

APPENDIX 3

DRAFT

Part 8

Scheme of Delegations to Officers by the Council, its Cabinet and Committees

The following **extracts** from the Scheme are shown below with draft amendments marked as tracked changes:

- Delegations to the Head of Planning
- Delegations to Borough Secretary and Monitoring Officer

DELEGATED POWERS EXERCISABLE BY OFFICERS

PART B – SPECIFIC PROVISIONS

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11. HEAD OF PLANNING

11.1 Building Control

- 11.1.1 To approve with or without conditions and/or reject plans deposited pursuant to the requirements of the Building Regulations and/or to take any action relative thereto and/or to issue certificates thereunder.
- 11.1.2 To reject plans pursuant to the provisions of Sections 19, 20 and 25 of the Building Act 1984 (as amended) (“the Building Act”), or where appropriate, to pass such plans subject to conditions and to take any action in relation thereto.
- 11.1.3 To process building notices in accordance with the Building Regulations.
- 11.1.4 To withdraw approvals pursuant to the provisions of Section 32 of the Building Act.
- 11.1.5 To accept and/or reject or cancel notices pursuant to the provisions of Sections 47, 52 and 54 of the Building Act.
- 11.1.6 To serve notices and/or to undertake any necessary action and/or to recommend to the Borough Secretary the commencement of prosecution or other proceedings pursuant to Sections 36, 71, 72, 73, 74, 78, 79 and 81 of the Building Act and/or Section 29 of the Local Government (Miscellaneous Provisions) Act 1982.
- 11.1.7 To recommend to the Borough Secretary the making of an application to the Magistrates Court pursuant to Section 77 of the Building Act and the execution of work in the event of default.
- 11.1.8 To arrange for the execution of work pursuant to Section 36 of the Building Act

in the event of default.

11.1.9 To approve street names in consultation with the relevant Cabinet Member and Ward Councillors.

11.1.10 To serve notices and/or undertake any necessary action pursuant to Sections 17, 18 and 19 of the Public Health Act 1925.

11.2 Development ~~Control~~ Management

To:

11.2.1 deal with and determine applications pursuant to the provisions of the Town and Country Planning Act 1990 (as amended) (“the Planning Act”) and the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (“the Listed Buildings Act”);

11.2.2 receive and deal with all prior notifications pursuant to the Planning Act and the Listed Buildings Act;

11.2.3 recommend to the Borough Secretary the making and/or the confirming and/or the varying and/or the revoking of orders pursuant to the provisions of the Planning Act and the Listed Buildings Act;

11.2.4 recommend to the Borough Secretary the issue and/or the service and/or the withdrawal and/or the re-issue of notices pursuant to the provisions of the Planning Act and the Listed Buildings Act;

except:

a) dealing with and determining applications, recommending the making and confirming of orders and/or the issuing and/or the service and/or the withdrawal and/or the re-issue of notices pursuant to the provisions of the Planning Act and the Listed Buildings Act which the Head of Planning considers should be considered by the Planning Committee and/or;

b) dealing with and determining applications referred at the request of any Member to Planning Committee for determination provided that such request is based on proper valid planning grounds (any issue relating to the propriety of the specified planning grounds to be determined by the Monitoring Officer) and is submitted to

- the Head of Planning in writing within ~~the~~ 28 days from the date on which the consultation period begins;
- c) dealing with and determining applications which are a major departure from the development plan for Northampton and require referral to the Secretary of State;
 - d) dealing with and determining applications made by a Member or a person who is related to a Member;
 - e) dealing with and determining applications made by an Officer/employee of the Council or a person who is related to an Officer/employee of the Council;
 - f) dealing with and determining applications made by the Council either as applicant or landowner, either on its own, or jointly with another party with the exception of applications for non-material changes under Article 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended);
 - g) dealing with and determining applications which fall within paragraphs 3-8 of the Town and Country Planning (Consultation) (England) Directions 2009; and/or
 - h) considering and deciding the service and/or the withdrawal and/or the re-service of Stop Notices as defined in Section 183(l) of the Planning Act
- 11.2.5 make responses to consultations received from the ~~West Northamptonshire Development Corporation~~ Planning Inspectorate, Northamptonshire County Council and neighbouring local planning authorities in respect of applications for which they are the determining planning authority where the applications would not prejudice the policies and provisions of the development plan for Northampton unless the Head of Planning considers that the matter should be referred to the Planning Committee;
- 11.2.6 deal with requests for prior approval of the classes of development described as permitted development in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 1995/2015 (as amended) including prior approval of demolition on Council owned land;
- 11.2.7 serve Planning Contravention Notices pursuant to Section 171C of the Planning Act; ~~11.2.8 — determine applications for Historic Buildings Grants;~~

11.2.98 deal with Hedgerow Removal Notices and where appropriate serving Hedgerow Retention Notices;

11.2.109 screen applications to determine whether an environmental impact assessment is required and where an environmental impact assessment is required to advise on the scoping of the environmental impact assessment;

11.2.110 decline to determine applications pursuant to Section 70A of the Planning Act;

11.2.121 respond on behalf of the Council to all appeals including deciding not to defend appeals; and

11.2.1312 make determinations regarding applications for outline planning permission in accordance with Article 3(2)5 of the Town and Country Planning (General Development Management Procedure) (England) Order 1995/2015 (as amended);-

11.2.13 deal with and determine applications for certificates of lawfulness of existing or proposed use or development in accordance with Article 39 of Part 8 of the Town and Country Planning (Development Management Procedure) England Order 2015 (as amended); and

11.2.14 to charge, process and allocate the community infrastructure levy in accordance with the Community Infrastructure Regulations 2010 (as amended).

11.3 Without prejudice to the specificity of paragraphs 11.1 and 11.2 above, subject to seeking advice from the Borough Secretary as appropriate, in relation to all planning functions to take such actions as are appropriate for the Head of Planning which are in the view of the Head of Planning necessary to protect, maintain, and fulfil the interests, rights and duties of the Council. For the avoidance of doubt, this paragraph shall not displace the requirement for Planning Committee processes to be instituted in the normal way.

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16. BOROUGH SECRETARY AND MONITORING OFFICER

16.1 General

- 16.1.1 To take all actions and discharge all functions and responsibilities in discharge of the duties of the Monitoring Officer pursuant to Section 5 of the Local Government and Housing Act 1989, including the taking of any actions that are ancillary and incidental thereto.
 - 16.1.2 To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments to the Constitution to correct typographical errors, to change Officer titles and reallocate delegations following restructures, to make changes following Council decisions on the Constitution and to take into account changes in legislation.
 - 16.1.3 To act as Borough Secretary to the Council for any purposes and to exercise discretion whether to issue or defend proceedings, including injunctions under any legislation on behalf of the Council in any Court, Tribunal or other body with jurisdiction, to enter into arbitration or mediation to settle claims, disputes and proceedings and to take such other actions as are appropriate for the Borough Secretary which are in the Borough Secretary's opinion necessary to protect, maintain and fulfil the interests, rights and duties of the Council and to complete all legal formalities, including the creation and completion of legal documentation required to implement the above.
 - 16.1.4 To institute, conduct, prosecute and defend any legal proceedings on behalf of the Council to implement any decision of the Council, Cabinet, Committees, other Council decision – making body or to implement delegated decisions by Officers and to complete all legal formalities, including the creation and completion of legal documentation required to implement the decision.
- 16.2 To obtain Counsel's or other specialist advisor's opinion, where it is considered to be in the Council's interests and to instruct Counsel to represent the Council in any court or tribunal or other appropriate circumstance.
- 16.3 To authorise staff pursuant to section 223 Local Government Act 1972 to appear on behalf of the Council in proceedings before Magistrates Courts where those staff would otherwise not have rights of audience before the court.

- 16.4 In the best interests of the Council:
 - 16.4.1 to exercise discretion to appeal against any decisions of all courts and tribunals;
 - 16.4.2 to exercise discretion to defend proceedings and resist appeals in all courts and tribunals; and
 - 16.4.3 to exercise discretion to settle court and tribunal proceedings.
- 16.5 To discharge Local Land Charges functions
- 16.6 To discharge Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004 functions and to maintain the Records Retention Scheme in respect of the Freedom of Information Act 2000 or associated legislation.
- 16.7 Authorising Officers of the Council to prosecute, defend or appear on behalf of the Council in proceedings before any court, tribunal or other relevant forum upon being satisfied that the Officers have the requisite skill, experience and ability to represent the Council in such proceedings.
- 16.8 Authority to sign or seal any document needed to implement any decision taken by, or in the name of the Council and to authorise other Officers to do so.
- 16.9 Signing, issuing, serving and receiving on behalf of the Council all notices or other documents as may be necessary or incidental to the functions and business of the Council (whether or not such action is also within the power of any other Officer, but not where the action can by law only be taken by some other person).
- 16.10 Upon the recommendation of the Head of Housing Needs and Support, taking the following action under Part XI of the Housing Act 1985 relating to houses in multiple occupation:
 - 16.10.1 making control orders; and
 - 16.10.2 instituting proceedings in respect of offences.
- 16.11 Implementing the "Right to Buy" legislation and any actions that are ancillary and incidental to the "Right to Buy", any schemes of voluntary house sales and any

necessary actions and processes in relation to shared ownership properties.

16.12 Making of Tree Preservation Orders or authorising named Officers to make Tree Preservation Orders on the advice of the Head of Planning:

16.12.1 in cases of urgency such orders to be signed rather than sealed by the authorising Officer; and

16.12.2 confirming on the advice of Head of Planning, Tree Preservation Orders where there are no outstanding valid objections.

16.13 ~~In consultation with the Director of Regeneration, Enterprise and Planning and the Chair and Deputy Chair of the Planning Committee to serve notices where considered appropriate under section 215 of the Town and Country Planning Act 1990 requiring steps to be taken to improve the condition of a property and/or land in its curtilage. Upon the recommendation of the Head of Planning, the service of notices under Section 215 of the Town and Country Planning Act 1990 (as amended) requiring steps to be taken to improve the condition of the land.~~

16.14 Upon the recommendation of the Head of Public Protection the power to commence injunctions or any other necessary action or proceedings against the organisers or other relevant persons of acid house parties or raves where it is considered expedient for the promotion or protection of the interests of the inhabitants of the area of Northampton Borough.

16.15 Upon the recommendation of the Head of Planning ~~after consultation with the Chair (or Deputy Chair in the absence of the Chair) of the Planning Committee and Opposition Spokespersons the issue of Enforcement Notices and the issue of Temporary Stop Notices under Section 172 of the Town and Country Planning Act 1990 (as amended). in the case of urgency provided that if dissent be shown to the proposed issue of a Stop Notice or Enforcement Notice following the above procedure, a special meeting of the committee be arranged.~~

16.16 Upon the recommendation of the Head of Planning, the ~~issue and~~ service of Breach of Condition Notices ~~under Section 187A of the Town and Country Planning Act (as amended).~~

16.17 Upon the recommendation of the Head of Planning the issue and service of Enforcement Notices under Section 172 of the Town and Country Planning Act 1990 (as amended).

- 16.187 Upon the recommendation of the Head of Public Protection, the institution of legal proceedings under the Environment Act 1995 (contaminated land).
- 16.198 The making of Traffic Regulation, Road Closure and Off Street Parking Place Orders which have been agreed on behalf of the Council (whether in the exercise of delegated powers or otherwise) and upon the advice of the Head of Neighbourhood Environmental Services that any necessary works and signs have been completed.
- 16.2019 The institution of proceedings for contravention of the Advance Payments Code under Section 219 of the Highways Act 1980.
- 16.219 Giving consent on behalf of the Council to the issue by a relevant Police Officer of an authorisation under Part 4 of the Anti-Social Behaviour Act 2003.
- 16.224 To establish and maintain a register of interests of Members and Co-opted Members as required by Section 29(1) of the Localism Act 2011.
- 16.232 To ensure that a Council's register of interests is available for public inspection at the Guildhall and is published on the Council's website as required by Sections 29(5) and 29(6) of the Localism Act 2011.
- 16.243 To determine requests from Members or Co-opted Members that any interest be regarded as a "sensitive interest" in accordance with Section 32 of the Localism Act 2011.
- 16.254 To make an initial assessment of allegations of breaches of the Council's adopted Members' Code of Conduct, seek alternative resolution in appropriate cases, instigate and consider Investigating Officers' reports as set out in paragraphs 4, 5, 6 and 7 of the Agreements for Dealing with Allegations of Breaches of the Members' Code of Conduct.
- 16.265 To issue decision notices in accordance with paragraph 9 of the Arrangements for Dealing with Allegations of Breaches of the Members' Code of Conduct.
- 16.276 To deal with any other residual matters, not otherwise delegated, resulting from the Council's adopted Members' Code of Conduct and the adopted Arrangements of Breaches of the Northampton Borough Council Members' Code of Conduct and Codes of Conduct adopted by Parish Councils.

16.287 In accordance with Section 33 of the Localism Act 2011, to grant dispensations together with the discretion to refer any particular request to the Standards Committee in appropriate circumstances.

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