Newham Council - Planning Committee Gateway Referral Protocol

1. Introduction

The National Scheme of Delegation establishes a presumption that planning applications will be determined by officers unless they raise matters of sufficient significance to warrant consideration by the Strategic Development Committee.

The purpose of this Protocol is to provide a clear and transparent framework for identifying and considering applications that may satisfy the statutory Gateway Test for referral to Committee. It is intended to assist applicants, residents, councillors and other stakeholders in understanding how decisions on Committee referral are made.

The Council is committed to ensuring that the Strategic Development Committee focuses on applications raising significant planning, economic, social or environmental issues, whilst allowing other applications to be determined efficiently under delegated powers.

2. Roles and Responsibilities

Nominated Officer

The Nominated Officer shall be the Assistant Director of Development Management and Environment (Chief Planner).

The Nominated Officer shall be responsible for:

- reviewing applications that may warrant Committee consideration;
- assessing applications against the statutory significance criteria;
- participating in Gateway Reviews; and
- ensuring that Gateway decisions and the reasons for them are appropriately recorded.

Nominated Member

The Nominated Member shall be the Chair of the Strategic Development Committee.

The Nominated Member shall be responsible for:

- participating in Gateway Reviews;
- considering whether applications satisfy the statutory significance criteria for Committee referral; and

- working collaboratively with the Nominated Officer to ensure that the Gateway process operates fairly, transparently and consistently.

The Nominated Member does not determine planning applications independently. Applications will be determined either by appropriately authorised officers under delegated powers or collectively by the Strategic Development Committee where the statutory requirements for Committee determination have been satisfied.

3. Gateway Review Process

The Council shall operate a Gateway Review process involving the Nominated Officer and Nominated Member.

Officers shall identify applications falling within Schedule 2 of the Regulations that are eligible for consideration under the statutory Gateway Test and refer those applications for Gateway Review.

The Nominated Officer and Nominated Member shall consider each eligible application against the statutory Gateway Test to determine whether:

- the application should remain delegated for determination by an appropriately authorised officer; or
- the statutory Gateway Test is satisfied and the application should be referred to the Strategic Development Committee for determination.

An application shall only be referred to the Strategic Development Committee where referral is permitted under the National Scheme of Delegation and the statutory Gateway Test has been satisfied.

The Gateway Review shall consider whether the statutory criteria for referral are satisfied. It shall not determine or pre-judge the planning merits of the application.

The outcome of each Gateway Review, including the reasons for any decision to refer an application to the Strategic Development Committee, shall be formally recorded.

Applications referred through the Gateway Review will normally be reported to the next appropriate meeting of the Strategic Development Committee, having regard to statutory determination periods and any other relevant considerations.

Applicants will be notified of the outcome of the Gateway Review where appropriate.

The presumption shall be that applications remain delegated for officer determination unless the requirements for referral under the National Scheme of Delegation and the statutory Gateway Test have been satisfied.

4. Significance Criteria

In accordance with the National Scheme of Delegation, applications falling within Schedule 2 of the Regulations may be considered for referral to the Strategic Development Committee through the Gateway process.

An eligible application may be referred where the Nominated Officer and Nominated Member agree that it raises:

- one or more issues of economic, social or environmental significance to the local area; and/or
- one or more significant planning matters, having regard to the Development Plan and any other material considerations.

No single factor shall automatically result in Committee referral. The Nominated Officer and Nominated Member shall consider the circumstances of each application against the statutory Gateway Test.

In determining whether an application raises a matter of sufficient significance, relevant considerations may include the following.

A. Scale and Strategic Importance

The scale or strategic importance of a development may be relevant to assessing its significance, including where the proposal involves:

- major residential, commercial, employment or mixed-use development;
- development associated with strategic regeneration objectives; or
- development likely to have significant implications beyond the immediate locality.

Scale or strategic importance alone shall not provide sufficient justification for Committee referral.

B. Significant Public Interest

The level and nature of public interest may be relevant where it demonstrates that an application raises a significant planning, economic, social or environmental matter.

Relevant considerations may include:

- the number and nature of objections;
- the number and nature of supporting representations;
- whether representations raise material planning considerations;
- the extent to which the matters raised affect the wider community; and
- the context and characteristics of the site and surrounding area.

No fixed numerical threshold of objections or representations shall apply. Public interest alone shall not justify Committee referral. The application must satisfy the statutory Gateway Test.

C. Significant Planning Issues

Relevant considerations may include whether an application raises:

- significant conflict with the Development Plan;
- significant design or townscape considerations;
- significant heritage impacts;
- strategic transport or infrastructure considerations;
- significant environmental implications;
- significant impacts upon important community assets; or
- new, exceptional or strategically significant planning policy considerations.

D. Economic, Social or Environmental Significance

Relevant considerations may include whether the application gives rise to:

- significant employment impacts;
- significant impacts upon community facilities;
- significant environmental effects; or
- other demonstrably significant economic, social or environmental implications for the local area.

E. Other Relevant Circumstances

Other circumstances may be considered where the application is eligible for Committee referral under the Regulations and those circumstances are relevant to determining whether the statutory Gateway Test is satisfied.

5. Applications Normally Determined Under Delegated Powers

Applications Required to be Determined Under Delegated Powers

Certain applications and planning functions are required by the National Scheme of Delegation to be determined by officers and are not eligible for referral to the Strategic Development Committee, except where legislation expressly provides otherwise.

This includes relevant application types falling within Schedule 1 of the Regulations.

Applications falling within Schedule 1 shall therefore be determined by appropriately authorised officers in accordance with the statutory requirements and the Council's Scheme of Delegation to Officers.

Applications Ordinarily Remaining Delegated

Where an application is legally eligible for consideration through the Gateway Review process, eligibility does not of itself mean that the application will be referred to the Strategic Development Committee.

The presumption remains in favour of officer determination unless the application satisfies the statutory Gateway Test.

Having regard to the nature of these applications and the Council's experience of their determination, the following will ordinarily remain delegated:

- telecommunications applications;
- applications for works to trees protected by a Tree Preservation Order (TPO);
- notifications and applications relating to trees within Conservation Areas; and
- advertisement consent applications.

Where an application within one of these categories is legally eligible for Gateway consideration, it may nevertheless be referred to the Strategic Development Committee where the Nominated Officer and Nominated Member determine through the Gateway Review that the statutory Gateway Test is satisfied.

Presumption in Favour of Officer Determination

For the avoidance of doubt, the Council's starting position is that planning applications will be determined by appropriately authorised officers unless:

- the application is legally eligible for Committee determination; and
- the statutory Gateway Test is satisfied through the Gateway Review process.

Public interest, objections or supporting representations, elected Member interest, the size or location of a development, or its potentially controversial nature will not, individually or collectively, automatically result in referral to the Strategic Development Committee.

The determining consideration is whether the individual application satisfies the statutory Gateway Test.

6. Outcome of the Gateway Review

Following consideration of an application, one of three outcomes shall apply:

Referral to Committee: Where the nominated officer and nominated member agree that an application meets the significance threshold, the application shall be scheduled for determination by Planning Committee.

Delegated Determination: Where a Schedule 2 application is considered through the Gateway Review and does not satisfy the statutory Gateway Test, the application shall remain delegated for determination by appropriately authorised officers in accordance with the Council's Scheme of Delegation to Officers.

Disagreement: The nominated officer and nominated member will make every effort to reach agreement. Where agreement cannot be reached, the matter shall be referred to the Corporate Director of Inclusive Economy and Housing for review and determination of whether the application should proceed to committee, subject to compliance with legislation and the Council's Constitution.

7. Transparency and Monitoring

The Council is committed to ensuring transparency and accountability in the operation of the Gateway Review process.

A Gateway Monitoring Schedule shall be maintained in respect of Schedule 2 applications considered through the Gateway Review process, recording:

- the application considered;
- the outcome of the Gateway Review, including whether the application was referred to the Strategic Development Committee or remained delegated for officer determination;
- a summary of the reasons for the outcome; and
- any relevant trends or observations arising from the operation of the Gateway process.

Where a Schedule 2 application is referred to the Strategic Development Committee for determination, the outcome of the Gateway Review and the reasons for referral shall be published on the Council's website alongside the relevant Strategic Development Committee agenda and report.

The Gateway Monitoring Schedule shall also be:

- reported periodically to the Strategic Development Committee, where appropriate; and
- retained as part of the Council's governance and monitoring arrangements.

These arrangements will provide a transparent and auditable record of Schedule 2 applications considered through the Gateway process and how the statutory Gateway Test has been applied.

8. Review of the Protocol

This Protocol shall be reviewed twelve months following implementation of the National Scheme of Delegation, and thereafter at regular intervals, to assess its operation and effectiveness.

The review shall have regard to the Council's own monitoring and governance arrangements, including the operation of the Gateway Review process, the Gateway Monitoring Schedule and any relevant matters identified through the Council's governance and oversight arrangements.

The Protocol shall also be reviewed where necessary following any changes to legislation, statutory guidance or the National Scheme of Delegation, or following any national review of the new arrangements.

Any amendments arising from a review shall be made in accordance with the Council's constitutional arrangements.