

APPENDIX 2

EXTRACT FROM THE SCHEME OF DELEGATION

PART 3 - SECTION 4: COUNCIL RESPONSIBILITIES (NON-EXECUTIVE MATTERS)

EXTRACT:

4.2. Planning Matters

Description of Responsibility:

- All the responsibilities in Para A and column (1) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended),
- the duty to deal with complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003
- the power to preserve trees under the Sections 197 to 214D of the Town and Country Planning Act 1990 (as amended), the Town and Country Planning (Tree Preservation) (England) Regulations 2012; and
- the power to authorise the stopping up or diversion of rights of way under Section 257 of the Town and Country Planning Act 1990.

Delegation Arrangements:

- (1) The full Council is responsible for approving the Draft Submission Local Plan, the adoption of the Rushmoor Local Plan, Development Plan Documents and Neighbourhood Plans.
- (2) The Development Management Committee is responsible for determining planning matters referred to the Committee via Referral Meetings as set out in the Protocol for Managing Decision Making under the National Scheme of Delegation prepared in accordance with the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. ~~the discharge of the Council's functions relating to town and country planning and development management.~~ The decision-making responsibilities of the Development Management Committee are set out in Section 6 (Functions of the Development Management Committee).

Delegation to the Executive Head of Property and Growth:

- (3) The Executive Head of Property and Growth ~~must is authorised to~~ exercise and discharge the provision of the full range of development management services in accordance with Schedule 1 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 ~~all statutory and other requirements of a Local Planning Authority~~ under the Town and Country Planning Act ~~1990s~~ including:

- (a) certificates of appropriate alternative development (applications under section 17 of the Land Compensation Act 1961)
- (b) certificates of lawfulness for proposed works to listed buildings (under section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- (c) householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- (d) minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- (e) minor residential development which is defined in the Regulations as:
 - (i) development that includes only dwellings and development for the purposes incidental to the enjoyment of dwellings, comprises at least one but not more than nine dwellings, and is to be carried out on a site having an area smaller than 0.5 hectares.
 - (ii) development of a building containing flats, or development within the curtilage of such a building, for any purpose incidental to the enjoyment of the flats or any of them but excludes development in respect of a building containing flats, or development within the curtilage of such a building, that involves either or both of a change of use or change to the number of flats
 - (iii) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order for development within paragraph (a) or (b)
- (f) permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)
- (g) to develop land without compliance with conditions previously attached in respect of which the original planning permission was a Schedule 1 planning permission (applications under Section 73(1) of the Town and Country Planning Act 1990).
- (h) non-material changes to planning permission or permission in principle (applications under section 96A (4) of the Town and Country Planning Act 1990)
- (i) modification of s106 Planning Obligations under section 106A provisions where connected to a Schedule 1 development
- (j) certificates of lawfulness of existing or proposed use or development under sections 191 and 192 of the Town and Country Planning Act 1990

- (k) biodiversity gain plan submissions pursuant to Schedule 7A to the Town and Country Planning Act 1990.
- (l) reserved matters approval application in respect of an outline planning permission other than a large outline permission (large outline permission is defined as 500 or more dwellings or floorspace created by the development is 50,000 sqm or more).
- (m) applications made under a planning condition (discharge of conditions)
- (n) prior approvals under Schedule 2 to the General Permitted Development Order 2015.

The Executive Head of Property and Growth shall also have responsibility for determining:

- (o) **any Schedule 2 Application under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 which is not referred to the Development Management Committee following an Assessment of Significance and Referral Meeting pursuant to procedures for managing decision making under the National Scheme of Delegation. (The Procedure Protocol is set out in Part 3 – Section 6 of the Constitution)**
- (p) Schedule 2 Applications under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, which are not a matter for determination by the Development Management Committee under the Council's agreed local protocol. This includes:
 - (i) applications for advertisement consent under regulation 9(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
 - (ii) applications for consent under tree preservation orders under regulation 16 (1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012
 - (iii) applications for the variation or discharge of conditions of listed building consent under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- ~~(1) the power to accept, administer, process (including requiring the submission of more information), publicise, decline (where the regulations~~

~~allow) to determine, and to determine all applications^{1, 2}, which includes all planning applications³, and applications for reserved matters approval, advertisement consent, listed building consent and conservation area consent submitted to the Council, **except** an application:~~

- ~~(a) which is for 25 or more new dwellings;~~
- ~~(b) which is contrary to the provisions of an approved or draft development plan or adopted planning policy approved by the Council, and which is recommended for approval;~~
- ~~(c) which any Councillor requests, setting out good material planning reasons in writing to the Executive Head of Property and Growth, within 21 days of the circulation of details of the application, should be the subject of consideration by the Development Management Committee and the referral to the Committee is agreed by the Chair;~~
- ~~(d) submitted by or on behalf of a Councillor (or his/her spouse, partner or other immediate family member) or by any member of the Council's staff (or his/her spouse, partner or other immediate family member);~~
- ~~(e) submitted by or on behalf of the Council for its own developments; and~~
- ~~(f) which the Executive Head of Property and Growth considers should be presented to Committee for decision including, for example, those developments that in his/her opinion are potentially controversial, likely to be of significant public interest, or which may have a significant impact on the Borough or its environment.~~

(4) The Executive Head of Property and Growth is also authorised to exercise and discharge the full range of development management services falling outside of Schedule 1 and 2 to the Town and Country Planning (Discharge of Local Planning Authority Functions (England) Regulations 2026, in accordance with all statutory and other requirements of a Local Planning Authority under the Town and Country Planning Acts including:

- (i) Powers to administer and determine applications for hazardous substances consent under the Planning (Hazardous Substances) Act 1990, and related powers.
- (ii) Powers to determine ~~applications for approval of details submitted pursuant to conditions, or~~ requests for confirmation of compliance with conditions, imposed

~~¹ But not to refuse an application unless it is in consultation with the Chair.~~

~~² But not to grant an application where material planning objections have been received from third parties or consultees unless it is in consultation with the Chair.~~

~~³ But not to grant permission for a major application (a major application is defined by the Office of the Deputy Prime Minister in the Development Control Statistical Return as a development that comprises 10 or more dwellings (or where the number of dwellings is not given the site area is more than 0.5ha). For all other uses a major application is defined as one where the floorspace to be built is 1,000sq.m or more, or where the site area is 1ha or more) unless it is in consultation with the Chair.~~

on planning and other permissions; and to approve or reject submissions required by Section 106 Planning Obligations.

- (iii) Powers to respond, in consultation with the Chair (or Portfolio Holder as appropriate), to consultations from Government departments, Crown Agencies, statutory undertakers, Hampshire County Council and adjoining local planning authorities.
- ~~(iv) Powers to determine applications for Lawful Development Certificates under Section 191 and 192 of the Town and Country Planning Act 1990.~~
- ~~(v) Powers to determine, in consultation with the Chair, all applications for Prior Approval and Notification.~~
- (vi) Powers to authorise the Executive Head of Governance & Law to issue breach of condition notices, enforcement notices and stop notices under the Town and Country Planning Act 1990.
- (vii) Powers to confirm in circumstances where, in the opinion of the Executive Head of Property and Growth a breach of planning control gives rise to no material significance or harm, that the Council will take no further action in that regard.
- (viii) Powers to sign and serve Planning Contravention Notices under the Town and Country Planning Act 1990, and Requisitions for Information under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and Section 1719(c) and 330 of the Town and Country Planning Act 1990.
- (ix) Powers to instruct the Executive Head of Governance & Law to the Council to commence and pursue prosecutions with respect to any contravention/offence under the Town and Country Planning Acts.
- (x) Powers to instruct the Executive Head of Governance & Law with respect to any matter related to Section 106 Planning Obligations under the Town and Country Planning Act 1990, including any matter necessary to protect the Council's or public interest in the granting of permission pursuant to either a decision of the Development Management Committee or under delegated powers.
- (xi) Powers in respect of trees to
 - 1) make a Tree Preservation Order;
 - 2) confirm any Tree Preservation Order;
 - 3) vary and revoke any Tree Preservation Order
 - 4) authorise the issuing and serving of Tree Replacement Notices
 - 5) determine applications to fell or carry out works to trees that are the subject of a tree preservation order; and
 - 6) determine Notices of Intent to carry out works to tree within a conservation area".
- (xii) Authority to exercise all the Council's functions with respect to 'screening' and 'scoping' opinions under the Town and Country Planning Acts and the Town and Country Planning (Environmental Impact Assessment) Regulations.
- (xiii) Powers to determine the Council's case to be presented at appeals including the decision whether to appoint consultants to act upon the Council's behalf or to submit claims for costs against an appellant.

- (xiv) Powers to appoint and authorise officers to exercise the powers of entry under the Town and Country Planning Acts.
- (xv) Powers to determine whether to proceed with a complaint relating to high hedges.
- (xvi) Powers to determine a complaint on high hedges, in consultation with the Chair of the Development Management Committee.
- (xvii) Powers to serve a remedial notice in respect of high hedges in consultation with the Executive Head of Governance & Law.
- (xviii) To exercise all the Council's functions with respect to 'Habitats Regulations Assessments' under the Conservation (Natural Habitats etc) Regulations 1994 and the Habitats Directive 1992 (Para 17).