

PART A - Updated Terms of Reference of the Planning Committee

PART 3 SECTION 2 - COUNCIL FUNCTIONS THAT MAY BE REFERRED OR DELEGATED	
Function	Enactment
A - Functions relating to Town and Country Planning and Development Control	
1. Power to determine applications for Planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.
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 decline to determine applications for planning permission.	Section 70A of the Town and Country Planning Act 1990.
5. 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 (S.I. 1995/419) and directions made thereunder.
6. Power to determine applications 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 (S.I. 1992/1492).
7. Power 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 (S.I. 1995/418).
8. Power to enter into agreements regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
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.
10. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
11. Power 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.
12. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.

14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice.	Sections 171C, 187A, 183(1) and 171E of the Town and Country Planning Act 1990.
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
17. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
18. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
19. Power to determine applications for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
20. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act.
21. 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 in 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 22 of Department of the Environment Circular 14/97.
22. Power to serve a building preservation notice and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
23. Power to issue enforcement notices in relation to demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
24. Powers 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 in Conservation Areas) Act 1990.
25. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
26. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
27. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892).
28. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).

29. Powers to issue a remedial notice in relation to a hedge adversely affecting the reasonable enjoyment of domestic property	Section 69 of the Anti Social Behaviour Act 2003
30. Power to enter neighbouring land	Section 74 of the Anti Social Behaviour Act 2003
31. Power to carry out works in default of compliance with a remedial notice.	Section 77 of the Anti Social Behaviour Act 2003
32. Power to enter land.	Section 324 of the Town and Country Planning Act 1990.
33. Power to obtain information as to interests in land	Section 330 of the Town and Country Planning Act 1990.
Miscellaneous functions	
1 Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990.
2 Power to make a rail crossing extinguishment Order	Section 118A of the Highways Act 1980
3 Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990.
4 Power to make a rail crossing diversion Order	Section 119A of the Highways Act 1980
5 Power to require applicant for Order to enter into an agreement,	Section 119C(3) Highways Act 1980
6 Power to extinguish public right of way over land acquired for clearance	Section 294 Housing Act 1981
7 Power to authorise stopping up or diversion of footpath or bridleway	Section 257 of the Town & Country Planning Act 1990
8 Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town & Country Planning Act 1990

Note: The functions of the Planning Committee include the following:

P1 Power to refer an application for planning permission to Council if it has or is likely to have a substantial and district-wide impact; or would prejudice the implementation of the development plan .

P2 To advise the Council in respect of any proposed development by the Cabinet or a Cabinet Member holding the portfolio of that service, for which the Planning Committee is not prepared to pass the necessary resolution to carry out or authorise such proposed development

Delegated Powers:

P3 To consider annually the Scale of Fees and Charges, and to submit recommendations to the Cabinet or Council as appropriate.

P4 To authorise legal proceedings arising out of the Committee's functions.

P5 To deal with planning proposals referred to the Committee under agency agreements (if any), development proposed by Government departments, or by other Local Authorities

P7 To deal with the scheme of consultation for planning applications with Town and Parish Councils.

P8 To make arrangements for publicity to be given to planning applications.

P9 To deal with all other non-executive matters not specifically referred to in the Terms of Reference and Delegated Powers, arising from Town and Country Planning legislation, Listed Building legislation and Building Control legislation, and to approve guidelines on procedures for the benefit of applicants

PART B - PROPOSED AMENDMENTS TO SCHEME OF DELEGATION TO OFFICERS RELATING TO PLANNING MATTERS

(For ease of reference proposed amendments are highlighted in bold and underlined)

Scheme of Delegations - Director of Regeneration Services

Development Control

9.7 To determine (including the power to refuse applications), all applications for planning permission, Listed Building consent, Conservation Area consent, consent to display adverts, including applications under Regulation 3 and 4 of the Town and Country Planning (General Regulations) in respect of development by, or on behalf of, Kent County Council, in accordance with policies contained in a draft or adopted Development Plan for the area, or other approved documents in the form of planning guidance for development, other than:

(i) applications which the Director of Regeneration or Planning Applications and Enforcement Manager in consultation with the Chairman or Vice Chairman of the Planning Committee considers to be of significant public interest;

(ii) applications which Council Members have specifically requested to be referred to the Planning Committee in accordance with the requirements of any Member's Call In Procedure from time to time approved by the Council ;

(iii) applications submitted by a Members of the Council, members of the Corporate Management Team or any member of staff directly or indirectly involved in the determination of planning applications.

(iv) applications under Regulation 3 and 4 of the Town and Country Planning (General Regulations) in respect of development by, or on behalf of Thanet District Council ,

9.8 To determine applications to make non-material amendments to a grant of planning permission including the power to amend the planning application and impose additional conditions

9.9 To add, or amend conditions and reasons for refusal on all applications which are considered at Planning Committee, as are necessary to ensure that when a planning permission or refusal is issued, it clearly expresses the intentions of the Members of the Committee in making that decision, and protects the interests of the Council as Local Planning Authority, the reason for the decision being accurately recorded in the Planning Committee minutes and on the Decision Notice.

(In all cases, where differences arise between the published minutes and the conditions or reasons for refusal issued by the Director of Regeneration, Planning Applications Manager, the latter shall prevail and be the binding and effective decision of the Local Planning Authority.)

9.10 To make observations on proposals submitted for comment and/or determine applications for prior approval in accordance with Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any other relevant Development Order, including:

Part 6 (Agricultural Buildings)

Part 24 (Telecommunications Code Systems Operators)

Part 31 (Demolition of Buildings)

Plus Member power of Call In - but subject to officer veto on time limits

9.To make observations in accordance with policies contained in a draft or adopted Development Plan for the area, or other approved documents in the form of planning guidance for development, on planning applications submitted to the County Planning Authority within the district for determination, and referred to the Council as Local Planning Authority for comment in accordance with Article 12 of the Town and Country Planning (General Development Procedure) Order 1995. In the case of major applications in consultation with the Chairman of the Planning Committee or in his or her absence, the Vice Chairman

9.12 To negotiate in consultation with the Head of Legal and Democratic Services, and within the context of Government Guidance and the Council's own policies, planning agreements under Section 106 of the Town and Country Planning Act 1990, and other legal agreements, where these are required in connection with the grant of planning permissions dealt with under delegated powers, and in other cases where such agreements are appropriate.

9.13 To provide scoping and screening opinions with regard to applications potentially requiring the submission of an Environmental Impact Assessment in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

9.14 To require further information in respect of applications for outline planning permission, under the Town and Country Planning (General Development Procedure) Order 1995, Article 3, (2).

9.15 To approve or refuse details submitted, in order to comply with Conditions attached to planning permissions

9.16 To determine applications for Hazardous Substance consent under the Planning (Hazardous Substances) Act 1990.

Planning and Listed Building Enforcement etc.

9.17 In consultation with the Head of Legal and Democratic Services to issue and serve planning, listed building conservation area and tree replacement enforcement notices, breach of condition notices, planning contravention notices and stop notices (including temporary stop notices) together with the power to vary, amend, withdraw and re-issue any such notice

9.18 To serve notices under Section 215 of the Town & Country Planning Act 1990 in relation to any land in the district the condition of which is prejudicial to the amenity of the district or any part of it including the power to vary, amend, withdraw and re-issue any such notice

9.19 In consultation with the Head of Legal and Democratic Services to take action to enforcement action in relation to any failure to comply with the requirements of a planning, listed building, conservation area or tree replacement enforcement notice, breach of condition notice, planning contravention notice, stop notice (including a temporary stop notice) or Section 215 notice including, where permissible and appropriate, the institution of prosecution proceedings, the taking of direct action, the registration of a local land charge, the recovery of expenses in any court of competent jurisdiction and the seeking of an injunction (in the latter case also in consultation with Chairman of the Planning Committee)

9.20 Jointly with the Head of Legal and Democratic Services and the Planning Applications Manager to determine applications for Certificates of Lawfulness of existing or proposed use or development under Sections 191 and 192 of the Town and Country Planning Act 1990.

9.21 In consultation with the Head of Legal and Democratic Services, to instigate legal proceedings against the display of fly posted advertisement material, in accordance with Section 224 of the Town and Country Planning Act 1990.

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Trees

9.35 To authorise, serve and confirm Tree Preservation Orders, and subsequently, on an annual basis to report to the Planning Committee for information **including the power to issue a direction pursuant to Article 7 of the Model Tree Preservation Order that a tree is of substantial amenity value.**

9.36 To determine applications for works to protected trees (TPOs and Conservation Areas), including felling, and to impose conditions on any Consents.

9.37 To maintain the Register of Applications for consent to carry out works to a tree protected by a Tree Preservation Order