

North Somerset Council

REPORT TO THE PLANNING & REGULATORY COMMITTEE

DATE OF MEETING: 20 MAY 2020

SUBJECT OF REPORT: DELEGATION ARRANGEMENTS FOR PLANNING APPLICATIONS DURING COVID-19 PANDEMIC

TOWN OR PARISH: ALL

OFFICER/MEMBER PRESENTING: HEAD OF PLANNING

KEY DECISION: NO

RECOMMENDATIONS

That the proposed changes to the Protocol and Code of Practice as set out in Appendix 3 to this report are **AGREED** with immediate effect for a period of 6 months.

1. SUMMARY OF REPORT

The Protocol for Delegating Planning Decisions to Officers approved by Planning & Regulatory Committee on 12th April 2017 is proposed to be amended for 6 months in response to operational constraints arising from the Covid-19 pandemic. The effect of the proposed amendments is to suspend or amend the automatic triggers for referral of certain planning applications to committee.

2. POLICY

Ensuring speedy, proportionate and efficient decision making processes is consistent with Government expectations for the delivery of new development through the planning system. Effective delegation is fundamental element of efficient management systems.

3. DETAILS

The Government, through its Chief Planning Officer, has written to Local Planning Authorities (LPAs) to underline that it expects the planning process to continue during the current pandemic and to adapt their processes accordingly. Some processes are governed by regulation or statute and amendments are required to allow adaptations to take place.

One such area is the functioning of Committees where regulations have been introduced to allow virtual meetings to take place. For planning applications, the national Planning Advisory Service (PAS) has issued specific guidance on matters to consider in relation to Planning Committees. The PAS guidance has been used to shape the operation of how the Planning and Regulatory meets in virtual form during the current pandemic. This

includes reducing the number of members attending committee and adjusting the public speaking arrangements.

The guidance also highlights that planning committees exist to make decisions on significant and sometimes finely balanced applications. It therefore suggests that Councils consider reducing the workload of a Committee by changing the delegation arrangements so that Committee time is focussed on the more significant applications. Shorter agendas also have the potential to make the meeting more manageable as officers and members adapt to new ways of working.

Taking the guidance into account, the current Protocol for delegating planning applications to officers has been reviewed with the aim of temporarily removing some of the automatic triggers which result in applications being reported to the committee for decision. There is an automatic referral process for certain Councillor, officer and Council applications as well as major applications and those which are departures from policy. Whilst such referrals are relatively rare, suspension of the automatic referral process would allow uncontroversial applications to proceed under delegated powers. Local members, the Chairman and Director would still retain the right to refer such applications to Committee should they wish.

For ease of reference, the current Protocol for Delegating Planning Decisions to Officers which was approved by Planning & Regulatory Committee in 2017 is attached as appendix 1. The recommended changes to suspend the automatic referrals identified above are set out in appendix 2 with a clean copy of the proposed temporary arrangements in appendix 3.

It is recognised that maintaining openness is a core North Somerset objective and it is vital that there is no perception that any change to operating arrangements reduces public scrutiny or accountability. In this respect it is therefore important to recognise that the member referral process would still enable contentious applications to be referred to Committee for decision even if the automatic trigger is suspended.

Nevertheless, to help meeting management during the current period, it is proposed that members are requested to limit the call in of minor applications to committee only to cases where they consider it is absolutely essential in the public interest for the decision to be made in public. Case officers would of course work even more closely with local members to understand the issues of concern and work to address them as far as possible outside of the committee process

As the expectation is that planning decisions continue to be made, it is important that the Council agrees how it will proceed in the current circumstances

4. CONSULTATION

Informal consultation has taken place with the leaders of the Independent, Liberal Democratic, Conservative, Labour and Green party groups, the Chairman and Vice Chairman of the Planning and Regulatory Committee, the Chief Executive, the Head of Legal and Democratic services and other officers.

5. FINANCIAL IMPLICATIONS

An efficient delegation system enables effective use to be made of resources and reduces costs involved in extending Committee time unnecessarily

6. LEGAL POWERS AND IMPLICATIONS

The Council Constitution delegates functions of the local planning authority, amongst other matters, to the Director of Development and Environment. This includes the authorisation of officers to exercise functions in accordance with statutory provisions. The Head of Planning and other senior officers within the Development Management service exercise these powers in the name of the Director, including the function to make decisions on planning applications.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Climate change and environmental impacts are considered on a case by case basis when applications are considered.

8. RISK MANAGEMENT

As set out in the report.

9. EQUALITY IMPLICATIONS

Decisions on planning applications are governed by published law and procedure. Access issues are taken into account in all planning decisions.

10. CORPORATE IMPLICATIONS

Article 6 of the Human Rights Act 1998 gives the right to a fair and public hearing

11. OPTIONS CONSIDERED

Options considered include (a) delegating more applications to officers to determine or (b) continuing to refer planning applications to the Planning and Regulatory Committee

AUTHOR

Richard Kent Head of Planning

APPENDICES

- Appendix 1 The current Protocol for Delegating Planning Decisions to Officers Approved by planning & regulatory committee 12th April 2017.
- Appendix 2 Proposed temporary Protocol with proposed additions are shown in bold text with deleted text crossed through.
- Appendix 3 Clean copy of Proposed Protocol

BACKGROUND PAPERS

Scheme of Delegation set out in the Council's Constitution

Reports to Planning and Regulatory Committee

LGA "Probity in Planning: Advice for Councillors and Officers making planning decisions" 2019.

Planning Advisory Service "Virtual planning committee – a hints & tips guide" April 2020

APPENDIX 1

THE CURRENT PROTOCOL FOR DELEGATING PLANNING DECISIONS TO OFFICERS

Approved by Planning & Regulatory Committee 12th April 2017

All applications made under the Town and Country Planning Act (as amended) including applications for planning permission, listed building consent, consent to display an advertisement and Hazardous Substances Consent are delegated to the Director of Development and Environment to decide with the following exceptions which will be determined by the relevant Planning and Regulatory Committee.

- Any application within a Councillor's ward which that Ward Councillor requests be decided by Committee in accordance with the code of practice
- Any application which may have significant impact within a Ward, other than the Ward in which the application is sited, if the Ward councillor for the ward significantly impacted by the development refers the application to the committee in accordance with the code of practice.
- Applications submitted by or on behalf of the Chief Executive, a Director, Assistant Director of any Directorate (or equivalent); or a Head of Service in Development and Environment other than applications (a) made on behalf of the Council or (b) applications for the enlargement, improvement or other alteration of a dwelling house where no objections have been received.
- Applications submitted by or on behalf of any elected member of North Somerset Council other than applications for the enlargement, improvement or other alteration of a dwelling house where no objections have been received.
- Applications (other than applications for the enlargement, improvement or other alteration of a dwelling house where no objections have been received) submitted by or on behalf of any member of staff who works in either the Development Management Group or who has advised the Development Management Group on planning applications within the 12 months preceding the application
- Applications (other than applications for Lawful Development Certificates) submitted by or on behalf of North Somerset Council or on land owned or part owned by the Council where that application is either more than 1000sq.m in floor area or site area; or where the total number of residential units proposed is 10 or more; or where 10 or more letters raising material planning comments have been received where those comments are contrary to the officer's recommendation; or where a single letter signed by 10 or more signatories from different addresses in North Somerset raising material planning comments has been received and those comments are contrary to the officer's recommendation.
- Any application for major development* where it is recommended that permission be granted contrary to the development plan.

- Any application which the Director of Development and Environment or the Chairman and Vice Chairman of the Committee consider should be decided by Committee.
- Applications where the Planning and Regulatory Committee has resolved to grant planning permission subject to the applicant entering into a planning obligation (such as a S106 legal agreement) and where the required obligation is not completed either:
 - a) within 24 weeks (168 days) of the date when the application was first received as a valid application; or
 - b) before ten working days prior to any extended target date previously agreed in writing by the applicant

may be delegated to the Director of Development and Environment to determine in consultation with the Chairman, Vice-Chairman and Ward Member(s) without further reference to the Committee on the basis of there being no planning obligation.

Applications where the Planning and Regulatory Committee has resolved to grant planning permission subject to the applicant entering into a planning obligation (such as a S106 legal agreement) and where subsequent amendments to draft heads of terms of legal agreements previously agreed by the Committee are needed, these are delegated to the Director of Development and Environment subject to agreement by the Chairman, Vice-Chairman and Ward Member(s) without further reference to the Committee

* “major development” means development involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where —
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

Notes

1. For the avoidance of doubt, any application for major development where it is recommended that permission be granted contrary to the development plan will be referred to the Planning and Regulatory Committee for decision regardless of the status or nature of the applicant.
2. Applications submitted by the spouse or partner of a Councillor or staff member to whom the protocol applies will be treated as if they had been made by the Councillor or staff member personally.
3. Should there, in any individual case, be a doubt over the interpretation or transparency of these arrangements, the Head of Development Management or the relevant Service Manager in the Development Management Group (in consultation

- with the Chairman of the Planning and Regulatory Committee if appropriate) will decide whether the application ought to be referred to the Committee for decision.
4. In the event that a Ward Member is unavailable due to long term illness or the seat on the Council becomes vacant the relevant Party Group Leader may authorise another Councillor to exercise the absent Ward Member's powers to request applications be decided by Committee as set out in the Protocol for the period of their absence.
 5. Applications where the decision would conflict with an objection received from Historic England, Natural England, the Environment Agency or Highways England will normally be notified by the case officer to the relevant Ward Member before a decision is made to enable the member to decide whether to refer the application to the Committee for decision.
 - 6 The powers delegated to the Director are exercised on a day to day basis by the front line managers responsible for the running of the service. These are the Head of Development Management, the Service Managers in the Development Management Group and their nominated deputies.

THE CODE OF PRACTICE FOR REFERRAL OF PLANNING APPLICATIONS AND ENFORCEMENT CASES BY COUNCILLORS TO COMMITTEE

- Ward Members are notified weekly in writing by e-mail of all planning applications received in their ward.
- The relevant planning officer will update Ward Members on any individual application as requested.
- All letters of support and objection are displayed on the Council's website until the application has been determined.
- The Case Officer will, by appointment, be available to discuss any current planning application with the relevant Ward Member(s). Members are encouraged to discuss applications with the Case Officer or Service Manager before requesting that an application be referred to the Planning and Regulatory Committee.
- Members may request that any application is referred to the Planning and Regulatory Committee so long as the application site is within the Ward they represent or the application is in an adjoining Ward and significantly affects the Ward they represent. The request must be made in writing providing reasons for requesting the referral and be received before the Director of Development and Environment's authorised representative has countersigned the case officer's written recommendation.
- The Member's request must be made in writing by letter or e-mail **and sent** to the case officer, Service Manager and team email address dadminrequest@n-somerset.gov.uk
- Members may qualify their request so that the application need only be referred to the Planning and Regulatory Committee if the officer's recommendation is contrary to the Member's view.
- If the application involves an enforcement issue, it will be treated no differently from other planning applications.

- Enforcement cases may only be referred to a Committee by the Chairman of the Planning and Regulatory Committee, the Head of Development Management or the Delivery and Enforcement Service Manager.
- All decisions made under delegated powers are circulated monthly to councillors.

APPENDIX 2

DRAFT

PROPOSED COVID-19 TEMPORARY PROTOCOL FOR DELEGATING PLANNING DECISIONS TO OFFICERS

Proposed additions are shown in **bold text** with deleted text crossed through.

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- Applications (other than applications for Lawful Development Certificates) submitted by or on behalf of North Somerset Council or on land owned or part owned by the Council **where that application is either more than 1000sq.m in floor area or site area; or where the total number of residential units proposed is 10 or more; or where 40 50 or more letters* raising material planning comments have been received where those comments are contrary to the officer's recommendation; or where a single letter signed by 40 50 or more signatories from different addresses in North Somerset raising material planning comments has been received and those comments are contrary to the officer's recommendation.**

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- Applications where the Planning and Regulatory Committee has resolved to grant planning permission subject to the applicant entering into a planning obligation (such as a S106 legal agreement) and where the required obligation is not completed either:
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- ~~(i) the number of dwellinghouses to be provided is 10 or more; or~~
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CLEAN COPY INCORPORATING PROPOSED CHANGES.

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