



## Report of the Chief Planning Officer

### Corporate Governance and Audit Committee

Date: 15<sup>th</sup> June 2011

Subject: Assurances of the process by which planning decisions are taken by the Council

#### Electoral Wards Affected:

All – City wide

No

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

## Executive Summary

1. This report responds to the request of the Corporate Governance and Audit Committee to set out the arrangements in respect of planning decision taken by the Council in 2010-11 and will provide assurances to the Committee as to the operation of the arrangements and processes that are in place, ensuring they are up to date, accountable, transparent, have integrity, and are effective and inclusive.
2. There is a commitment to a programme of improvement activity in all areas of planning decision making and over the past year a number of changes have been implemented to ensure that the decision making process is more robust and there is continued confidence in the judgments being made. Considerable emphasis this year has been on officer training in conjunction with legal services. Session on report writing has ensured that reports are transparent and clearly demonstrate that proper consideration has been giving to all relevant issues. Guidance for robust reports has been provided and is embedded and complied with by all officers.
3. There has been a through review of the chief planning officer's delegation scheme ensuring it is up to date and fit for purpose and continuous review of the decisions of the Plans Panels takes place to ensure that decision making is fair, transparent, effective and impartial. The number of decisions taken that are contrary to the officers recommendation has decreased substantially over the last few years, demonstrating that members and officers are working effectively together, ensuring there is public confidence in the decision making process.
4. Importance is placed on learning from results of complaints and Ombudsman cases to minimise the risk of complaints arising on the same grounds and there is tangible evidence of progress in the form of fewer complaints, fewer local settlements and continued good performance in the number of dismissed appeals. However, there have been a number of high profile appeals on phase two and three green field housing sites

in the last year, where the Planning Inspectorate have found for the appellants, which have been financially costly to the authority.

5. This report provides assurance that the service places considerable emphasis on good governance and quality assurance.
6. There is firm evidence to show that progress continues to be made as there are fewer complaints and local settlements, a reduction in the number of appeals made and a reduction in the number of those upheld. The green field housing appeals and public inquiries have somewhat overshadowed the overall performance on appeals and the arising cost awards.
7. A number of changes have made the decision making process more robust, consistent, transparent and to ensure there is confidence in the judgments being made. The chief planning officer's delegation scheme has been revised to reflect more accountable decision making. Publicity on applications has been reviewed to ensure that the process is as transparent and inclusive as possible. However, the service is not complacent and customer surveying shows where there is the need for improvement and the Committee can be assured that these issues will be addressed in the 2011-13 service plan.

## **1.0 Purpose of this Report**

- 1.1 At its meeting on 12<sup>th</sup> May 2010, the Corporate Governance and Audit Committee requested a report to gain assurance of the process by which planning decisions are taken by the Council.
- 1.2 This report outlines the arrangements that are in place to underpin the decision making process within the remit of the Chief Planning Officer:
  - Planning decisions taken by officers under delegated authority
  - Planning decisions taken by the Plans Panels
- 1.3 It aims to provide assurances to the Committee as to the operation of the arrangements that are in place, confirming they are accountable, transparent, have integrity and are effective and inclusive.
- 1.4 Consideration is also given to the risk of challenge and the measures in place to mitigate potential risk and the programme of continuous improvement to ensure that processes take account of best practices.

## **2.0 Background Information**

- 2.1 The regime for dealing with planning decisions are statute based as described in the Planning and Compulsory Purchase Act 2004<sup>1</sup>. Planning law controls the development or use of land and local planning authorities (LPAs) exercise this control in line with their Development Plan. Local Development Framework documents comprise the LPAs specific policies for the development and use of land in its area.
- 2.2 All decisions on applications should be made in accordance with the Development Plan unless material considerations indicate otherwise and within the context of published national planning policy and guidance. National planning guidance, such as Planning Policy Statements, Minerals Policy statements and Circulars are material considerations.
- 2.3 In 2010-11, Planning Services made 4,196 planning decisions compared with 4200 in 2009-10.

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<sup>1</sup> HMSO Planning and Compulsory Purchase Act 2004

### **3.0 Main issues**

#### **3.1 Decision making framework**

3.1.1 This section looks at the framework within which decision-making occurs - by the Plans Panels or under the Council's delegation scheme.

#### **3.2 Plans Panels**

3.2.1 There are three Plans Panels - East, West and City Centre which are authorised to discharge functions within a geographical area. Each Panel comprises a number of council members from across all political parties, in proportion to the make up of the Council. Each Plans Panels meets on a monthly cycle and their terms of reference are included as appendix 1.

3.2.2 Under the Chief Planning Officer's Delegation scheme there are a number of types of applications which would normally be considered by the Plans Panels. These are usually the most controversial, most sensitive and strategically important applications, as well as those which would signify a departure from the Development Plan.

3.2.3 Ward members are able to request that an application comes to the Plans Panel for determination. However, such requests must be made in writing, within a 21 day deadline which is the statutory advertisement deadline for receipt of representations, after which time a decision could be legally made. Additionally, the reason for a request for referral to Panel must be based on material planning considerations and must give rise to concerns affecting more than just immediate neighbouring properties.

3.2.4 During 2010-2011, the Plans Panels made 225 decisions on individual applications, (5.3% of all decisions made in the year). This is an increase on the number of decisions made by the Panel in 2009-10, when 150 decisions were made (3.3% of all decisions that year).

3.2.5 Compliance with the Council's own Code of Practice for the Determination of Planning Matters is monitored and reviewed for any breaches. In 2010-11 there were no complaints made about breaches of the Code.

#### **3.3 Delegation Scheme**

3.3.1 The chief planning officer is authorised to carry out functions on behalf of the council and the delegation scheme forms part of the constitution. All applications are considered to be covered by the delegation scheme unless they fall within the "exceptions" section of the scheme, which lists the functions that the chief planning officer is not authorised to discharge.

3.3.2 The exceptions are set out in appendix 2. The Chief Planning Officer's delegation scheme was reviewed in early 2011. Members were consulted and proposed a number of amendments to the scheme. The report went to General Purposes Committee and then to Full Council in February 2011 where it was finally approved.

#### **3.4 Sub Delegation scheme**

3.4.1 The scheme sets out which functions have been sub-delegated by the Chief Planning Officer (CPO) to other officers and any terms and conditions attached to the authority sub delegated by the CPO. The sub-delegation scheme ensures that decision making is undertaken at an appropriate level of seniority and experience.

3.4.2 In 2010-11, 3,973 of decisions were made under the delegation scheme. Good practice suggests that authorities should delegate more than 90% of planning

decisions<sup>2</sup>, giving the Plans Panels more time to focus on complex and the most controversial applications. In Leeds the delegation rate is 94.7% and is comparable to the Core Cities where the delegation rate is between 93.0% and 97.4%.

- 3.4.3 There is a clear process in place for the determination of an application, which is adhered to by officers. This ensures a consistent, accountable and transparent approach is taken on all applications.
- 3.4.4 Case officer reports are robust, clear and address all the issues arising, relevant policies that have been taken into account and address consultee responses and representations which have been made by the public. All decisions made by officers are publicly available and accessible. A recent customer satisfaction survey however has shown that there is an issue about some customers feeling that their comments have not been taken fully into account by the planning officer in reaching their decision. This has been addressed in some recent training and will also be covered in the 2011-13 service improvement plan to provide greater transparency and accountability in decision making and minimise the risk of complaints or challenge being made on similar grounds.
- 3.4.5 Each report is reviewed by a senior officer to ensure that there is a clear basis for a decision and reports can only be signed off by principal planner level (PO4) or above. In the case of major applications, these can only be signed off by area planning managers or above, ensuring that the decision is being taken at a sufficiently high level and that the appropriate level of experience and scrutiny is applied. No officer can sign off their own application which means there is robust scrutiny of the proposal and recommendation before the final decision is made.

### **3.5 Officer review process**

- 3.5.1 There is a procedure in place where a ward member who is concerned about a possible recommendation to approve an application for a house extension, where there has been objections from neighbours, can request that the application is reviewed by a senior officer. The senior officer, usually the lead officer for the Plans Panel, will also consider whether it is appropriate that the application is determined under delegated powers or referred to the Plans Panel. The final decision where the application is determined under delegated powers is made jointly by the chair of the appropriate Plans Panel and lead officer, with reasons for the decision clearly set out.

### **3.6 Officer conflicts of interest**

- 3.6.1 Officers must follow the employees code of conduct and any other rules or requirements in relation to personal conflicts of interest, which apply to them. All decision-makers are required to complete a register of interests.
- 3.6.2 Decision making officers are aware of the need to ensure there can be no suggestion of bias in their decision making. Decision makers and case officers are not involved in any applications where there could potentially be a conflict of interest. This is to minimise the risk of a challenge to the decision making process.
- 3.6.3 Any application for planning permission from a development management officer is dealt with by the Plans Panel as an exception in the chief planning officers delegation scheme to mitigate the potential for challenge on the grounds of bias or partiality.

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<sup>2</sup> Planning Advisory Service Making your mind up- improving planning decision making. 2008

### **3.7 Ensuring best practice**

- 3.7.1 Planning services recognises the importance of ensuring that the arrangements in place for decision making are accountable, transparent and effective. We adopt best practice wherever possible and the section below describes measures put in place to provide these assurances:
- 3.7.2 Every officer is appraised annually and has a ½ yearly review. As part of the appraisal, a development plan is drawn up to identify areas for officers where training or learning is needed in order to enhance their personal effectiveness and to ensure high quality decision making is maintained and enhanced. In 2010-11, 100% of staff in planning services have received their appraisal.
- 3.7.3 Planning officers need to keep up to date with legislation and the implications of changes on service provision and dealing with applications. This is achieved through a mixture of planning specific training from external providers and in-house briefings. Many planning officers are members of the Royal Town Planning Institute (RTPI), and receive professional updates and information on a regular basis from their professional body. Planning Officers are responsible for their own continuing professional development (CPD) and membership of the RTPI requires officers to undertake regular CPD. Additionally, a Planning Services Leadership Team (PSLT) meets on a regular basis to review performance, discuss legislative and other changes, share good practices and ensure consistency across the service. The advent of the Localism Bill which could radically reform the planning system means there is even more necessity for keeping up to date and officers have already received training on the content and progress of the Bill.
- 3.7.4 Work over the last few years seeks to ensure there are high quality presentations at the Plans Panels which provide full and clear explanations of planning applications and their implications to assist in enabling quality decision making.
- 3.7.5 A legal officer and the head of planning services attends all Plans Panel meetings. This ensures consistency of decision making across the city and to highlight common issues and areas for improvement. The legal officer provides legal advice where necessary and ensures that probity and propriety of the planning and decision making process is observed.
- 3.7.6 Members on the Plans Panels attend two compulsory training sessions each year - a planning update session to receive guidance in relation to regulation and procedures and a governance and conduct session providing guidance on declaration of personal and prejudicial interests. This helps to ensure more informed and transparent decision making with the reasons for each decision clearly articulated and communicated. Failure to attend both of these sessions may mean that a member will be unable to sit on the relevant Panel until the training has been undertaken.
- 3.7.7 The Chief Planning Officer's delegation scheme was revised and amendments agreed by Full Council in February 2011. The scheme took account of Member comments and concerns and has been amended accordingly. A guidance note to explain some of the processes is being produced for Members to provide further clarity and support for Members carrying out their role on the Plans Panels. New Panel members also receive an initial induction from the lead officer and are offered further support if required.

### **3.8 Continuous improvement and quality of service**

- 3.8.1 The service is committed to continuous improvement and seeks to ensure that the decision making process is transparent, high quality, fit for purpose and robust. The council's service planning process ensures that improvement is integral to the services' operation. The emerging service plan for 2011-13 will be a useful

improvement tool, assisting the service to ensure that all practices and arrangements are accountable, transparent, have integrity, are effective and inclusive.

- 3.8.2 A Joint Member Officer Working Group, comprising members from all parties, was set up in 2007 following an in depth review of the workings of the Plans Panels and this group still meets regularly and is an essential forum for continuous improvement.
- 3.8.3 A planning officers checklist has been produced which clearly sets out the process and information needed in the process of determining a planning application. The checklist aims to provide a consistent approach across the service and to minimise errors to give greater confidence in the process and outcomes.
- 3.8.4 Planning officers have recently undertaken training in conjunction with legal services on report writing and Section 106 and use of conditions. Officer reports should be easy to comprehend and demonstrate transparency and the reasons why decisions are reached. The training highlighted the need for clarity and demonstrating that the relevant considerations have been taken into account and what weight has been given to them. In the event of a challenge an officer report would form a key part of the evidence in proceedings. The training on Section 106 and use of conditions ensures there is a consistent approach taken by officers in deciding which approach should be taken and in the technical wording of conditions, again to ensure consistency and transparency.
- 3.8.5 A Planning Performance Agreement (PPA) survey was undertaken in 2010 with developers and agents who had entered into an agreement with planning services. The results of the survey highlighted that there was room for improvement. The PPA process needs to be applied much more consistently by officers across the service in order to ensure confidence in the process and the judgments being made. This will be addressed in the service plan for 2011-13.
- 3.8.6 The Town and Parish Council Charter adopted in 2009 was reviewed in the summer of 2010 and was found fit for purpose at that time. The Charter clarified arrangements and relationships between planning services and Town and Parish Councils. The Charter seeks to promote greater community engagement so that local people feel more engaged in the planning process. This will become increasingly important with the advent of the Localism Bill which will give neighbourhood communities power to shape the way that the areas in which they live, develop and grow.
- 3.8.7 A report went to the Scrutiny Board (City Development) in September and provided a comprehensive description of the purpose, justification and management of Section 106/ 278 Agreements. Members were given reassurances that the system for Section 106 and 278 agreements was robust, up to date and in line with statutory regulations. On the request of the Board, a plain English guide on Section 106/ 278 was prepared for Members, Town and Parish Councils and the community to explain the process clearly and transparently.
- 3.8.8 A Scrutiny Inquiry on how applications are publicised and consultation takes place was undertaken in 2010. The Board made 13 recommendations in its final report which have been implemented by the service. Update reports on the progress have gone periodically to the Board and a final update report is likely to be presented soon. The service improvements provide rigour to the process of publicity and notification of planning applications through the adoption of a code of practice for publicity, which provides a clear and robust framework. Applicants, the public and members can have confidence that the advertising process for all applications is fair, proportionate and transparent. Neighbour notification letters, site notices and other correspondence has been reviewed to ensure they are in plain English and accessible. New information for communities involved in pre-application consultation has also been produced which clearly describes the purpose and process of pre-application consultation and facilitates a more inclusive approach, providing transparency to the process.

### 3.9 Monitoring and Review

3.9.1 We have a number of internal processes to ensure that there is sufficient rigour and consistency in the quality of decision making. We monitor the number of appeals, complaints, upheld complaints and decisions made contrary to the officer's recommendation and these are described below.

#### 3.10 Appeals

3.10.1 The number of appeals per se should not necessarily be seen as an indication of the quality of decision making as all applicants have the right to appeal to the Planning Inspectorate against a refusal of planning permission. Applications can be refused where the considerations are finely balanced and there is a subjective element - in such cases a different decision could be made by another decision maker. However, where appeals are brought, the appellant can apply for costs against the council where the council has acted unreasonably and the appellant has incurred costs as a result.

3.10.2 The number of appeals resulting from planning refusal has decreased from 235 in 2008-09 to 183 in 2010-11. The number of appeals should be seen in the context of the total number of decisions. 4,196 decisions were made in 2010/11 so the number of appealed decisions represents only 4.3% of the total number of decisions in that year.

3.10.3 Importantly, there has been steady improvement in the number of appeals being dismissed. The chart below shows the improving performance over the last three years.

Year	Number of appeals	Dismissed
2008-09	235	69%
2009-10	233	74%
2010-11	183	73.3%

3.10.4 In 2010-11 19 decisions have been made on cost claims made against the Council - 8 were allowed and 11 dismissed.

3.10.5 During 2010-11 the service saw 7 high profile appeals take place on phase 2 and 3 green field housing sites. The strategic position in Leeds has been to promote brown field sites for development first and protect green field sites. However in all green field housing appeals the Planning Inspectorate have found for the appellants.

3.10.6 Five of these were allowed with costs, three with full costs and two with partial costs. The total cost of the claims is not known yet but will have a significant impact on the budget.

3.10.7 Of those applications determined by Plans Panel in 2010-11, which were contrary to the officer's recommendation, 3 have resulted in an appeal which have not yet been determined yet.

3.10.8 Appeal outcomes are regularly reviewed by the head of planning services to see if there are any common themes arising and to identify where improvements need to be made.

3.10.9 There is the possibility of Judicial Review proceedings being brought to challenge any decision of the LPA on the basis of illegality, irrationality or unfairness or procedural impropriety. There have been no Judicial Review proceedings brought in 2010-11 against decisions of the LPA although there was one action brought in the case of Leeds Girls High School before a decision was taken and this was dismissed by the High Court.

### **3.11 Complaints**

- 3.11.1 In 2010-11 the service received 144 complaints, however this should be seen in the context of a total of 4,196 decisions made by the LPA in that year.
- 3.11.2 This is a decrease in numbers of complaints received in 2009-10, 148. There has been a slight increase in the number of complaints that were upheld - 24% in 2010-11 compared with 17% in 2009-10.
- 3.11.3 A dedicated team deals with the complaints and provides PSLT with regular reports on complaints performance and an analysis of the complaints. Learning points and areas for improvement are discussed and implemented to mitigate the risk of the complaint arising again. The main reasons for complaints are around lack of communication, lack of case management and incorrect officer reports. Work is on going in an attempt to reduce the complaints through improvements in customer care, including the training on report writing mentioned at 6.4 above, and changes in process and procedures.

### **3.12 Ombudsman and local settlements**

- 3.12.1 Planning Services receives most cases from the Ombudsman where there has been a refusal of planning permission or where a decision has been taken that it is not expedient to take enforcement action. There were 27 Ombudsman complaints in 2010-11, compared with 21 cases in 2009-10. 17 decisions have been made by the Ombudsman and of these decisions, over half of the cases have been closed by the Ombudsman showing no maladministration.
- 3.12.2 There were four local settlements in 2010-11 compared with six in 2009-10. Two of the cases were cash settlements, one for £100 and the other of approximately £12,000, although this has still to be finally determined. The other two local settlements consisted of an apology and a home visit to resolve any outstanding issues. There were no common themes emerging for the cases but each complaint is the subject of a management review to reduce the likelihood of a reoccurrence.

### **3.13 Decisions not in accordance with officers recommendation**

- 3.13.1 Officers make recommendations in their reports which go to the Plans Panels for consideration. Members sometimes make decisions which are contrary to the officers recommendation. Although there may be differences of opinion, especially if an application is finely balanced, it could give the perception that officers and Members are not working well together and a potential risk of a lack of confidence in the planning system from the development industry and the public.
- 3.13.2 Therefore, work over the last few years has addressed this and there has been a steady reduction in the number of decisions taken contrary to the officer's recommendation. The table below shows that performance has improved considerably between 2006-07 where 24% of decisions were contrary to the officers recommendation to 2010-11 where only 6% were contrary to the officer's recommendation. This improvement has been achieved through better quality reports and presentations by officers, greater knowledge and understanding of the issues by Plans Panel members and monitoring by the head of planning services of commonly arising issues which have been addressed with members and officers.



<b>Year</b>	<b>Decisions</b>	<b>Decisions not in accordance with officers recommendation</b>	<b>% of overall decisions</b>
2006-07	305	72	24%
2007-08	230	28	12%
2008-09	238	44	18%
2009-10	150	18	12%
2010-11	223	14	6%

3.13.3 Clear and accurate reporting of reasons why decisions have been taken are recorded and are in the public domain to minimise any risk of claims of unfairness or impartiality.

#### **4.0 Implications For Council Policy And Governance**

- 4.1 The Corporate Governance and Audit Committee makes sure the council's corporate governance requirements are adequate.
- 4.2 Regular reviews and reports, such as this one, providing assurances on the process by which planning decisions are taken, provides an opportunity for testing the measures currently in place and as a basis for continuous improvement.

#### **5.0 Legal And Resource Implications**

- 5.1 The legal implications of ensuring that the system is fair and lawful is the potential reduction in the number of legal challenges, complaints resulting in financial settlements and cost awards on appeals. The challenge of appeals is costly in both staff resources and financially in some cases.
- 5.2 There are no financial and resource implications arising from this report.

#### **6.0 Conclusions**

- 6.1 This report provides assurance that the service places considerable emphasis on good governance and quality assurance.
- 6.2 There is firm evidence to show that progress continues to be made as there are fewer complaints and local settlements, a reduction in the number of appeals made and a reduction in the number of those upheld. The green field housing appeals and public inquiries have somewhat overshadowed the overall performance on appeals and the arising cost awards.
- 6.3 A number of changes have made the decision making process more robust, consistent, transparent and to ensure there is confidence in the judgments being made. The chief planning officer's delegation scheme has been revised to reflect more accountable decision making. Publicity on applications has been reviewed to ensure that the process is as transparent and inclusive as possible. However, the service is not complacent and customer surveying shows where there is the need for improvement and the Committee can be assured that these issues will be addressed in the 2011-13 service plan.

## **7.0 Recommendations**

7.1 Members are asked to:

- i. note the contents of this report and the robust assurance that it provides in terms of the methodology used in taking planning decisions at the Council ;
- ii. receive a report on planning decision making on an annual basis

## **8.0 Background Papers**

HMSO Planning and Compulsory Purchase Act 2004

Planning Advisory Service Making your mind up- improving planning decision making 2008

Leeds City Council Constitution, Part 3 Chief Planning Officers Delegation Scheme

Leeds City Council Constitution, Part 5 Codes and Protocols (m) Code of Corporate Governance <http://democracy.leeds.gov.uk/mgConvert2PDF.aspx?ID=55590>

Leeds City Council Constitution, Part 5b) Employees Code of Conduct

Leeds City Council Code of Corporate Governance

## Plans Panels

The Plans Panels are authorised<sup>1</sup> to discharge<sup>2</sup> the following functions<sup>3</sup>

1. all Council (non-executive)<sup>4</sup> functions relating to:
  - (a) town and country planning and development control<sup>5</sup>;
  - (b) safety certificates for sports grounds and fire certificates<sup>6</sup>;
  - (c) common land or town and village greens<sup>7</sup>;
  - (d) street works and highways<sup>8</sup>;
  - (e) public rights of way<sup>9</sup>;
  - (f) the protection of hedgerows and the preservation of trees<sup>10</sup>; and
  - (g) high hedges<sup>11</sup>
  
2. in respect of any approval, consent, licence, permission, or registration which they may grant:
  - (a) to impose conditions limitations or restrictions;
  - (b) to determine any terms;
  - (c) to determine whether and how to enforce any failure to comply;
  - (d) to amend, modify, vary or revoke; and/or
  - (e) to determine whether a charge should be made or the amount of such charge.
  
3. to discharge any licensing function<sup>12</sup>, where full Council has referred a matter to the panel.

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<sup>1</sup> Each Plans Panel is authorised to discharge functions in respect of its own geographical area as indicated on the plan attached (A larger scale more detailed copy of the plan is maintained by the Chief Planning Officer)

<sup>2</sup> With the exception of any licensing function under the Licensing Act 2003, the Panels and the Council may arrange for any of these functions to be discharged by an officer – the functions for the time being so delegated are detailed in Section 2 of Part 3 of this Constitution.

<sup>3</sup> 'Functions' for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions

<sup>4</sup> Local Authorities (Functions and Responsibilities)(England)Regulations 2000 as amended

<sup>5</sup> Items 5-31, Para. A of Schedule 1 of the 2000 Regulations

<sup>6</sup> Items 26 and 27 of Para B of Schedule 1 of the 2000 Regulations

<sup>7</sup> Items 37, 38 and 72 of Para B and Items 51-53 of Para I of Schedule 1 of the 2000 Regulations

<sup>8</sup> Items 41,46A to 55 of Para B of Schedule 1 of the 2000 Regulations

<sup>9</sup> Part I of Para I of Schedule 1 of the 2000 Regulations

<sup>10</sup> Items 46 and 47 of Para I of Schedule 1 of the 2000 Regulations

<sup>11</sup> Item 47A of Para. I of Schedule 1 of the 2000 Regulations

<sup>12</sup> (section 7 (5) (a) of the Licensing Act 2003) The matter must relate to:

- a licensing function of the licensing authority and
  - a function which is not a licensing function
- Unless the matter is urgent, the Panel must consider a report of the Licensing Committee in respect of the matter before discharging the function concerned (Section 7 (6))

## Chief Planning Officer

With the exception of those matters where an appropriate Executive Member<sup>3</sup> has directed that the delegated authority should not be exercised and that the matter should be referred to the Executive Board for consideration<sup>4</sup> the Chief Planning Officer<sup>5</sup> is authorised to discharge any function<sup>6</sup> of the Executive:

- (a) in relation to the authority's role as local planning authority<sup>7</sup>;

With the exception of those matters where

- (i) an appropriate Executive Member<sup>8</sup> or the Director of City Development has directed that the delegated authority should not be exercised and that the matter should be referred to the Executive Board for consideration<sup>9</sup>; or
- (ii) the Director of City Development has directed that the delegated authority should not be exercised and that the matter be referred to him/her for consideration,

the Chief Planning Officer<sup>10</sup> is authorised<sup>11</sup> to discharge any function<sup>12</sup> of the Executive in relation to:

- (b) building control (whether under the Building Act 1984 or otherwise);
- (c) safety at sports grounds; and
- (d) street naming and numbering.

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<sup>3</sup> An "appropriate Executive Member" is the Leader or other appropriate portfolio-holding Member of the Executive Board.

<sup>4</sup> The Chief Officer may consider in respect of any matter that the delegated authority should not be exercised and that it should be referred for consideration to the Executive Board

<sup>5</sup> The fact that a function has been delegated to the Chief Planning Officer does not require the Chief Planning Officer to give the matter his/her personal attention and the Chief Planning Officer may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However the Director remains responsible for any decision taken pursuant to such arrangements.

<sup>6</sup> "Function" for these purposes is to be construed in a broad and inclusive fashion and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions. The delegation also includes the appointment of the Director as "proper officer" for the purpose of any function delegated to him/her under these arrangements.

<sup>7</sup> Save where any such functions are exercisable by a Plans Panel, the discharge of all **Council functions** relating to town and country planning and development control has been delegated to the Chief Planning Officer. No such **Council functions** will be exercisable by the Director of City Development

<sup>8</sup> See footnote 1 above

<sup>9</sup> See footnote 2 above

<sup>10</sup> See footnote 3 above

<sup>11</sup> The Chief Officer must consult the Director of City Development before taking any key or major decision in relation to functions (b) to (c).

<sup>12</sup> See footnote 4 above

## Chief Planning Officer

### SECTION 1

With the exception of those matters where the Director of City Development has directed that the delegated authority should not be exercised and that the matter should be referred to him/her or the relevant committee for consideration and, subject to the exceptions listed below (in Section 3), the Chief Planning Officer<sup>13</sup> is authorised to discharge the following Council (non-executive) functions:

#### Town and Country Planning and Development Control

(a)	To issue, amend or replace safety certificates (whether general or special) for sports grounds	The Safety of Sports Grounds Act 1975
(b)	To issue, cancel, amend or replace safety certificates for regulated stands at sports grounds	Part II of the Fire Safety and Safety of Places of Sport Act 1987

### SECTION 2

Subject to the exceptions listed below (in Section 3), the Chief Planning Officer<sup>14</sup> is authorised to discharge the following Council (non-executive) functions:

#### Town and Country Planning and Development Control

(c)	To determine application for planning permission	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990
(d)	To determine applications to develop land without compliance with conditions previously attached	Section 73 of the Town and Country Planning Act 1990
(e)	To grant planning permission for development already carried out	Section 73A of the Town and Country Planning Act 1990
(f)	To decline to determine application for planning permission	Section 70A of the Town and Country Planning Act 1990
(g)	Duties relating to the making of determinations of planning applications	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) and directions made thereunder
(h)	To determine application for planning permission made by a local authority, alone or jointly with another person	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (SI 1992/1492)
(i)	To make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418)
(j)	To enter into agreement regulating development or use of land	Section 106 of the Town and Country Planning Act 1990
(k)	To issue a certificate of existing or proposed	Sections 191(4) and 192(2) of the Town and

<sup>13 & 2</sup> The fact that a function has been delegated to the Chief Officer does not require the Chief Officer to give the matter his/her personal attention and the Chief Officer may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However the Chief Officer remains responsible for any decision taken pursuant to such arrangements.

	lawful use or development	Country Planning Act 1990
(l)	To serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990
(m)	To grant consent for the display of advertisements	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992
(n)	To authorise entry onto land	Section 196A of the Town and Country Planning Act 1990
(o)	To require the discontinuance of a use of land	Section 102 of the Town and Country Planning Act 1990
(p)	To issue a temporary stop notice	Section 171E of the Town and Country Planning Act 1990
(q)	To serve a planning contravention notice, breach of condition notice or stop notice	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
(r)	To issue an enforcement notice	Section 172 of the Town and Country Planning Act 1990
(s)	To apply for an injunction restraining a breach of planning control	Section 187B of the Town and Country Planning Act 1990
(t)	To determine applications for hazardous substances consent, and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
(u)	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 (c 25) and paragraph 6(5) of Schedule 14 to that Act
(v)	To require proper maintenance of land	Section 215(1) of the Town and Country Planning Act 1990
(w)	To determine application for listed building consent, and related powers	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(x)	To determine applications for conservation area consent	Section 16(1) of the Planning (Listed Buildings and Conservation Areas Act 1990 , as applied by section 74(3) of that Act
(y)	Duties relating to applications for listed building consent and conservation area consent	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 26 of Department of the Environment , Transport and the Regions Circular 01/01
(z)	To serve a building preservation notice, and related powers	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings and Conservation areas) Act 1990
(aa)	To issue enforcement notice in relation to demolition of listed building in conservation area	Section 38 of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(bb)	To acquire a listed building in need of repair and to serve a repairs notice	Sections 47 and 48 of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(cc)	To apply for an injunction in relation to a listed building	Section 44A of the Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990
(dd)	To execute urgent works	Section 54 of Planning (Listed Buildings and Buildings and Conservation Areas) Act 1990

#### 8.0.1.1.1 Commons Registration

(a)	To register common land or town or village	Regulation 6 of the Commons Registration (New
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	greens, except where the power is exercisable solely for the purpose of giving effect to (i) an exchange of lands affected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c 67) or (ii) an order section 147 of the Inclosure Act 1845 (c8 & 9 Vict c 118)	Land) Regulations 1969 (SI 1969/1843)
(b)	To register variation of rights of common	Regulation 29 of the Commons Registration (General) Regulations 1966 (SI 1966/1471)
(c)	Functions relating to the registration of common land and town or village greens	<u>Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)</u>
(d)	Power to apply for an enforcement order against unlawful works on common land	<u>Section 41 of the Commons Act 2006</u>
(e)	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	<u>Section 45(2)(a) of the Commons Act 2006.</u>
(f)	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens	<u>Section 45(2)(b) of the Commons Act 2006</u>

#### 8.0.1.1.2 Hedgerows and Trees

(a)	The protection of important hedgerows	The Hedgerows Regulations 1997
(b)	The preservation of trees	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999

#### 8.0.1.1.3 High Hedges

(a)	Complaints about high hedges	Part 8 of the Anti-Social Behaviour Act 2003
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### SECTION 3

#### Exceptions:

The Chief Planning Officer is not authorised<sup>15</sup> to discharge the following functions:

#### 8.0.1.1.4 Town and Country Planning and Development Control

(a)	the determination of applications following a written request <sup>4</sup> to the Chief Planning Officer by a Ward Member <ul style="list-style-type: none"> <li>• concerning an application within the Ward he/she represents, or</li> <li>• concerning an application within a neighbouring Ward where that Ward Member considers that the development would have a significant effect on the ward he/she represents that an application be referred to the relevant Plans Panel;</li> </ul>
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<sup>15</sup> Under this delegation scheme (council functions). A Plans Panel may however arrange for the discharge of **any** of its functions by the Chief Planning Officer - (Section 101(2) Local Government Act 1972).

<sup>4</sup> This request must be made to the Chief Planning Officer and should normally be made within 21 days of the date of validation. The application can be legally determined after the 21 day statutory advertisement deadline if no such request

(b)	the determination of applications for development that would constitute a significant departure from the Development Plan, including a significant departure from any Local Development Framework currently in force;
(c)	the determination of applications for development that would be materially different from any supplementary planning guidance or planning brief approved by or on behalf of the Council;
(d)	the determination of applications for major development <sup>5</sup> which the Chair <sup>6</sup> considers are sensitive, controversial or would have significant impacts on local communities;
(e)	the approval of applications, where approval would reverse a previous decision taken by Plans Panel;
(f)	the approval of applications, where approval would conflict with an objection raised by a statutory technical consultee;
(g)	where the Chair <sup>7</sup> considers that the application should be referred to the relevant Plans Panel for determination because of the significance, impact or sensitivity of the proposal;
(h)	the determination of applications submitted in a personal capacity by or on behalf of Members, Directors or any other officer who carries out development management functions.

#### 8.0.1.1.5

#### 8.0.1.1.6 Commons Registration

(a)	Where objections have been received.
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<sup>4</sup> This request must be made to the Chief Planning Officer and should normally be made within 21 days of the date of validation. The application can be legally determined after the 21 day statutory advertisement deadline if no such request has been received by that deadline. The request must set out the reason(s) for the referral based on material planning consideration(s) and must give rise to concerns affecting more than neighbouring properties (these being those which are notified by means of a letter as part of the Council's policy regarding publicity on householder planning applications).

<sup>5</sup> "Major Development" for these purposes means:

- Residential development involving the erection of ten or more dwellings or, if the number of dwellings are not known, sites of 0.5 hectares or more.
- Other development proposals (apart from minerals and waste development) where the application would result in the erection of gross floorspace of not less than 1,000 msq, or sites of 1 hectare or more.
- Minerals and waste development where the application does require an Environmental Impact Assessment

<sup>6</sup> In conjunction with the Chief Planning Officer

<sup>7</sup> In conjunction with the Chief Planning Officer