

Determination of Planning and Listed Building Applications

6.2. Reserved to: Development Committee

6.3. Default Delegation to: Director for Service Delivery

To undertake all statutory functions of the Council acting as Local Planning Authority including to determine all planning and listed building applications and related matters, advert consent applications, certificate of lawful use / development applications, all tree and hedgerow matters including making Tree Preservation Orders, prior approval applications, screening and scoping opinions, Habitats Regulations Assessment and the service of any notices in relation to any of the functions delegated including the serving of all types of planning enforcement notice.

Conditions:

6.4 Except in relation to applications submitted in the circumstances set out in paragraphs 6.6 and 6.7, the following application types **MUST** be determined under powers delegated to the Director for Service Delivery without determination by the Development Committee. Such applications are prescribed within **Schedule 1** of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (as amended) and include:

- 1) An application made under section 17(1) of the Land Compensation Act 1961 (certificates of appropriate alternative development);
- 2) An application made under section 26H(1) of the Listed Buildings Act (certificate of lawfulness of proposed works)
- 3) A householder application;
- 4) A minor commercial application;
- 5) A minor residential application;
- 6) An application for permission in principle;
- 7) (1) An application made under section 73(1) of TCPA 1990 (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 1 planning permission.
(2) In this paragraph— “original planning permission” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990; “Schedule 1 planning permission” means a planning permission granted pursuant to an application which is of a kind specified in this Schedule;

- 8) An application made under section 96A(4) of TCPA 1990 (non-material changes to planning permission or permission in principle);
- 9) (1) In respect of a planning obligation that the authority concerned considers is connected with a Schedule 1 approval—
 - a) a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990;
 - b) an application to modify or discharge that obligation under section 106A(3) of TCPA 1990;(2) In this paragraph, “Schedule 1 approval” means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in Schedule 1 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026;
- 10) An application made under section 191(1) of TCPA 1990 (certificate of lawfulness of existing use or development);
- 11) An application made under section 192(1) of TCPA 1990 (certificate of lawfulness of proposed use or development);
- 12) The submission of a biodiversity gain plan under paragraph 13(2)(a) of Schedule 7A to TCPA 1990;
- 13) (1) A reserved matters approval application in respect of an outline planning permission other than a large outline permission.
(2) In this paragraph “large outline permission” means an outline planning permission which permits development involving either or both of—
 - a) the provision of 500 or more dwellings;
 - b) the provision of a building or buildings where the floorspace to be created by the development is 50,000 square metres or more;
- 14) An application made under article 27(1) of DMPO (applications made under a planning condition); and
- 15) An application pursuant to provision in Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 for—
 - a) prior approval, or
 - b) determination as to whether prior approval is required.

6.5 Except in relation to applications submitted in the circumstances set out in paragraphs 6.6 and 6.7, the following application types **MUST** be determined under powers delegated to the Director for Service Delivery without determination by the Development Committee **unless** the application passes the “**Gateway Test**” set out at paragraph 6.8 which means that the

application **MAY** be determined by the Development Committee. Such applications subject to the “**Gateway Test**” are prescribed within **Schedule 2** of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (as amended) and include:

- 1) An application for listed building consent made under section 10(1) of the Listed Buildings Act;
- 2) An application made under section 19(1) of the Listed Buildings Act (variation or discharge of conditions of listed building consent);
- 3) An application for planning permission that the authority concerned considers is connected with an application of a kind specified in paragraphs 1) or 2);
- 4) An application for planning permission that is not—
 - a) a householder application,
 - b) a minor commercial application, or
 - c) a minor residential application;
- 5) (1) An application made under section 73(1) of TCPA 1990 (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 2 planning permission.
(2) In this paragraph— “original planning permission” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990; “Schedule 2 planning permission” means a planning permission granted pursuant to an application which is of a kind specified in this Schedule;
- 6) An application made under section 73A(1) of TCPA 1990 (planning permission for development already carried out);
- 7) (1) In respect of a planning obligation that the authority concerned considers is connected with a Schedule 2 approval—
 - a) a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990;
 - b) an application to modify or discharge that obligation under section 106A(3) of TCPA 1990.
(2) In this paragraph, “Schedule 2 approval” means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in Schedule 2 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (as amended);
- 8) A reserved matters phase application;
- 9) An application made under regulation 9(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (application for express consent to display advertisement); or
- 10) An application made under regulation 16(1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (application for consent under tree preservation order).

6.6 All major applications submitted by or on behalf of the District Council shall be determined by Development Committee. Minor applications submitted by or on behalf of the District Council where representations have been received from external consultees or any member of the public raising material planning matters that advocate a different outcome (i.e. approval / refusal) than the Officers recommendation shall be determined by Development Committee.

6.7 Planning and listed building applications where Members of the Council; Officers of the Council or close family relatives (see note 1) of any of those people have a pecuniary interest, shall be determined by Development Committee (see exceptions at note (2)).

“Gateway Test”

6.8 Where an application is for a type of development falling within Schedule 2 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (as amended) an application may be referred to Development Committee for determination subject to the following:

- 1) **Both** the Nominated Member **AND** Nominated Officer or their authorised substitute (see Note 3) agree that a proposal raises:
 - a) One or more issues of economic, social or environmental significance to the local area; or
 - b) One or more significant planning matters having regard to the Development Plan and any other material considerations
- 2) In considering whether paragraph 6.8 1) a) or 6.8 1) b) above apply, the Nominated Member and Nominated Officer or their authorised substitute shall have regard to any representations made in writing by Local Member(s) (see Note 4) so long as any such representation(s) raise material planning matters and are received no later than **7 calendar days** following the end of the public consultation period (see Note 5) and so long as the relevant Local Member does not have a conflict of interest under 6.7, in which case no representation from that member shall be accepted.
- 3) In considering whether paragraphs 6.8 1) a) or 6.8 1) b) above apply, the Nominated Member and Nominated Officer or their authorised substitute shall have regard to the following “Gateway Test” Guidance:

6.9 “Gateway Test” Guidance

- a) Where an application relates to a listed building consent as set out at paragraph **6.5 1) or 2)**, referral to Committee should take account of any gateway decision made in relation to any accompanying planning application (where relevant) as set out at paragraph **6.5 3)** and whether Committee referral has been requested for that application. The planning and listed building applications should both be referred to Development Committee if one of them is referred, having regard to the following advice. Referral to Committee for the listed building application should only be made based on the heritage (environmental) impact of the proposal. An application may only be called to Committee for determination where a proposal would result in substantial heritage harm or less than substantial heritage harm WITHOUT evidential public benefit to outweigh the identified harm AND where the Officer recommendation is for approval.
- b) Where an application is for a type set out at paragraph **6.5 3)**, referral to Committee should take account of any gateway decision made in relation to any accompanying listed building consent application (where relevant) as set out at paragraph **6.5 1) or 2)** and whether Committee referral has been requested for that application. The planning and listed building applications should both be referred to Development Committee if one of them is referred, having regard to the following advice. Referral to Committee for the planning application should only occur where the proposal amounts to a clear departure from the Development Plan and the Officer recommendation is for approval OR where the Officer recommendation is for refusal and there are significant matters having regard to the Development Plan and any other material considerations which could justify approval.
- c) Where an application is for a type set out at paragraph **6.5 4), 5) or 6)**, referral to Committee should only occur where the proposal amounts to a clear departure from the Development Plan and the Officer recommendation is for approval OR where the Officer recommendation is for refusal and there are significant matters having regard to the Development Plan and any other material considerations which could justify approval.
- d) Where an application is for a type set out at paragraph **6.5 7)**, referral to Committee should only occur in exceptional circumstances where the modification of an S106 obligation would amount to a departure from the Development Plan AND the Officer recommendation is for approval. All discharge of S106 obligation applications will be delegated to Officers.

- e) Where an application is for a type set out at paragraph **6.5 8)**, referral to Committee should only occur where the reserved matters phase proposal amounts to a clear departure from the Development Plan and/or the original outline consent and the Officer recommendation is for approval OR where the Officer recommendation is for refusal and there are significant matters having regard to the Development Plan and any other material considerations which could justify approval.
- f) Where an application is for a type set out at paragraph **6.5 9)**, referral to Committee should only occur where the proposal gives rise to significant amenity or public safety concerns and the Officer recommendation is for approval OR where the Officer recommendation is for refusal and there are significant matters having regard to the Development Plan and any other material considerations which could justify approval.
- g) Where an application is for a type set out at paragraph **6.5 10)** referral to Committee should only be considered where five or more public representations have been received which raise material planning matters in objection to the proposal. All other applications shall be delegated to officers.
- h) For the avoidance of any doubt, the gateway test does not need to be applied where the officer proposed recommendation is in general accordance with the local member representation received in accordance with paragraph 6.8 2).

Notes:

- 1) *For the purposes of paragraph 6.7 above, 'close family relative' means:*
 - (i) *Spouse (including husband wife, civil partner, or person living with them as if they were a husband/wife/civil partner)*
 - (ii) *Parent/parent of spouse*
 - (iii) *Child/child of spouse*
 - (iv) *Sibling/sibling of spouse*
 - (v) *Niece/nephew and their spouse*
 - (vi) *Grandparent and their spouse*
 - (vii) *Uncle/Aunt/ first cousin and their spouse*

- 2) *For the purpose of paragraph 6.7 this condition only relates to planning applications (including outline, full and reserved matters applications) and listed building consent applications. This means all of the following types of application shall be determined by the Director for Service Delivery, or officer authorised by them – unless they decide not to exercise the delegation.*

- (i) Discharges of Condition submissions*
- (ii) Non-Material Amendment Applications*
- (iii) Screening and Scoping Opinions*
- (iv) Advertising Consent applications*
- (v) Habitat Regulation Assessments*
- (vi) Certificate of Lawful use / Development*
- (vii) Prior approval applications under the Town & Country Planning (general Permitted Development) (Amendment) (England) Order 2015 and any subsequent amendments.*
- (viii) Works to Trees and/or hedgerows*

- 3) *For the purpose of paragraph 6.8 1) **Nominated Member** means the Chair of Development Committee and **Nominated Officer** means the Assistant Director for Planning.*

***Authorised Substitute Nominated Member** means either the Vice Chair of Development Committee or the Planning Portfolio Holder*

***Authorised Substitute Nominated Officer** means either the Development Manager or Team Leader for Development Management.*

For the avoidance of doubt, a Nominated Member, Authorised Substitute Nominated Member, Nominated Officer or Authorised Substitute Nominated Officer shall not undertake the gateway test for applications where paragraph 6.7 applies [pecuniary interest] to that member or officer.

- 4) *For the avoidance of doubt, Local Members means the ward Members(s) for the area covered by the application, and it will also include - in circumstances that should first be agreed with the Committee Chair - an adjacent ward Member.*

Relevant circumstances are likely to include

(i). where it is a major application and just outside the boundary of the Members ward and be likely to have a significant bearing on the adjacent Members ward; or,

(ii). the ward Councillor has a conflict of interest in the application – and has suggested their constituents approach the adjacent Member about the application; or,

(iii). the Ward Councillor is not available due to unforeseen circumstances and the adjacent Member is helping out in their absence.

- 5) *For the purpose of 6.8 (2), ‘public consultation period’ means any formal consultation period with the general public through the placing of a site notice by the Local Planning Authority which accords with the requirements set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) but only in relation to those types of planning applications falling within scope of this condition as set out in paragraph 6.5.*

Other Decisions under Planning Legislation

6.10. All other planning functions not listed above are delegated to the Director for Service Delivery.