

Committee: Planning Applications Committee

Date: 19 March 2020

Wards:

Subject: Delegation of Planning Decisions to Officers

Lead officer: Louise Round

Lead member: Councillor Linda Kirby

Contact officer Louise Round/ Neil Milligan

Reasons for Urgency: The Chair has approved the submission of this late report on the grounds that arrangements need to be made urgently for decision making in light of the national Covid-19 crisis and fast changing government advice.

Recommendations:

- A. That Committee agrees to delegate authority to make decisions on the matters listed in paragraphs 7.2(a) to (o) of Appendix A to the Director Environment and Regeneration, in consultation with the Chair of the Planning Applications Committee, in cases where, in his reasonable opinion, to delay the decision to the next quorate meeting of the Committee would be detrimental to the interests of the Council or the applicant.
 - B. To agree that the Director of Environment may choose to delegate the authority delegated to him to the Head of Development Control should he consider it necessary and appropriate
 - C. That this delegation be reviewed after six months or if the law is changed to allow Committee Meetings to be conducted virtually, on the assumption that in such circumstances, meetings of the Committee will be resumed, whichever is the earlier.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to set out the arrangements for decision making in planning matters which will operate over the coming months whilst the situation in relation to the Covid-19 pandemic pertains. Although the Council will be focussing on keep essential services going and supporting the most vulnerable in our community, it is important the normal administration of the Council is able to continue in the interim in order to promote good governance and to ensure that the Council is prepared to act swiftly once the country moves into recovery phase.
- 1.2. The Government is expected to bring legislation into force allowing meetings to take place on a virtual basis but until that time although informal measures can be put into place allowing remote dial ins for officers and members of the public, committee members are still required to physically attend meetings and the requirement to allow members of the public admission to the meetings still apply. Given the increasingly strong advice about the need for social isolation, continuing to hold meetings to determine applications seems unlikely to be an option.

2 DETAILS

- 2.1. The Council's constitution operates to allow most decisions to be taken by officers although such provisions do not prevent member bodies from taking such decisions themselves. However, in the case of planning decisions, certain decisions are reserved for the Planning Applications Committee. An extract from the constitution setting out the scheme of delegation in respect of planning decisions is as attached as Appendix A. It will be noted that paragraph 7.1 gives the Chief Executive the power to determine most planning matters; he in turn has delegated that authority to the Director of Environment and Regeneration. However, those matters listed in paragraph 7.2 (a) to (o) are reserved to the Planning Applications Committee itself.
- 2.2. There is no statutory requirement for those matters to be reserved for member decision although in the interests of democratic accountability, the approach of the Council is that they should be. However, we are now in unprecedented circumstances and it is therefore suggested that for an initial six month period these decisions should be able to be taken by the Director of Environment and Regeneration or an officer nominated by him where there is a risk that delay would be prejudicial to either the Council (for instance where that delay might lead to an appeal for non-determination) or the applicant. Officers would consult with the Chair of the Committee before exercising this authority and the position would be kept under review so if the law changes to allow virtual meetings, the reference to committee could be re-instated.
- 2.3. Although it has been custom and practice to allow members of the public to participate in meetings of the Planning Applications Committee, this is neither a legal nor constitutional requirement. Such speaking is at the discretion of the chair. When officers make their decisions, they will of course take into account any relevant planning considerations which have been raised through the statutory consultation process. They will also consider how best to publicise in advance those decisions which they intend to take under their newly delegated powers.

3 ALTERNATIVE OPTIONS

- 3.1. As stated above, it would not seem prudent to continue with public planning committee meetings over the next weeks and possibly months and there may well be cases where to delay until the crisis is over is not feasible or desirable.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. There is no requirement for public consultation on these proposals.

5 TIMETABLE

- 5.1. It is proposed these measures be put in place with immediate effect.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

There are no real resource implications at this stage as the decisions envisaged would in any event have required significant decision and input.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. Section 101(2) of the Local Government act 1972 provides that where a Council has delegated a function to a committee, then unless the Council otherwise directs (which it has not done in this case), that Committee may delegate those functions to an officer, as proposed in this report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None

9 CRIME AND DISORDER IMPLICATIONS

None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. The arrangements outlined in this report are being put in place to reduce the risk to members, officers and the public in participating in planning committee meetings in the foreseeable future until alternative virtual arrangements are made lawful.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A –List of matters currently reserved for decision by the Planning Applications Committee

12 BACKGROUND PAPERS

12.1. None

Planning Applications Committee 19 April – Appendix A: Scheme of Delegation for Planning Matters

7 Planning Applications Committee

7.1 Town Planning Development Control and Miscellaneous Matters

7.2 Except for matters reserved to this committee or for the decision of members or other decision makers, all matters relating to the exercise of this committee's functions are delegated to the Chief Executive and Head of Paid Service. These powers are to be exercised within the overall resources allocated by the Council, AND in accordance with Council policies and objectives. Accordingly the Chief Executive is authorised to determine all planning applications, Listed Building Consent applications and Conservation Area Consent applications except the following which are reserved to Committee: -

- (a) where a written request is received from a Council Member that a particular application/applications should be determined by Committee;
- (b) where objections have been received which cannot be overcome by conditions but where the application is considered to be in accordance with the Development Plan and so recommended for approval (minor developments or changes of use may be excluded from this exception);
- (c) where the proposals are significantly contrary to Development Plan Policy, unless recommended for refusal.
- (d) proposals which are subject to Section 106 agreement that would contain any heads of terms or contributions that are not a standard requirement of the local plan or (for proposals where a standard requirement has been subject to modification through negotiation or otherwise) depart significantly from the standard requirement of the Local Plan; or applications for release or significant modification/variation from such obligations
- (e) where conflict arises between the officer's recommendation and the advice issued by English Heritage or other body with similar statutory status;
- (f) determinations in cases where an appeal has been lodged against non-determination which involves a Public Inquiry or Informal Hearing;
- (g) revocation/modification of planning permission and discontinuance order
- (h) where the Council may be involved in compensation or service of a purchase notice (except in relation to stop notices);
- (i) where proposals accord with the Development Plan but are recommended for refusal;
- (j) where the proposal involves the Council either as applicant or landowner

and the scheme is not of a minor nature;

(k) where enforcement action will follow on from a refusal of planning permission;

(l) where an Environmental Impact Assessment has been provided or requested;

(m) where the applicant is a councillor or Council officer

(n) Where officers consider that the application should be determined by Committee

(o) Major hazardous substances

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