

REPORT TO: Planning Committee

12 February 2020

LEAD OFFICER: Deputy Head of Legal Practice and Joint Director of
Planning and Economic Development

Planning Scheme of Delegation

Executive Summary

1. The Civic Affairs Committee, at its meeting on 3rd December 2019, considered a report from the Chairman of the Constitution Review Task and Finish Group, which provided the Committee with the amendments to the Constitution proposed by the Group.
2. The Committee asked that the Constitution Task and Finish Group meet again to consider the issues raised by the Committee. At its meeting on 4th February 2020, the Group considered a report on the Planning Scheme of Delegation. This report sought to respond to a legal challenge against the arrangements for the consideration of “call in” requests by Parish Councils and Members.
3. Following the response of the Task and Finish Group (see paragraph 15 below) to a report suggesting proposed clarification of these arrangements, this report seeks the Committee’s approval of the updated Powers and Functions Delegated by the Planning Committee as set out in Appendix A.

Recommendations

4. It is recommended that Planning Committee:
 - (a) Agree the changes to the Planning Scheme of Delegation as detailed in Option 2 (paragraph 19) and as set out in Appendix A to this report; and
 - (b) Decide whether to request officers to undertake a further review of the Parish and Member “call-in” process.

Reasons for Recommendations

5. Officers are recommending the change to reflect the statutory position and to protect the Council against further legal challenge.

Details

6. The Planning Scheme of Delegation was last reviewed and approved by Planning Committee on the 6th April 2016.
7. The Planning Committee decided that all planning applications are to be dealt with under delegated powers unless a Local Member or Parish Council writes, or emails a request for a particular application to be considered by Planning Committee, sound planning reasons are given for why this is considered necessary and the request is accepted by the Chairman of Planning in consultation with Officers.
8. In practice, the Chairman and Vice Chairman meet with officers every week and consider requests for referral to Planning Committee. Once they have jointly concluded their deliberations, a record is signed by the Chairman and officer confirming the outcome.
9. The Constitution Review Task and Finish Group has reviewed the sections of the Constitution in relation to responsibility for functions.
10. The Task and Finish Group was advised by officers of the need to clarify that, where appropriate, decisions are delegated to officers, in consultation with the relevant non-executive chairman, rather than by the non-executive chairman, in order to reflect the statutory position. The Group however did not undertake a review of the Powers and Functions Delegated by the Planning Committee at Part 3 of the Constitution as they acknowledged that this would require consultation and was not part of their remit.
11. Accordingly, the Constitution Review Task and Finish Group was advised to correct the above anomaly by rewording the delegation as follows:

“Applications will be dealt with under delegated powers unless:

A local member or Parish Council writes, or emails, a request for a particular application to be considered by Planning Committee, sound planning reasons are given for why this is considered necessary and the request is accepted by the Joint Director of Planning and Economic Development, after consultation with the Chair of Planning Committee (or Vice-Chair in their absence).”

12. Correspondence has been sent to all members of the Task and Finish Group from a member of the public challenging the proposed change on the basis that there would be a shift of the decision-making power from an elected member to a single officer.

13. It should also be noted that by way of separate correspondence to officers the same individual has also challenged the current arrangements for determining which applications go before Planning Committee.
14. The Leader of the Council, by way of correspondence dated 8th January 2020 to all Parish Councils, made a recommendation that, in the unlikely event there is a disagreement between the Chairman of Planning Committee and the Joint Director of Planning and Economic Development on any application, it is automatically referred to Planning Committee for it to be considered and determined.

Response of the Constitution Task and Finish Group

15. At its meeting on 4th February, the Constitution Review Task and Finish Group considered the proposed revisions to the Planning Scheme of Delegation as set out at Appendix A. The Group agreed to recommend Planning Committee to:
 - (a) Agree the change to the Planning Scheme of Delegation as detailed in Appendix A to this report;
 - (b) Request officers to undertake a further review of the Parish and Member “call-in” process.

The Group also received input from members of the Planning Committee in respect of proposals for ward member participation in the call-in review meetings, and suggesting that the correspondence from Parish Councils to the Leader on this matter be made available to the Planning Committee.

Officers highlighted the planned review by the Planning Advisory Service and noted the opportunity for these matters to be considered as part of that review – in line with the Group’s recommendation (see paragraph 4 (b) above). In respect of the existing arrangements for the “call in” meeting, it should be noted that this is not a formal meeting of the Council at present to which Ward Councillors are invited. This matter could however form part of the review process and would warrant further consultation given the range of views expressed at the meeting on this point.

16. In addition to clarifying the call in provisions, the attached appendix also incorporates a number of text revisions aimed at improving clarity about the delegations to officers and to address inconsistencies with other parts of the constitution upon which no substantive comment was passed by the Group.
17. No changes, other than those outlined to clarify the call in process, are proposed to the decisions delegated from the Committee to officers within the Shared Planning Service and 3C Building Control. Accordingly, officers are recommending that the Planning Scheme of Delegation be amended as detailed in Appendix A to this report.

18. The proposed changes within paragraph 4(a) are not considered to require further consultation because the operational process for determining which applications go before Planning Committee would remain the same, namely that the Chairman and Vice Chairman will continue to be fully involved in considering these requests. The review of call in measures – as part of the wider PAS review recommended by the Group will be subject to consultation, to include Members and Parish Councils.

Options

19. Options available include:

1. Doing nothing and leaving the Planning Scheme of Delegation unamended, however this leaves the Council liable to legal challenge; or
2. Amending the Planning Scheme of Delegation in accordance with Appendix A of the report to protect the Council's position (pending any further review of the Scheme of Delegation); and
3. Considering whether to instruct officers to undertake a wider review of the process for dealing with Parish and Member "call-in" requests.

Implications

20. In the writing of this report, taking into account financial, legal, staffing, risk, equality and diversity, climate change, and any other key issues, the following implications have been considered:-

Legal

21. S101 Local Government Act 1972 provides that a local authority may arrange for the discharge of any of their non-executive functions by a committee, a sub-committee or an officer of the authority.

Background Papers

Civic Affairs Committee 3rd December 2019

Appendices

Appendix A: Powers and Functions Delegated by the Planning Committee

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