

**SCHEME OF DELEGATION TO OFFICERS OF THE COUNCIL  
VARIATIONS AND AMENDMENTS**

**NEWLY PROPOSED**

**D. Head of Development Management**

<b>No.</b>	<b>Original proposed new delegation (Council, 15.7.10)</b>	<b>Proposed Amendments</b>
1.	<b>Development Management</b>	
1.1	<u>General Delegation of Functions and Definitions</u>	
1.1.1	The Head of Development Management has responsibility for determining the Council's actions under functions assigned to it under the Town and Country Planning Acts, Orders and Regulations.	The Head of Development Management has responsibility for discharging those of the functions assigned to the Development Management Committee under the Town and Country Planning Acts, Orders and Regulations (as set out in Part 3 of the Constitution: Roles and Functions) which are delegated to him/her in this Scheme
1.1.2	In this Scheme the term "the Town and Country Planning Acts" shall include - <ul style="list-style-type: none"> <li>• Town and Country Planning Act 1990</li> <li>• Planning (Listed Buildings and Conservation Areas) Act 1990</li> <li>• Planning (Hazardous Substances) Act 1990</li> <li>• Planning (Consequential Provisions) Act 1990</li> <li>• Planning and Compensation Act 1991</li> </ul>	

	<ul style="list-style-type: none"> <li>• Planning Act 2008</li> <li>• Planning and Energy Act 2008</li> <li>• Caravan Sites and Control of Development Act 1960</li> <li>• Local Government (Miscellaneous Provisions) Act 1982</li> <li>• Anti Social Behaviour Act 2003</li> </ul> <p>and any statutory re-enactment, amendment or variation of any of them as from time to time determined by Parliament.</p>	
1.1.3	In this Scheme the powers delegated to the Head of Development Management (or such of them as he/she determines) may also be exercised by any officer nominated by him/her whose name appears in a list of delegates maintained by the Head of Development Management.	
1.1.4	In delegating functions to the Head of Development Management the Council requires that in exercising delegated powers he or she will consult the Head of Corporate Services for legal advice in appropriate cases in order to safeguard the Council's position.	<p>In delegating functions to the Head of Development Management the Council requires that in exercising delegated powers he or she will :-</p> <ul style="list-style-type: none"> <li>• consult Ward Members or the Chairman of the Development Management Committee as required by this Scheme or otherwise as he or she deems appropriate and</li> <li>• consult the Head of Corporate Services for legal advice in appropriate cases in order to safeguard the Council's position</li> </ul>
1.1.5	In this Scheme a "non-contentious application" is an application made under any of the Acts or Regulations operated by the Head of Development Management by a person (or their agent) about which the Council has received no negative representations or adverse comment, or about	<p>In this Scheme –</p> <ul style="list-style-type: none"> <li>• An "application" is any application made to the Council under any of the provisions listed in paragraph 1.1.2 above</li> <li>• A "non-contentious application" is an application made by</li> </ul>

	which all adverse representations or comments have been withdrawn.	a person (or their agent) about which the Council has received no negative representations or adverse comment, or about which all adverse representations or comments have been withdrawn.
1.2	<u>Role of Ward Members</u>	
1.2.1	Ward Members are expected to act as consultees for the Head of Development Management on applications for planning permission, listed building consent, conservation area consent and advertisement consent which affect their Wards.	Ward Members are expected to act as consultees for the Head of Development Management on applications which affect their Wards.
1.2.2	In order to participate in the consultation process Ward Members are required to have undergone such training as the Council shall from time to time stipulate.	Because the development management process is a quasi-judicial function which affects individuals' and organisations' rights, and because of the importance of getting decisions right, Ward Members are required to have undergone such training as the Council shall from time to time stipulate in order to participate in the consultation process.
1.2.3	In multi-member wards officers may consult any of the Members without any obligation to consult all of them or may consult only those Members who have indicated a wish to be consulted.	In multi-member wards the Head of Development Management shall consult all the Ward Members unless any Member has indicated their wish not to be consulted.
1.2.4	Ward Members have three working days ("the notification period") from receipt of any request for consultation either to advise the Head of Development Management of their views or to request that the matter be referred to the Development Management Committee for determination.	Unless a Ward Member requests an extension of time (of up to 48 hours) for response, he or she has three working days ("the notification period") from receipt of any request for consultation either to advise the Head of Development Management of their views or to request that the matter be referred to the

		Development Management Committee for determination.
1.2.5	<p>Where a Ward Member has a prejudicial interest in an application under consideration,</p> <p>(a) he or she must forthwith notify the Head of Development Management of that interest and must take no further part in consideration of the application (but may if he or she so requests be informed afterwards of the decision taken) and</p> <p>(b) the consultation responses on that application may be given by another Ward Member (if both represent a multi-member ward) or by the Chairman of the Development Management Committee alone; but</p> <p>(c) if the Ward Member's interest arises because he or she acts personally as agent or other professional advisor to the applicant, the application must be referred to the Development Management Committee.</p>	<p>Where a Ward Member has a prejudicial interest in an application under consideration,</p> <p>(a) he or she must forthwith notify the Head of Development Management of that interest and must take no further part in consideration of the application (but may if he or she so requests be informed afterwards of the decision taken) and</p> <p>(b) the consultation responses on that application may be given by the nominated alternate member, another Ward Member (in a multi-member ward) or by the Chairman of the Development Management Committee; but</p> <p>(c) if the Ward Member's interest arises because he or she acts personally as agent or other professional advisor to the applicant, the application must be referred to the Development Management Committee.</p>
1.2.6	<p>A Ward Member who is expecting to be unavailable for consultation (for example because of being on holiday) must notify the Head of Development Management which Member will fulfil that role in their absence.</p>	<p>A Ward Member who is expecting to be unavailable for consultation (for example because of being on holiday or possessing a prejudicial interest) should nominate and notify the Head of Development Management of an alternate Member who will fulfil that role in their absence.</p> <p><i>Note: 1.2.5 and 1.2.6 will be swapped to make a more logical progression of clauses</i></p>

2.	Applications	Process: making decisions
2.1	<u>Refusal</u> The Head of Development Management may REFUSE any planning applications or applications for listed building consent, conservation area consent or advertisement consent.	<u>Refusal under delegated powers</u> After due consultation, the Head of Development Management may REFUSE any application.
2.2	<u>Approval</u> The Head of Development Management may APPROVE with or without conditions any non-contentious application.	<u>Approval under delegated powers</u> After due consultation, the Head of Development Management may APPROVE with or without conditions – <ul style="list-style-type: none"> <li>• any non-contentious application, or</li> <li>• any contentious application which the Ward Member does not require to be referred to the Development Management Committee.</li> </ul>
2.3	<u>Other applications</u>	<u>Other matters</u>
2.3.1	Subject to advising the Chairman of the Development Management Committee and the appropriate Ward Member(s) of action to be taken, the Head of Development Management may determine any of the following applications: <ol style="list-style-type: none"> <li>a) applications for the demolition of certain classes of building under Class A of Part 31 of Schedule 2 of the General Permitted Development Order;</li> <li>b) notifications of certain telecommunications development under Class A of Part 24 of Schedule 2</li> </ol>	Subject to advising the Chairman of the Development Management Committee and the appropriate Ward Member(s) of action to be taken, the Head of Development Management may deal with notifications of certain telecommunications development under Class A of Part 24 of Schedule 2 of the General Permitted Development Order  <i>Remainder covered by extended definition of “application”</i>

	<p>of the General Permitted Development Order (except when waived by agreement with the Ward Member and Chairman);</p> <p>c) applications for agricultural and forestry buildings and operations under Class A of Part 6 of Schedule 2 and Class A of Part 7 of Schedule 2 of the General Permitted Development Order;</p> <p>d) applications for deemed consent under the Planning (Hazardous Substances) Act 1990.</p>	
2.3.2	In consultation with Ward Member(s) the Head of Development Management may determine applications for issue of certificates to exempted organisations under the Caravan Sites and Control of Development Act 1960.	Delete <i>(covered by extended definition of “application”)</i>
2.3.4	The Head of Development Management may determine all applications to work on trees and hedgerows covered by a planning condition	Delete <i>(covered by extended definition of “application”)</i>
2.3.5	The Head of Development Management may decline to determine repeat applications.	<i>Renumber 2.3.2</i>
2.4	<u>County Applications and applications to neighbouring authorities</u>	<u>Applications to the County Council and neighbouring authorities</u>
2.4.1	In consultation with the Ward Member(s) the Head of Development Management may forward to the County Council a recommendation on any planning application upon	

	which the Council is consulted by the County Council.	
2.4.2	In consultation with the Ward Member(s) the Head of Development Management may make recommendations to a neighbouring local planning authority when consulted by them on a planning application.	
2.5	<u>Applications by Council Officers</u>	<u>Applications by Council Officers</u>
2.5.1	Applications made by officers of the Council may be determined under the above provisions by the Head of Development Management with or without consultation with the Chairman of the Development Management Committee or Ward Member(s) or both or may at the discretion of the Head of Development Management be referred to the Development Management Committee.	Applications made by officers of the Council may be determined under the above provisions by the Head of Development Management in consultation with the Chairman of the Development Management Committee or may at the discretion of the Head of Development Management be referred to the Development Management Committee
2.5.2	Personal applications made by the Head of Development Management may be determined under this scheme by the Strategic Director or may at his or her discretion be referred to the Development Management Committee.	Personal applications made by the Head of Development Management will be referred to the Development Management Committee
2.6	The Council's own planning applications will be determined by the Development Management Committee, unless the relevant Ward Member(s) have requested the matter be determined by the full Council.	
3.	<b>Action on decisions of the Development Management Committee</b>	

3.1	Where the Committee approves an application, the Head of Development Management may issue the Approval Notice forthwith containing such conditions as are required to give effect to the Committee's decision.	Where the Committee approves an application, the Head of Development Management shall issue the Approval Notice forthwith containing such conditions as are required to give effect to the Committee's decision.
3.2	Where the Development Management Committee refuses an application which the Head of Development Management recommended should be approved, the Head of Development Management may settle the wording of the reasons for refusal.	Where the Development Management Committee refuses an application which the Head of Development Management recommended should be approved, the Head of Development Management shall settle the wording of the reasons for refusal.
<b>4.</b>	<b>Affordable Housing for Local Needs and Access Housing</b>	<b>Applications Involving Affordable Housing for Local Needs and Disabled Access Housing</b>
4.1	The Head of Development Management may – determine <b>the extent</b> to which <b>applications</b> the policy approved in the agreed local plan/local development framework should apply	<i>Delete (policy applies in all cases)</i>
4.2	in consultation with the Chairman of the Development Management Committee agree the proportion of affordable housing or other features to provide an element of <b>disabled</b> access housing or affordable housing to be sought in negotiations with developers in new schemes	In consultation with the Chairman of the Development Management Committee the Head of Development Management may agree the proportion of affordable housing or other features to provide an element of disabled access housing or affordable housing to be sought in negotiations with developers in new schemes in accordance with Council policy
<b>5.</b>	<b>Section 106 Agreements</b>	
	The Head of Development Management may –	

5.1	authorise the execution of a section 106 agreement, where required in advance of the grant of planning permission under delegated powers.	
5.2	in consultation with the Chairman of the Development Management Committee, vary the terms of a section 106 agreement or the heads of terms of a draft agreement or take such other action as is necessary to secure the objectives of the Committee.	
5.3	authorise the execution of a section 106 agreement where an application is subject to an appeal, to take effect in the event that the appeal is allowed.	
6.	<b>Enforcement Action</b>	
6.1	The Head of Development Management may investigate complaints of breaches of statutory control under the functions for which he is responsible and –	
6.1.1	where there is no breach may determine to take no further action;	where there is no evidence of a breach, may determine to take no further action;
6.1.2	in consultation with the Ward Member(s), may determine that it is not expedient to take enforcement or other action;	where there is evidence of a breach, may determine in consultation with the Ward Member(s) - (a) that it is not expedient to take enforcement or other action; or (b) that appropriate enforcement action may be taken including <ul style="list-style-type: none"> <li>• undertaking negotiations for the carrying out of</li> </ul>

		<p>amelioration measures or the submission of an application;</p> <ul style="list-style-type: none"> <li>• serving and issuing statutory notices (including but not limited to enforcement and stop notices);</li> <li>• taking direct action or</li> <li>• authorising prosecution or injunction proceedings for breaches thereof on the advice of the Head of Corporate Services.</li> </ul>
6.1.3	<p>in consultation with the Ward Member(s) and the Chairman of the Development Management Committee, may take appropriate enforcement action by –</p> <p>a) undertaking negotiations for the carrying out of amelioration measures or the submission of an application;</p> <p>b) serving and issuing formal notices (including but not limited to enforcement and stop notices);</p> <p>c) taking direct action to remove unauthorised advertisements or fly-postings or</p> <p>d) authorising prosecution or injunction proceedings for breaches thereof on the advice of the Head of Corporate Services.</p>	Delete
6.1.4	<p>in consultation with the Ward Member(s), may respond on behalf of the Council to consultations by the Dartmoor National Park Authority in connection with enforcement action or prosecution proceedings</p>	Delete <i>(not required)</i>
6.1.5	<p>serve Building Preservation Notices in accordance with</p>	Delete <i>(covered in 6.1.2)</i>

	Section 3(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and notify Ward Members of the serving of Notice	
6.2	On the advice of the Head of Corporate Services, the Head of Development Management may approve the withdrawal, variation or substitution of any notice or proceedings.	
6.3	In connection with investigation of breaches of planning control and in accordance with the statutory requirements the Head of Development Management or any person duly authorised by him or her may enter land or buildings in order to pursue enquiries and may instruct the Head of Corporate Services to obtain appropriate warrants for entry where so advised.	
7.	<b>Conservation Area Character Appraisals</b>	<b>Conservation Areas</b>
	The Head of Development Management may approve for consultation and adopt such appraisals in consultation with the local Ward Member(s) and the <del>lead Executive Member</del> <b>Chairman of the Development Management Committee.</b>	in consultation with the local Ward Member(s) and the Chairman of the Development Management Committee, the Head of Development Management may approve for consultation and adopt – <ul style="list-style-type: none"> <li>• Conservation Area Character Appraisals and</li> <li>• Conservation Area Management Plans</li> </ul>
8.	<b>Conservation Area Management Plans</b>	Delete
	The Head of Development Management may approve for consultation and adopt such appraisals in consultation with the local Ward Member(s) and the <del>lead Executive Member</del>	Delete ( <i>covered above</i> )

	<b>Chairman of the Development Management Committee.</b>	
9.	<b>Appeals</b>	<b>8. Appeals</b>
	The Head of Development Management may recommend to the Planning Inspectorate whether planning appeals should be dealt with by written representations, informal hearings or public inquiry.	The Head of Development Management may recommend to the Planning Inspectorate whether planning appeals should be dealt with by written representations, informal hearings or public inquiry.