

## SCHEME OF SUB-DELEGATION

### GROWTH ENVIRONMENT AND TRANSPORT

Interim Divisional Director: Stephanie Holt-Castle

To: Head of Planning Applications Group

The principles of the operation of this Scheme of Sub-Delegation are set out in Appendix A. Sub-Delegations are categorised as General and Specific delegations below.

#### 1) GENERAL DELEGATIONS

See Appendix B for a summary of the general powers which have been delegated to Officers. These delegations cover Finance, Risk Management and Internal Control, Information Management, Employees, Health & Safety and External Arrangements.

These general delegations are in respect of the following services:

- Planning Applications
- Minerals and Waste Local Plan

#### 2) SPECIFIC DELEGATIONS

In accordance with the provisions of the Constitution of Kent County Council, I authorise the Head of Planning Applications Group to undertake the following:

##### 1) Functions delegated to me by the Council

Those powers which have been delegated to me by the Council in Appendix 2 Part 3 of the Constitution of Kent County Council

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.  Director of Environment Planning and Enforcement - set out in notes 1 & 2 below
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	Section 316 of the Town and Country Planning	

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
permission made by a local authority, alone or jointly with another person	Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).  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	
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

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
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	
18. Power to determine a screening or scoping opinion	Town and Country Planning (Environmental Impact Assessment) Regulations 2017	Director of Environment, Planning and Enforcement
19. Power to determine an Appropriate	The Conservation of Habitats and Species	Director of Environment, Planning and Enforcement - to determine Appropriate

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
Assessment application	Regulations 2010	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
<b>H. Other Functions</b>		
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

Note 1 - The following delegation to the Head of Planning Applications Group was agreed by the Planning Applications Committee on 18 November 2015:

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.

Note 2 – The following delegation to the Head of Planning Applications Group was agreed by the Planning Applications Committee on 18 November 2015:

To refuse applications and to not approve details submitted under conditions where such submissions meet any of the following criteria:

- The proposal does not accord with the Development Plan and there are no overriding material reasons for granting permission or approving the details;
- Insufficient detail or information has been submitted to:
  - (i) enable proper consideration of an application for planning permission; or
  - (ii) satisfy the terms of a condition or conditions, in the case of an application to discharge a condition or conditions; or
  - (iii) enable technical issues raised by consultees to be resolved, either to determine an application for permission or to discharge a condition or conditions;
- 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;
- 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;
- 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;

- 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.

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.

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.

**Those powers which have been delegated to me by the Council of Kent County Council December 2018:**

In relation to the Minerals and Waste Local Plan the authority to approve any non-material changes to the Mineral Sites Plan and Early Partial Review of the Kent Minerals and Waste Local Plan in consultation with the Deputy Leader prior to their publication and during their examination.

**2) Functions delegated to me by the Leader and Cabinet**

Those functions delegated to me by the Leader in Appendix 2 Part 4 of the Constitution of Kent County Council, through the Executive Scheme of Delegation:

- To exercise the relevant functions of the Cabinet Member for Planning, Highways, Transport and Waste, and the Cabinet Member for Community and Regulatory Services in relation to their portfolios, including the signing off of responses to district council consultations on major development planning applications classified as strategic or "S" cases, signing off contracts, agreements and frameworks for externally funded projects, signing off of views sought by the Planning Inspectorate, Marine Management Organisation and neighbouring authorities.
- To exercise the relevant functions of the Deputy Leader for Mineral and Waste functions (See separate delegation from Leader to Deputy Leader, Head of Paid Service, to Corporate Director)


Signed:



Sharon Thompson  
Head of Planning Applications Group

Date: 10 April 19

Signed:



Stephanie Holt-Castle  
Interim Director, Environment, Planning and Enforcement

Date: 12 April 19

Lodged with the Monitoring Officer:

Date: April 19

## APPENDIX A – BACKGROUND AND GUIDING PRINCIPLES

1. Before exercising any authority, Officers must satisfy themselves that they have necessary delegated powers as specified in this Scheme either generally or in relation to their specific role.
2. The powers delegated to officers exclude the authority to take Key Decisions.  
Constitution, Executive Scheme of Officer Delegation
3. Decisions which an officer takes under delegated powers must:
  - implement a policy or decision previously approved or taken by the Cabinet or a Cabinet Member or
  - facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by the Cabinet or a Cabinet Member or
  - relate to the management of the human, material and financial resources made available for the functions for which they are responsibleConstitution, Executive Scheme of Officer Delegation
4. Officers to whom matters have been sub-delegated may escalate the making of those decisions to the relevant Corporate Director, who can then (if appropriate) refer the matter to the Cabinet Member or Cabinet.  
Constitution, Executive Scheme of Officer Delegation
5. Officers must use the authority delegated to them:
  - a. in the interests of Kent County Council
  - b. in accordance with the provisions made in relevant revenue and capital budgets, Standing Orders, the Financial Regulations or other Procedure Rules contained in the Constitution; Constitution, Executive scheme of Officer Delegation, and
  - c. in accordance with the overall policies approved by the Council or its Committees. Constitution Appendix 2.
6. In exercising the authority delegated to them, Officers must
  - a. consult the relevant Corporate Director and/or the Director of Governance & Law in respect of matters which are sensitive or complex, or where legal, administrative, financial or other advice or guidance is necessary;
  - b. keep the relevant Cabinet Member properly informed of activity arising within the scope of these sub-delegations; and Constitution, Executive Scheme of Officer Delegation
  - c. advise local Members on any matter that appears to specifically affect their division or constituency interests. Constitution Appendix 2
7. Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility. Constitution Appendix 2
8. Officers are responsible for the management of their services and the implementation of Council and Cabinet policies and Executive Decisions. Constitution, Executive Scheme of Officer Delegation
9. Senior Managers must record and notify the Monitoring Officer (Director of Governance & Law) of arrangements made by them for the exercise on their behalf of delegated powers granted to them. Sub-delegations should be regularly reviewed and updated if appropriate. Constitution Appendix 2

## **APPENDIX B – GENERAL DELEGATIONS**

The general delegations are drawn up with reference to the following Council documents:

- The Constitution of Kent County Council
- KCC Financial Regulations
- Scheme of Delegation
- Staff Terms and Conditions (the Blue Book)

The general delegations are as follows:

### **FINANCE**

- To manage approved revenue budgets in accordance with the Council's Financial Regulations, including regular monitoring and forecasting. Financial Regulations
- Develop capital expenditure proposals that reflect agreed service plans and are approved in line with Capital Procedures. Financial Regulations
- To authorise iProcurement requisitions and approve invoices for payment in accordance with the Scheme of Delegation and the Council's Financial Regulations. Financial Regulations
- To ensure that best value is obtained from purchases by complying with the Council's code of practice for Tenders and Contracts, 'Spending the Council's Money'. Financial Regulations
- To ensure corporate cards are used only for agreed purposes. Financial Regulations

### **RISK MANAGEMENT AND INTERNAL CONTROL**

- To identify and manage risk within the service area and regularly review the effectiveness of risk management arrangements. Financial Regulations
- Establish sound arrangements for planning, appraising, monitoring and controlling operations in order to achieve an efficient and effective service. Financial Regulations
- Promote an effective system of internal controls. Financial Regulations
- Promote compliance with Council policy, Standing Orders, Financial Regulations and any statutory requirements. Financial Regulations
- Notify the Head of Internal Audit immediately of any suspected fraud, theft, irregularity or improper use or misappropriation of the Council's property or resources. Financial Regulations

### **INFORMATION MANAGEMENT**

- To ensure that staff are aware of their responsibilities under Data Protection and Freedom of Information legislation. Financial Regulations
- Ensuring ensure proper arrangements for the preservation and management of the Council's financial records (including the use of Oracle Financials). Financial Regulations
- To ensure that there is a documented and tested Business Continuity Plan to allow information system information processing to resume quickly in the event of interruption. Financial Regulations

### **EMPLOYEES**

- To make decisions on the management of staff in accordance with the relevant procedures and conditions of employment set out in the Blue Book. Blue Book
- To appoint employees within the approved establishment. Blue Book

- To establish temporary posts, providing that there is adequate funding within the approved budget for the Service concerned. Blue Book
- To make salary awards under TCP scheme, subject to any directions on assessment criteria and to progress the salaries of employees on career grades as part of a competency assessment. Blue Book
- To conduct disciplinary proceedings in respect of employees within the terms of the Council's approved disciplinary procedures and to take decisions, in accordance with the Council's Conditions of Service and any consultations with the Corporate Director of Human Resources, with regard to the dismissal of employees due to gross misconduct. Blue Book
- To authorise employees' attendance at training courses and events within the approved training budget. Blue Book

#### **HEALTH AND SAFETY**

- Risk Assessments must be carried out to identify significant risks associated with work, to both staff and others affected by our undertakings. Blue Book
- Risk Assessments cover matters such as: Display Screen Equipment, New and Expectant Mothers, Manual Handling. Guidance is available on Knet and Health and Safety Advisers should be consulted if further guidance is needed. Blue Book

#### **EXTERNAL ARRANGEMENTS**

- To ensure that the Council's financial and operational interests are protected when operating in partnership with other bodies and that appropriate financial and legal advice is taken before entering into partnership agreements. Financial Regulations
- To ensure that necessary approvals are obtained before negotiations are concluded in relation to partnership agreements. Financial Regulations
- To seek external funding which supports the Council's service priorities and ensure that all necessary approvals have been obtained before external funding agreements are concluded. Financial Regulations
- Ensure work for third parties or external bodies does not adversely impact the services of the Council and guidance issued by the Corporate Director of Finance and Procurement is complied with. Financial Regulations
- To ensure compliance with the 'Protocol relating to companies in which KCC has an interest'. Financial Regulations