

REPORT TO 3RD FEBRUARY 2015 PLANNING COMMITTEE

Proposed Revisions to Planning Scheme of Delegation

Purpose of the Report

To update the current Planning Scheme of Delegation to reflect recommendations arising following the recent Planning Peer Review.

Recommendations

- (1) That Planning Committee endorse proposals outlined in section 4 of this report and set out the revised Planning Scheme of Delegation (attached as Appendix B)**
- (2) That Planning Committee recommend that the revised Planning Scheme of Delegation be adopted by the Council**

1. Background

The Planning Peer Review Team gave a recommendation to the Council that it re-examine the scheme of delegation to allow the Planning Committee to focus on major applications. In giving their feedback the Review Team commented as follows

“Rates of delegated decisions have dropped below 90 per cent. This results in more applications being taken at the planning committee. During the on-site phase of the peer challenge we attended the planning committee which spent a long time discussing reserved matters applications. To ensure that the capacity of the committee is focused on strategic decision making we recommend that the Council reviews its codes and protocols to seek to increase rates of delegation to match the best in England.”

Cabinet on the 12th November in resolving to agree an Action Plan in response to the Planning Peer Review Team’s report agreed to the following action- that the Council should review its Scheme of delegation (of its Planning functions) with particular reference to telecom apparatus, consultations by other authorities, historic building grant applications

The existing Scheme of Delegations is attached as Appendix A to this report

The Scheme of Delegations forms part of the Council’s Constitution and any changes made will therefore need to be approved by Full Council. The Scheme of Delegation is part of the legal framework set by the Council governing the way it conducts its business. An appropriate Scheme of Delegation supports good governance and budgetary compliance

2. Issues

This report is to request the consideration of Planning Committee to changes to certain delegations. Members may recall that in a workshop organised for the Planning Committee the following conclusions were reached during the course of a brief workshop session (as part of a workshop session that considered four of the recommendations of the Planning Peer Review Team)

- Any change to the scheme of delegations must obtain the support of the Planning Committee before being considered by Full Council
- Probity safeguards i.e. the determination of applications by members and officers and their close relatives should remain
- The focus of any review should be on
 - reference of telecommunication developments to committee

- review of the call in procedure, perhaps introducing a further filter – the approval of Chair to the proposal that the item come before the planning committee, but members did not favour this option

3. The existing Scheme of delegations of planning functions

The Scheme lists an extensive number of functions and indicates whether these functions, or authority to exercise a particular power, are to be exercised by the Planning Committee, by the Executive Director of Regeneration and Development, or in certain instances by both of the above.

The focus of this report is mainly on the authority to deal with applications, although it will be noted from the existing scheme of delegations that the authority to deal with certain types of applications makes up a relatively small part of the Scheme of Delegation.

With respect to the planning applications the position at present is that applications broadly fall to be determined by the Executive Director- i.e. under delegated powers, unless they are for Major Development, as defined by the DCLG, for the demolition of any Listed Building (of whatever Grade), and for the alteration or extension of a Grade 1 or 2* Listed Building. Such applications **automatically** come before the Planning Committee, regardless of any member interest expressed or judgement by officers.

A similar group of applications which comes, at present, automatically to the Planning Committee, is applications either for prior approval or for planning permission that involve telecommunication apparatus

In addition these criteria set out in the scheme of delegation, in the case of several delegated functions (with respect to applications) there is a right of two or more members to 'call in' an application for determination by the Planning Committee. Such call-ins have to be made within 10 working days of the publication of the weekly list of applications received. Those who have called in an application are also provided, where there is the opportunity to do so, with the ability to withdraw such a call in (by the provision to them of a draft of the report to the Committee).

There are other criteria which lead to applications being brought to the Planning Committee

As indicated above the Planning Peer Review Team made comment about the fact that the Planning Committee observed by them (on the 15th July) considered applications for the approval of reserved matters of several Major Developments. Their view, it would appear, was that given that such developments had already outline planning permission the Committee, by considering the subsequent reserved matters, was not sufficiently focussed on strategic decision making. As members will be aware an outline planning permission can reserve for subsequent decision making a number of matters – scale, layout, appearance, access and landscaping. Each of these terms is defined in legislation.

Your Officer's view is that to remove from the list of applications which automatically come before the Planning Committee those for the approval of reserved matters for major developments would not be justified – in that these are still applications for Major Development. There is however one suggested exception. In recent years, principally in order to defer the significant additional fees associated with of applications for full planning permission it has been the practice of some agents to make applications for outline planning permission with the **only** reserved matter being the landscaping details of the development. It is considered that recognising the limited likely interest of landscaping matters, and the often technical nature of judgements, it would be appropriate to no longer require such applications automatically to come before the Planning Committee. This is Proposal No.1 within this report. Such applications could still of course be "called in".

At present all applications for telecommunication apparatus automatically come before the Planning Committee. With respect this appears, to your officer, to be serving, no clear purpose and whilst the

number of such applications has varied considerably over time, they do insofar as they require members of the Committee to read the reports upon them divert the attention of members, and a change to the Scheme of Delegation appears appropriate. This is Proposal No.2 within this report.

As indicated above most of the delegated functions, at least with respect to applications, are subject to a right of call in. At present upon the receipt of sufficient number of call in requests, in writing and by the due date, the application, unless the call-in is subsequently withdrawn, proceeds to be determined by the Committee. In some authorities the Chairman has the right, reflecting their role with respect to the business of the Committee, to reject requests by members that an application be considered by the respective Planning Committee. Whether the existence of this right would make any substantive difference to the business of the Committee is of course entirely a matter for speculation. Your officer acknowledges that in the absence of agreed criteria (for the rejection of call -ins) it would place the Chair in a difficult position with respect to the members who were wanting the application to be considered by the Committee. Devising and defining such criteria would be fraught with difficulty. Your officer is not, for this reason, putting forward this proposal.

A preliminary examination of call in records suggest that whilst members are strongly encouraged to speak to officers before submitting a call in, this does not happen in a significant number of cases. It is only speculation but this could be because the Councillors concerned know that they will be able to decide later on to withdraw their call in, or it may relate to difficulties officers and members have in making contact at short notice for such discussions. There is the possibility that by lengthening the period (currently 10 days) to say 15 days,, members might feel more able to take a more considered view on whether or not to call in an application, and this could reduce the number of call ins coming to the Committee. The period within which an application can be called in commences upon the publication of what is termed the weekly list of applications received. Such lists are currently normally produced on the Friday of the following week - which can mean that an application does not appear on such a list until up to 11 days have passed – if it has been received and was valid on the preceding Monday. For an application to be found valid it has to go through various checks by Support officers and in the case of Major applications by Senior Planning Officers. To avoid a situation, with an extended 15 day call in period where it frequently became inevitable that if an application was called in it would not come to the Committee until after the 8 week date, a change in the day of the week when the weekly list is produced is essential. This will be challenging for the Service, but necessary. Proposal No.3 is therefore to extend the call in period to 15 working days, with it be a precondition of a call in that each member involved has spoken beforehand either to the Planning Officer or to the Development Management Team Leader.

As members will note the existing scheme of delegation seeks to allow for the exercise of delegated authority only to where the decision is in accordance with the development plan and other relevant material considerations, most notably national guidance. The redrafting of this section of a general delegated authority requires updating to reflect current national guidance anyway and this is Proposal No.4 within this report

Members will have noted that because of this requirement that delegated decisions must be in accordance with the development plan and other relevant considerations, including national guidance, officers are bringing quite frequently to the Committee decisions on extensions to dwellings and equestrian developments because the conclusion reached, by officers, that the developments constitute inappropriate development within the Green Belt. It is considered that little value is added by this particular process in general so Proposal No.5 would enable officers to determine, with respect to inappropriate development consisting of either domestic extensions or what might be termed small scale equestrian development, such applications. Again the possibility that such applications might be called in remains.

The existing scheme of delegation requires that if the Council is consulted, by another adjoining Local Planning Authority, or by the County Council, upon any application for Major Development, determination of the Council's comments can only be made by the Planning Committee. Given that the Borough Council is not acting as the Local Planning Authority in such instances it would appear unnecessary for the Planning Committee to be asked for its views on consultations on applications

for approval of reserved matters – the Borough Council having already had the opportunity to comment on the principle of the development at Outline stage. This is Proposal No.6. Such consultations are not subject to a right of call in.

4. The proposed changes

In summary the proposals being recommended to the Committee are as follows

Proposal No.1 – That Reserved Matters applications for Major development, where the only reserved matter is landscaping, would not automatically require to come before the Planning Committee

Proposal No.2 - That applications for telecommunication apparatus would not automatically require to come before the Planning Committee

Proposal No.3 – To extend the call in period to 15 working days, with it being a precondition of a call in that at least each Member involved has spoken beforehand either to the Planning Officer or to the Development Management Team Leader about the application.

Proposal No.4 – To redraft the general statement concerning the requirement for delegated decisions to be made in accordance with the development plan and other material considerations

Proposal No.5 – That notwithstanding Proposal No.4 Officers have delegated authority to determine applications for extensions to dwellings and small scale equestrian developments, even if they are considered to constitute inappropriate development in Green Belt terms

Proposal No.6 – That consultations from adjoining Councils or the County Council on applications for the approval of reserved matters of outline planning permissions for Major Development are able to be responded to by the Executive Director

A further appendix, Appendix B, will be circulated in advance of the meeting and will provide the proposed Scheme of Delegation of Planning functions in a manner to enable members to see the detailed changes that are proposed