



City of Westminster

# Cabinet Member Report

<b>Decision Maker:</b>	Cabinet Member for Place Shaping and Planning
<b>Date:</b>	13 May 2019
<b>Classification:</b>	For General Release
<b>Title:</b>	Amendments and Clarifications to Delegations as set out in the Register of Authority of the Executive Director For Growth Planning And Housing
<b>Wards Affected:</b>	All
<b>City for All Summary</b>	The proposed amendments and clarifications to the register of authority will support delivery of a City of Opportunity with Excellent Local Services.
<b>Key Decision:</b>	Yes
<b>Financial Summary:</b>	Not relevant.
<b>Report of:</b>	Executive Director for Growth Planning and Housing

## **1.0 EXECUTIVE SUMMARY**

- 1.1 This report seeks approval to make amendments and clarifications to the current scheme of delegation for decisions from Members to the Executive Director for Growth Planning and Housing, as set out in the City Council's Constitution.
- 1.2 The amendments are required in order to ensure consistency with current planning legislation and the current structure of the City Council's planning applications committees, to clarify the powers delegated to the Executive Director in respect of stopping up of the public highway in connection with developments benefitting from planning permission, in addition to powers of enforcement relating to development undertaken without compliance with the relevant planning legislation.
- 1.3 The effect of the decision will be that the City Council's Constitution will be amended accordingly.

## **2.0 RECOMMENDATIONS**

- 2.1 That the Cabinet Member:
  - i) Agrees to the proposed amendments and clarifications to the register of authority of the Executive Director for Growth Planning and Housing, as set out in Appendix 1.

## **3.0 REASONS FOR DECISION**

- 3.1 Confirming the proposed amendments to the scheme of delegation will allow for the City Council's Constitution to be updated to ensure consistency with national legislation and the City Council's current planning committee structure. The proposed inclusion of specific delegated powers relating to the stopping up of the highway in connection with developments benefitting from planning permission and the enforcement of planning and related legislation will clarify that these powers are delegated to the Executive Director for Growth Planning and Housing, for the avoidance of doubt.

## **4.0 BACKGROUND**

### **4.1 National legislation**

On 01 October 2013, the Enterprise and Regulatory Reform (Abolition of Conservation Area Consent) (England) Order 2013 removed the requirement for conservation area consent for demolition within conservation areas, with works involving 'relevant demolition' within conservation areas instead requiring the benefit of full planning permission. As such, paragraphs 26 and 28 of the register of authority to the Executive Director can be amended to exclude reference to conservation area consent.

4.2 On 15 April 2015, the Arrangements for Handling Heritage Applications – Notification to Historic England and National Amenity Societies and the Secretary of State (England) Direction 2015 replaced all previous directions relating to handling of heritage applications. This change in legislation had the result that there was no longer a requirement for the local planning authority to seek the approval of the Secretary of State when considering applications for listed building consent relating to Council’s own development. As such it is not considered necessary for such applications to be referred to the planning applications sub-committee for determination and delegated power 28 can be amended accordingly.

4.3 Westminster’s planning committee structure

The current planning committee structure within the City Council is made up of four planning applications sub-committees, as such it is proposed to amend the references to ‘committees’ within the register of authority to ‘sub-committees’ where relevant.

4.4 Enforcement of planning and related powers

It is assumed under delegated power 25, which permits the Executive Director to ‘exercise the functions of the Council relating to town and country planning’, that the Executive Director has responsibility for the enforcement of planning and related powers. However, for the avoidance of doubt, it is proposed to include a specific delegated power within the register of authority to clarify that the Executive Director for Growth Planning and Housing is responsible for investigation into and taking action to enforce against unauthorised development under the planning acts and the control of advertisements.

4.5 Stopping up of the highway

Stopping up of the public highway may be required in connection with changes to the building lines or site boundaries when a new development is proposed. Stopping up orders are often made because the public highway is no longer necessary or to allow development to take place. Stopping up orders may be issued pursuant to Section 247 of the Town and Country Planning Act 1990 (as amended) or under Section 278 of the Highways Act 1980.

The power to confirm stopping up orders in connection with development benefitting from planning permission is already assumed under delegated power 25, which permits the Executive Director to ‘exercise the functions of the Council relating to town and country planning’. However, for the avoidance of doubt, it is proposed to include a specific delegated power within the register of authority to clarify that the Executive Director for Growth Planning and Housing is ‘responsible for highways planning functions including the stopping up of the highway in connection with a development which has the benefit of planning permission.’

## **5 FINANCIAL IMPLICATIONS**

- 5.1 The costs will be met from existing budgets.

## **6. LEGAL IMPLICATIONS**

- 6.1 In accordance paragraph 27.8 of the Council's Constitution, authority is delegated to the Executive Director of Growth Planning and Housing to act on behalf of the Council in its role as a local planning authority.
- 6.2 This report seeks approval to make amendments and clarifications to the current scheme of delegation for decisions from Members to the Executive Director for Growth Planning and Housing, as set out in the City Council's Constitution.
- 6.3 The authority of the Executive Director is limited to the specific matters set out in this report, which have been updated to ensure consistency with the current relevant legislation and government guidance. The additional clarity provided by the amended scheme of delegation will provide further transparency as to delegated powers and the extent of authority.

## **7. BUSINESS PLAN IMPLICATIONS**

- 7.1 Confirmation of the proposed amendments and clarifications will support the City Council's ability to use its planning powers to ensure development provides the right kind of growth – that which works for all residents and businesses, now and into the future – delivering opportunities and an improving quality of life for Westminster's people while minimising any negative impacts.

## **8. SUMMARY**

- 8.1 The Cabinet Member is asked to agree to the proposed amendments and clarifications to the register of authority of powers delegated to the Executive Director for Growth Planning and Housing, as set in Appendix 1 to this report, in order for the City Council's Constitution to be amended accordingly.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact: Jane Hamilton at [jhamilton@westminster.gov.uk](mailto:jhamilton@westminster.gov.uk)**

## **APPENDIX**

1. Executive Director for Growth Planning and Housing, Register of Authority - Draft Amendments and Clarifications.