

APPENDIX 1

Proposed New Delegated Arrangements Delegated Matters (para 17 of Annex J to the current Constitution)

17. Planning

(i) General Planning Delegation

A.Determination of Applications / matters by the Planning and Development Committee

The Planning & Development Committee will determine all applications / matters which fall within the following criteria: -

1. Where an application is considered to be of strategic importance, or where it is considered by Officers to be appropriate to be determined by Members, taking into account the views of Members where they have requested an application to be considered at Committee (*note: the member process agreed is set out in the Appendix*).
2. Where an application is to be recommended for approval, and where it is considered by Officers that the proposals would materially depart from Policies within the Development Plan.
3. Where an application has been submitted by a Member of the Council or close relative of a Member.
4. Where an application has been submitted by an employee of the Council who is directly involved in the Development Management process or in a post identified below: -
 - Director of Environment
 - Head of Planning
 - All posts under the direct responsibility of the Head of Planning
 - Head of Engineering and Transportation
 - Highways Development Control Officers
 - Drainage Officers
 - Head of Regeneration
 - Head of Streetcare
 - Head of Legal and Democratic Services
 - Committee Clerk (Planning)
 - Principal Solicitor (Planning)

Except as listed above, the Director of Environment and the Head of Planning are granted Delegated Powers for the determination of all planning and other related matters / applications, including the preparation of screening and scoping opinions, discharge of conditions, tree preservation orders, hedgerow and high hedges applications, appeals and enforcement matters, in accordance with the following procedures: -

B. 'Delegated Panel' Procedure

To determine applications relating to the following matters and following agreement with local Ward Members and subject to the provisions of the Planning Code of Conduct: -

- Refusal of Applications
- Developments in excess of 5 dwellings (including approval of reserved matters and/or the discharge of conditions in respect of the same);
- Developments creating new floorspace in excess of 500 sq.m. in respect of industrial, agricultural, commercial or non-commercial buildings (including approval of reserved matters and/or the discharge of conditions in respect of the same)
- Deeds of Variation, seeking to vary the terms of an existing Section 106 legal agreement
- Planning Enforcement Procedures, including: -
 - (a) To serve a Planning Contravention Notice;
 - (b) To serve a Breach of Condition Notice;
 - (c) To serve an Enforcement Notice;
 - (d) To serve a Stop Notice
 - (e) To serve a Notice under s215 (Amenity of Land) of the 1990 Act (as amended)
 - (f) To initiate prosecution action or injunctions
 - (g) To withdraw or amend any formal Notice under points (a) – (e)
- Felling of trees covered by Tree Preservation Order

C. 'Normal' Delegated Matters (subject to no objections being received)

- (i) to approve (but not to refuse) with or without conditions in respect of all other planning applications or matters not covered by point (i) above, subject to there being no objections, including (but not limited to): -

- Development of up to 5 dwellings (including approval of reserved matters and/or the discharge of conditions);
- Developments creating new floorspace up to 500 sq.m. in respect of industrial, agricultural, commercial or non-commercial buildings (including approval of reserved matters and/or the discharge of conditions)
- Applications to determine whether or not an Environmental Statement is required on any submitted or proposed planning application (“Screening Opinion”)
- Applications to determine the scope of an Environmental Statement (“Scoping Opinion”) on any submitted or proposed planning application.
- Applications for a Certificate of Lawful Use of Development (Existing and Proposed)
- Decisions on applications made under section 73 to develop land without compliance with conditions previously attached to a consent.
- Discharge of conditions imposed on a planning consent.
- the topping, lopping or carrying out of other works, excluding felling, of trees the subject of tree preservation orders or of planning conditions.
- Determination of ‘Prior Approval’ (“Prior Notification”) applications, including determination of subsequent applications for such prior approval
- Making of Tree Preservation Orders
- To approve Hedgerow Removal Notices, under the Hedgerow Regulations 1997 where a hedgerow is not "important"
- Applications under the Planning (Hazardous Substances) Act 1990 and Planning (Hazardous Substances) Regulations 1992 including:- determination of applications for hazardous substances consent (HSC) (s9); deemed HSC: established presence (s11); applications for removal of conditions attached to HSC (s13); general power by order to revoke or modify HSC (s14) and determination of applications for continuation of HSC (s18).

(ii) Section 106 Agreements: To authorise the entering into of Section 106 Agreements under the Town and Country Planning Act 1990

(iii) to determine all applications in respect of the Building Regulations.

(iv) to authorise the issue of infringement notices and any enforcement action with respect to Building Regulations.

(v) Building Act 1984

- (a) Delegated powers for the elements of the Planning Service covered by legislation under the Building Act 1984.
- (b) To authorise individual Officers to act as Inspectors/Authorised Officers/Enforcement Officers under legislation contained in the Building Act 1984.
- (c) In consultation with the Director of Finance and Corporate Services, to approve legal proceedings on behalf of the Council in respect of any offence under the above Act. (This delegation also applicable to the Principal Officer (Building Control)).

(vi) Safety at Sports Ground Act 1975: To issue and sign the relevant Safety Certificates under the Safety at Sports Ground Act 1975 (as amended) and to take any enforcement action (the latter to be reported to the Planning Committee for information)

(vii) Forestry Authority - Consultations on Felling Proposals

- (a) where there are no objections, the response to the Forestry Authority is delegated to the Director;
- (b) where objections are raised by local Members, relevant Community Councils, or by Officers, that the Director be delegated the power to request that this Authority be granted an extension of time, or to submit an objection to the Forestry Authority. The matter would then be reported to the next available Planning Committee for consideration and that Committee be given plenary powers to resolve the Authority's formal decision. Relevant local Members would be invited to attend the Committee and any site visits, but would not be entitled to vote, in the same manner as in the determination of planning applications;

(viii) Neath and Port Talbot Local Access Forum

To determine future changes to the membership of the forum in consultation with either the Leader or Deputy Leader.

(ix) Rights of Entry

To authorise rights of entry to relevant Officers in respect of the following legislation:-

- (a) Town and Country Planning Act 1990 (as amended) – Section 324;
- (b) Wildlife and Countryside Act 1981 (as amended) – Section 51;

- (c) Planning (Listed Building and Conservation Areas) Act 1990 (as amended) – Sections 88 – 88B;
- (d) Planning (Hazardous Substances) Act 1990 (as amended) – Sections 36-36B;
- (e) Highways Act 1980 – Section 293;
- (f) Road Traffic Regulation Act 1984 – Section 71.
- (g) Anti Social Behaviour Act 2003 (High Hedges) – Section 74

(ix) Developer Contributions (Supplementary Planning Guidance)

To determine issues of arbitration between different needs prior to any form of decision by the Planning and Development Control Committee (this in consultation with the relevant Cabinet Member).

(x) Affordable Housing Contribution

The Head of Planning is granted delegated authority to review and make any necessary amendments to the charge levied for the negotiation of the Affordable Housing Contribution

(xi) Safety of Stands for Spectators – Section 42 West Glamorgan Act 1987

The powers to the Authority under Section 42 are delegated to the Director of Environment and the Head of Planning.

(xii) Retaining Walls – Section 26 West Glamorgan Act 1987

The powers of the Authority under Section 26 are delegated to the Director of Environment and the Head of Planning

D. ‘Normal’ Delegated Matters

(i) **Nationally Significant Infrastructure Projects (NSIPs)**

Submission of all responses in respect of Nationally Significant Infrastructure Projects (NSIPs), with the exception of the Authority’s Local Impact Report and initial Written Representations, which shall be reported to Committee.

APPENDIX A

Delegation Process (Development Management Matters / Applications)

1. To maintain accountability and transparency, detailed reports will be prepared for all delegated matters / applications outlining the material issues for consideration together with a recommendation.
2. In the case of 'Normal' Delegated Matters (para 17 (i) C of Annex J), each report is to be signed by the Case Officer and Development Control Manager / Team Leader or in their absence the Head of Planning, prior to issuing the decision notice
3. Where applications are being dealt with under the 'Delegated Panel' procedure (para. 17 (i) B. of Annex J), a panel of Officers (a minimum of three, including the Head of Planning and/or the Development Control Manager) will consider and sign off the report and its recommendation, in addition to which the following additional process will apply:-
 - (a) Where following consultation with officers the relevant Ward Member(s) have agreed that the application can be determined the delegated decision can be made.
 - (b) if any Ward Member considers that it would be more appropriate to report the application to Committee for decision, Officers will put the matter before Committee provided a valid planning reason has been given by the Ward Member (such reason to be clearly indicated within the subsequent report to Committee);
 - (c) In the absence of any agreement under (a) or representation under (b) that the relevant Ward Member(s) be advised of the proposed decision via e-mail, giving 7 days to respond to a named officer(s) within the Department. Responses will be dealt with in accordance with (a) or (b), but if no response is received, it will be assumed that the relevant Members are satisfied that the application can be continued to be dealt with under delegated powers and the decision notice will be issued.

