
**PROPOSED AMENDMENTS TO OFFICER SCHEME OF DELEGATION
PLANNING MATTERS**

**Responsible Cabinet Member -
Councillor Chris McEwan, Economy and Regeneration Portfolio**

Responsible Director – Richard Alty, Director of Place

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to enable Members to consider a number of relatively minor amendments to the existing scheme of officer delegation for planning matters in the interests of effective service delivery and efficiency. The proposed changes cover the following decision making areas:-
 - (a) Parish Council representations
 - (b) The new prior approval regime
 - (c) Member 'call in' of planning applications
2. **Appendix 1** shows the original wording, underlined text in **Appendix 2** indicates the amendments.

Summary

3. The Council's present scheme of officer delegation has worked very well since it was introduced in 2010. It has not received any complaints where someone has felt an application decided by an officer should have been decided by the planning committee.
4. However there are certain circumstances when it has become necessary to report an application to Planning Committee where this is not considered to be the most effective use of committee time.
5. The proposed changes have been discussed with the Chair of Planning Committee.

Recommendation

6. It is recommended that the following amendments are made to the scheme of delegation:-
- (a) That Parish Council representations be afforded the same status as householder representations in terms of the Chair or Vice-Chair deciding whether a planning application should be reported to Committee.
 - (b) That all decisions on prior approval applications are taken by officers in order to ensure that statutory time limits are complied with and the risk of developments being able to proceed by default is avoided.
 - (c) Where Members request a planning application is brought to the Planning Applications Committee a planning reason is given for this in writing and the decision on this rests with the Chair or Vice Chair of Planning Committee.

Reasons

7. In the interests of efficiency and improvements to customer service.

Richard Alty
Director of Place

Background Papers

No background papers were used in the preparation of this report

Roy Merrett Extension 2037

S17 Crime and Disorder	There are no crime and disorder issues in this report
Health and Well Being	There are no health and wellbeing issues in this report
Carbon Impact	There are no carbon impact implications in this report
Diversity	This decision will not discriminate against or impact on any specific group of people
Wards Affected	All
Groups Affected	This decision will not impact on any particular group of people
Budget and Policy Framework	There are no implications for the Council's Policy and Budget Framework
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	There are no implications to One Darlington: Perfectly Placed
Efficiency	The decision is likely to lead to greater efficiencies as there will be a reduced need to prepare Committee reports and for the Committee to spend time in consideration of them. Decisions will be made more quickly therefore improving customer service

MAIN REPORT

Information and Analysis

8. The purpose of this report is to enable Members to consider a number of relatively minor amendments to the existing scheme of officer delegation for planning matters in the interests of effective service delivery and efficiency. The proposed changes cover the following decision making areas:-
 - (a) Parish Council representations
 - (b) The new prior approval regime
 - (c) Member 'call in' of planning applications
9. **Appendix 1** shows the original wording, underlined text in **Appendix 2** indicates the amendments.

Parish Council Representations

10. Under the present arrangements if a Parish Council objects to a planning application the application must be heard by the Planning Applications Committee.
11. Parish Council representations can be extremely informative as they can bring valuable local knowledge and experience to bear on the process. However without in any way wishing to detract from the value of Parish Council input, by their nature parish council representations tend to be non-technical in character and in most cases can be dealt with quite straight forwardly in the context of planning policies in the development plan without the need to take up valuable Committee time. It is therefore considered that such representations should be treated no differently to a representation from a member of the public in terms of the Chair or Vice-Chair deciding whether an application goes to Committee.
12. It is therefore proposed that if a representation on a planning application is received from a Parish Council, which is contrary to an officer recommendation, it would still need to be considered and cleared by the Chair or Vice Chair of Committee before officers were able to decide that application under delegated powers. Furthermore the current arrangements would remain in place requiring that if more than two objections were received from members of the public resident in different properties, the application would automatically go to Committee.

The New Prior Approval Regime

13. As Members will be aware from the 30 May 2013 the Coalition Government introduced a raft of changes to planning legislation removing the usual controls Councils were able to exercise over certain different development types with the aim of promoting economic development.
14. In summary the changes allowed greater freedom for developers to make the following types of building and change of use subject only to the prior approval of certain specific matters rather than a comprehensive scope of issues that might

normally need to be looked at as part of a full comprehensive planning application:-

- (a) Extensions of between 3-8 metres to the rear elevation of dwellings subject to no objections from adjoining occupiers on amenity grounds. Prior approval decision to be given within 42 days.
 - (b) Conversions of vacant office buildings to residential properties subject to no issues with traffic levels, flood risk or contaminated land. Prior approval decision to be given within 56 days.
 - (c) The conversion of buildings in certain different categories of use to that of a state funded school subject to no issues with traffic levels, noise or contaminated land. Prior approval decision to be given within 56 days.
 - (d) The conversion of disused agricultural buildings to a range of uses including retail, offices and hotels subject to no issues with traffic levels, noise, flooding or contaminated land. Prior approval decision to be given within 56 days.
15. In each of the above scenarios, there is a time limit within which the prior approval procedure must be followed and decision taken by the Authority on whether to give such prior approval. Failure of the Authority to do so, means that the proposed development is able to proceed irrespective of the Local Planning Authority's decision.
16. It is important to make Members aware that the need to meet the prior approval procedure deadline is potentially at risk due to the limitations of the current scheme of delegation to officers in terms of dealing with objections.
17. The risk is particularly relevant to the first category of prior approval i.e. domestic extensions though may also arise with the other categories cited above. This is because under the current delegation arrangements, if a prior approval application results in an objection from a neighbour there is the potential need to report the matter to the planning applications committee and for the Committee to then decide such an application.
18. The need to report to Committee might result in the application going out of time and therefore the development being able to proceed anyway regardless of the Council's decision. Clearly this would be an unacceptable anomaly and therefore the following change is recommended to the scheme of delegation:-
- (a) That powers are delegated to planning officers to determine all applications that are subject to the new prior approval procedures described above.
19. The need to use this proposed extended delegated power is predicted to be required in relatively few cases because, since the changes to the planning system was introduced by the Government, there have been relatively few cases submitted to the Authority under these simplified procedures, even fewer of which have attracted one or more objections.

Member Call In of Planning Applications

20. Under the existing arrangements Members are able to request that a planning application that might otherwise be delegated to officers for decision is brought to Committee. There have recently been cases where a ward member has 'called in' an application but where a planning related reason for this has not been given and subsequently the Member in question has not appeared or spoken at the relevant Committee about the case. This raises the question whether it is genuinely necessary for the Committee to be involved bearing in mind that the main role of the Planning Committee is to focus its efforts on deciding the most complex and controversial planning cases.
21. In the interests of fairness to all parties and the efficient use of resources the frequent calling in of applications to Committee would clearly be counter-productive. However it is accepted that in certain occasional circumstances there may be unusually significant or sensitive issues that are not necessarily reflected in public opposition to a development but which cause a Member to request that the Planning Committee should be involved.
22. An amendment is therefore proposed to the current procedure in the interests of transparency and openness whereby a Member wishing to call an application to Committee would provide a planning related reason for this in writing. A decision on whether to accept the 'call in' would then rest with the Chair or Vice-Chair of committee following consideration of whether the reason given is of sufficient importance / sensitivity. The Ward member would then be informed of this decision.

Legal Implications

23. There are no legal implications for the Council however the proposal would be consistent with Government guidance on good practice. One of the key recommendations of the Killian Pretty Review of the planning system in 2008 was that Councils should consider regularly updating their schemes of delegation, and that they should seek to ensure that a minimum level of 90% of cases are delegated to Officers.

EXISTING EXCEPTIONS TO PLANNING SCHEME OF DELEGATION

EXCEPTIONS – LEGAL EXCEPTIONS

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme.)

	Officer	Planning Committee	Licensing Committee	Cabinet
Determine all applications made under powers and duties of the local planning authority and planning legislation	<p>except where the decision would be contrary to any of the following:-</p> <ul style="list-style-type: none"> a) any development plan in force; b) any other approved policies of the Council; or c) the recommendation of a consultee; <p>or where the following circumstances are met:-</p> <ul style="list-style-type: none"> a) where it is proposed to grant permission when more than 2 objections are received from Members of the public resident in different properties; b) where it is proposed to refuse permission when more than 2 letters of support are received from Members of the public 	Determine applications not delegated to officers		

	Officer	Planning Committee	Licensing Committee	Cabinet
	<p>resident in different properties; or</p> <p>c) where a Member requests that an application be determined by the Planning Applications Committee;</p> <p>any such determination where it is proposed to grant permission when one or two objections are received or to refuse permission when one or two letters of support are received from members of the public resident in different properties, to be subject to consultation with Chair or Vice-Chair of Planning Committee.</p> <p>Assistant Director, Policy and Regeneration</p>			
Determine details required by conditions imposed on any permission.	Assistant Director, Policy and Regeneration			
Determine minor amendments to approved plans where these do not materially alter the form of the approved development	Assistant Director, Policy and Regeneration			

PROPOSED EXCEPTIONS TO PLANNING SCHEME OF DELEGATION (Amendments underlined)

EXCEPTIONS - LEGAL EXCEPTIONS

(In exercising delegated powers, officers are reminded to take account of the overall limitations of the scheme, as detailed in the introduction to the scheme.)

	Officer	Planning Committee	Licensing Committee	Cabinet
Determine all applications made under powers and duties of the local planning authority and planning legislation	<p>except where the decision would be contrary to any of the following:-</p> <ul style="list-style-type: none"> d) any development plan in force; e) any other approved policies of the Council; or f) the recommendation of a <u>statutory consultee with the exception of a Parish Council</u> ; <p>or where the following circumstances are met:-</p> <ul style="list-style-type: none"> d) where it is proposed to grant permission (<u>other than applications for prior approval</u>) when more than 2 objections are received from Members of the public resident in different properties; 	Determine applications not delegated to officers		

	Officer	Planning Committee	Licensing Committee	Cabinet
	<p>e) where it is proposed to refuse permission (other than applications for prior approval) when more than 2 letters of support are received from Members of the public resident in different properties;</p> <p><i>any determination where:-</i></p> <ul style="list-style-type: none"> i) <u>a Member requests in writing giving planning related reasons that a planning application be determined by the Planning Applications Committee or</u> ii) <u>it is proposed to grant permission when an objection is received from a Parish Council or one or two objections are received from members of the public resident in different properties OR</u> iii) <u>to refuse permission when a letter of support is received from a Parish Council or one or two letters of support are received from members of the public resident in different properties shall be subject to consultation with the Chair or Vice-Chair of Planning Committee.</u> <p>Assistant Director, Policy and Regeneration</p>			

	Officer	Planning Committee	Licensing Committee	Cabinet
Determine details required by conditions imposed on any permission.	Assistant Director, Policy and Regeneration			
Determine minor amendments to approved plans where these do not materially alter the form of the approved development	Assistant Director, Policy and Regeneration			