



Leicester
City Council

**WARDS AFFECTED:
ALL**

Planning and Development Control Committee

23rd June 2021

Scheme of Delegation to Officers

Report of the Director of Planning, Development and Transportation

1. PURPOSE OF REPORT

1.1 To review the operation of the revised scheme of delegation approved in April 2019 (wording amended on 2nd October 2019) in line with the request for the impact of the new scheme to be monitored and reported back.

2.0 RECOMMENDATION

- a. To change the wording to clarify scope of applications subject to Committee consideration
- b. To confirm the amended scheme of delegation set out in Appendix 2.

3.0 SUMMARY

3.1 The report follows adoption of a revised scheme by the Committee on 3rd April 2019 (as amended October 2019) with a resolution that officers review and report back on its operation after 12 months. In May 2020 due to COVID restrictions Committee agreed to temporarily widen the 2019 scheme to include all householder applications, and also noted that the formal review of the 2019 scheme would be delayed. This report is on the impact of the 2019 scheme since then and to propose further minor changes as set out in the report.

4.0 REPORT

4.1 The City Council's Constitution sets out the Terms of Reference to Planning and Development Control Committee, which are set by Full Council, currently being reviewed. 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 adopted in April 2019 is set out at Appendix 1.

5.0 RATIONALE FOR THE 2019 REVISION

- 5.1 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 "prior approvals" which are permitted development subject to time limited notifications to the local planning authority.
- 5.2 Although the Courts have confirmed it is now possible to extend the strict time limits for some prior approvals, this can only be by agreement with the Applicant and if no agreement is reached the default position remains approval. Applications to discharge conditions are also always delegated to officers as applicants can claim deemed discharge if not determined in time.
- 5.3 The scheme was revised with the intention of making it explicit that "time limited" applications could not be referred to committee; however as there are circumstances that allows negotiation I am recommending that the types of application that can be referred are specified in the Scheme.
- 5.4 Although the basic characteristics of the City Council scheme of delegation had been in place for many years, it had been amended and added to over the years as new types of application and other powers were introduced nationally. The result was a scheme that was complicated and often required amendment each time there was a new provision.
- 5.5 The revised 2019 scheme of delegation did not introduce radical changes. The revision was aimed at avoiding issues of ambiguity and interpretation and clarifying some matters which the previous scheme was silent on.
- 5.6 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 were not all explicitly set out in the previous scheme of delegation but are in the nature of other "routine" council matters normally delegated to officers. The scheme was re-worded to be clear that only planning applications and certain enforcement decisions were subject to committee referral.
- 5.5 The wording of the previous scheme suggested that 6 signatories on an objection from a single household could trigger a Committee referral. There had been occasions when it was apparent that a single objector has collected

signatures from family members to do this. The revised 2019 scheme amended this to objections from 6 different city addresses. This reflected the original intention of this provision. The position regarding petitions was also clarified. Petitions are generally produced by a single individual who has worded the content of the objection with a view to seeking endorsement from the persons who signed it.

- 5.6 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 was re-worded in line with the Good Practice Guidance.
- 5.7 The previous scheme referred to “significant” applications of the City Council but what would constitute “significant” was not defined.
- 5.8 City Council related applications must be assessed and dealt with as with any other application. The revised 2019 scheme does not specifically distinguish these; however, they are subject to the other criteria for a Committee decision – objections, member requests and Head of Planning’s judgement.
- 5.9 The Good Practice Guide states that Members’ own planning applications will always be reported to Committee. The revised 2019 scheme of delegation specified this to accord with the Good Practice Guide.
- 5.10 The revised 2019 scheme made clear that officers’ own applications would be treated the same.
- 5.11 In relation to enforcement, the scheme reflects the provisions in relation to planning applications; however, it excludes cases where failure to serve a notice within a legal time frame could impede the action being taken.

6.0 REVIEW OF OPERATION OF THE 2019 SCHEME

- 6.1 When Committee agreed a revised extended scheme in May 2020 they accepted that the review of the 2019 scheme which was then due would have to be delayed to allow its operation to be monitored once more normal circumstances returned. The revised extended scheme ceased in October 2020 and since then the 2019 scheme has once again been in operation. I am not aware of any individual application determined under delegated powers Since October 2020 months that would have been referred to the Committee under the scheme prior to the 2019 Scheme
- 6.2 No complaints have been made nor have there been disputes about delegation as a result of the new scheme

- 6.3 I believe that the clarity of the revised scheme has helped officers and been welcomed by applicants and agents.
- 6.4 A few applications for house extensions in recent years had been dealt with by Committee under the previous scheme because several people from the same households had signed objection submissions. It is possible that the clarification on this point has deterred objectors from pursuing this approach.
- 6.5 It is still open to objectors to approach a Member to make a case for a particular application being a matter for the Committee.
- 6.6 Similarly the Head of Planning would reasonably consider any case for a particular application being a matter for a Committee decision.
- 6.7 The operation of the 2019 Scheme of Delegation is considered to be working well. Officers have taken the opportunity of this review to suggest minor technical changes/clarifications as set out in Appendix 2.

7.0 FINANCIAL, LEGAL AND OTHER IMPLICATIONS

7.1 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

7.2 Legal Implications

- 7.2.1 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.
- 7.2.2 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.

Jane Cotton Solicitor, Planning and Highways

8 Climate Change Implications

None

9 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	

10 BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Planning and Development Control Committee report 3 April 2019
Planning and Development Control Committee report 2 October 2019
Planning and Development Control Committee report 13th May 2020

11 REPORT AUTHOR

Grant Butterworth Head of Planning

Appendix 1: Current Scheme of Delegation

Scheme of Delegation April 2019*

(To apply to applications publicised after 28th April 2019)

The Constitution sets out that the following matters are reserved to Planning and Development Control Committee:

1. Matters of strategic significance relating to the Committee's Terms of Reference.
2. To recommend to Council the making of bye-laws.
3. Making opposed regulations, order, plans and schemes within the Committee's terms of reference.
4. Such other matters as the Committee may from time to time reserve to itself for decision.

Subject to the above, all regulatory decisions covered by planning legislation are delegated to officers except:

A. Decisions on applications that are subject to negotiable time limits for decision* where:

- There have been written objections from six or more different addresses within the city and the officer recommendation is for approval. For the avoidance of doubt, a petition will count as one such submission regardless of the number of signatories
- There has been a request from a Member before the end of the publicity period giving a clear planning reason why an application needs considering by the Committee
- It is a Member's or City Council officer's own planning application or any application in which a Member has a disclosable pecuniary interest or other disclosable interest
- The Head of Planning considers that the application should be considered by the Committee

*Some types of applications result in deemed approval if not determined within a specified time limit

B. Decisions to serve or not serve a formal enforcement notice where:

- There has been a written request from a Member before a formal decision has been made giving a clear planning reason why the matter needs considering by the Committee and taking the matter to a Committee would not cause a delay which would hinder a notice being served
- The Head of Planning considers that the matter should be considered by the Committee
- Decision not to take enforcement action where there have been recorded complaints from six or more addresses within the city

As corrected October 2019

Appendix 2: Amended Scheme of Delegation for approval

Scheme of Delegation June 2021

The Constitution sets out matters reserved to Planning and Development Control Committee

Subject to these matters as set out in the Constitution, 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 officers except:

A. Decisions on applications for planning permission, works to, or removal of TPO trees or listed building consent where:

- There have been written objections from six or more different addresses within the city and the officer recommendation is for approval. For the avoidance of doubt, a petition will count as one such submission regardless of the number of signatories
- There has been a request from a Member before the end of the publicity period giving a clear planning reason why an application needs considering by the Committee
- It is a Member's or City Council officer's own planning application or any application in which a Member has a disclosable pecuniary interest or other disclosable interest
- The Head of Planning considers that the application should be considered by the Committee

B. Decisions to serve or not serve a formal enforcement notice where:

- There has been a written request from a Member before a formal decision has been made giving a clear planning reason why the matter needs considering by the Committee and taking the matter to a Committee would in the Opinion of the Head of Planning not cause a delay which would hinder a notice being served or increase the risk of the breach becoming immune from Planning Enforcement action.
- The Head of Planning considers that the matter should be considered by the Committee
- The officer recommendation is not to take enforcement action where there have been recorded complaints/allegations about a breach from six or more addresses within the city

C. Decisions to confirm Provisional Tree Preservation Orders where there has been an objection to the order, or where the proposed decision is not to confirm the Provisional Tree Preservation Order and there has been a representation in support of confirming the Order.