

Planning Delegation - Development Management

Definitions:

- **HoP Lead:** Community of Practice Lead Specialist Development Management
- **In writing:** shall include email
- **DM Committee:** Development Management & Licensing Committee at West Devon Borough Council
- **Working days:** days which are not weekends or bank holidays
- **Planning Application:** full, outline and reserved matters only
- **Representation:** means representations from any source excluding internal consultees
- **Immediate family:** parent, spouse, child, sibling (including 'step' and 'adopted')

1. General Planning Delegation to Officers

1.1 Subject to paragraphs 1.2 and 1.3 below, the HoP Lead has delegated authority for all functions assigned to the DM Committee under the Town and Country Planning Acts, Orders, and Regulations except those Planning Applications; Listed Building Consents; Advertisement Consents; TPO final confirmations (excluding emergency TPOs); and Works to TPO trees, which:

1.1.1 relate to the Council's own land;

1.1.2 include proposals under which the Council may acquire an interest in or over all or any part of the land or buildings proposed to be developed;

1.1.3 is an application submitted by a Councillor (or an immediate family member), (including Councillor as agent or professional advisor) or an Officer (or an immediate family member); or

1.1.4 which in the reasonable opinion of the HoP Lead are of sub-regional or district-wide significance or which due to all of the circumstances of an application including the scale and nature of the development proposed; the degree of compliance with the Joint Local Plan or national planning policy; any technical issues raised; or the number of representations received etc it is appropriate for the application ought to be determined by the DM Committee.

1.2 In the case of Planning Applications, Listed Building Consents, Advertisement Consent Applications and TPO Confirmations (excluding emergency TPOs) and Works to TPO trees, where any written representations are received, including those from a Parish or Town Council, which are contrary to the HoP Lead's recommendations and where the representations are considered to raise material and relevant planning issues, the HoP Lead shall have delegated authority to determine these the matter in accordance with the HoP Lead's recommendation only where and subject to paragraph 1.3:

1.2.1 agreement to issuing a delegated decision has been ~~sought~~ requested in writing from the Ward Member(s) and,

- 1.2.2 no written request (supported by material planning reasons) to call the application to DM Committee has been received from the Ward Member(s) within the notification period. The notification period is defined as **five 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.
- 1.3 Where the HoP Lead's recommendation is to grant planning permission subject to the completion of a section 106 agreement on the heads of terms set out in the report accompanying the request to issue a delegated decision and either:
- 1.3.1 there is a material difference between the heads of terms and the final section 106 agreement; or
- 1.3.2 it has not been possible to complete the section 106 agreement on those heads of terms within three months of the date on which the Ward Member agreed to the decision being dealt with under delegated powers or in the event that the Ward Member did not reply to the request to agree to the exercise delegated powers by the Hop Lead, the date by which the Ward Member was asked to reply,
- the HoP Lead shall re-consult the Ward Member in accordance with paragraph 1.2. It would be expected that the Ward Member would only depart from their previous position where the change was material and of sufficient weight so as to be capable of tipping the planning balance, or in the case of the non-completion of the section 106 agreement where the applicant has not engaged fully and as a result there is no realistic prospect of agreement being reached in the near future.
- 1.4 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 and the HoP Lead accordingly in writing

2 Call-in to DM Committee by Members

- 2.1 Any Members can call any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees to DM Committee, by notifying the HoP Lead with material planning reasons, prior to the expiry of the public consultation period. Non-Ward Members will only call in an application after confirming that they have consulted ~~consultation~~ with Ward Member(s).
- 2.2 ~~For the avoidance of doubt all Members in a multi-Member ward shall be notified/consulted by the HoP Lead~~ Ward Members can call any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees in their ward to DM Committee by notifying the HoP Lead with material planning issues at any time prior to the expiry of the consultation period referred to on paragraph 1.2.2 above.
- ~~2.3 Unless a Ward Member requests an extension of time of up to 48 hours for a response, s/he must advise the HoP Lead of his/her views within **three working days of being notified.**~~

- 2.4 In the absence of a ~~Ward Member consultation response~~ Member call-in request within the permitted time frames, the HoP 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 Committee

- 3.1 Where the Committee **approves** an application, the HoP 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 HoP Lead recommended should be approved, the Committee shall give the reasons for the decision, but the HoP Lead shall determine the precise wording of the reasons for refusal.

4 Enforcement [outside of the terms of the Review]

5 Section 106 Agreements

- 5.1 The HoP Lead may:
- 5.1.1 authorise the execution of a section 106 agreement where required in advance of the grant of planning permission or in connection with a planning appeal against the refusal of permission by the Council.
 - 5.1.2 in consultation with the Ward Member, 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