

LLDC/Newham: Interim Delegation Scheme concerning the partial delegation of planning functions between 01 September and 30 November 2024.

Note LLDC approved the IDS at its Board meeting on 21 May 2024 and the LB Newham approved the IDS at its Cabinet meeting on 22 July 2024.

An Introduction

The London Legacy Development Corporation (Planning Functions) Order 2012 made LLDC the local planning authority for the whole of its administrative area from 1st October 2012.

On 8th December 2022 the Mayor of London decided that for the purpose of sections 204(2) and (3) of the Localism Act 2011 and from 1 December 2024 the London Legacy Development Corporation (LLDC) shall cease to exercise the entirety of those functions.

A Memorandum of Understanding (MOU) has been agreed between LLDC and the London Boroughs of Newham, Hackney, Tower Hamlets and Waltham Forest which recognises the need to assist with preparations for the formal transfer of planning powers from LLDC to the Boroughs on 01 December 2024, to help with minimising the handover of undetermined planning applications from LLDC to the Boroughs and to set up interim arrangements for delegation of certain planning functions through an Interim Delegation Scheme (IDS).

The MOU was approved by LLDC on 12 March 2024 and the London Borough of Newham on 25 April 2024.

Section B of this document formally delegates certain planning powers from LLDC to the London Borough of Newham from 01 September and 30 November 2024.

Section C of this sets out the protocol for the processes for the interim delegation of planning powers between 01 September and 30 November 2024. These are working processes that all parties are expected to follow, but these are not legally binding and do not form part of the formal delegation of powers

B Delegation of Functions

1. This Interim Delegation Scheme is made between the London Legacy Development Corporation (“LLDC”) and the London Borough of Newham (LB Newham),
2. This Interim Delegation Scheme is made under section 203 of the Localism Act 2011

3. The decision to receive functions delegated by another authority is set out in Article 11 of Newham’s Constitution as being reserved to the full Council. Decisions on planning applications are a non-executive function delegated by the Council to the Local Development and Strategic Development Committees and to officers. The Director of Planning and Development has confirmed her agreement to the IDS and will determine any new applications submitted to the LLDC from 1 September on their behalf, within the scope of established delegated powers. The Local and Strategic Development Committees would determine any relevant applications received under the IDS that fall within their current terms of reference.
4. LLDC delegates in relation to the land shown edged red on the attached plan the following functions (“~~the partial~~ delegated planning functions”) to LB Newham from 1st September 2024
 - a. Functions under Part 3 of the Town and Country Planning Act 1990 (“the 1990 Act)
 - b. Functions under the 1990 Act and the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) specified in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980 (“the 1980 Act”)
 - c. Functions under Schedule 8 to the Electricity Act 1989 so far as applying to applications for consent under section 37 of that Act
5. LLDC will maintain the ability to recover any application, pre-application case, appeal or enforcement case between 01 September and 30 November for its own determination following notification of the Borough of its intention to do so and in accordance with section 203(3) of the Localism Act
6. The delegation of powers specified in Clause B4 above will cease at midnight on 30 November 2024

C Planning protocol for the partial delegation of planning functions between 01 September 2024 and 30 November 2024

1) Publicity of Protocol for the partial delegation of planning functions:

- a) LLDC and LB Newham shall publish this Interim Delegation Scheme on its respective Websites prior to 01 September 2024.
- b) LLDC and LB Newham shall coordinate its communications and publicity with stakeholders regarding the Interim Delegation Scheme.

2) Pre application advice

- a) All requests for pre-application advice will be directed to a contact at LB Tower Hamlets.
- b) Upon receipt of a request, LB Tower Hamlets will provide pre-application advice in accordance with its published processes, including the use of Planning Performance

Agreements or similar and charge costs in accordance with its pre-application charging schedule.

- c) LB Newham and LLDC will cooperate with one another during this period in accordance with the agreed Protocols to ensure a coordinated approach to Pre-Application Advice in the LLDC area.

3) Applications for planning permission, reserved matters approval, prior approvals, non-material amendments, minor material amendments discharge of or variation to conditions of a planning permission, advertisement consent or listed building consent:

- a) All new applications, including the relevant fee, submitted between 01 September will be diverted via the Planning Portal directly to LB Newham.
- b) LB Newham will be responsible for registering, validating and publicising the application, in accordance with all relevant national and locally published requirements and will undertake all necessary statutory and other notifications.
- c) LB Newham may refuse to accept a planning application in accordance with the provisions of the TCPA 1990.
- d) LB Newham will be responsible for publishing applications on its statutory registers in accordance with its established process.
- e) LB Newham will seek to determine delegated applications within the relevant statutory determination period or as agreed with the applicant in writing, either through a Planning Performance Agreement or via a written Extension of Time request.
- f) LB Newham will seek to determine delegated applications in accordance with the relevant adopted planning Policy, including the LLDC Local Plan (2020), and take the guidance provided in LLDC adopted Supplementary Planning Documents into account where these are relevant.
- g) Applications which are not to be determined by officers under the Borough scheme of delegation shall be reported to the relevant Borough planning decisions committee.
- h) LB Newham will be responsible for issuing decision notices to all relevant parties including a copy to LLDC and recording the decision on the statutory planning register. In addition it will provide LLDC with a copy of any relevant CIL Forms received with the application, during or after its determination.
- i) LB Newham and LLDC will cooperate with one another during this period in accordance with the agreed Protocols to ensure a coordinated approach to planning decisions in the LLDC area.

4) s106 Agreements:

- a) LB Newham will be responsible for negotiating draft heads of terms for s106 legal agreements required to secure planning obligations for applications received between 01 September and 30 November 2024.

- b) LLDC will retain responsibility for monitoring and discharging planning obligations pursuant to s106 legal agreements signed prior to 01 September 2024 until transfer of planning powers on 01 December 2024.
- c) LB Newham and LLDC will cooperate with one another during this period in accordance with the agreed Protocols to ensure a coordinated approach to planning obligations in the LLDC area.

5) Appeals:

- a) LB Newham and LLDC will cooperate with one another during this period in accordance with the agreed Protocols to ensure a coordinated approach to planning appeals in the LLDC area.
- b) For any appeals against decisions made by LB Newham between 01 September-30 November 2024 or where there is an appeal against the failure of LB Newham to determine an application within statutory periods for an application submitted during this period, LB Newham shall be responsible for the notification, consultation and administration of that appeal, together with the associated appeal work, including preparing evidence, appointing legal counsel and expert witnesses and holding the appeal.
- c) For any appeals received by LLDC prior to 01 September 2024, LLDC will retain responsibility for notification, consultation and the administration of the appeal and will liaise and agree with LB Newham regarding the arrangement for the preparation of evidence, appointment of legal counsel and expert witnesses and the arrangements for holding the appeal.

6) Enforcement:

- a) LB Newham will undertake planning enforcement investigations for all new complaints relating to breaches of planning control received by LLDC after 01 September 2024.
- b) LLDC will inform LB Newham of any new complaints within 3 working days of receipt.
- c) LB Newham will undertake enforcement action as appropriate following its investigations and where it is expedient to do so.
- d) LB Newham and LLDC will cooperate with one another during this period in accordance with the agreed Protocols to ensure a coordinated approach to enforcement against breaches of planning control in the LLDC area.

7) Data and information:

- a) LLDC will provide Planning history data for relevant applications received by LB Newham between 01 September and 30 November 2024 at the request of LB Newham.
- b) Local Land Charges - the borough will take responsibility for uploading decision notices and 106s to Land Charge Register

- c) Monitoring Data – All monitoring data for the applications determined from 01 September to be held by LB Newham and reported as required.