

## Part 3: Responsibility for Functions

### 1. Responsibility for Local Choice Functions

| Function  | Decision making body | Membership  | Delegation of functions  |
|---|----------------------|---|--|
| Any function under a local Act other than a function specified in Regulation 2 or Schedule 1  | Cabinet              | The Leader and up to nine other Councillors.<br><br>Leader appointed by full Council. | Delegations are in accordance with the Scheme of Officer Delegations as set out at Part 3 Section 4. |
| Any function relating to contaminated land  | Cabinet              | ditto   | ditto  |
| The discharge of any function relating to the control of pollution or the management of air quality                                     | Cabinet              | ditto   | ditto  |
| The service of an abatement notice in respect of a statutory nuisance   | Cabinet              | ditto   | ditto  |
| The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisances Act 1993 should apply in the Council's area            | Cabinet              | ditto   | ditto  |
| The inspection of the Council's area to detect any statutory nuisance   | Cabinet              | ditto   | ditto  |
| The investigation of any complaint as to the existence of a statutory nuisance  | Cabinet              | ditto   | ditto  |
| The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land                        | Cabinet              | ditto   | ditto  |
| The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 | Cabinet              | ditto   | ditto  |
| The making of agreements for the execution of highway works   | Cabinet              | ditto   | ditto  |

## 2. Responsibility for Council Functions

| <b>Committee</b>                   | <b>Membership</b>   | <b>Functions</b>                          | <b>Delegation of functions</b>   |
|------------------------------------|---|---|--|
| Planning Committee                 | Sixteen Councillors or such number as achieves Council proportionality  | As set out in Part 4 of the Constitution. | Delegations are in accordance with the Scheme of Officer Delegations as set out at Part 3 Section 4. |
| Area Planning Sub-Committees       | Ten Councillors on each Sub-Committee or such number as achieves area proportionality   | As set out in Part 4 of the Constitution. | ditto  |
| Audit and Standards Committee      | Six Councillors (or such number as achieves proportionality), excluding any member of the Cabinet and the Mayor, together with up to three independent members and one member of a Parish Council   | As set out in Part 4 of the Constitution. | ditto  |
| Audit and Standards Hearings Panel | Three Councillor members of the Audit and Standards Committee. When the Hearings Panel considers a matter relating to the conduct of a person in his/her capacity as a Parish Councillor, the Sub-Committee shall comprise four members, the additional member being a Parish Council Member. | As set out in Part 4 of the Constitution. | ditto  |
| Licensing Committee                | No more than fifteen Councillors  | As set out in Part 4 of the Constitution. | ditto  |
| Licensing Sub-Committee            | Three Councillors to be drawn from Licensing Committee  | As set out in Part 4 of the Constitution. | ditto  |

| <b>Committee</b>                          | <b>Membership</b>   | <b>Functions</b>  | <b>Delegation of functions</b> |
|---|---|---|--------------------------------|
| Joint Waste Collection Services Committee | Participating District/Borough Councils and Surrey County Council. Portfolio Holder for Environment (and substitute) is Elmbridge representative.   | As set out in Part 4 of the Constitution  | ditto                          |
| Local Spending Boards                     | Drawn on a local area basis from councillors serving the relevant wards   | To determine applications for funding from Community Infrastructure Levy, subject to power of Head of Legal Services to refer decisions to ICMDM on grounds of legality.  | ditto                          |
| Shareholder Committee (Housing)           | Five Councillors or such number as achieves Council proportionality (favoured membership to include Leader, Portfolio Holders for Housing and Resources, Chair of Overview and Scrutiny Committee and Chair of Affordable and Social Housing Working Group) | To exercise the Council's rights and responsibilities as a shareholder in local authority companies (initially including parent company and local housing company), all such powers as may be detailed in a shareholder agreement and/or scheme of delegation | ditto                          |

### 3. Responsibility for Cabinet Functions Exercised by Individual Cabinet Members

| <b>Who is responsible<br/>(1)</b>  | <b>Function<br/>(2)</b>   | <b>Limitation<br/>(3)</b>   |
|--|---|---|
| <p>Individual member of the Cabinet in relation to the functions set out in column (2) and subject to the limitations in column (3)</p> <p>The Cabinet member will be the Member allocated the appropriate responsibilities (listed below) by the Leader or Cabinet (except that where that Member is unable to act due to conflict of interest, illness or absence, another member of the Cabinet may exercise the function on their behalf).</p> | <p><b>Any Cabinet function relating to:</b></p> <ul style="list-style-type: none"> <li>• Agreeing annual reports;</li> <li>• Monitoring performance of services;</li> <li>• Approving bids for funds from external bodies;</li> <li>• Agreeing concordats or statements of intent with other parties;</li> <li>• Agreeing annual service plans;</li> <li>• Agreeing responses to consultation documents;</li> <li>• Approving proposals for public consultation;</li> <li>• Acknowledging/being aware of the implications of new/proposed legislation;</li> </ul> | <p>All provisions listed in this column apply to all the functions listed in column (2). In all cases the decision must be consistent with the Budget and Policy Framework and corporate strategies.</p> <p><b>The following matters are not included in the delegation:</b></p> <ul style="list-style-type: none"> <li>• Those properly reserved to the Council as part of the Budget and Policy Framework;</li> <li>• Those delegated to Officers under the Scheme of Delegation to Officers or to an area committee or other joint arrangement;</li> <li>• Those which the Leader and/or the Cabinet have reserved to the Cabinet or are subject to any guidance they have given;</li> </ul> |

| <b>Who is responsible<br/>(1)</b>   | <b>Function<br/>(2)</b> | <b>Limitation<br/>(3)</b>  |
|---|-------------------------|--|
| <p><b>Leader</b></p> <ul style="list-style-type: none"> <li>• Chairs the Cabinet and presents the Forward Plan of work</li> <li>• Annual Budget Statement</li> <li>• Overall priorities and policy issues, including strategic health and safety</li> <li>• Annual Governance Statement</li> <li>• Organisational development</li> <li>• Improvement and transformation</li> <li>• Corporate Policy &amp; Performance Management (including Council Plan, Peer Reviews and Improvement Plans)</li> <li>• Communications and consultation</li> <li>• Enterprise Elmbridge, including Tourism</li> <li>• Member Services (including the Mayor)</li> <li>• Electoral Services</li> </ul> |                         | <p><b>The exercise of the function is also subject to:</b></p> <ul style="list-style-type: none"> <li>• The provisions of the Constitution including the Financial and Contract Procedure Rules;</li> <li>• Consultation with other Cabinet members as appropriate;</li> </ul> |

| <b>Who is responsible<br/>(1)</b>   | <b>Function<br/>(2)</b>   | <b>Limitation<br/>(3)</b>  |
|---|---|--|
| <p><b>Resources</b></p> <ul style="list-style-type: none"> <li>▪ Revenue and Capital Budgets</li> <li>▪ Financial management including Insurance</li> <li>▪ Value for Money</li> <li>▪ Treasury Management, including annual strategy and annual report</li> <li>▪ Local Taxation, Council Tax and Business Rates</li> <li>▪ Audit and Corporate Governance</li> <li>▪ Strategic Asset Management and Property</li> <li>▪ ICT &amp; Digitisation</li> <li>▪ Customer Contact</li> <li>▪ Information Security &amp; GDPR</li> <li>▪ Strategic Risk Management</li> <li>▪ Legal Services</li> <li>▪ Procurement Champion role</li> </ul> <p><b>Community and Social Affairs</b></p> <ul style="list-style-type: none"> <li>▪ Elmbridge Community and Safety Partnership (including CCTV)</li> <li>▪ Partnerships (County Council, Police etc)</li> <li>▪ Community engagement, website neighbourhoods and partnerships</li> <li>▪ Family Support Programme</li> <li>▪ Health matters and liaison with CCGs and relevant bodies</li> <li>▪ Voluntary Sector liaison and support</li> </ul> | <ul style="list-style-type: none"> <li>• The approval of terms for miscellaneous acquisitions and disposals of property up to a value of £100,000;</li> <li>• The approval of terms for property disposal by way of grant or assignment of lease;</li> <li>• The approval of minutes of advisory groups, working groups and other similar bodies;</li> <li>• References up from Overview and Scrutiny Committee concerning performance management and related issues;</li> <li>• The write-off of irrecoverable debts (excepting debts in respect of Council Tax, Non-Domestic Rates or Housing Benefit which are delegated to an officer) between £2,000 and £10,000 and which are covered by the Council's provision for bad debts;</li> <li>• The review of plans and strategies not forming part of the Council's Policy Framework;</li> <li>• Consideration of reports from officers and issuing of directions in matters of routine service management not involving key decisions</li> </ul> | <ul style="list-style-type: none"> <li>▪ The Individual Cabinet Member Decision-Making Protocol;</li> <li>▪ The right of the Member concerned to refer the matter to the Cabinet if they so wish; and</li> <li>▪ The matter being referred to the Cabinet where there is a dispute between the Member authorised to take the decision and another Cabinet member.</li> </ul> |

| <b>Who is responsible<br/>(1)</b>   | <b>Function<br/>(2)</b> | <b>Limitation<br/>(3)</b> |
|---|-------------------------|---------------------------|
| <ul style="list-style-type: none"> <li>▪ Services for older people and disabled people (Meals on Wheels, Community Transport, Community Alarm and Telecare and Elmbridge Relief Carers Scheme)</li> <li>▪ Centres for the Community</li> <li>▪ Equalities and Diversity</li> <li>▪ Adult Safeguarding (Member Champion Role)</li> </ul> |                         |                           |

| <b>Who is responsible<br/>(1)</b>  | <b>Function<br/>(2)</b>  | <b>Limitation<br/>(3)</b> |
|--|--|---------------------------|
| <p><b>Environment and Transport</b></p> <ul style="list-style-type: none"> <li>▪ Waste Management</li> <li>▪ Environmental Enforcement, including Joint Action Team</li> <li>▪ Environmental Well-being</li> <li>▪ Environmental Health and Licensing</li> <li>▪ Street Cleaning Services</li> <li>▪ Sustainability including Energy and Climate Change</li> <li>▪ Liaison with Highway Authority</li> <li>▪ Off Street Car Parking</li> <li>▪ Off Street Car Park fees and charges</li> <li>▪ Emergency Planning and Health and Safety</li> </ul> | <ul style="list-style-type: none"> <li>• Approval of suspensions of parking charges, or variations to periods of maximum stay in Council car parks, in the following circumstances:- <ul style="list-style-type: none"> <li>- In response to ad hoc requests from local groups to support community events</li> <li>- To encourage and support business trading during the Christmas period up to a maximum of 3 concessionary days</li> <li>- In response to changes in local parking needs</li> </ul> </li> <li>▪ Approval of limited minor adjustments to parking charges for the better utility of a car park</li> <li>▪ Extension of car park charging period by one or more hours at beginning or end of day where typical occupancy use is 30% or higher</li> <li>▪ Reduction of car park time-limits by one hour before introduction of parking charge increase following capacity review</li> </ul> |                           |



| Who is responsible<br>(1)  | Function<br>(2) | Limitation<br>(3) |
|--|-----------------|-------------------|
| <p><b>Housing</b></p> <ul style="list-style-type: none"> <li>▪ Housing Strategy</li> <li>▪ Allocation of Housing Enabling Funds</li> <li>▪ Overview of Housing Services</li> <li>▪ Housing Benefits and Universal Credit</li> <li>▪ Affordable Housing</li> <li>▪ Liaison with Registered Social Landlords</li> <li>▪ Housing Policy</li> <li>▪ Homelessness</li> <li>▪ Grants – Private and Disability (e.g. Disabled Facilities Grants)</li> <li>▪ Private sector housing</li> <li>▪ Care and Repair (HIA)/Handyman service</li> </ul> <p><b>Leisure and Culture</b></p> <ul style="list-style-type: none"> <li>▪ Arts &amp; Culture</li> <li>▪ Sport &amp; Leisure</li> <li>▪ Parks, Commons &amp; Recreation</li> <li>▪ Promoting Physical Activity</li> <li>▪ Youth</li> <li>▪ Children’s Safeguarding (including Member Champion role for Safeguarding Children)</li> <li>▪ Museums</li> <li>▪ Public Halls (operational)</li> <li>▪ Cemeteries</li> </ul> |                 |                   |

| <b>Who is responsible<br/>(1)</b>  | <b>Function<br/>(2)</b> | <b>Limitation<br/>(3)</b> |
|--|-------------------------|---------------------------|
| <p><b>Planning Services</b></p> <ul style="list-style-type: none"> <li>▪ Local Plan/Core Strategy and Planning Policy</li> <li>▪ Development Management including Tree Preservation Orders</li> <li>▪ Heritage</li> <li>▪ Design Champion Role</li> <li>▪ Street Naming</li> <li>▪ Land Charges</li> <li>▪ Tree Risk Strategy</li> <li>▪ Elmbridge Building Control Services</li> <li>▪ Community Infrastructure Levy</li> </ul> |                         |                           |

#### **4. Scheme of Officer Delegations**

##### **General Provisions**

There shall be delegated to the respective Officers all those duties specified in the following Orders of Delegation, but this shall be without prejudice to the right of any Officer to whom such duties are delegated to authorise other appropriate Officers within his/her Directorate or Division to exercise such duties in his/her name.

Any amendments, additions or deletions to the Orders of Delegation shall be subject to the approval of Council. Any decision taken under delegated powers shall be in accordance with Statute and policies already approved by the Council or Cabinet and be conditional upon appropriate financial provision for any expenditure involved having been made available in the estimates.

Reference to an Act of Parliament or subordinate legislation shall be deemed to include and extend to later legislation on the same subject.

##### **Delegations**

##### **To the Chief Executive and Management Board**

a. Chief Executive:

- i. Elections: To act as Electoral Registration Officer in the maintaining of the Electoral Register and as Returning Officer in the conduct of Local Government Elections and to exercise the functions and powers relating thereto (including the fixing and revision of fees payable at elections and the administration of Polling Places and Polling Stations), all in accordance with the provisions of the Representation of the People Act 1983 and the specified functions set out in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

- ii. Assets of Community Value: To act as the Senior Officer responsible for reviews of listing and compensation decisions made under the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012, including the administration of procedures for review set out in Schedule 2 to the Regulations.
  - iii. All functions of the Council under the Anti-Social Behaviour Crime and Policing Act 2014 including, but not limited to, the exercise of all strategic, operational and management powers and duties under the Act, and to authorise or nominate officers of the Council or designates to exercise such powers on his behalf.
- b. Management Board
- i. To take any necessary action in the event of an emergency or arising in matters of health and safety within the terms of any Scheme approved by the Council from time to time.
- c. Chief Executive and appropriate member of the Management Board (in consultation with the Head of Personnel and in accordance with the Council's Officer Employment Procedure Rules):
- i. In the case of the Chief Executive to act as the Council's Head of Paid Service under section 4 of the Local Government and Housing Act 1989 and to be responsible for the general management of the Council's workforce and the authority, including the conduct of staffing matters and the settling of employment policies. In common with the other members of Management Board to control and administer the Council's staffing establishment up to and including Divisional Heads in relation to the following matters:
    1. recruitment and selection
    2. appointments
    3. grading and salaries
    4. training
    5. leave paid or unpaid
    6. overtime and other payments including merit awards
    7. essential, casual and lease car usage
    8. assisted car purchase
    9. disciplinary and grievance matters
    10. early retirement on the grounds of ill health
    11. redundancy
    12. restructuring within Directorates
    13. the operation of Regulation 31 of the Local Government Pension Scheme Regulations 1997 as amended, regarding the early payment of pension benefits to employees leaving between the ages of 50 and 59 and deferred pensioners
    14. the Council's Personnel procedures
    15. the receipt of reports from the Employee Consultative Group.
- d. Chief Executive, or in his/her absence, the Head of Legal Services:
- i. Authority to seek injunctions under Section 222 of the Local Government Act 1972 if necessary, to prevent the holding of Acid House or Pay Parties or other unlicensed parties in the Borough.

**To the Strategic Director acting as Chief Finance Officer**

e. Strategic Director:

**General Finance**

- i. To manage the Council's funding transactions, control of bank accounts and associated borrowing and investment in accordance with relevant Regulations and Codes of Practice, and to execute and administer Treasury Management decisions acting in accordance with the Council's Policy Statement and Treasury Management Policies and CIPFA's Standard of Professional Practice on Treasury Management.
- ii. To borrow on behalf of the Council such monies as may be authorised for Capital or Revenue purposes or for the purposes of paragraphs 1 and 13 of Schedule 13 to the Local Government Act 1972 and temporary money and money by way of mortgage.

- iii. Functions, powers and duties re: repayment of loans and borrowing from the Public Works Loan Board.
- iv. To lend money to such other authorities as are mentioned in paragraph 13(2) of Schedule 13 to the Local Government Act 1972.
- v. To negotiate and arrange lease finance of vehicles, plant and equipment and to sign such agreements.
- vi. To settle claims under the Personal Accident Insurance Policy where such claims have been agreed.
- vii. To implement national salaries and wages awards where no discretion is to be exercised.
- viii. To increase the maximum loan available under the assisted car purchase scheme from time to time in line with the then current price of the most popular 1300 c.c. family saloon cars and to determine the rate of interest payable on car loans.
- ix. To authorise expenditure for official hospitality on any one occasion.
- x. To deal with applications for the supply of Committee Agendas and Reports and Council Minutes at the current rates.
- xi. To grant in appropriate cases ex-gratia payments of up to £250 per person who has suffered loss or damage to personal property occurring during the course of normal duties.
- xii. To declare the local average rate of interest in respect of advances for house purchases and improvements and mortgages under the Housing Act.
- xiii. To write off the following:
  - 1. stocks and stores up to £250 in any one case.
  - 2. any debt arising from bankruptcy in which proof of debt is lodged.
  - 3. all amounts in respect of irrecoverable Council Tax and Court Costs.
  - 4. all amounts in respect of irrecoverable National Non-Domestic Rates.
  - 5. all amounts in respect of irrecoverable Housing Benefit overpayments.
  - 6. other irrecoverable debts of up to £2,000 to include court costs awarded but not recovered.
- xiv. To make amendments to the Council's Accounting Policies as required by published Local Authority Accounting Panel Bulletins, or otherwise, except where such amendments would have a material impact on the Council's Accounts or an effect on the Council Tax.

### **Local Taxation**

- xv. Administration and collection of the Community Charge and Council Tax, National Non Domestic Rates (NDR) (allowing statutory and discretionary relief to qualifying organisations) including the approval of mandatory and discretionary National Non-Domestic Rate Relief.
- xvi. The administration of and use of discretion in relation to the local taxation system including (i) acting on applications for discretionary rate refunds under Section 9 and for claims concerning partly occupied hereditaments under Section 25 of the General Rate Act 1967; and (ii) adopting or amending Local Rate Relief Schemes in accordance with Government Directions which are revenue neutral for the Council and pursuant to powers in Section 47 Local Government Finance Act 1988.
- xvii. To issue Completion Notices for the purpose of the Local Government Finance Act 1988 (Schedule 4A).
- xviii. To undertake, within the Council's policy, casual lettings of the meeting rooms at the Civic Centre, Esher.

## **Legal Proceedings**

- xix. To authorise the institution, carrying on or defence of any proceedings, or the taking of any step, including but not limited to the recovery of sums due to the Council, in connection with general rates, Council Tax, Council Tax benefits, national non-domestic rating or in relation to a valuation list which this Council is authorised or required to institute, carry on, defend or take, either as rating authority or as owner or occupier of property and to make affidavits and proofs of debt in cases of liquidation or bankruptcy affecting any debt to the Council.
- f. In consultation with the Strategic Director responsible for Services:
- i. To grant easements or annual licences negotiated in accordance with Council policy granting rights of vehicular access over Common Land in the Council's ownership, including those which comply with the Council's criteria for recognising the existence of prescriptive rights but where the owner nevertheless requests the grant of a deed of easement.
- ii. To deal with estate management matters in respect of leased or licenced land and property including the grant and renewal of existing leases and licences for a period not exceeding one year.
- iii. To exercise the Council's functions, powers and duties in relation to the determination of trading rights agreements when rent arrears have accrued and to institute proceedings to regain possession of the site.
- iv. To make representations including the lodging of an objection if considered necessary, in respect of applications under the Transport Act 1968, or the Transport Act 1995, for the use as operating centres of properties situated within the Borough.

## **Council Tax Benefit and Housing Benefit**

- i. To administer the Housing Benefit and Council Tax Benefits Systems including:
- determining such persons who qualify under the hardship provisions of the schemes;
  - considering and acting upon applications for Council Tax Benefit;
  - deciding upon the merits of late applications for Council Tax Benefit when considering the loss of benefit entitlement, particularly in the following cases:
    - First application resulting from ignorance of procedure.
    - Bereavements.
    - Any error on the Council's part.
    - Absence from home e.g. hospital.
    - Poverty cases not covered by Social Security.
    - Confused in mind.
    - Older Persons

## **Private Sector Property**

- viii. To serve Notices requiring the improvement and repair and the abatement of nuisances and conditions prejudicial to health, the reinstatement of water, gas or electricity supplies and the abatement of overcrowding and to carry out works required by Notices either by agreement or in default and to recover costs of such works, or to authorise legal proceedings.

- ix. To exercise the powers of authorisation set out in Section 243 Housing Act 2004 as follows:-
- Section 131 (management orders: power of entry to carry out work)
  - Section 235 (power to require documents to be produced)
  - Section 239 (powers of entry)
  - Paragraph 3(4) of Schedule 3 (improvement notices: power to enter to carry out work) and
  - Paragraph 25 of Schedule 7 (Empty Dwelling Management Orders: power of entry to carry out work)
- x. To nominate officers for the purposes of discharging the various functions set out in the Private Sector Housing Enforcement Policy, including tasks relating to:-
- Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014
  - Smoke and Carbon Monoxide Alarm (England) Regulations 2015
  - Energy Act 2011
- xi. In consultation with the Council's Valuers, to grant loans for house purchase and construction or loans for altering, enlarging, repairing or improving houses, or for converting buildings into houses, within prescribed limits and the Council's policy.
- xii. To authorise adaptations to dwellings for disabled tenants.
- xiii. To undertake works of improvement, repair or adaptation to dwellings on behalf of individual householders at their expense in accordance with the Council's Care and Repair Scheme and as provided for in current Housing and related Acts and to charge a fee for this service in accordance with the Council's current policy.
- xiv. To approve and refuse grants for improvement, conversion, repair and adaptations of dwellings and houses in multiple occupation and to authorise the Strategic Director of Resources to make payment during and at completion of works.
- xv. In consultation with the Portfolio Holder to:
1. consider the merits of grant applications that fall outside the Housing Renewal Grants Policy; and
  2. vary the criteria and conditions attached to Grant Aid to ensure that expenditure is optimised within the allocated budget with such action being reported to the next appropriate meeting of the Committee.

### **Housing**

- xvi. To fulfil all statutory obligations relating to the housing of homeless persons.
- xvii. Subject to the approval of the Portfolio Holder, to reduce levels of charges for bed and breakfast accommodation in cases of hardship.
- xviii. Approval to enter into agreements to lease residential property for the purpose of accommodating the homeless where the cost of leasing was determined to be less than the cost of bed and breakfast accommodation.

### **Asset Management**

- xviii. In consultation with the Portfolio Holder for Resources, to decide whether land is appropriate for inclusion in the list of assets of community value, to determine community nominations in that respect, in accordance with sections 87-108 Localism Act 2011 ("the Act") and the Assets of Community Value (England) Regulations 2012 ("the Regulations"), and to make all relevant notifications under the Act and to determine compensation payable to owners pursuant to regulations 14 and 15 of the Regulations.
- xix. Approval of terms for miscellaneous acquisitions and disposals of property up to a value of £50,000.

- xix. Approval of terms for property disposal by way of grant or assignment of lease for terms not exceeding 5 years.
- xx. To sell land held under tenancies at will where it is considered appropriate and to agree suitable terms for the sale of such land.

**To the Strategic Director responsible for Services:**

- g. Strategic Director responsible for Services:

**Lettings**

- i. Casual lettings of the Stompond Lane Sports Ground, the Leisure Centre, the pleasure grounds, the swimming pools, the public open spaces and the recreation grounds, including the public playing facilities thereon.
- ii. The hiring, letting and use of public halls.
- v. The letting of allotments and in consultation with the Strategic Director of Resources, the Service of Notice to Quit on allotment tenants for non-payment of rent and for non-cultivation.
- vi. To grant permission for the siting of demountable advertisements at Stompond Lane Sports Ground.

### **Leisure and Cultural Services**

- vi. To administer Contracts relating to the provision of Leisure and Cultural Services to ensure cost effectiveness and service standards including the provision of references to external agencies on the performance of Contractors employed in the provision of Leisure and Cultural Services.
- vii. To market and promote Leisure and Cultural Services in order to maintain or increase usage and income.
- xix. To undertake maintenance, improvement, additions or refurbishment to Leisure assets to ensure they meet public expectations.
- xx. To provide professional Grounds Maintenance and Leisure Management Services to other divisions of the Authority and external bodies.
- xxi. To nominate 'authorised officers' for the purposes of issuing fixed penalty notices under Section 4 of the Dogs (Fouling of Land) Act 1996.
- xxii. To determine the appropriateness of artefacts offered for incorporation into the Museum collection.
- xxiii. To consult with external agencies in respect of the Authority's legal obligations under the Wildlife and Countryside Act 1981 and the Law of Property Act 1925 as they relate to Elmbridge's Commons.
- xxiv. To determine landscape and bedding schemes for recreation land.
- xxv. To carry out any necessary works in default of compliance with notices served by the Strategic Director of Services.
- xxvi. To approve requests from non-political organisations to use The Green adjoining the site of the former Town Hall, Walton-on-Thames for local events.
- xxvii. In consultation with the Leader and Portfolio Holder, to complete and submit consultation forms of the National Lottery distributing bodies for the arts, sports and heritage.
- xvii. To exercise functions in respect of the use and management of commons, including functions relating to Part 1 Commons Act 2006 and Commons Registration (England) Regulations 2008.

### **Burials**

- xxviii. To deal with matters relating to interment and memorials on graves within the Council's Regulations.
- xxix. To issue and seal Grants of Exclusive Rights of Burial, to enter into and sign agreements for the maintenance of grave spaces and to approve non-lawn type headstones, together with any associated surrounds, in respect of graves at Weybridge, Burvale and Walton Cemeteries which constitute infilling within an area where the other graves are non-lawn type.
- xxx. To arrange for burial or cremation of the dead in performance of the Council's duty under the Public Health (Control of Diseases) Act 1984.

### **Community Support Services**

- xxix. To provide or secure, promote and maintain the following Community Support Services:
  - Day Centres for the maximum benefit of the elderly;
  - a meal service in conjunction with voluntary agencies including Meals-on-Wheels and frozen meals;



- a community transport service;
- a Community Alarm Service; and
- a sitting service to support carers of dementia sufferers and others with disabilities.

### **Miscellaneous**

- xxx. To serve the appropriate notice in respect of premises occupied unlawfully by trespassers or squatters and instigate the necessary proceedings to recover possession of the premises.
- xxxi. To issue Site Licences for caravan sites in accordance with current legislation and Model Standards issued by the Department of the Environment.
- xxxii. To serve Notices in accordance with appropriate legislation requiring the protection of unoccupied buildings previously occupied as dwellings and to undertake works where necessary for the purpose of preventing unauthorised entry or to prevent danger to public health and to recover the costs of such works.
- xxxiii. To appoint Consultants in accordance with the Council's Financial Procedure Rules.
- xxxiv. To exercise such powers in respect of Community Safety Orders in accordance with appropriate legislation. The Portfolio Holder and ward councillor to be advised of any case where a Community Safety Order is to be applied for.
- xxxv. To arrange Deeds of Release and Deeds of Assignment.
- xxxvi. To sell land held under tenancies at will where it is considered appropriate and to agree suitable terms for the sale of such land.
- xxxvii. To make decisions on grant allocations in consultation with the Small and Medium Grant Member Working Group.

### **Environmental Health**

- xxxvii. With regard to the Clean Air Act 1993:
- to receive, approve and reject applications made under Sections 7, 14 and 15 of the Act;
  - serve and enforce notices under the provisions of the Act and to recover any expenses thereby incurred;
  - carry out measurements, investigations and research under the Act;
  - report to the responsible Minister contraventions of the Act in respect of Crown premises.
- xxxviii. To serve and enforce abatement/statutory notices in respect of the following legislation:
- Building Act 1984
  - Food Safety Act 1990 (as amended)
  - Public Health Act 1936
  - Public Health Act 1961
  - Public Health (Control of Disease) Act 1984 (as amended)
  - Water Industry Act 1991
  - Control of Pollution Act 1974
  - Clean Air Act 1993
  - Prevention of Damage by Pests Act 1949
- xxxix. With regard to various provisions under the Environmental Protection Act 1990 (as amended), the Pollution Prevention and Control Act 1999 and the Environmental Permitting Regulations 2007:

to issue authorisations or permits, enforcement notices, prohibition notices and the appointment of Inspectors.

(Note: authority is also extended to all Environmental Health Officers and Assistants in the Environmental Health Division in respect of matters dealt with, under Part III of the 1990 Act (as amended), out of normal office hours, which are considered to be sufficiently urgent to require the service of a statutory notice before the next working day. This includes the service and enforcement of statutory notices made in respect of noise nuisance from car and house alarms, whether in or out of office hours)

Under Part IIA of the 1990 Act to:

determine whether contaminated land constitutes a special site and give notice of such determinations;

refer special site decisions to the Secretary of State and notify the relevant persons of such referrals;

maintain registers of contaminated land enforcement activity and for that purpose make determinations and serve notices regarding what should and should not be included in such registers;

authorise suitable persons which may include staff of appointed consultants or staff of other external organisations, to carry out duties under Part IIA of the Act.

In consultation with the appropriate Portfolio Holder and under Part IIA of the Act to:

give notice of the identification of contaminated land;

consult interested parties in respect of proposed remediation notices and serve and enforce remediation notices;

prepare and publish remediation declarations and remediation statements;

make determinations of appropriate persons to bear responsibility for remediation of land and the apportionment of the costs of remediation actions and to determine hardship thereunder;

carry out remediation works under the provisions of Section 78N of the Act;

recover all or any part of costs incurred in carrying out remediation and for that purpose serve and enforce charging notices.

- xl. To exercise powers of entry, to serve and enforce notices and to authorise officers to act on behalf of the Local Authority in exercise of its functions under Part 3 and Schedule 3 of the Act in respect of nuisance complaints.
- xli. With regard to the Local Government (Miscellaneous Provisions) Act 1976 (as amended):
  - to take appropriate action and serve notice under Section 20;
  - to carry out necessary works under Section 35 of the Act in connection with removal of obstructions from private sewers in default of compliance with notices served under that Section.
- xlii. With regard to the Local Government (Miscellaneous Provisions) Act 1982:
  - to undertake duties under Section 14-17 of the Act relating to the registration of persons carrying out tattooing, ear or cosmetic piercing and electrolysis;

to take action under Section 29 in respect of boarding up buildings which have become vacant.

- xliv. With regard to the Sunday Trading Act 1994 and Christmas Day (Trading Act) 2004:
- to enforce the provisions of the Acts and to authorise officers as inspectors under the 1994 Act;
  - to receive Notices of intended Sunday opening from occupiers of large shops, to maintain a public register of such Notices and agree shorter periods than 14 days for Sunday Trading Notices to take effect;
  - to maintain a Register of Particulars of Notices given under Part II of Schedule 2 of the 1994 Act in respect of persons observing the Jewish Sabbath;
  - to issue loading and unloading consents in cases where following consultation with local ward councillors it is considered that undue annoyance would not be likely to be caused to local residents and to attach appropriate conditions following such consultation, to determine the need for varying the conditions attached to any consent in consultation with local ward councillors and serve notice of such variances on consent holders.

### **Hackney Carriage and Private Hire**

- xliv. To issue and renew Hackney Carriage vehicle and drivers licences, Private Hire vehicles, operators, and drivers licences to suitable applicants.
- xlv. To attach to any individual driver, vehicle and operators licence such conditions as may be deemed reasonably necessary.
- xlvi. To determine what period, being a period not exceeding three years, for which a Hackney Carriage or Private Hire vehicle licence should remain in force.
- xlvii. To determine whether vehicles that are the subject of a licence application are suitable, safe and comfortable.
- xlviii. To require Hackney Carriage and Private Hire vehicles to be presented for inspection and testing.
- xlix. To require the production of Hackney Carriage or Private Hire Drivers operators, or vehicle licences.
  - i. To determine whether applicants for a Hackney Carriage or Private Hire drivers licence are fit and proper persons to hold a driver's licence.
  - ii. To approve the substitution of vehicles where satisfied as to the mechanical condition and suitability of the vehicle for use as a Hackney Carriage vehicle or Private Hire vehicle.
  - iii. To issue permits for small passenger carrying vehicles (those adapted to carry more than eight but not more than sixteen passengers).
  - iiii. To issue permits for large passenger carrying vehicles (those adapted to carry more than sixteen passengers).
  - liv. To suspend Hackney Carriage and Private Hire operators and drivers licences, subject to notifying the Portfolio Holder for Regulatory Affairs, or Chairman, or Vice Chairman, of the Licensing Committee, as soon as practicable thereafter.
  - lv. To suspend Hackney Carriage and Private Hire vehicle licences.
  - lvi. Where appropriate to revoke, refuse to grant or renew Hackney Carriage and Private Hire licences, subject to the overriding requirement to refer the matter to the Licensing Sub-

Committee in the circumstances contained within the Sub-Committee's delegated authority, and subject to notifying the Portfolio Holder, or Chairman, or Vice Chairman, of the Licensing Committee, as soon as practicable thereafter.

- lvii. To require the provision of information in connection with an application for a licence.
- lviii. To require the return of identification plates or discs upon the revocation or suspension of licences.
- lix. To authorise Officers of the Council to act under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and all other legislation enforced by the Council in respect of Hackney Carriage and Private Hire vehicle, driver or operator licensing.

#### **Noise**

- lx. Under the Noise Act 1996:
  - to authorise and appoint Environmental Health Officers to undertake the functions set out in Sections 2-9 of the Act.
- lxi. To apply for warrants of entry and to prosecute offences under Section 10 of the Act and to authorise Officers to apply for warrants of entry.
- lxii. To give prior consent for works in accordance with Section 61 (Control of Noise on Construction Sites) of the Control of Pollution Act 1974 and to publish notices, if necessary, of consents given under that Section.
- lxiii. To agree response times of up to 45 minutes for audible intruder alarms.
- lxiv. To grant or refuse applications under Schedule 2 of the Noise and Statutory Nuisance Act 1993, to attach conditions to any application granted under Schedule 2 and to advertise such applications where it is considered necessary.
- lxv. To authorise consultants' staff as appropriate under the Environmental Protection Act 1990 and related legislation, for the purposes of out-of-hours response service.

#### **Smokefree Legislation**

- lxvi. To administer and enforce the smokefree provisions of the Health Act 2006 and regulations made thereunder.

#### **Animals**

- lxx. To appoint a consultant veterinary surgeon to assist environmental health staff in duties associated with animal welfare and to authorise official veterinary surgeons in respect of Sections 9, 10, 12, 29 and 32 of the Food Safety Act 1990.
- lxxi. To carry out duties under the Guard Dogs Act 1975, the Dangerous Wild Animals Act 1976, the Zoo Licensing Act 1981 and the Animal Welfare Act 2006.
- lxxii. To grant, renew, vary, transfer or cancel licences or registrations issued under the following legislation:
  - Animal Boarding Establishments Act 1963
  - Riding Establishments Acts 1964 and 1970
  - Dangerous Wild Animals Act 1976
  - Zoo Licensing Act 1981
  - Breeding of Dogs Act 1973
  - Pet Animals Act 1951
  - Guard Dogs Act 1975
  - Animal Welfare Act 2006

- lxxiii. To carry out responsibilities relating to the seizure of stray dogs and the enforcement of the collar and tag provisions under the Environmental Protection Act 1990, related stray dog legislation and The Microchipping of Dogs (England) Regulations 2015.

## **Miscellaneous**

- lxxvi. To set the levels of fees and charges in respect of those matters dealt with by the Environmental Health and Licensing Division including those for pest control, except that any proposed fee increases which significantly exceed inflation be reported to the Cabinet for confirmation.
- lxxvii. To seize and dispose of pesticides in accordance with Section 16 of the Food and Environment Protection Act 1985 and appoint officers to do so.
- lxxviii. To appoint Officers formally in accordance with Section 108 of the Environment Act 1995 and to authorise those Officers to act on the Council's behalf in respect of the powers and duties contained in Sections 108 and 109 of the Act.
- lxxix. Under Section 47 of the National Assistance Act 1948 and the National Assistance (Amendment) Act 1957 make applications to courts or magistrates, serve and enforce notices, and recover any costs incurred, and to the consultants in communicable disease control of the Council's constituent Health Authorities or any doctor holding an appointment which includes the duties of such a consultant, to act as the Council's proper officer for the certification of matters dealt with under those Sections.
- lxxx. To designate the Proper Officer in respect of the Public Health (Control of Diseases) Act 1984 (as amended) and Regulations made thereunder and particularly to act in that capacity with regard to food and water borne diseases and the exclusions of food handlers from food businesses.
- lxxxi. The powers relating to an Enforcement Authority under Sections 11 & 12 of the Food Safety Act 1990 (as amended) and those relating to a Food Authority under Sections 23 & 28 of the Act and any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972 and any modification or re-enactment of the foregoing.
- lxxxii. To carry out the duties and responsibilities under the Water Industry Act 1991 - Sections 77, 77(1) & (2), 78, 78(1) & (2), 79, 79(2), 80, 80(1), 81, 81(4), 82, 82(1) & (2), 82(6), 83, 84, 84(1) to (5) & (7), 85 and 85(1). (Reference Environmental Services Committee 11 March, 1992.)
- lxxxiii. To authorise Officers in respect of Sections 9, 10, 12, 29 & 32 of the Food Safety Act 1990 (as amended) and any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972 and any modification or re-enactment of the foregoing.
- lxxxiv. To enter premises, require information and serve notices under the Food Safety and Environmental Protection Act 1985 and any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972 and any modification or re-enactment of the foregoing.
- lxxxv. To appoint and authorise staff from the Health Protection Agency (or any successor body) under the requirements of the Public Health (Control of Disease) Act 1984 (as amended) and associated Regulations.
- lxxxvi. To grant licences, determine suitability, decide on revocation and deal with notifications under the Scrap Metal Dealers Act 2013.
- lxxxvii. To appoint inspectors under the Health and Safety at Work Etc. Act 1974 and to issue instruments of appointment to the Environmental Health Service to carry out the duties thereunder and in particular all or any of Sections 20 (2) (a) to (m) inclusive, 21, 22 and 25, any health and safety regulations, the provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that schedule and of the regulations, orders or other instruments of a legislative character made or having effect under any provision so specified as in force from time to time.
- lxxxviii. To take all necessary administrative steps for the transfer or assignment of premises referred to in Regulations made under the Health and Safety at Work Act 1974 and for the resolution

and subsequent allocation in respect of any premises where there is uncertainty as to which is the Enforcing Authority.

- lxxxix. To serve and enforce notices under Sections 46 and 47 of the Environmental Protection Act 1990 (receptacles for household waste).
- lxxxx. To grant, renew, transfer, vary or cancel, occasional and annual licences, certificates or authorisation under the Hypnotism Act 1962 where no objections to the applications have been received and to issue such licences subject to any additional conditions or relaxations of the Council's standard regulations and conditions as are considered appropriate in the circumstances of the case and are in accordance with best practice.
- lxxxxi. To undertake the appropriate registrations in respect of food premises.

h. Strategic Director responsible for Services and Head of Environmental Services

**Alcohol, Entertainment and Late Night Refreshments (Licensing Act 2003)**

**General**

- i. To appoint officers for the purpose of carrying out the Authority's duties under the Licensing Act 2003, Hypnotism Act 1952, Theatres Act 1968, Gaming Act 1968, the Lotteries and Amusements Act 1976 and Cinemas Act 1985.
- ii. To carry out all the duties and functions generally of the Licensing Authority under the Act except where specifically precluded from doing so under the provisions of the Act
- iii. To compile, maintain and make available to the public a register under the provisions of Section 8 of the Act

**Premises Licences**

- iv. To determine whether applications under Section 18 for premises licences have been properly made and the provisions of Section 17(5), 18(6), 18(7) have been satisfied and to grant such licences and to attach conditions to such licences where no relevant representations are made and not withdrawn.
- v. To determine whether applications for a provisional statement under Section 30 have been properly made and to issue such statements under Section 31(2) where no relevant representations have been made and not withdrawn.
- vi. To determine whether applications for variations of premises licences under Section 34 have been properly made; to determine such applications and to attach conditions to the varied licence, under Section 35(2), where no relevant representations have been made and not withdrawn; and to give notice to persons specified under Section 36(1) of the grant.
- vii. To determine whether applications for the variation of a premises licence to specify a premises supervisor under Section 37 have been properly made; to determine such applications under Section 39(2) where no Police representations have been made, and not withdrawn; to give notice to the persons specified under Section 39(4) of the grant and to specify a time when the variation shall take effect
- viii. To determine whether applications for the transfer of a premises licence under Section 42 have been properly made; to determine whether the applicant should be exempted under Sections 43(5) and 44(6); and to transfer such applications under Section 44(2), where no Police representations have been made and not withdrawn; and to give notice to the persons specified under Section 45(1) of the grant of the variation and to determine the time when the transfer takes effect.

- ix. To determine whether interim authority notices under Section 47 have been properly lodged and to issue copies of licences and licence summaries under Section 49(1).

#### **Club Premises Certificates**

- x. To determine whether a club or miners welfare institute, is a qualifying club under Section 61, 62, 65 and 66 and to give the club or institute notice of this determination and its reasons for it.
- xi. To determine whether applications for club premises certificates under Section 71 have been properly made; and where satisfied that the conditions of Section 72 have been complied with to grant such certificates, with any necessary conditions, where no relevant representations have been received and not withdrawn; and to reject such applications and to notify the relevant persons where not satisfied; and to give notices under Section 77 of the grant of such applications.
- xii. To issue copies of club premises certificates under Section 79
- xiii. To amend club premises certificates under Section 82 and 83.
- xiv. To determine whether applications for the variation of club premises certificates under Section 84 have been properly made; and where satisfied that the conditions of Section 85 and 86 have been complied with, to grant such applications, with any necessary conditions, where no relevant representations have been received and not withdrawn; and to reject such applications in whole or in part, and to notify the relevant persons where not satisfied; and to give notices under Section 86 of the grant of such applications.
- xv. To determine under Section 86 whether an application to vary a certificate under Section 85 is such as to vary substantially the premises or not.
- xvi. To amend certificates and to issue new summaries of certificates under Section 93; to require secretaries of clubs to produce certificates under Sections 93 and 94; to serve notices under Section 96(5).

#### **Temporary Event Notices**

- xvii. To acknowledge in the prescribed form those Temporary Events Notice served on the Authority in accordance with Part 5 of the Act; to determine whether subsections (2), (3), (4), or (5) of Section 107 applies and to serve counter notices under Section 107; to determine whether applications for copies of Temporary Events Notices have complied with Section 110(4) and where they have, to issue a copy of the Notice.

#### **Personal Licences**

- xviii. To determine whether applications for the grant or renewal of Personal Licences have been properly made under, and meets the conditions of Sections 117, 120 and 121 and to reject the application if it does not or to grant the application if it does where no valid objections have been received from the Police and not withdrawn; to give notices to the Police under Sections 120(4) and 124(2); to issue copies of licences under Section 126; to make updating amendments to licences and to require the production of licences under Section 134;

#### **Transitional Provisions**

- xix. To determine whether applications under Schedule 8 for the conversion of an existing licence or Club Certificate or for the grant of a Personal Licence has been properly made and to reject the application if it does not; to grant such applications (subject to any necessary conditions) where no valid notice in respect of the application has been received from the Police and not withdrawn; to give notice to the applicant and the Police of any grant or rejection of an application.

#### **Representations**

- xx. To determine whether representations are relevant representations or are frivolous or vexatious or repetitious; to reject grounds for reviews for those reasons; and to notify



persons who made them of the reasons for such determinations under the provisions of Sections 18, 18, 31, 31, 35, 36, 51, 72, 85, 87, 167.

**xxi Minor variations**

To determine whether applications made under Section 41A or Section 86A of the Act for a minor variation satisfy the requirements for minor variations and to reject such applications that do not;

To consult such authorities as is considered appropriate and to take into account any relevant representations made by responsible authorities or interested parties;

To grant applications for minor variations to Premises Licences or Club premises Certificates where the requirements of the Act are fulfilled; and

To give notice to applicants for minor variations to Premises Licences or Club premises Certificates of any variation which is to have effect as a result of the grant of the application and the time at which the variation is to take effect.

**xxii Community Premises**

To determine whether premises fall within the definition of community premises and to reject applications where it does not;

To determine whether an applicant under Section 25A of the Act falls within the definition of management committee and to reject applications where it does not;

To determine whether the arrangements for the management of the premises are sufficient to ensure adequate supervision for the supply of alcohol;

To determine applications under the provisions of Section 35 of the Act as amended;

To determine applications for a review of a Premises Licence under the provisions of Section 52 as amended;

To determine whether, in the light of any representations received, there is a need to include the conditions in subsections (2) and (3) of Section 19;

To grant applications with alternative licence conditions as defined in Section 25A of the Act; and

To vary Premises Licences under the provisions of Section 41C such that alternative conditions are applied to the licence instead of those required by Section 19 (2) and (3) of the Act.

**Legal Proceedings**

xxiii. In respect of offences under the following sections of the Act authority to decide to commence legal proceedings: Sections 33(6), 41(5), 82(6), 93(3), 94 (5), (6), and (9), 96(5), 108(3), 109(4), 109(8), 123(2), 127(4), 132(4), 134(5), 135(4), 136(1), 137(1), 138(1), 140(1), 141(1), 142(1), 143(1), 144 (1), 145(1), 146(1), 147(1), 148(1), 149(1), 150(1), 151(1), 152(1), 153(1), 156(1), 158(1), and 160(4), 161(6), 165(7), 179(4), paragraph 22 of Schedule 8.

**Closure of Licensed Premises**

xxiv Authority be delegated to the Strategic Director – Services and to the Head of Environmental Services to exercise all powers under sections 19 to 28 of The Criminal Justice and Police Act 2001, including:

- serving and cancelling closure notices;
- making applications for closure orders;
- issuing certificates of termination of closure orders;
- defending applications for the discharge of closure orders;
- appealing against the refusal to make closure orders;
- enforcing closure orders;
- prosecuting for obstruction of authorised officers or for offences in connection with closure orders; and
- authorising officers to exercise all or any of these powers.

### **Ancillary Legislation**

- xxv. To authorise exhibitions, demonstrations or performances of hypnotism under the provisions of Section 2 of the Hypnotism Act 1952
- xxvi. To grant and renew permits for the purpose of Section 34 and Schedule 9 of the Gaming Act 1968 and to take enforcement action in respect of offences prosecutable by the Licensing Authority under that Act.
- xxvii. To grant and renew permits for the purposes of Section 16 and Schedule 3 of the Lotteries and Amusements Act 1976 and to take enforcement action in respect of offences prosecutable by the Licensing Authority under that Act.

### **Delegation of Powers (making representations, requesting Reviews, lodging appeals)**

#### **Authorised Person and Responsible Authority**

The following powers are delegated to the Strategic Director of Services, to the Head of Environmental Services and to the Head of Planning Services as Authorised Persons and on behalf of the Council as a Responsible Authority under Section 13. The following powers are also delegated to those Officers of the Council appointed as Officers under the provisions of the Health and Safety at Work etc Act 1974:

- xxx. To make, and where deemed necessary to withdraw, representations in respect of applications made under the provisions of Sections 18, 31, 34, 42, 51, 71, 84.
- xxxi. To make applications for the review of premises licences under Section 51, club premises certificates under Section 87 of the Act on behalf of the Council as a Responsible Authority in whatever capacity.
- xxxii. To make applications of appeal to the courts against the decision of the Magistrates' Courts under Section 166.
- xxxiii. To make applications of appeal to the courts against the decision of the Licensing Authority under Schedule 5 of the Act.

#### **Gambling Act 2005**

- xxxiv. To provide the Gambling Commission with any information which the Gambling Commission requires the Authority to provide under the provisions of Section 29.
- xxxv. To prosecute for offences under the following Sections of the Gambling Act: Sections 37, 185, 186, 229, 242, 258, 259, 260, 261, 262, 326, 342, paragraph 20 of of Schedule 10, paragraph 10 of Schedule 13, paragraph 20 of Schedule 14.
- xxxvi. To receive occasional use Notices under the provisions of Section 39.
- xxxvii. To designate officers of the Licensing Authority as authorised persons under the provisions of Section 304.
- xxxviii. To refuse to provide copies of the register of premises licences where the person seeking it does not pay the reasonable fee specified by the Authority.

- xxxix. To determine whether a person is an interested party by virtue of them falling within the provisions of Section 158 subsections (a) or (b) or (c).
- xl. To receive applications under Section 159 in respect of premises licences, to determine whether they are valid applications and to reject invalid applications and to grant applications where no valid representations have been lodged or where lodged have been withdrawn.
- xli. To receive representations under the provisions of Section 161, to determine whether they are valid, and to reject invalid applications.
- xl.ii. To make, and to withdraw, representations to the Licensing Authority as a responsible Authority under the provisions of Section 161 in whatever terms absolute or conditional.
- xl.iii. To determine applications where the representations are deemed to fall within the provisions of Section 162 (3) (a)(b)(c).
- xl.iv. To consent to the determination of an application for a premises licence where a representation has been lodged by the Licensing Authority as a responsible Authority.
- xl.v. To agree to settlements out of court where an appeal against the decision of the Licensing Authority has been lodged by the Authority as a responsible Authority.
- xl.vi. To propose to attach conditions to a licence under Section 169(1)(a).
- xl.vii. To propose to exclude under Section 169(1)(b) a condition that would otherwise be attached by Section 168.
- xl.viii. To grant applications made under Section 159 where no valid representations have been lodged or where lodged have been withdrawn.
- xl.ix. To give notices to the relevant persons and bodies under Section 164(1) and Section 165(1).
  - l. To propose to attach a condition to the premises licence or to exclude a condition that would otherwise have been attached to the licence by virtue of Section 168.
  - li. To receive applications under the provisions of Section 187 to determine whether they are valid, to reject invalid applications and to grant valid applications where no valid representations have been lodged or where lodged have been withdrawn.
  - lii. To receive applications under the provisions of Section 188 to determine whether they are valid, to reject invalid applications, to grant valid applications and to issue a transferred licence where no valid representations have been lodged or where lodged have been withdrawn. To determine whether it would be wrong to grant such an application having regard to representations made under Section 161 and in such cases to refuse the application.
  - liii. To determine under the provisions of Section 190 whether a licence has been lost, stolen or damaged and where lost or stolen that the fact has been reported to the Police. Where so satisfied that it has been lost, stolen or damaged to issue copies of the premises licences.
- liv. To revoke licences under the provisions of Section 193.
- lv. To make determinations under Section 194.
- lvi. To receive and consider applications for the reinstatement of a premises licence under Section 195 and to grant such an application where no representations have been received.
- lvii. To initiate a review under Section 200 in relation to premises licences or matters connected with the use of a premises.
- lviii. To receive and consider Temporary Use Notices and to determine their validity; to acknowledge receipt of Temporary Use Notices; to make and withdraw objections to Temporary Use Notices;

to propose modifications to Temporary Use Notices submitted to the Licensing Authority; to lodge an appeal or defend an appeal in respect of a Temporary Use Notice; to endorse and return Temporary Use Notices; and to maintain a public register of Temporary Use Notices all under the provisions of Sections 219 220 and 221 Gambling Act 2005.

- lix. To issue Provisional Statements under the provisions of Section 204 where no valid representations have been lodged or where lodged have been withdrawn.
- lx. To undertake activities authorised by the provisions of Section 305.
- lxi. To enter premises under the provisions of Section 307, 309, 310, 311, 313, 314, 315.
- lxii. To exercise the powers contained within Section 317, 324, 350.
- lxiii. To make applications to justices of the peace and to exercise the powers granted under Section 318 and 319.
- lxiv. To receive applications for permits under Schedule 10, to determine whether they are valid, to consider them, to grant or refuse them, and to receive and consider oral or written representations regarding them.
- lxv. To receive and consider applications under Part 5 of Schedule 11 to register a lottery, to register, refuse to register, to revoke registrations and to cancel registrations.
- lxvi. To receive applications for permits under Schedule 12 for club gaming permits and club machine permits, to determine whether they are valid and to grant them where no valid objections have been lodged or where lodged have been withdrawn. To re-issue permits where there is a change of the holder's name, to renew such permits, to notify holder's of their lapse, to issue copies where they are satisfied that the permit has been lost, stolen or damaged and where lost or stolen that the loss or theft has been reported to the Police. To cancel permits under paragraph 21, where no request for a hearing by a Sub-Committee has been made. To cancel permits under the provisions of paragraph 22.
- lxvii. To receive and consider applications under Schedule 13 for gaming machine permits, to grant, to refuse, or to grant in respect of a smaller number of machines or a different category of machines than that applied for. To re-issue permits where there has been a change of the holder's name. To receive and consider oral or written representations from applicants. To issue copies of permits where satisfied that the original has been lost, stolen or damaged and where the loss or theft has been reported to the Police. To vary, cancel or transfer permits.
- lxviii. To receive and consider applications under Schedule 14 for prize gaming permits, and to grant or refuse them. To re-issue permits where there has been a change of the holder's name. To receive and consider oral or written representations from applicants. To renew permits. To issue copies of permits where satisfied that the original has been lost, stolen or damaged and where the loss or theft has been reported to the Police.

### **Miscellaneous**

- lxix. To register Societies under Part I of Schedule 7 to the Betting, Gaming and Lotteries Act 1963, in all cases where there is no doubt that the Societies fulfil the requirements of the Act, subject to the submission of an annual report on the Societies newly registered.
- lxx. To issue house to house collection permits to organisations not holding a Home Office Exemption Certificate, and street collection permits to organisations' who have been granted such permits previously.

### **Sex Establishment Licensing**

1. to enforce the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982;
2. to appoint Officers of the Council to enforce the provisions of Part II and Schedule 3 of the Act;

3. to exercise the powers of entry, and to authorise Officers to exercise the powers of entry, conferred by paragraph 25 of Schedule 3 of the Act;
4. to apply for and to authorise Officers to apply for warrants to enter premises under paragraph 25 of Schedule 3 of the Act;
5. to determine whether any premises, vessel, vehicle or stall constitutes a sex establishment under the provisions of the legislation;
6. in consultation with the Chairman of the Licensing Committee, to waive the requirement for a licence in any case where it is considered that to require a licence would be unreasonable or inappropriate, to determine what period such a waiver shall apply for, and to terminate such waivers in accordance with paragraph 7(7) of Schedule 3;
7. to determine what particulars may be required in connection with an application;
8. to determine the form which notices given under paragraphs 10 (11) and 10 (12) of Schedule 3 of the Act shall take;
9. to determine whether objections given to the authority are valid or not;
10. to give notice to applicants of objections received;
11. to have regard to observations submitted to the authority by the Police;
12. to transfer licences;
13. to refer to a Licensing Sub-Committee any licence where Officers consider that the licence should be revoked;
14. in consultation with the Chairman of the Licensing Committee, to refuse any application for the grant or renewal of a licence where the requirements of paragraph 12 (a) (b) (c) (d) (e) or 3(c) of Schedule 3 of the Act have not been met;
15. to cancel licences following the written request of the licence holder;
16. to determine the reasonable fee to be charged for supplying copies of standard terms, conditions and restrictions applicable to licences for sex establishments adopted by the Council;
17. to send copies of licences granted to the chief officer of Police for the area;
18. to consider applications for and to extend or further extend the period for which a licence shall remain in force after the death of a licence holder;
19. to determine fees for the grant, renewal, or transfer of licences in consultation with the Chairman of the Licensing Committee;
20. to enforce and prosecute offences under the provisions of Schedule 3 of the Act;
21. to defend appeals taken against the Council under paragraph 27 of Schedule 3 of the Act;
22. to make minor amendments to Sex Establishment Licensing Policy in consultation with the Chairman of the Licensing Committee; and
23. to determine and/or allow renewals of licences to which no objections are lodged and to approve changes to licence details.

### **Street Trading**

Further to the adoption by the Council on 22 April 1992 of the provisions of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, and the designation by the Council of certain roads in the Borough as "prohibited streets" under paragraph 4 of the Schedule, authority to officers to enforce the said statutory provisions.

### **Charitable House to House and Street Collections**

#### **Charitable Collections Policies**

Authority delegated to the Strategic Director – Services and the Head of Environmental Health and Licensing, in consultation with the Chairman of the Licensing Committee, to make minor changes to the Charitable Collections Policies.

#### **Street Collections**

Under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916 and regulations made thereunder:

- To determine, whether the proposed collection is for the benefit of charitable or other purposes and where it is determined that it is not, to reject such applications;
- To enforce the legislation and regulations and to prosecute offences thereunder;

- To reject applications for street collections made later than one month before the date on which it is proposed to carry out the collection;
- To determine whether an application made under one month before the date of the collections should be accepted on the basis that there are special reasons for doing so;
- To attach to permits authorising street collections such conditions as are considered appropriate in respect of days or hours on, or during which, collections may be made, or the streets or public place where collections may be made;
- To receive from persons or organisations granted a permit, statements of accounts and lists of collectors;
- To extend the period by which the financial returns or statements of collectors etc must be forwarded to the Council;
- To reject applications for permits where a proposed date of collection overlaps with an existing permit, or where the application does not relate to a charitable or other similar purpose;
- To designate in which newspapers the accounts of collections shall be published; and,
- To carry out such inspections as may be required under the provisions of the Act.

### **House to House Collections**

Under the provisions of the House to House Collections Act 1939 and the House to House Collections Regulations 1947:

- To enforce the legislation and to prosecute offences there under;
- To grant, refuse or revoke applications for licences;
- To determine whether the amount devoted to charity in respect of a collection is adequate;
- To require the provision of such information as the Council may reasonably require for the purpose of informing itself as to any of the matters specified in the legislation;
- To determine whether an operator has exercised due diligence in the exercise of their required functions;
- To determine whether an application made after the due closing date should be accepted on the basis that special grounds are claimed for doing so; and
- To carry out such inspections as may be required under the provisions of the Act.

i. Environmental Health Officers of Other Local Authorities:

- i. To such Officers who are duly authorised Officers of other local authorities within the meaning of the Food Safety Act 1990 (as amended) from time to time be duly authorised Officers for similar purposes within the Borough of Elmbridge, relating to the detainment, examination and seizure of food in accordance with the above Act and any regulations made thereunder.

j. Strategic Director responsible for Services:

- i. In respect of breaches of legislation enforced by the Environmental Health & Licensing Division, authority to commence legal proceedings, subject to:

for breaches of legislation enforced by the Environmental Health & Licensing Division the decision to instigate a prosecution be undertaken by the Strategic Director of Services or the Head of Environmental Health & Licensing subject to compliance with the provisions of the Division's Enforcement Policy and notification to the Portfolio Holder for Environment; and

the Head of Legal Services being satisfied as to the evidence in the case.

- ii. The Portfolio Holder for Environment be authorised to agree such minor changes to the Enforcement Policy as may be necessary (e.g in the light of consultation or following changes to guidance) and that the Strategic Director of Services in consultation with the Portfolio Holder be authorised to agree the publication and updating of more specific information derived from the enforcement policy for stakeholders affected by particular legislation.

k. To the Strategic Director responsible for Services as the Proper Officer:

- i. To issue notices appertaining to orders for the prohibition of roadside sales made under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976.
- ii. To authorise the carrying out of work to render safe any tree considered to be in a dangerous condition, under Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976.
- iii. To adopt private streets as highways and to vest sewers following completion to the Strategic Director's satisfaction of agreements authorised by the Council under Section 38 of the Highways Act 1980 and Section 104 of the Water Industry Act 1991.
- iv. In consultation with Ward Members, to name and re-name streets and to number or re-number properties as appropriate.
- v. To remove or obliterate any placard or poster being displayed illegally under the Town and Country Planning Act.
- vi. To approve the placing of roadside seats, milk stands, bus shelters and other small structures within highway limits and to approve the placing of telegraph, telephone, electricity, TV relay lines, banners, lights or other apparatus over or under the highway, including the erection of posts and the laying of pipes.
- vii. To erect fences and boundary posts and to install refuse or storage bins in highways.
- viii. To serve Notices and take any other action under the Public Utilities Street Works Act.
- ix. To serve Notices and take any other necessary action under the Public Utilities Street Works Act but only in respect of Development Related Highway Works carried out under Formal Agreement.
- x. To authorise staff to enter onto land for the purpose of carrying out drainage works as laid down in Section 100 of the Highways Act 1980, after due notice has been served.
- xi. To take action under the various provisions of the Highways Act 1980 or any statutory modification or re-enactment thereof, to facilitate the prompt removal of obstructions and other dangers from the highway.
- xii. To authorise the closure of roads for a period not exceeding 14 days in order to avoid danger to the public.
- xiii. To authorise the entering into Works Agreements on behalf of the Highway Authority with developers in order to secure the carrying out by them of works within highway boundaries in connection with development proposals, not exceeding £200,000.
- xiv. To authorise the Strategic Director of Services to make temporary Road Traffic Orders under Section 14 of the Road Traffic Regulation Act 1984, subject to prior consultation with the Portfolio Holder.

### **Environmental Care**

- xv. To authorise and nominate officers to undertake functions and serve any necessary notices in the following enforcement areas: -
  - Vehicles for Sale on the Road (Clean Neighbourhoods Act 2005)
  - Powers of Entry (Environment Act 1995)
  - Graffiti and Fly-posting (Anti-Social Behaviour Act 2003)
  - Scrap Metal Dealers (Scrap Metal Dealers Act 2013)
  - Flytipping (Environmental Protection Act 1990)
  - Duty of Care as respects waste (Environmental Protection Act 1990)
  - Receptacles for Controlled Waste (Environmental Protection Act 1990)
  - Littering and Litter Control Notices (Environmental Protection Act 1990)
  - Unauthorised distribution of free printed matter on designated land (Environmental Protection Act 1990)
  - Abandoned trolleys and luggage trolleys (Environmental Protection Act 1990)

- Waste Carriers (Control of Pollution (Amendment) Act 1989)

- xvi. To authorise and nominate officers to undertake functions and serve any necessary notices in the following dog control areas: -
- Stray Dogs (Environmental Protection Act 1990)
  - Dog Control Orders (Clean Neighbourhoods Act 2005)
  - Dog Fouling (Dog (Fouling of Land) Act 1996)
- xvii. Under the Parking Places Orders to remove from the Council's car parks any vehicles left there in contravention of the Orders.
- xviii. To grant permission for the use of car parks for non-parking purposes.
- xix. To authorise the erection of street name plates/signs in accordance with Section 19 of the Public Health Act 1925.
- xx. With regard to the provisions of the Refuse Disposal (Amenity) Act 1978 and the Road Traffic Act 1984, and pursuant Regulations:
- to serve and enforce Notices (including those affixed to vehicles) under the legislation;
  - to authorise the disposal and/or destruction of vehicles on which Notices are affixed or otherwise served;
  - carry out such investigations as are necessary to identify the Registered Keeper of vehicles to which these provisions apply; and
  - to recover any expenses incurred under the above and, when the Head of Legal Services is satisfied as to the evidence in the case, to issue court proceedings in respect of prosecution of the owner of any vehicle under these provisions or to recover any costs incurred in the seizure, impounding or destruction of vehicles.

### **Building Control**

- xxi. In relation to the Building Act 1984, to exercise the following functions:
- to advertise under Section 10 of the Act, proposals for relaxation of the Building Regulations;
  - to determine full plans applications, process building notices submitted under the Building Regulations and associated legislation as required under Section 16 of the Act, including applications for (a) relaxation under Section 8 of the Act, and (b) use of short lived materials under Section 19 of the Act;
  - to issue Notices under Section 32 of the Act;
  - to serve Notices upon owners of premises (i) under Section 36(1) of the Act, where works have been carried out contravening the Building Regulations and (ii) in the circumstances referred to in Section 36(2) of the Act;
  - to make representations on behalf of the Council under Section 39 of the Act, in cases where an appeal against the Council's refusal or failure to relax the Building Regulations is made to the Secretary of State;
  - to accept or reject Initial Notices under Section 47 of the Act;
  - to issue notices in connection with dangerous structures in accordance with Section 77 and take action under Section 78 of the Act;
  - to serve notices under Section 79 of the Act, on owners of neglected properties which are seriously detrimental to the amenities of the neighbourhood;



- to issue notices in connection with demolitions in accordance with Sections 81 and 82 of the Act;
  - at the Strategic Director of Service's discretion to employ the services of a Consultant Structural Engineer to check and advise concerning structural designs contained in applications submitted under the Building Regulations;
  - to serve Notices upon builders or other persons carrying out works for which Building Regulation approval is required requiring the cutting into, laying open or pulling down of such part of the building works or fittings as the Strategic Director of Services shall require in order to determine whether any part of those works have been executed in contravention of Building Regulations for the time being in force;
  - to authorise staff to enter onto land for the purpose of carrying out works in accordance with Section 95 of the Act; and
  - to issue notices and perform all the Council's functions under Part III of the Act.
- xxii. To serve notices to secure dilapidated buildings under Section 29 of the Local Government (Miscellaneous Provisions) Act 1982.

I. To the Head of Building Control

- i. To act as 'Appointing Officer' in respect of the Party Wall etc. Act 1996.  
To serve notices in accordance with Section 225 of the Act, and to remove or obliterate any placard or poster displayed in contravention of the advertisement regulations.
- ii. To determine the appropriate action to be taken under the Section 47(2) of the Copyright Design and Patents Act 1988.
- iii. To approve amendments to the membership of Conservation Area Advisory Committees in accordance with agreed procedures where such amendments accord with the guidance contained in paragraph 68 of Circular 8/87 "Historic Buildings and Conservation Areas - Policy and Procedures".
- iv. To approve applications for grant assistance under Section 57 of the Planning (Listed Buildings and Conservation Areas) Act 1990, subject to compliance with the guidelines approved by the Planning Committee and to the availability of the necessary finance within the Historic Buildings Grants funds. Otherwise such applications to be referred to the Planning Committee.

m. The Head of Legal Services

- i. The Head of Legal Services is authorised to institute, defend, settle or compromise, participate in or appear on behalf of the Council in any legal proceedings before any Court or Tribunal in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests and the Strategic Director of Resources is similarly authorised in respect of proceedings for the recovery Council Tax. These authorities shall extend to the signing of documents to give effect to the taking of all necessary steps in legal proceedings. The power of the Head of Legal Services to undertake legal proceedings shall be subject to the requirement to seek appropriate instructions from the Head of Paid Service or a member of the Corporate Management Board.
- ii. To retain professional advisers in a consultancy capacity as necessary and within resources available.
- iii. To charge applicants full legal costs and other fees incurred in connection with legal transactions, where appropriate.

- iv. To commence proceedings on behalf of the Council under Sections 187B and 214A of the Town and Country Planning Act 1990 (as amended) and Section 44A of the Town and Country Planning Act (Listed Buildings and Conservation Areas) Act 1990.
  - v. To immediately update the Council's Constitution as appropriate and as arising either from a full Council Resolution or to make routine or minor amendments consequential upon operational or legislative change subject to giving reasonable notice of the change to Members before implementation.
  - vi. To refer on legal grounds a proposed decision of a Local Spending Board in respect of the allocation of Community Infrastructure Levy to a meeting of an Individual Cabinet Member for determination.
- n. In Consultation with the Strategic Director responsible for Services
- i. To enter into agreements with developers to adopt or divert and adopt proposed sewers as 'public sewers' and vest them in the Thames Water Utilities Limited under Sections 104 and 116 of the Water Industry Act 1991. (Any such action subsequently to be reported to the Cabinet stating the address of the site; the name of the developer; the amount of the bond; and the supervision fee charged.)
  - ii. To serve any necessary notice under Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976.
  - iii. To issue notices under Section 58 of the Local Government (Miscellaneous Provisions) Act 1976, requiring the return of identification plates issued to hackney carriages and private hire vehicles where the licence has been revoked or has expired or has been suspended.
  - iv. To enter into agreements in all cases where the frontagers request the Council's consent to the payment of private street works charges by instalments over a period not exceeding 7 years.
  - v. To make Tree Preservation Orders and Building Preservation Orders.
  - vi. To determine applications under Section 191 and 192 of the Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991, in respect of lawful use and development.
  - vii. In those cases of applications of prior-notification, which are determined under delegated authority in order to comply with statutory time limits, all relevant ward Members be given prior notice particularly in those cases where the application site falls on a ward boundary.
  - viii. To discharge mortgages under the Small Dwellings Acquisition Acts and the Housing Acts.
  - ix. To institute proceedings for the recovery of possession of land or properties mortgaged to the Council where appropriate on grounds of arrears of mortgage repayments, but not to enforce any Order for possession made by the courts without the express authority of the Cabinet.
  - x. To approve applications for transfers of equity relating to the Council's house purchase advances scheme, where satisfied that the Council's remedies against the new borrower will not be jeopardised.
  - xi. To institute the necessary proceedings for possession and to recover possession of premises occupied unlawfully together with recovery of arrears of rent, if necessary.
- o To the Head of Asset Management and Property Services, in consultation as necessary with the Strategic Director – Resources, the Head of Legal Services and the Portfolio Holder for Resources

- i. To accept notices under the Leasehold Reform Act 1967, for the purchase of the freehold interests in any estates owned by the Council, subject to the purchase price being fixed by the Cabinet.
- ii. To authorise Home Loss Payments arising from Compulsory Purchase Orders as prescribed under Part III of the Land Compensation Act 1973 (other than payments made in accordance with authority given to the Strategic Director of Services).
- iii. To approve applications for licences to assign and/or change of specified user relating to all premises leased or licensed by the Council.
- iv. To deal with the estate management of leased and licensed land and property leased by or to the Council, including assignments (only within the terms of the lease), approval to alterations and improvements, and other reasonable estate management matters.
- v. To grant licences or leases for a period not exceeding one year.
- vi. To approve terms for the acquisition or disposal of land previously authorised by the Council.
- vii. To grant deeds, easements, rights of way and wayleaves to Statutory Undertakers over Council owned land.
- viii. To make joint application with prospective tenants to the Court under Section 38(4) of the Landlord and Tenant Act 1954, for the Court's sanction on agreements to limit or exclude security of tenure for business tenants in all circumstances where he/she considers it appropriate that such application be made.
- ix. The sale of land mortgaged to the Council.
- x. To undertake rent reviews for leased and licensed residential and non-residential properties.

## **Non-Executive Delegations**

### **Planning**

All Development Control Decisions as clarified below \* are delegated to the Strategic Director responsible for Services except in the following circumstances:

#### Decisions Referred to the Area Planning Sub-Committees

1. All applications which have been 'promoted' to a Sub-Committee by a Ward Member for the Ward within which the application is situated, which shall be done on a conditional basis.
2. All applications which are recommended for approval by Officers and there is an unresolved planning objection from 5 or more households or from Claygate Parish Council (if an objection letter is received from an organisation such as a residents' association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).
3. All applications submitted by or on behalf of Members or Officers of the Council.
4. All enforcement action that, following consultation, has been 'promoted' to a Sub-Committee by a Ward Member for the Ward within which the application is situated.

#### Decisions referred to the Planning Committee

1. Any two Members of the Planning Committee may refer an application from an Area Planning Sub-Committee to the Planning Committee provided that they have been present for the complete consideration of that application at the Area Planning Sub-Committee meeting.

2. All applications where a Sub-Committee decides that permission should be granted and there are unresolved planning objections from more than 40 households.
3. All applications where the decision of the Sub-Committee to permit is contrary to the Officer recommendation to refuse and where the application falls within the 'major' category.
4. All departures from the Development Plan required to be referred to the Secretary of State.

**\*For the avoidance of doubt, this includes enforcement action, lawful development certificates, and Section 106 Agreements on applications to be determined by the Strategic Director of Services.**

Decisions will be taken in consultation with the Head of Legal Services where appropriate.

These arrangements were adopted by the Council in February 2008 and amended in May 2016. Further details explaining how the system operates are contained in the Protocol set out at the end of this Scheme of Officer Delegations.

## **Protocol for operating the system set out in the Scheme of Officer Delegations**

### **Applicability**

1. These arrangements apply to all development control decisions under the Town and Country Planning legislation falling within the terms of reference of the Planning Committee. These include all planning applications and other related applications (e.g. advertisement consents, lawful development certificates), together with the issuing of related notices such as enforcement notices or tree preservation orders and the making of Section 106 Agreements.

### **Decisions Made by Officers**

2. The relevant Officer in most cases is the Head of Planning Services. Some decisions (e.g. enforcement notices) are more appropriate to be issued in the name of the Head of Legal Services. Such arrangements will be updated from time to time as the legislation changes but in all cases appropriate consultation and agreement will be reached between the two directorates.
3. Decisions are taken on a daily basis by the by the Development Control Manager and Principal Planning Officer on behalf of the Head of Planning Services.
4. All decisions made at officer level are reported at the next available meeting of the relevant Area Planning Sub-Committee for information.
5. All decisions to issue notices unprompted by applications (e.g. enforcement notices, tree preservation orders etc.) are reported to the local Ward Members immediately prior to issue. Note that in urgent cases this may have to be done by telephone.

### **Decisions Referred to the Area Planning Sub-Committees**

6. If a Ward Member wishes to 'promote' an application within their respective Ward or enforcement item from officer delegation he/she needs to communicate it clearly to an Officer of the Planning Service. The form attached to each Sub Committee agenda may be used. It will then be recorded centrally and logged on the case file. Members may rescind a promotion if the original concern is resolved.
7. All promotions of applications should be conditional, i.e. the Ward Member should specify that he/she wishes an application to come to Committee only if the eventual Officer recommendation is in one particular direction, either to permit or refuse. It is not necessary to give a reason.
8. If an application has to be referred to a Sub-Committee due to unresolved planning objections, these have to have been received in writing. No decision is made until all the relevant publicity periods have expired. All objection letters are counted up to the date when the officer decision would have been made.
9. For the purposes of this process if an objection letter is received from an organisation such as a residents association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household.
10. Where an Area Planning Sub-Committee reverses the Officer recommendation on a major application from permit to refuse, it does not automatically have to be ratified by the Planning Committee.

### **Decisions referred to the Planning Committee**

12. If an item being considered by the Sub-Committee is to be referred to the Planning Committee by two Members of the latter Committee, provided that they have been present for the complete consideration of that application, this must be done during the Sub-Committee meeting, immediately following the Sub-Committee resolution but before the next item is considered.