

Report for Resolution

Report to	Planning Applications Committee 29 March, 2012	Item 7
Report of	Head of Planning Services	
Subject	Delegation of powers from Planning Applications Committee	

Purpose

To review the committee's delegation of powers to the head of planning services to satisfactorily handle potentially large volumes of telecommunications cabinet applications to be submitted by BT and to ensure that robust procedures are in place to handle all "prior notifications" for all telecommunications masts / antennae.

Recommendations

That the delegation arrangements in Appendix 1 be confirmed subject to the minor revisions listed in paragraph 8 of the report.

Financial Consequences

The financial consequences of this report are that there would be minor efficiency and resource savings as there would be a slightly higher number of applications being dealt with by officers and slightly fewer by committee.

Strategic Priority and Outcome/Service Priorities

The report helps to meet the aim of providing Value for Money Services.

Contact Officers

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Background Documents

None

Report

Introduction

1. The planning application committee's last reviewed its scheme of delegations from the committee to the head of planning services at its meeting on 8 April 2010. There is therefore a need to comprehensively review the current delegation levels and it is proposed that this should form part of a wider review of service standards that will be undertaken later in the year.
2. The details of the current delegation arrangements are appended to this report (Appendix 1). The need for delegation relates to three key areas:
 - (a) speed of determining applications;
 - (b) cost;
 - (c) ensuring that committee focuses on applications of major importance or wider significance.
3. There is currently a pressing need to review the committee's delegation arrangements to ensure that the council can deal with the large volumes of telecommunications cabinet applications that are expected to be submitted by BT and to ensure that robust procedures are in place to handle all "prior notifications" for all telecommunications masts / antennae.

Proposed changes

4. Members have previously been advised (when two formal applications have been considered at recent committee meetings relating to sites in Eaton) that BT will be installing large numbers of new boxes around the whole of the city as part of the rollout of improved broadband services. These will normally be on the highway and as statutory undertakers BT have rights to erect such structures subject to certain statutory notifications to the highway authority. In most case there is no formal need for any planning notification unless the siting is in a Conservation Area and in which case a "prior notification" application is made. For all telecoms notifications it should be noted that there is an automatic approval for such telecoms equipment if a decision is not received by the applicant within 56 days of submission of the application. It is therefore imperative that there are robust procedures in place to make sure that decisions are made in time for all such applications, including mobile phone masts.
5. There may be circumstances where two or more comments are received from the public (and which currently triggers a referral to committee) and this takes place after the deadline for the papers to be drawn up. The next available committee would then be, typically 3 or 4 weeks later, and be after the 56 day period previously referred to. It is essential that the decision is made before this date otherwise there is an automatic approval. There would appear to be three main options:
 - (a) write a report for all such applications where the 21 day period for comments expires after a committee cut-off date for inclusion on the agenda (where there have been any objections or not), and the 56 day

period expires before the subsequent committee;

- (b) grant delegated powers to the head of planning to determine all applications where 2 or more objections are received after the relevant cut-off date for inclusion on the agenda, and where there is not a scheduled committee meeting within 54 days of receipt of the application (to allow for 2 days for a decision to be communicated to the applicant);
 - (c) As (b) but in the case of telecoms masts or antennae only that the head of planning's decision must be subject to consultation with the chair and vice chair of the planning applications committee **if** one or more ward councillors so request within 21 days of advertisement, neighbour consultation or publication of the weekly list.
6. Option (a) could result in significant numbers of reports being written for committee and where there is probably little or no local concern from residents or others. This is wasteful of resources of both staff and committee members. Option (b) gives authority for the head of planning services to make a decision in those cases where the timetable of applications makes it impossible to make a decision in the 56 day period. Option (c) would give further safeguards so that the chair/vice chair would have a role in the decision process if a ward councillor so requests and there are two objections.
7. The number of cases potentially affected is not known as this partly depends on the numbers of applications received and partly the precise dates of submission and how they fit with the committee cycle. However it is essential that there is some change to current delegation arrangements to avoid the impossibility of issuing a decision in time and with the prospect of an automatic approval being issued contrary to the wishes of the council.
8. It is considered that option (b) is the preferred solution. As the same issues may arise with a telecoms mast it is also considered that the same consideration is given to those applications also.
9. The suggested changes to the current delegation agreement should be:
 - Add "telecommunication applications" to the heading of item A;
 - Add paragraph vi to A to state:
 - (vi) Applications where nil or only one objection is received to any telecommunications application requiring a response within 56 days, and applications where two or more objections are received after the period of seven clear working days before the relevant Planning Application Committee date and where the next available Planning Applications Committee meeting is later than the period of 54 days after the relevant application was received.

10. If members wish to pursue option (c) then the following additional sentence should be added:

“In addition, if a ward councillor requests this within the period of 21 days from the date of publication of the weekly list, the date of the neighbour notification letter or the date of publication of any statutory advertising (whichever is the later) then any decision made by the head of planning is to be taken in consultation with the chair and vice chair of the planning applications committee.

A. PLANNING APPLICATIONS, CONSERVATION AREA APPLICATIONS, LISTED BUILDING APPLICATIONS, HAZARDOUS SUBSTANCES CONSENT APPLICATIONS

(a) All applications and associated planning obligations (Section 106 of the Town and Country Planning Act 1990) will be determined by the Head of Planning and Regeneration with the exception of the following:

(i) approval of major* planning applications if there is one or more objection raising material planning issues or if the proposal would represent a serious departure from the development plan.

* major is defined by central government as applications for 10 or more dwellings, outline applications for residential development on sites over 0.5ha, or offices, research, industrial, warehousing or retail development over 1,000 sq m or over 1ha for outline applications.'

(ii) Approval of applications (other than major planning applications*) and

- (a) where there are two or more objections from neighbours and/or other third parties citing material planning issues, and/or
- (b) where there is a petition signed by 50 or more local residents (identically worded letters will be treated as a petition) and/or
- (c) where the proposal would represent a significant departure to the approved development plan.

(iii) Applications submitted by the city council, relating to council owned property, excluding minor alterations to any property (such as replacement windows to the council's housing stock) or minor changes of use or applications where the recommendation is to approve and there are no material planning objections

(iv) Where a member of the city council requests, within 14 days of the publication of the weekly lists, and an appropriate planning justification is made, that the application be referred to the committee for decision.

(v) Applications submitted by a member of the city council, a member of staff employed in the planning service or who works in a professional capacity in a field closely related to the planning service) or their immediate family defined as husband / wife / partner / son / daughter / mother / father / brother / sister /and equivalent in-laws as either applicant or agent.

B. PLANNING ENFORCEMENT

All decisions will be made by the Head of Planning with the exception of:

(i) The approval of the service of an enforcement notice under Section 172 of the Town and Country Planning Act 1990 or Section 38 of the Planning (Listed Buildings and Conservation Areas Act 1990).

C. TREE PRESERVATION ORDERS AND APPLICATIONS FOR TREE WORKS IN CONSERVATION AREAS OR PROTECTED BY TREE PRESERVATION ORDERS

All decisions will be made by the Head of Planning with the exception of:

- (i) The confirmation of a tree preservation order served where there are two or more objections to that order.

Under A (a) (i) and (ii) - clarification that objectors comments must be received by the latest notification periods as specified in neighbour notification letters, site notice or press advertisement as appropriate and that they must be from different addresses to trigger the need for a Committee referral. However it should be noted that comments received after these dates will be taken into account, and reported to Committee as necessary