

Rother District Council

Report to:	Council
Date:	20 May 2024
Title:	Delegations to Officers – Planning Service
Report of:	Ben Hook, Director – Place and Climate Change
Purpose of Report:	To approve a corrected set of the current officer delegations in respect of the Planning Service.
Officer Recommendation(s):	It be RESOLVED : That the delegations to officers in respect of the Planning Service, attached at Appendix 1 be approved and adopted.

Introduction

1. At the Full Council meetings held on 20 February and 18 September 2023, the delegations to officers for the Planning Service were confirmed, following review and amendment by the Planning Committee.
2. It has since come to light that unfortunately, the delegations submitted on both occasions did not include all previous amendments approved by the Planning Committee at the January 2023 meeting.
3. To ensure that these administrative errors are corrected, a revised, complete version is submitted for further approval and adoption as set out at Appendix 1.

Corporate Plan and Climate Strategy / Action Plan

4. This decision links to delivery of the Council's Corporate Plan objective to be an open council.

Financial Implications

5. There are no financial implications for the proposals within this report.

Legal Implications

6. The Council's Constitution must be kept up to date. The scheme of officer delegations in respect of the planning service must reflect all the previous proposed amendments to ensure transparency and clarity of roles and responsibilities.

Human Resources Implications

7. There are no Human Resource implications for the proposals within this report.

Human Rights

8. There are no Human Rights implications for the proposals within this report.

Crime and Disorder

9. There are no Crime and Disorder implications for the proposals within this report.

Environmental

10. There are no Environmental Implications for the proposals within this report.

Risk Management

11. Failure to have in place an approved scheme of officer delegations in respect of the planning service could lead to legal challenges.

GDPR / Data Protection

12. There are no GDPR / Data Protection Implications for the proposals within this report.

Equalities, Diversity and Inclusion

13. There are no Equalities, Diversity, Inclusion Implications for the proposals within this report

Socio Economic Duty

14. There are no implications for the Council under its' Socio Economic Duty for the proposals within this report.

Exempt from publication

15. This report is not confidential.

Conclusion

16. The officer scheme of delegations in respect of the Planning Service require approval to ensure that all relevant amendments, previously recommended by the Planning Committee are approved by Council and published.

Ben Hook
Director – Place and Climate Change

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Appendices:	1 – Officer Scheme of Delegations for the Planning Service
Relevant Previous Minutes:	PL22/106 – Planning Committee – 12 January 2023 C22/75 – Full Council – 20 February 2023 C23/52 – Full Council – 18 September 2023
Background Papers:	NONE
Reference	NONE

Documents:	
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3.1 Director – Place and Climate Change / Development Manager

Planning Service

The Council's Cabinet and Planning Committee may delegate some of its functions and powers to specific officers of the Council. The following is a list of those delegations

C denotes from Cabinet. P denotes from Planning Committee.

In the absence of the nominated officers delegated power may be exercised by the Chief Executive or such officer as the Chief Executive may nominate.

DEVELOPMENT MANAGER

All functions exercised by Development Manager and in their absence the Development Management Team Leaders.

Development Management

- 3.1.1 To deal with applications for listed building consent under S10 of the Planning (Listed Buildings and Conservation Areas) Act 1990. (P)
- 3.1.2 To prescribe conditions or reasons for refusal or approval to be applied to any planning application determined by the Council for delegated decisions or resolved to be delegated by the Planning Committee. (P)
- 3.1.3 That where decisions of the Planning Committee vary from an officer recommendation the decision notice will not be issued until it agrees with the draft minutes approved by the Chair. Alignment of the two documents will take place within two clear working days of the receipt of the draft minutes. Should any issue be unresolved at the end of those two days it will be referred to the Chief Executive for final resolution.
- 3.1.4 To approve minor amendments to planning consents and to approve or disapprove any matter submitted as a condition of planning approval or in relation to a planning obligation made under S106 of the Town and Country Planning Act 1990. Function also to be exercised by Team Leaders, Principal Officers (Level 5) and Senior Officers (Level 4) of Development Management. (P)
- 3.1.5 To deal with applications for Lawful Development Certificates under S191 and S192 of the Town and Country Planning Act 1990. Function also to be exercised by the Development Manager, Team Leaders Principal Officers (Level 5) and Senior Officers (Level 4). (P)
- 3.1.6 To determine applications for planning permission in accordance with the arrangements detailed under Delegated Procedures and to determine individual planning applications specifically delegated by Committee resolution and to prescribe conditions or reasons for refusal or approval as

appropriate. Under the delegated system all applications identified with the (DEL) notification on the weekly list will be dealt with by officers where there are no conflicting views and the matter has not been subject to a call in 'call-in' by a Member.

- 3.1.7 The weekly list sets out new applications on a ward basis, so that Councillors are fully aware of new submissions in their local area at the outset. They may call applications to Committee (clearly citing planning reasons and whether the call-in is conditional or a recommendation of approval or refusal) up to seven days (no later than 5pm on the last day) after the closure of any weekly list publicity period or expiry of the site notice whichever is the later (P). The officer for a planning application is required to inform the Ward Member or Chair of the Planning Committee of the expected outcome of an application prior to call-in (or any time after) if requested by the Ward Member or Chair of the Planning Committee.
- 3.1.8 Where the time for call-in set out above has expired, a Member may subject to the agreement of the Chair of Planning Committee and in agreement with the Development Manager, call-in a planning application where such an application is considered to be controversial or generate significant local interest. Under exceptional circumstances, the Chair of the Planning Committee will be granted authority to call-in an application, at any time before the Decision Notice is issued after consultation with the local Ward Member(s). Call-ins' may not be made under any other circumstances by officers or Members.
- 3.1.9 Planning applications on the weekly list sets out the applications which are time limited and/or for information only, for example those set against the relevant regulations and those not subject to appraisal against planning policy. Such applications are not subject to any call-in measures.
- 3.1.10 Planning applications which are labelled (COM) automatically go to be determined at Planning Committee where the applicant is or is related to an elected member of the Council or member of Council staff, is for Council owned land, or applications submitted by the Council itself.
- 3.1.11 To refuse planning permission for applications in circumstances where no extension of time is agreed, and it is not possible to resolve any outstanding matters. Function also to be exercised by the Function also to be exercised by Team Leaders, Principal Officers (Level 5) and Senior Officers (Level 4) (P)
- 3.1.12 To rescind or revoke all obsolete, irrelevant or inoperative entries in the registers under his control relating to the Town and Country Planning Act 1990; Article 4 Directions made under the General Permitted Development Orders; the Town and Country Planning (Control of Advertisements) Regulations 1992, and Notices under Section 65 of the Public Health Act 1936. Function also to be exercised by the Function also to be exercised by Team Leaders, Principal Officers (Level 5) and Senior Officers (Level 4) (P) (C)
- 3.1.13 To exercise the Council's functions under Section 224 of the Town and Country Planning Act 1990 - power to remove or obliterate placards and posters. Function also to be exercised by the Function also to be exercised

by the Development Manager and Development Management Team Leaders (C).

- 3.1.14 Acting in conjunction with the Solicitor to the Council to authorise Section 106 Planning Obligations or authorise the modification of existing Section 106 Planning Obligations which relate to planning control matters. (Any Obligations that relate to financial matters, including changes to affordable housing provision are to be referred to Planning Committee for decision). All such Obligations to be concluded within a six-month period of the authorisation unless extended at the discretion of the Development Manager or Solicitor to the Council. Function also to be exercised by the Development Management Team Leaders. (P)
- 3.1.15 To decide not to investigate alleged breaches of planning control where it is considered that the matter is not having a serious impact on amenity or the environment, having regard to the provisions of the development plan and any other material considerations nor in respect of slight variations which would otherwise be permitted by the Town & Country (General Permitted Development) Order 2015 (as amended) or other minor development that amounts only to a technical breach. Function also to be exercised where appropriate by the Development Manager and Development Management Team Leaders. (P)
- 3.1.16 To decide to take no further action on breaches of planning control that have been investigated and are not having a serious impact on amenity or the environment, having regard to the provisions of the development plan and any other material considerations. Function also to be exercised where appropriate by the Planning Service Managers, Development Manager and the Development Management Team Leaders. (P)
- 3.1.17 To take enforcement action, having first consulted with the Solicitor to the Council in respect of breaches of planning control, under Part V11 and Part VIII of the Town and Country Planning Act 1990 which are having a serious impact on amenity or the environment, having regard to the provisions of the development plan and any other material considerations. The Solicitor to the Council be authorised to take any other steps necessary to remedy the breach of planning control including legal action under Part VII and Part VIII of the Town and Country Planning Act 1990. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)
- 3.1.18 To issue Notices under Powers to require information in relation to Notices of the land under Section 330 of the Town and Country Planning Act 1990 and to issue Planning Contravention Notices under Section 171C of the Town and Country Planning Act 1990. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)
- 3.1.19 Acting through the Solicitor to the Council, to withdraw an enforcement notice which has been complied with, where it is considered that the breach of planning control cannot be repeated or waive or relax any requirements of any notice under Section 173A of the Town and Country Planning Act 1990. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)

- 3.1.20 Acting in consultation with the Solicitor to the Council, to extend the period for compliance with any enforcement notice under Section 173A where that would be expedient; such extension not to exceed 12 months. Function also to be exercised where appropriate by the Development Manager and the Development Management Team Leaders. (P)
- 3.1.21 The making of land use planning representations to the Traffic Commissioner on applications for Operators Licences made under the Goods Vehicles (Licensing of Operators) Act 1995. Function also to be exercised by the Development Manager and Development Management Team Leaders. (P)
- 3.1.22 The making of directions under Article 4 of the Town and Country (General Permitted Development) Order 1995. Function also to be exercised by the Development Manager and Development Management Team Leaders. (P)
- 3.1.23 To exercise the Council's functions in respect of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or any subsequent replacement regulations. Function also to be exercised by Development Manager and Development Management Team Leaders. (P)
- 3.1.24 To make representations where necessary in respect of proposals made by Government Departments in consultation with the Chair of Planning Committee, where appropriate. (P)

Rights of Entry

- 3.1.25 To authorise at his discretion officers (either generally or specifically) to exercise all or any statutory rights of entry in the Planning Acts and the Regulations made thereunder. (P)

Planning Policy

- 3.1.26 To make representations on draft planning and related policy statements and documents upon which the Council is consulted in terms of their alignment with Council policies and strategies in consultation with the Chair of Planning Committee. (C)

Tree Matters

- 3.1.27 That the following actions shall be delegated to the Development Manager and Development Management Team Leaders:
- To determine applications to fell, lop or prune trees the subject of a tree preservation order or in a conservation area. (C)
 - To respond to Forestry Commission consultations on the basis of the Council's adopted policy. (C)
 - To deal with the hedgerow removal notices under The Hedgerow Regulations 1997 and to issue hedgerow retention notices. (C)
- 3.1.28 Acting through the Solicitor to the Council, to make such tree preservation orders as considered necessary. This justified through a report to be confirmed by the Development Manager and/or Development Management

Team Leaders before the Order is confirmed detailing any objection received.
(P)

- 3.1.29 To exercise the Council's functions in respect of High Hedges under Section 8 of the Anti-Social Behaviour Act 2003. Function to be exercised following consultation with and acting through the Solicitor to the Council. This justified through a report to be confirmed by the Development Manager and Development Management Team (P)

Highway Matters

- 3.1.30 To deal with consultations by the East Sussex County Council on highway matters, including the creation, diversion and closure of footpaths and bridleways, and traffic management measures and highway Stopping Up Orders. (C)

Nature Conservation Matters

- 3.1.31 To determine Appropriate Assessments submitted to the Council under the Conservation (Natural Habitats etc) Regulations 1994.

DIRECTOR – PLACE AND CLIMATE CHANGE – STRATEGY AND PLANNING AND BUILDING CONTROL MANAGER

(Concurrent Power)

- 3.1.32 To prepare and implement, after consultation with the Chief Finance Officer, a scheme for the charging of fees in accordance with the Building (Local Authority Charges) Regulations 1998.
- 3.1.33 To approve Site Waste Management Policies for the construction and demolition of sites after consultation with the Director – Place and Climate Change.
- 3.1.34 To issue decisions on all applications under the Building Regulations, and to determine applications for relaxation thereof. (C)
- 3.1.35 To employ qualified consultant structural engineers to check where necessary structural details of applications submitted under the Building Regulations. (C)
- 3.1.36 To exercise the Council's functions under the following Sections of the Building Act 1984. (C)

S.8	Relaxation of Building Regulations
S.16	Passing and rejection of plans
S.19	Use of short-lived materials
S.20	Use of materials unsuitable for permanent building
S.21	Provision of drainage
S.22	Drainage of buildings in combination
S.24	Provision of exits etc.
S.25	Provision of water supply
S.31	Proposed departure from plans
S.32	Lapse of deposit of plans

S.36	Removal of alteration of offending work
S.59	Drainage of buildings
S.72	Means of escape in case of fire
S.73	Raising of chimney
S.74	Cellars and rooms below subsoil water level
S.75	Consents under Section 74
S.76	Defective Premises
S.77	Dangerous Building
S.78	Dangerous building - emergency measures
S.79	Ruinous and dilapidated buildings and neglected sites
S.80. 81, 82	Demolitions
S.84	Paving and drainage of yards and passages
S.95	Power to authorise officers to enter premises

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