

Report to Planning applications committee
11 October 2018
Report of Head of planning service
Subject Review of the scheme of delegation

Item

5

Purpose

This report proposes amendments to the current scheme of delegated powers that will enable certain applications to be determined at officer level without referral to committee.

The need for delegation relates to three key areas: speed of determining applications; cost; and ensuring that committee focuses on applications of major importance or wider significance.

Recommendation

To approve for use with immediate effect the changes to the scheme of delegation as summarised in this report and set out in full at Appendix 2.

Corporate and service priorities

The report helps to meet the corporate priorities of a safe clean and low carbon city, a prosperous and vibrant city, a fair city, a healthy city with good housing and value for money services.

Financial implications

If the recommendations in this report are adopted, the number of items referred to committee would be reduced in terms of enforcement and tree preservation reports. There would be a proportionate reduction in costs to the council in terms of officer time and materials involved in the preparation of the agenda and the administration of the committee itself.

Ward/s: All wards

Cabinet member: Councillor Stonard - sustainable and inclusive growth

Contact officers

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Background documents - None

Report

Background

1. In 2013, the planning applications committee agreed the current scheme of delegated powers. A copy is attached to this report. Under this scheme approximately 10% of applications are determined by committee.
2. In summary, the current scheme of delegation provides that applications may be determined at officer level unless:
 - (a) Major applications (10 or more dwellings or more than 1000m² of new floor space) – One or more objections OR ‘serious’ departure from the development plan.
 - (b) All other applications – Two or more objections OR petition > 50 or more ‘local’ residents OR ‘significant’ departure from the development plan.
 - (c) NCC applications – EXCEPT ‘minor’ alterations OR ‘minor’ changes of use OR where the recommendation is to approve and there are no material objections.
 - (d) Enforcement – Authority to serve enforcement notice.
 - (e) Tree Preservation Orders – Confirmation of an Order where there is an objection.
 - (f) Members may call in an application within 14 days of publication on the weekly list.
 - (g) All applications for Prior Approval are dealt with under delegated powers.
3. Under the current scheme of delegation during 2017 (calendar year) 96 items were dealt with by committee:

(a) Householder (domestic extensions)	=	27%
(b) Other (changes of use, listed buildings)	=	11%
(c) Minor (residential development of less than 10 units or commercial development of less than 1000m ² new floor space)	=	37%
(d) Major ((residential development of more than 10 units or commercial development of more than 1000m ² new floor space)	=	7%
(e) Enforcement	=	14%
(f) TPO	=	4%
4. Of the 96 items dealt with by committee, all but 4 were determined in accordance with the officer recommendation. The 4 that went against recommendation were:-
 - (a) 2 householders – 1 was refused, 1 was deferred and ultimately withdrawn. Of these two applications, 1 was called in, the other was referred because of objections;

(b) 1 minor – referred due to 8 objections

(c) 1 major – referred because of 33 objections

Arguments for change

5. In many respects, the scheme of delegation is working adequately although it does result in the committee dealing with a significant proportion of smaller (householder and minor) applications rather than larger, more significant proposals. Notwithstanding this, there are two issues that require changes to be made to the scheme.

Permission in Principle

6. On 1 June 2018 the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 came into effect. The Order made it possible for applications to be made for permission in principle (PIP) for development of fewer than 10 houses that is primarily residential, i.e. it may contain some non-residential development (less than 1000 square metres) on sites of less than 1 hectare.
7. PIP is a concept introduced by central government with the intention of speeding up planning permission for the principle of developing land by removing the requirement to submit detailed supporting information that can often be required even through the current outline planning process. The information requirements are vastly reduced and consist mainly of plans identifying the land. A PIP lasts for 3 years and must be followed by an application for technical details consent (TDC) within that time frame, otherwise it will expire. The TDC, as the name suggests, requires full details of the proposal. Only after the grant of both PIP and TDC does a development have planning permission.
8. Significantly for the scheme of delegation, the time scale for determining both PIP and TDC is significantly shorter and no extensions of time are allowed. Consequently, PIP and TDC applications for development of less than 10 houses must be determined in no more than 5 weeks. The committee cycle would not allow this to happen if applications had to be referred under the current scheme of delegation.

Enforcement & Tree Preservation Orders

9. At the moment, all proposals to serve planning enforcement notices have to be referred to committee. This can be confusing and impede the council's ability to effectively negotiate on problem sites. The ability to serve notices more promptly could act as a deterrent to unauthorised development in the first place and provide more leverage in resolving breaches that have already taken place. Similarly, the ability to confirm TPOs even if there are some objections would streamline the process.

Receipt of Objections

10. On 24 July 2018, a meeting of informal cabinet agreed amendments to the development management service standards. Amongst these was that objections to planning applications should only trigger a referral to planning applications committee provided that the objections were received within the statutory consultation period. Objections received outside this period (normally 21 days) would still be considered but the decision could be made under delegated authority. Members would still be

able to request that applications were referred to planning applications committee, as they can at the moment. Changes to the scheme of delegation are required to enact this change.

City Council Applications

11. The current scheme of delegation allows city council applications to be delegated where relating to minor alterations to any property or minor changes of use. It also allows applications to be delegated where the recommendation is to approve and there are no material planning objections. This differing approach to city council applications has evolved from an earlier scheme of delegation which required all city council schemes to be reported to committee. On reflection the scheme as it stands now gives city council applications preferential treatment over non-city council applications. It is recommended that city council applications simply follow the same procedure as non-city council applications to ensure a consistent approach.

Proposed amendments

12. In order to reflect the issues raised above, it is recommended that the following amendments are made, which are set out in full in Appendix 2:-

- (a) Enforcement – Service of Enforcement Notices may be authorised by the head of planning services

Result - Would have removed 13 applications from committee meetings in 2017

- (b) Tree Preservation Orders – Confirmation of TPO's may be authorised by the head of planning services with the exception of cases which have attracted 5 or more objections unless the TPO relates to a site where there is already a TPO (for example, the order needs refreshing because it is old).

Result - This would have removed 4 applications from committee meetings in 2017

- (c) Applications for Permission in Principle (PIP) and for Technical Details Consent (TDC) are determined under delegated powers.

- (d) Receipt of objections – should trigger referral to planning applications committee as they do at the moment provided that they are received within the statutory consultation period or, in the case of amended proposals, within any subsequent formal consultation period.

- (e) Delete the section relating to city council applications and allow such applications to be determined in an identical manner to other non-city council applications.

APPENDIX 1 – CURRENT SCHEME OF DELEGATION

A. Planning applications, conservation area applications, listed building applications and hazardous substances consent applications

All applications will be determined by the head of planning services 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) subject to two or more objections from neighbours and/or other third parties citing material planning issues unless these two or more objections are received after the relevant cut-off date for the inclusion on the agenda of the planning applications committee, and where a subsequent scheduled committee meeting does not fall between the end of the application consultation period and within 54 days of receipt of the application (to allow two days for a decision to be communicated to the applicant); 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. Prior notifications

All applications will be determined by the head of planning services with the exception of the following:

- i. in the case of telecoms cabinets, masts or antennae under Part 24 of The Town and Country Planning (General Permitted Development) Order 1995 as amended which are subject to two or more objections from neighbours and/or other third parties citing issues of siting and/or appearance (these being the only matters for which prior approval is required) 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.

C. Planning enforcement

All decisions will be made by the head of planning services 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).

D. Tree Preservation Orders (TPOs) and applications for tree works in conservation areas or protected by TPOs

All decisions will be made by the head of planning services with the exception of:

- i. The confirmation of a tree preservation order served where there is an objection to that order.

E. Other

Any Items which the deputy chief executive considers appropriate to refer to the planning applications committee.

APPENDIX 2 – PROPOSED SCHEME OF DELEGATION

A. Planning applications, conservation area applications, listed building applications and hazardous substances consent applications

All applications will be determined by the head of planning services with the exception of the following:

- (1) approval of major¹ planning applications if:
 - (a) subject to one or more objection raising material planning issues provided that said objections are received within the statutory consultation period or, in the case of revised plans, any subsequent formal consultation period; or
 - (b) the proposal would represent a serious departure from the development plan.
- (2) approval of non-major² applications if:
 - (c) subject to two or more objections from neighbours and/or other third parties citing material planning issues provided that said objections are received within the statutory consultation period or, in the case of revised plans, any subsequent formal consultation period;
 - (d) there is a petition signed by 50 or more local residents (identically worded letters will be treated as a petition); or
 - (e) the proposal would represent a significant departure to the approved development plan.
- (3) 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.
- (4) 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. Prior notifications

All applications will be determined by the head of planning services with the exception of the following:

- (1) In the case of telecoms cabinets, masts or antennae under Part 25 of The Town and Country Planning (General Permitted Development) Order 2015 as amended which are subject to two or more objections from neighbours and/or other third parties citing

¹ 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.

² the opposite of major as defined above.

issues of siting and/or appearance (these being the only matters for which prior approval is required) 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.

C. Planning enforcement

All decisions will be made by the head of planning services.

D. Tree Preservation Orders (TPOs) and applications for tree works in conservation areas or protected by TPOs

All decisions will be made by the head of planning services with the exception of:

- (1) The confirmation of a tree preservation order served where there are 5 or more objections to that order **unless** the order relates to a site upon which there is an existing order.

E. Applications for Permission in Principle and for Technical Details Consent

All decisions will be made by the head of planning services.

F. Other

Any Items which the director of regeneration and development considers appropriate to refer to the planning applications committee.