuant to that Act)**
- (c) **Pursuant to section 36 of the Building Act 1984, to authorise the removal or alteration of any works which contravenes any of the provisions of the Building Act (and/or the provisions of any regulations made pursuant to that Act)**
- (d) **To authorise the execution of any works which the local authority has required an owner or occupier of premises to execute under section 97 of the Building Act 1984**
- (e) **To authorise the sale of any materials removed from premises pursuant to section 100 of the Building Act 1984**
- (f) **To authorise the taking of direct action to secure compliance with any notices served under the Building Act 1984 (and/or the regulations made pursuant to that Act)**
- (g) **Pursuant to section 107 of the Building Act 1984, to authorise the recovery of any expenses incurred by the Council in taking any action under the Building Act 1984 (or the regulations made under that Act)**
- (h) **To authorise the Director of Legal and Governance Services to take injunctive action under the Building Act 1984 (and/or the provisions of any regulations made under that Act)**