



Leicester
City Council

WARDS AFFECTED:
ALL

Planning and Development Control Committee

3 April 2019

Scheme of Delegation to Officers

Report of the Director of Planning, Development and Transportation

1. PURPOSE OF REPORT

- 1.1 To simplify the scheme of delegation to make the scheme clearer and deal with existing anomalies.

2.0 RECOMMENDATION

1. To approve the amended scheme of delegation set out in Appendix 2.
2. The amended scheme be applied to applications publicised after 28th April 2019
3. Officers to review and report back on operation of the scheme after 12 months

3.0 SUMMARY

- 3.1 The report outlines the basis for the scheme of delegation and recommends a change in the structure of the written scheme to remove anomalies and ambiguities.

4.0 REPORT

- 4.1 The City Council's Constitution sets out the Terms of Reference to Planning and Development Control Committee. All matters within the Terms of Reference of the Planning and Development Control Committee which are not reserved to Full Council or this Committee are delegated to the Director of Planning, Development and Transportation.
- 4.2 Most decisions under planning legislation are delegated to officers as are most functions of a local authority. Development management decisions on planning applications and enforcement matters are consistently taken by officers of the Council, in line with most authorities in the country, and account for over 90% of the Council's planning decisions issued.
- 4.3 The Current Scheme of Delegation is set out at Appendix 1.

- 4.4 The main circumstances for applications being referred to Committee are 6 or more objections to a recommendation for approval, member requests, significant City Council applications, approvals clearly contrary to policy and officer discretion.
- 4.5 Some types of application and notifications are not subject to a member request for a Committee decision as they are subject to strict time constraints with default approvals if not determined within the given time periods. These include a number of “prior approvals” which are permitted development subject to time limited notifications to the local planning authority. Applications to discharge conditions are also always delegated to officers as applicants can claim deemed discharge if not determined in time.
- 4.6 Although the basic characteristics of the City Council scheme of delegation have been in place for a number of years, it has been amended and added to over the years as new types of application and other powers have been introduced nationally. The result is a scheme that is complicated and requires amendment each time there is a new provision.
- 4.7 In addition to formal applications and notifications, officers routinely use other powers under planning legislation to carry out the functions of the local planning authority (for example powers of entry on to land). These are not all explicitly set out in the current scheme of delegation but are in the nature of other “routine” council matters normally delegated to officers.
- 4.8 The proposed new scheme of delegation does not introduce radical changes. The amendments are proposed to avoid issues of ambiguity and interpretation. There are some matters which the current scheme is silent on. There are also new types of applications and procedures introduced from time to time which need to have decisions.
- 4.9 The current scheme is written to suggest that 6 signatories on an objection from a single household could trigger a Committee referral. There have been occasions when it is apparent that a single objector has collected signatures from family members to do this. The revised scheme would amend this to objections from 6 different addresses. This would reflect the original intention of this provision. The position regarding petitions has also been clarified. These are normally produced by a single individual who has worded the content of the objection and obtained apparent endorsement from the persons who signed it.
- 4.10 The provision for a Member to ask for a Committee decision is subject to additional guidance in the Good Practice Guide for Member Involvement in Planning Decisions. This clarifies that the request must be accompanied by a planning reason as to why the application should be determined by Committee. The advice in section 10 of the Leicester City Council Good Practice Guidance for Member Involvement In Planning And Development Management Decisions June 2015 is that this should not be dependent on the officer recommendation. The amended scheme has been re-worded in line with the Good Practice Guidance.

- 4.11 The existing scheme refers to “significant” applications of the City Council. What would constitute “significant” is not defined. Sometimes applications are submitted by City Council partners for what are essentially Council projects, relate to Council owned property or have Council funding.
- 4.12 As well as these anomalies, City Council applications which may not be controversial, being subject to a specific requirement to come to Committee can delay important projects unnecessarily.
- 4.13 City Council related applications must be assessed and dealt with as with any other application. The amended scheme proposes that these are not specifically distinguished as part of the scheme of delegation; however they would be subject to the other criteria for a Committee decision – objections, member requests and Head of Planning’s discretion.
- 4.14 The amended scheme proposes that City Council applications are subject to the same provisions as other applications.
- 4.15 The Good Practice Guide states that Members’ own planning applications will always be reported to Committee. The revised scheme of delegation has therefore been amended so as to accord with the Good Practice Guide.
- 4.16 As it has been normal practice to do so, Officers’ own applications would be treated the same .
- 4.16 In relation to enforcement, the scheme would reflect the provisions in relation to planning applications; however it would exclude cases where failure to serve a notice within a legal time frame could impede the action being taken.

5.0 FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1 Financial Implications

There are no direct financial implications arising from this report. The use of delegated powers rather than requiring committee decisions saves staff time and money.

Paresh Radia
Finance Manager

5.2 Legal Implications

- 5.2.1 The Committee is entitled to delegate functions to officers and, in light of the obligations on the authority and volume of work, it is in the Council’s best interests to delegate functions expressly in order to allow for efficient and timely processing of applications.
- 5.2.3 Planning functions relating to planning enforcement and development control are matters for the Council, any Executive delegations are not relevant to the

report or affected by the amendments to the scheme of Delegation. The reservations and powers of full Council can also not be amended or by passed by the scheme of delegation, it therefore relates solely to those powers as covered in the Committee's Terms of Reference.

Emma Jackman, Head of Law (Commercial, Property & Planning)

5.3 Climate Change Implications

None

6.0 OTHER IMPLICATIONS

| OTHER IMPLICATIONS | YES/NO | Paragraph references within the report |
|-------------------------------|-----------|--|
| Equal Opportunities | No | |
| Policy | No | |
| Sustainable and Environmental | No | |
| Crime and Disorder | No | |
| Human Rights Act | No | |
| Elderly/People on Low Income | No | |
| Corporate Parenting | No | |
| Health Inequalities Impact | No | |

7.0 BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

PDCC reports on delegated schemes 2010- 2013

9.0 REPORT AUTHOR

Steve Brown Planning, Development