

## Appendix

### Schedule of Council Functions

*These functions are the responsibility of the Council and not of the Leader*

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
<b>A. Functions relating to town and country planning and development management amongst others, including the following:</b>		
1. Power to determine application for planning permission	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990	Planning Applications Committee - The determination of any application not delegated to officers or which relate to land or buildings managed by the Director of Environment Planning and Enforcement or to which there are material planning objections - except where representations are received that could otherwise be considered material planning objections but in the opinion of the Head of Planning Applications are not relevant in a particular case.
2. Power to determine applications to develop land without compliance with conditions previously attached	Section 73 of the Town and Country Planning Act 1990	
3. Power to grant planning permission for development already carried out	Section 73A of the Town and Country Planning Act 1990	
4. Power to determine application for planning permission made by a local authority, alone or jointly with another person	<p>Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492) <u>and subsequent amendments and regulations.</u></p> <p>Sections 69 and 92 of the Town and Country Planning Act 1990 and Articles 15, 16, 17, 18, 21, 24-27, 28-30, 32-35 and 40 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595) and directions made thereunder</p>	Director of Environment Planning and Enforcement - set out in <b>notes 1 &amp; 2 below</b>

5. Power to decline to determine application for planning permission	Section 70A, 70B & 70C of the Town and Country Planning Act 1990	Director of Environment, Planning and Enforcement
6. Duties relating to the making of determinations of planning applications	Sections 69 and 92 of the Town and Country Planning Act 1990 and Articles 13, 14, 16, 21, 24, 28, 29, 30, 32, 40 and 43 of the Town and Country Planning (Development Management Procedure) Order 2015 (S.I. 2015/595) and directions made thereunder	Director of Environment, Planning and Enforcement
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. (2015/595)	Director of Environment, Planning and Enforcement
8. Power to enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990  Section 111 of the Local Government Act 1972	Director of Environment, Planning and Enforcement or Director of Economic Development or Director of Property and Infrastructure  Director of Highways, Transportation and Waste
9. Power to issue a certificate of existing or proposed lawful use or development	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990	Director of Environment, Planning and Enforcement
10. Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990	Director of Environment, Planning and Enforcement
11. Power to authorise entry onto land	Section 196A of the Town and Country Planning Act 1990	Regulation Committee - the carrying out of enforcement action, initiation of Stop Notices or any other form of action which may give rise to liability to pay compensation.
12. Power to require the discontinuance of a use of land	Section 102 of the Town and Country Planning Act 1990	

13. Power to serve a planning contravention notice, temporary notice, breach of condition notice, or stop notice	Sections 171C, 171E, 187A and 183(1) of the Town and Country Planning Act 1990	Director of Environment, Planning and Enforcement - to exercise all other powers delegated to the committee by the Council in relation to the enforcement of the control of development under the Town and Country Planning Act 1990 and related statutory instruments.
14. Power to issue an enforcement notice	Section 172 of the Town and Country Planning Act 1990	
15. Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990	
16. The obtaining of information as to interests in land	Section 330 of the Town and Country Planning Act 1990	
17. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act	Director of Environment, Planning and Enforcement
18. Power to determine a screening or scoping opinion	Town and Country Planning (Environmental Impact Assessment) Regulations 2011 <u>as consolidated and amended by SI 2017/571 and subsequent amendments and regulations.</u>	Director of Environment, Planning and Enforcement

19. Power to determine an Appropriate Assessment application	The Conservation of Habitats and Species Regulations 2010 <a href="#"><u>SI 2010/490</u></a> as <a href="#"><u>consolidated and amended by the Conservation of Habitats and Species Regulations 2017 (SI 2017/1012)</u></a> and as <a href="#"><u>the latter is amended by SI 2018/1307</u></a>	Director of Environment, Planning and Enforcement - to determine Appropriate Assessment applications where Natural England has advised the Council that it is satisfied that the proposal will not affect the conservation objectives of the designated site or that the mitigation measures proposed are acceptable
<a href="#"><u>20. Power to act as a statutory planning consultee for major development with surface water drainage as the Lead Local Flood Authority.</u></a>	<a href="#"><u>Para. (ze) of Schedule 4 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI 2015/595).</u></a>	<a href="#"><u>Director of Environment, Planning and Enforcement.</u></a>
<b>B. Regulatory Services Functions</b>		
1. Duty to keep list of persons entitled to sell non-medicinal poisons	Sections 3, 5, 6 and 11 of the Poisons Act 1972	Director of Environment, Planning and Enforcement
2. Power to register animal trainers and exhibitors	Section 1 of the Performing Animals (Regulation) Act 1925	Director of Environment, Planning and Enforcement
3. Power to license the employment of children	Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963	Director of Environment, Planning and Enforcement
4. Power to approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510) <a href="#"><u>as amended by SI 2003/1961, and The Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (SI 2005/3168) and amended by SIs 2011/2661 and SI 2013/2294.</u></a>	Corporate Director of Growth and Environment  Appeals for refusals to be considered by the Regulation Committee

5. Powers to license the sale and collection of pigs	Articles 13 and 14 of the Pigs (Records, Identification and Movement) <a href="#">Order 2011 (SI 2011/2154)</a> <a href="#">and related regulations.</a>	Director of Environment, Planning and Enforcement
6. Power to sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph Film Act 1922	Director of Environment, Planning and Enforcement
7. All Commons Registration functions	Part 1 of the Commons Act 2006 and Commons Registration <a href="#">(England) Regulations 2008 (SI 2008/1961).</a>	Regulation Committee

### **C. Functions Relating to Highways**

1. Power to grant a street works licence	Section 50 of the New Roads and Street Works Act 1991	Director of Highways, Transportation and Waste
2. Power to permit deposit of builder's skip on highway	Section 139 of the Highways Act 1980	Director of Highways, Transportation and Waste
3. Power to license planting, retention and maintenance of trees etc. in part of highway	Section 142 of the Highways Act 1980	Director of Highways, Transportation and Waste
4. Power to license works in relation to buildings etc. that obstruct the highway	Section 169 of the Highways Act 1980	Director of Highways, Transportation and Waste
5. Power to consent to temporary deposits or excavations in streets	Section 171 of the Highways Act 1980	Director of Highways, Transportation and Waste
6. Power to dispense with obligation to erect hoarding or fence	Section 172 of the Highways Act 1980	Director of Highways, Transportation and Waste
7. Power to restrict the placing of rails, beams etc over highways	Section 178 of the Highways Act 1980	Director of Highways, Transportation and Waste
8. Power to consent to construction of cellars etc under street	Section 179 of the Highways Act 1980	Director of Highways, Transportation and Waste

9. Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators	Section 180 of the Highways Act 1980	Director of Highways, Transportation and Waste
10. Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980	Director of Highways, Transportation and Waste
11. Duty to assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980	Director of Environment, Planning and Enforcement or Director of Highways, Transportation and Waste
12. The making of agreements for the execution of highways works	Section 278 of the Highways Act 1980  <u>Section 38 of the Highways Act 1980</u>	Director of Environment, Planning and Enforcement or Director of Highways, Transportation and Waste
<u>13. Preventing surface water from flowing on to the highway</u>	<u>Section 100 of the Highways Act 1980</u>	<u>Director of Highways, Transportation and Waste</u>
<u>14. The adoption of small pieces of highway where the land owner is KCC or unknown or when works have been carried out</u>	<u>Section 228 of the Highways Act 1980</u>	<u>Director of Highways, Transportation and Waste</u>

#### **D. Functions relating to Public Paths**

1. Power to create footpaths, bridleways and restricted byways by agreement	Section 25 of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
2. Power to create footpaths, bridleways and restricted byways	Section 26 of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
3. Duty to keep register of information with respect to maps, statements and declarations	Section 31A of the Highways Act 1980	Director of Environment, Planning and Enforcement

4. Power to stop up footpaths, bridleways and restricted byways	Section 118 of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
5. Power to determine application for public path extinguishment order	Section 118ZA and 118C(2) of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
6. Power to make a rail crossing extinguishment order	Section 118A of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
7. Power to make a special extinguishment order	Section 118B of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
8. Power to divert footpaths, bridleways and restricted byways	Section 119 of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
9. Power to make a public path or restricted byway diversion order	Section 119Z <del>A</del> and 119C(4) of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
10. Power to make a rail crossing diversion order	Section 119A of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
11. Power to make a special diversion order	Section 119B of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
12. Power to require applicant for order to enter into agreement	Section 119C(3) of the Highways Act 1980	Director of Environment, Planning and Enforcement

13. Power to make an SSSI diversion order	Section 119D of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
14. Duty to keep register with respect of applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Section 121B of the Highways Act 1980 and the Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006/1177	Director of Environment, Planning and Enforcement
15. Power to decline to determine certain applications	Section 121C of the Highways Act 1980	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
16. Duty to assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980	Director of Environment, Planning and Enforcement
17. Duty to serve notice of proposed action in relation to obstruction	Section 130A of the Highways Act 1980.	Director of Environment, Planning and Enforcement
18. Power to apply for variation of order under section 130B of the Highways Act 1980	Section 130B(7) of the Highways Act 1980	Director of Environment, Planning and Enforcement
19. Power to authorise temporary disturbance of surface of footpath or bridleway	Section 135 of the Highways Act 1980	Director of Environment, Planning and Enforcement
20. Power temporarily to divert footpath or bridleway	Section 135A of the Highways Act 1980	Director of Environment, Planning and Enforcement
21. Functions relating to the making good of damage and the removal of obstructions	Section 135B of the Highways Act 1980	Director of Environment, Planning and Enforcement
22. Powers relating to the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980	Director of Environment, Planning and Enforcement



23. Power to extinguish certain public rights of way	Section 32 of the Acquisition of Land Act 1981	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
24. Duty to keep definitive map and statement under review	Section 53 of the Wildlife and Countryside Act 1981	Regulation Committee – where substantive objection has been raised or at the request of a political party or elected Member  Otherwise, Director of Environment, Planning and Enforcement
25. Power to include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981	Director of Environment, Planning and Enforcement
27. Power to prepare map and statement by way of consolidation of definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981	Director of Environment, Planning and Enforcement
28. Power to designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984 <a href="#"><u>and the Cycle Tracks Regulations 1984 (SI 1984/1431).</u></a>	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
29. Power to extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1984	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
30. Power to authorise stopping-up or diversion of footpath or bridleway	Section 257 of the Town and Country Planning Act 1990	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement

31. Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town and Country Planning Act 1990	Regulation Committee – where substantive objection has been raised or the Local Member requests  Otherwise, Director of Environment, Planning and Enforcement
32. Power to enter into agreements with respect to means of access	Section 35 of the Countryside and Rights of Way Act 2000	Director of Environment, Planning and Enforcement
33. Power to provide access in absence of agreement	Section 37 of the Countryside and Rights of Way Act 2000	Director of Environment, Planning and Enforcement
35. Making, variation or revocation of Gating Order	Highways Act 1980 (Gating Orders) (England) Regulations 2006	Regulation Committee

#### **E. Functions Relating to Elections**

1. Powers in respect of holding of County Council elections	Section <u>35</u> of the Representation of the People Act 1983	General Counsel (as the County Returning Officer)
2. Power to pay expenses properly incurred by electoral registration officers in relation to County Council functions	Section 54 of the Representation of the People Act 1983	General Counsel (as the County Returning Officer)
4. Duty to declare vacancy in office in certain cases	Section 86 of the Local Government Act 1972	General Counsel (as the County Returning Officer)
5. Duty to give public notice of a casual vacancy	Section 87 of the Local Government Act 1972.	General Counsel (as the County Returning Officer)
6. Power to <u>set County Scale of Election Fees and Expenses for KCC Elections.</u>	<u>Section 36(4) of the Representation of the People Act 1983.</u>	Electoral and Boundary Review Committee
7. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000	Section 10 of the Representation of the People Act 2000	Electoral and Boundary Review Committee

<b>F. Functions relating to name and status of areas and individuals</b>		
1. Power to change the name of the county	Section 74 of the Local Government Act 1972	County Council
2. Power to confer title of honorary alderman or to admit to be an honorary freeman	Section 249 of the Local Government Act 1972	County Council
<b>G. Functions relating to the Land Drainage Act 1991</b>		
1. Power to enforce obligations to repair watercourses, bridges, etc	Section 21 of the Land Drainage Act 1991 as amended by Section 31 of Schedule 2 of the Flood and Water Management Act 2010.	Director of Environment, Planning and Enforcement
2. Power to give consent for obstructions, etc, in watercourses	Section 23 of the Land Drainage Act 1991 as amended by Section 32 of Schedule 2 of the Flood and Water Management Act 2010	Director of Environment, Planning and Enforcement
3. Power to require works for maintaining flow of watercourses	Section 25 of the Land Drainage Act 1991 as amended by Section 33 of Schedule 2 of the Flood and Water Management Act 2010	Director of Environment, Planning and Enforcement
4. Power of entry for internal drainage boards and local authorities	Section 64 of the Land Drainage Act 1991	Director of Environment, Planning and Enforcement.
<b>H. Other Functions</b>		
1. Power to make, amend, revoke or re-enact bylaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978	County Council
2. Power to promote or oppose local or personal Bills	Section 239 of the Local Government Act 1972	County Council

3. Functions relating to local government pensions, etc	Regulations under section 7, 12 or 24 of the Superannuation Act 1972	Superannuation Fund Committee.
4. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be)	The Accounts and Audit Regulations <a href="#"><u>2015 (2015/234)</u></a> .	Governance and Audit Committee
5. Functions relating to sea fisheries	<a href="#"><u>Ch.1 of Part 6 of the Marine and Coastal Access Act 2009 and The Kent and Essex Inshore Fisheries and Conservation Order 2010 (SI 2010/2190)</u></a> .	Kent and Essex Inshore Fisheries and Conservation Authority,
6. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972	County Council
7. Power to appoint staff or place them at the disposal of other authorities	Sections 112 and 113 of the Local Government Act 1972	<a href="#"><u>Senior Managers</u></a> - Personnel Committee or Member Appointment Panel (Sub Committee) <a href="#"><u>Other officers</u></a> – Senior Managers
<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
8. Duty to appoint officers as Head of Paid Service, Monitoring Officer, as responsible for administration of financial affairs and provide staff for them	Sections 151 of the Local Government Act 1972, 4(1) and 5(1) of the Local Government and Housing Act 1989	County Council
9. Power to make standing orders as to contracts	Section 135 of the Local Government Act 1972	County Council
10. Power to make payments or provide other benefits in cases of maladministration, etc	Section 92 of the Local Government Act 2000.	Corporate Director of Finance (as the Section 151 Officer)

11. The making of arrangements for appeals against exclusion of pupils	Section 67(1) and Schedule 18 of the Schools Standards and Framework Act 1998	Head of Democratic Services
12. The making of arrangements for admission appeals	Section 94(1) and (4) and Schedule 24 of the Schools Standards and Framework Act 1998	Head of Democratic Services
13. The making of arrangements for children to whom section 87 applies: appeals by governing bodies	Section 95(2) and Schedule 25 of the Schools Standards and Framework Act 1998	Head of Democratic Services
14. The obtaining of particulars of persons interested in land	Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Director of Environment, Planning and Enforcement
15. Discharge of persons who are subject to Guardianship	Section 23 of the Mental Health Act <u>1983</u>	Mental Health Guardianship Sub-Committee on the recommendation of Director of Disabled Children, Adults Learning Disability and Mental Health
16. Appointment of, nomination of or removal of LEA Governors to school governing bodies	School Governance (Constitution) (England) Regulations 2012	Governor Appointment Panel Appointments delegated to the Corporate Director Children, Young People and Education, in consultation with the Chairman of the Governor Appointment Panel where the nominee meets the guidelines in full

<p>17. Grant dispensations where:</p> <p>(i) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter; or</p> <p>(ii) that the authority considers that the dispensation is in the interests of persons living in its area; or</p> <p>(iii) where the Committee considers that it is otherwise appropriate to grant a dispensation.</p>	<p>Section 33 (2) of the Localism Act 2011</p>	<p>Standards Committee</p>
<p>18. The appointment of proper officers</p>	<p><a href="#">See Relevant regulation in 'Appendix 2 Part 7: Statutory and Proper Officers.'</a></p>	<p>County Council</p>
<p>19. The appointment (and the revocation of any such appointment) of an individual:</p> <p>(a) to any office other than an office in which he is employed by the authority</p> <p>(b) to any body other than:</p> <p>(i) the authority</p> <p>(ii) a joint committee of two or more authorities</p> <p>(c) to any committee or sub-committee of such a body</p>		<p>All Senior Officers except when the appointment needs to be made by the Leader in connection with the delegation by him of his functions, the list of those appointments to be agreed from time to time by the Selection &amp; Member Services Committee</p>
<p>20. Any function under a local Act</p>		<p>All Senior Officers</p>

- 3.1 Note 1 - The following delegation to the Head of Planning Applications Group was agreed by the Planning Applications Committee on 18 November 2015:
- (a) To determine any application (including details submitted under condition and non-material amendments) for which there has been no relevant planning objection raised by consultees or as a result of publicity, or where representations are received that could otherwise be considered material planning objections but in the opinion of the Head of Planning Applications are not relevant in a particular case.
- 3.2 Note 2 – The following delegation to the Head of Planning Applications Group was agreed by the Planning Applications Committee on 18 November 2015:
- (a) To refuse applications and to not approve details submitted under conditions where such submissions meet any of the following criteria:
- i. The proposal does not accord with the Development Plan and there are no overriding material reasons for granting permission or approving the details;
  - ii. Insufficient detail or information has been submitted to:
    - a. enable proper consideration of an application for planning permission; or
    - b. satisfy the terms of a condition or conditions, in the case of an application to discharge a condition or conditions; or
    - c. enable technical issues raised by consultees to be resolved, either to determine an application for permission or to discharge a condition or conditions;
- (b) The applicant has not agreed a reasonable extension of time to otherwise allow, within the required timescale for:
- i. proper consideration of any further information submitted; or
  - ii. completion of a legal agreement; or
  - iii. resolution of any other outstanding matters;
- (c) The applicant has failed to complete a legal agreement upon which a resolution by the Planning Applications Committee to grant planning permission is dependent within 6 months of such a resolution being made;
- (d) The application is retrospective and is aimed at rectifying a breach of planning control against which Enforcement proceedings including Court prosecutions have already been instigated;
- (e) The application is a repeat application within 12 months of a previous refusal or withdrawal and does not address the grounds of refusal or concerns raised by the earlier proposal.
- 3.3 Such decisions in relation to Note 2 above will only be issued following consultation with the Chairman, Vice Chairman and Lead Spokesman for each

political group prior to a decision being taken unless reasons of urgency make this impracticable. The consultation period shall usually be 2 working days.

- 3.4 Any decision taken in respect of Note 2 above is to be reported to the committee, including the reason that (exceptionally) it had been impractical to consult the Chairman, Vice-Chairman and Lead Spokesman for each political group.