

West Devon Borough Council - Planning Delegation Scheme

Definitions:

- CoP Lead: Community of Practice Lead Specialist Development Management;
- In writing: shall include email;
- DM&L Committee: Development Management & Licensing Committee at West Devon Borough Council;
- Working days: days which are not weekends or bank holidays;
- Planning Application: full, outline, reserved matters application, ~~and~~ Technical Details consent and, initially on a temporary basis, Permission in Principle applications; [but not an application to discharge conditions on a planning permission]
- Representation: means representations from any source excluding internal consultees;
- Immediate family: parent, spouse, child, sibling (including 'step' and 'adopted'); and
- TPO: Tree Preservation Orders.

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1. General Planning Delegation to Officers

1.1 Subject to paragraph 1.2 below, the CoP Lead has delegated authority for all functions assigned to the DM&L Committee under the Town and Country Planning Acts, Orders, and Regulations (as set out in Part 3 of the Council's Constitution and as amended from time to time) except those:

- a. Planning Applications
- b. Listed Building Consents
- c. Advertisement Consents
- d. TPO final confirmations (excluding emergency TPOs), and
- e. Works to TPO trees
- f. Permission in Principle Applications
- f-g. Applications to discharge conditions

Which relate to:

- i. the Council's own land
- ii. when the applicant or agent is a Councillor (or an immediate family member),
- iii. when the applicant is an Officer (or an immediate family member)
- iv. land that is in the ownership of a Councillor or Officer (or an immediate family member)

Or which in the opinion of the CoP Lead:

1. are of sub-regional or district-wide significance
2. ought to be determined by the DM&L Committee

Approved at Annual Council 22 May 2018

1.2 In the case of planning, listed building, advertisement applications and TPO applications and confirmations, where any written representations are received, including those from a Parish or Town Council, which are contrary to the CoP Lead's recommendations and where the representations are considered material and relevant planning issues, the CoP Lead shall have delegated authority to determine these only where:

- a. agreement to issuing a delegated decision has been sought in writing from the Ward Member(s) and,
- b. no written request (supported by material planning reasons) to call the application to Committee has been received from the Ward Member(s) within the notification period. The notification period is defined as three working days, unless a Ward Member requests an extension of time (of up to 48 hours) and giving good reason for doing so. The notification period commences when the Ward Member has been notified of the request that a delegated decision be made.

2 Ward Members

2.1 Members can call to Committee, with material planning reasons,

- a. any Planning Applications
- b. Listed Building Consents
- c. Advertisement Consents
- d. TPO final confirmations (excluding emergency TPOs), and
- e. Works to TPO trees

by notifying the CoP Lead prior to the expiry of the public consultation period. Non Ward Members will only call in an application after consultation with Ward Member(s), during the consultation period.

2.2 For the avoidance of doubt all Members in a multi-Member ward shall be notified /consulted by the CoP Lead

2.3 Unless a Ward Member requests an extension of time of up to 48 hours for a response, s/he must advise the CoP Lead of his/her views within three working days of being notified.

2.4 In the absence of a Ward Member consultation response within the permitted time frames, the CoP Lead shall determine the matter in accordance with the officer recommendation, without the Member's views.

2.5 Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then s/he should nominate an alternative member to carry out this role and notify Member Services accordingly in writing

3 Action on decisions of the DM&L Committee

- 3.1 Where the Committee **approves** an application, the CoP Lead will issue the Approval Notice including such conditions as are reasonably required to give effect to the Committee's decision
- 3.2 Where the Committee **refuses** an application which the CoP Lead recommended should be approved, it shall give the reasons for the decision but the CoP Lead shall determine the precise wording of the reasons for refusal

4 Delegation in respect of Enforcement Action

- 4.1 The CoP Lead has delegated authority to:
- a. decide that no breach has been found
 - b. decide that it is not expedient to take enforcement action (in accordance with the Council's Enforcement Policy), unless notified by the Ward Member otherwise
 - c. invite regularising Planning Applications where appropriate
 - d. carry out all enforcement action (including but not limited to) issuing and serving Planning Contravention Notices, Untidy Site Notices, Stop Notices, Breach of Condition Notices and Building Preservation Notices, providing the relevant Ward Members are notified prior to such notices being issued or served
 - e. issue Enforcement Notices in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the P&L Committee for decision and no such request has been received
 - f. take Prosecutions and Injunctions in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the DM&L Committee for decision and no such request has been received

SAVE that the Monitoring Officer has delegated authority to take a Prosecution or Injunction where the Council's position would be compromised if action is not taken urgently

- 4.2 The CoP Lead may refer complex matters to the Committee at his/her discretion, or where there are relevant budgetary implications.

5 Section 106 Agreements

The CoP Lead may:

- a. authorise the execution of a section 106 agreement where required in advance of the grant of planning permission
- b. in consultation with the Ward Member(s), vary the terms of a section 106 agreement (or take such other action as necessary) to secure the objectives of the Committee which agreed the 106 agreement

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