

ESSENTIAL REFERENCE PAPER 'B'

Responsibility of Functions

Officer Delegation

- F. DIRECTOR OF NEIGHBOURHOOD SERVICES, HEAD OF PLANNING AND BUILDING CONTROL, OR THEIR DULY AUTHORISED OFFICERS (WHERE ANY OF THE POSTS IDENTIFIED HERE ARE THE LEAD OFFICER OR CASE OFFICER, DELEGATION SHALL NOT BE AVAILABLE TO THAT OFFICER IN THAT CASE)**

Delegation for Planning Consents

The current delegation for planning consents is as follows:

1. To determine planning, Listed Building, Conservation Area Consent, reserved matters and advertisement applications except where the application:
 - (i) is a major development as defined in the Town and Country Planning (General Development Procedure) Order 1995;
 - (ii) Applications for householder development considered to be contrary to approved planning guidelines where an objection has been received in writing which officers propose to approve.
 - (iii) is by a Member of the Council;
 - (iv) is by a officer of the Council;
 - (v) is one where a Member considered that delegated powers should not be exercised by the Director of Neighbourhood Services in which case the Member must notify and obtain the written agreement of the Chairman of the Development Control committee in writing stating the reason why he/she should not determine the application.
 - (vi) Applications requiring reference to the Secretary of State
 - (vii) Applications for approval which require linking to an agreement under Section 106 of the Town and Country Planning Act.
 - (viii) Applications for development by or on behalf of the Council to which an objection has been made which is material to the development proposed.
2. To serve Planning Contravention Notices where it appears that a

contravention of planning control has taken place.

3. To make provisional Tree Preservation Orders and to confirm them when they are unopposed.
4. To issue Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act 1990 in consultation with the Legal Services Manager.
5. To exercise the Council's powers under Section 70(a) of the Town and Country Planning Act 1990, by declining to determine an application for planning permission for the development of any land where, within a period of two years, ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under Section 77, or has dismissed an appeal against the refusal of a similar application, and where, in the opinion of the Director of Neighbourhood Services, there has been no significant change since the refusal or dismissal in the Development Plan or in any other material considerations.
6. The consideration, approval and payment of grants in respect of Listed Buildings and Conservation Areas.
7. To exercise the Council's planning powers for control of demolition.
8. To determine commuted car parking payments for planning applications.
9. To approve or reject plans submitted as minor amendments to planning applications previously submitted and approved, subject to consultation with the local Member(s) concerned in accordance with the Council's procedure in force for the time being.
10. To approve or reject plans submitted by a Member of the Council as minor amendments to planning applications previously submitted and approved, subject to consultation with the Chairman of the Development Control Committee and local Member(s) concerned (other than the Member who has submitted the application and subsequent amendment), if any, in accordance with the Council's procedure in force for the time being.
11. To make Tree Preservation Orders, and to determine applications for consent for the cutting down, topping or lopping of trees applications under the Hedgerow Protection legislation and exercise the powers and duties relating to high hedges under the Anti-social Behaviour Act 2003.
12. To determine applications for certificates of appropriate alternative development.
13. To determine, in consultation with the Legal Officer, applications for certificates of lawful use and development.

14. In cases of urgency and subject to consultation with the Chairman, to arrange for the serving of building preservation notices, enforcement notices, temporary stop notices and Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, stop notices and directions relating to unlisted buildings in conservation areas.
15. To make observations on development proposals by Government Departments, statutory undertakers and Hertfordshire County Council, which are substantially in accordance with the Council's policies and are not likely to be controversial.
16. To advertise in the local press applications required to be advertised by statute or orders or regulations made thereunder, planning applications and applications for listed building consent.
17. To advertise in the local press and/or by a notice on site, at the discretion of the Director of Neighbourhood Services, applications for planning permission as required by any Development Order made by the Secretary of State.
18. After consultation with the Chairman of the Development Control Committee and the Legal Services Manager institute legal proceedings in respect of the contravention of Tree Preservation Orders and unauthorised works to trees in Conservation Area.
19. Enter into Planning Performance Agreements for complex planning.

DELEGATION:

Director of Neighbourhood Services and Director of Customer and Community Services)

20. To authorise, after consultation with the Legal Services Manager an officer to enter land at any time for enforcement purposes in cases where admission has been refused or a refusal is expected or in cases of urgency.
21. To apply for warrants to enter property.
22. To authorise the institution of legal proceedings subject to the Legal Services Manager being satisfied to the sufficiency of the evidence. (This delegation applies to the Director of Neighbourhood Services only).
23. To issue Stop Notices and take further enforcement action, where the Development Control Committee has authorised action and, in other cases, issue Enforcement Notices and Stop Notices subject to such action being taken following consultation with Legal Services Manager and to such action being reported to the next meeting of the Development Control Committee, in order to enable the Committee to concur, modify, or enforce such Notice as it considers necessary.

24. To apply for injunctions in appropriate cases where there are any breaches of planning and/or building control, Tree Preservation Orders, or Listed Building and Conservation legislation where it is felt that contravention of planning and/or building control has taken place, and to give any undertakings in damages in such cases.
25. To determine applications as to whether prior approval is required to the sitting, design and external appearance of development.
26. To determine whether or not it is expedient to take enforcement action where a breach of planning control has occurred, save where a Member requests, with the agreement of the Chairman.
27. To give screening opinions and scoping opinions under the Town and Country Planning (Environmental Assessment) Regulations 1999 as amended.

DELEGATION:

Director of Neighbourhood Services and Legal Services Manager

28. To enter into Agreements with the developers in accordance with planning legislation.
29. To determine applications submitted for approval under the Building Regulations and made under the Building Act 1984 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976.
30. To determine the building regulation fees charged by the Council.
31. To be the Appointing Officer for the purposes of the Party Wall Act 1996.
32. To act as Registration Officer pursuant to the Representation of the People Acts for those parliamentary constituencies within the District of East Hertfordshire.
33. To act as Returning Officer for the elections of councillors of the District of East Hertfordshire and those parishes within the District.

Responsibility of Functions-

Functions of Committees

A.7 Council Tax Setting Committee

- Members of the Authority

This Committee is established under section 67 of the Local Government Act 1992 with the following role and functions:

1. To note the annual budget agreed by the Council.
2. To set an amount of council tax for the following financial year.
3. To agree the formal resolution for council taxes.

Responsibility of Functions

Other Miscellaneous Delegations

FINANCE

1. To represent the Council or the management board for the Hertfordshire Shared Audit Service (SIAS)
2. Appointment of a Bailiff for the whole or part of the area as the need arises.
3. Authorisation of loans for car purchase in accordance with National Conditions of Service.
4. Signing of Bank Transfers, cheques and authorise amendments to cheques.
5. Wherever necessary to amend affected charges for services to take account of changes in VAT or other forms of taxation provided that any action taken shall be reported to the next convenient meeting of the Executive.
6. To vary the rate of interest and issue notices to the Council's mortgages of any changes in the Council's rate of interest.
7. Authorisation of Officers to institute and appear in any legal proceedings relating to Council Tax and National Non Domestic Rates.
8. To exercise discretion under the 1988 Housing Benefits Scheme (and any amendments thereto) to disregard, in determining a person's income, the whole of any war disablement pension or war widow's pension payable to that person.
9. To carry out all the charging and collection functions arising out of Parts I to III of the Local Government Finance Act 1988 (and any amendments thereto) except for:
 - (a) the determination of discretionary non-domestic rate relief under Section 47,
 - (b) Other than for debts, to which 10 below applies the writing-off of debts in excess of £5,000 (in which case legislation 11.6.3 shall apply),
 - (c) the reduction or remission of liability under Section 49.
10. To write-off all Community Charges, Council Tax and NNDR outstanding, with the exception of a nominal sum of £5 in respect of each arrears payments, which are the subject of formal bankruptcy or liquidation claims.
11. To fix charges for the service of a Summons (Liability Order) for non-payment of Community Charges, Council Tax and NNDR and the issue of

a Distress Warrant subject to the approval of the Court.

12. To administer and manage the Council's Collection Fund.
13. To set precept dates.
14. To administer the Council's insurances Fund
15. To make determinations within approved budget as are required under Part IV of the Local Government and Housing Act 1989 in respect of the funding of expenditure capital (but not in respect of borrowing limits) and report the action taken to the Executive for information.
16. To take day-to-day decisions in respect of the investment of Council funds in accordance with the Annual Investment strategy last approved by the Council.
17. To consider respect of any reapplication for reduction in Non-Domestic Rate bills previously refused there is a significant change in circumstances in which case the application shall be submitted to Executive Member of Finance for consideration
18. To determine and pay additional benefit in cases of "exceptional hardship" under Housing Benefit Regulations.

DELEGATION:

Director of Internal Services

Financial Regulations

3. FINANCIAL PLANNING AND RISK MANAGEMENT

- 3.1 The Council will establish a strategic policy framework to incorporate the main issues facing the Council and to match policies with resources. In terms of financial planning, this will involve approval of a Financial Strategy taking into account the Council's priorities, commitments and forecasts. The Strategy will underpin the Medium Term Financial Plan with the annual budget being the first year of the Medium Term Financial Plan.
- 3.2 An essential part of the planning process is the continuous operation of systems for identifying and evaluating all significant strategic and operational risks facing the Council. This includes a risk assessment of the Council's priorities, budget plans, programme options and service plans involving the proactive participation of Scrutiny, the Executive, the Corporate Management Team, Heads of Services and all officers associated with the planning and delivery of services. The Director of Neighbourhood Services will obtain Executive approval of the corporate risk management strategy and will promote and coordinate risk management activity throughout the Council.
- 3.3 The Corporate Management Team will submit to the Executive annual proposals for schemes for capital and revenue developments, including an indication of the priority of the schemes. Proposals will be submitted to the appropriate Scrutiny Committee or a Joint Meeting of Scrutiny Committee prior to consideration by the Executive.
- 3.4 Capital and revenue budgets will be considered jointly so that the future impact of current proposals can be assessed, including the extent to which current capital expenditure commits or frees future resources.
- 3.5 The proposals will distinguish between already approved policies and those where expenditure is foreseen but not yet approved.
- 3.6 The S.151 Officer will report to the Executive details of the level of resources required to service these proposals, in the context of the overall financial strategy of the Council, and the accomplishment of strategic objectives.
- 3.7 The Executive will consider the provisional programme and make a general determination of amendments to be made following detailed consideration of the estimates.

4. THE BUDGETARY SYSTEM

4.1 General

- 4.1.1 The Director of Internal Services will be responsible for establishing, in consultation with the Corporate Management Team and Heads of Services, a timetable for the preparation of each year's estimates. This timetable will be agreed by the Executive by July of each year and will be constructed to ensure that the Council will meet its statutory obligations in respect of setting

the Council Tax.

- 4.1.2 The Director of Internal Services will determine, in consultation with the Corporate Management Team, the form in which the revenue and capital estimates will be prepared.
- 4.1.3 The Director of Internal Services will propose for approval by the Executive a Financial Strategy setting out the principles and objectives of financial planning to set the Medium Term Financial Plan and Annual Budget. The Financial Strategy is to be amended or endorsed annually at the commencement of the budget setting process.

4.2 Preparation and approval of estimates

- 4.2.1 Estimates of gross and net revenue and capital expenditure will be prepared annually in accordance with Council policy and will take suitable account of any options. Estimates will be prepared by the nominated budget holders under the direction of the Director of Internal Services, in an agreed form and within the agreed timetable.
- 4.2.2 The Head of Financial Services and Performance will at all times monitor the preparation of the revenue and capital estimates and will in consultation with the Director of Internal Services collate the resultant budgets for submission to and consideration by the Executive.
- 4.2.3 In addition, the S.151 Officer will submit a statement of the requirements of the precepting authorities and a recommended level of Council Tax for the year.
- 4.2.4 The Executive will submit its recommended budget proposals to the Council according to the agreed timetable and complying with any statutory requirements.

4.3 Authority to incur expenditure

- 4.3.1 For revenue budgets, provided that Procurement Regulations have been complied with and subject to any specific exclusions, the inclusion of any item in the approved revenue budget other than a contingency provision, will constitute authority to incur expenditure.
- 4.3.2 For capital budgets, authority to incur expenditure will follow various stages, from initial feasibility through to project implementation, which will ensure that all projects are considered in detail, including both capital and revenue implications. Funding for each stage will be specifically agreed by the Executive/Council in accordance with agreed procedures and only when the Council, through its budget approval process, agrees the allocation of funds will the project be included in the current funded capital programme.
- 4.3.3 Provided the Constitution, including Financial Regulations and any Council instructions for the time being in force have been complied with, inclusion of any items in the approved funded capital expenditure programme shall be deemed to:

- (i) authorise the Head of Service concerned to spend the capital sums provided for projects included in the programme for the current financial year;
- (ii) in the case of schemes for which provision has been made in the current financial year but which are completed in subsequent financial years, authorise the Head of Service concerned to commit the provision in subsequent financial years.
- (iii) authorise the Head of Service concerned:
 - (a) to take steps to enable land required for the purpose of the programme to be acquired in due time, subject to the Council having approved the financing of the capital programme;
 - (b) to proceed with the preparation of plans and other preparatory work, the acceptance of tenders and the ordering of materials or equipment for which there is a long delivery period in connection with schemes, initial expenditure on which is included in the following financial year(s).

4.3.4 Where it appears that any capital project estimate will be exceeded, it shall be the duty of the Head of Service concerned, after joint consultation with the Chief Executive and the Director of Internal Services, to inform the Executive at the earliest opportunity.

4.3.5 Any proposal involving the adoption of a new policy or the variation or extension of existing policy which may or does affect the Council's finances will be submitted initially to the Executive for consideration and subsequent approval by full Council. Proposals should be subject to appraisal proportionate to their implication using methodologies consistent with HM Treasury Green Book and other relevant guidance. Proposals will be submitted to the appropriate Scrutiny Committee prior to consideration by the Executive. The proposal will include a comprehensive report justifying the project, outline any revenue and capital implications and include the comments of the S.151 Officer. The proposal will take into consideration any provisions for virement in accordance with paragraph 4.5.

4.3.6 Expenditure considered essential to meet the sudden needs of an emergency or disaster (referable to section 138 of the Local Government Act 1972) may be incurred on the joint approval of the Chief Executive and Director of Internal Services in consultation with the appropriate Executive Member(s). It will be reported to the next meeting of the Executive.

4.4 Budgetary control

4.4.1 Allocated budgets will be cash limited, with budgetary monitoring undertaken by each Executive Member under the overall guidance of the Executive, such responsibility being devolved on a day to day basis to nominated budget holders for their own areas of activity. Heads of Service will be responsible for controlling and achieving income and expenditure within their area, and will take any permitted action necessary to avoid exceeding their budget allocation, alerting the Chief Executive and the S.151 Officer of any

problems.

- 4.4.2 The S.151 Officer, in conjunction with the Head of Financial Services and Performance and Heads of Service will ensure as far as practicable that systems are available which will provide such financial information as is required to enable budget holders to satisfactorily monitor budgets.
- 4.4.3 The Head of Financial Services and Performance will report budgetary performance to the Corporate Management Team and the Executive.

Financial Regulations

CONTRACTS FOR BUILDING, CONSTRUCTION OR ENGINEERING WORK

11.7 Credit Balances

- 11.7.1 Where advance receipts result in credit balances on the Council's accounts after the services have been provided, or credits on Council Tax accounts, all reasonable steps will be taken to refund the amount to the original debtor. In determining reasonable steps, due regard will be taken of the costs of such steps in relation to the amount of the refund. The relevant Head of Service may authorise the write back of an individual credit (or the total of related credits), up to £2,500 and the Director of Internal Services for balances of more than £2,500.

Financial Regulations

EXTERNAL ARRANGEMENTS

21.4 Work for Third Parties

21.4.1 ACTING ON BEHALF OF THE COUNCIL

21.4.2 Heads of Service may approve the Contractual arrangements for any work for third parties or external bodies up to Value A. in consultation with the Director of Internal Services. The appropriate Director may approve such contractual arrangement for Value B in consultation with the Director of Internal Services.

21.4.3 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies.

21.4.4 Heads of Services will ensure that:

- (i) all risks are identified, assessed, appropriately mitigated and managed and such work is intra vires;
- (ii) a register is maintained of all contracts entered into with third parties;
- (iii) appropriate insurance arrangements are made;
- (iv) the Council is not put at risk from any bad debts;
- (v) no contract is subsidised by the Council;
- (vi) wherever possible, payment is received in advance of the delivery of the service;
- (vii) the Service Unit has the appropriate expertise to undertake the contract;
- (viii) all contracts are properly documented;
- (ix) appropriate information is provided to the Director of Internal Services for final accounts purposes.

21.5 Where anyone is employed under contract to carry out functions on behalf of the Council the Contract shall ensure that these regulations apply mutatis mutandis to the contractor to protect the Council's interests. No authority may be delegated to a contractor which exceeds the authority delegated by the these Regulations to a Director

22.0 TAXATION

22.1 Where a proposed transaction will incur a tax liability (other than VAT or tax

collected through the payroll system) the relevant Director of Head of Services will consult with the Director of Internal Services who will determine whether external advice is sought to mitigate that liability.

23.0 ASSURANCE STATEMENT

23.1 Each April all Directors and Heads of Service will provide to the Director of Internal Services an Anti-Fraud and Anti-Corruption Assurance Statement in a form determined by the Director that they have complied with these regulations during the course of the previous financial year and the Director of Internal Services shall provide such assurances as are requested by the Council's Auditor.

24.0 GIFTS AND HOSPITALITY

24.1 The officer Code of Conduct provides guidance on acceptance of gifts and hospitality and following that guidance will protect the reputation of both officers and the Council. Similar guidance in respect of Members is contained in Members Codes of Conduct.

24.2 The Council has approved the Anti-fraud and Anti-Corruption Policy, the Bribery Policy and the Disclosure (Whistleblowing) Code.

25.0 PROCUREMENT BY THIRD PARTIES ON BEHALF ON THE COUNCIL.

25.1 The appropriate Director may appoint a third party to undertake procurement on behalf of the Council subject to the following requirements. Where appropriate Director proposes to appoint a third party to undertake procurement on behalf of the Council, the third party shall so far as possible comply with the Council's Financial Regulations and the Council's Procurement Regulations and where compliance is not possible the provisions in the Regulations as to varying or waiving of the regulations shall apply. The use of third parties for procurement shall be permitted only where the appropriate Director is satisfied that the use of a third party offers better value for money for the Council. The Council remains accountable for the procurement and the related projects at all times.