

PLANNING COMMITTEE

1 APRIL 2020

PLANNING COMMITTEE – CONSTITUTIONAL ISSUES IN RESPONSE TO CORONAVIRUS (COVID – 19)

Report from: Richard Hicks, Director of Place and Deputy Chief Executive

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Summary

This report asks the Committee to consider a change to the provisions in the employee scheme of delegation relating to the triggers for escalation of planning applications from officer to Committee level for a temporary period with effect from 2 April 2020 until such time as the Government's guidance on social distancing is lifted.

1. Budget and Policy Framework

- 1.1 The Monitoring Officer has an obligation to monitor and keep the operation of the Constitution under review.
- 1.2 Under Section 101 of the Local Government Act 1972, the Council has delegated authority to this Committee to determine all planning applications as set out in the Committee's terms of reference. The Committee may, in turn, arrange for any of its functions to be discharged by a Sub Committee or officer.
- 1.3 Paragraph 14.3 (Changes to the Constitution) of Article 14 of the Constitution states that changes to the Constitution are a matter for Council (except for minor changes where the Monitoring Officer has delegated authority with a copy of such changes being supplied to all Group Leaders and Whips within 14 days).

2. Background

- 2.1 The scope of officer delegations in relation to the determination of planning applications is set out in paragraph 8.1 of Section 8 of the Officer Scheme of Delegations in the Council's Constitution as attached at Appendix A.

- 2.2 The Director of Place and Deputy Chief Executive has authority to determine applications unless the circumstances in sub paragraphs (i) to (viii) in paragraph 8.1 of section 8 of the officer scheme of delegations apply (see Appendix A). The majority of applications (90%) are dealt with by officers under these arrangements.
- 2.3 Following discussion with the Chairman of this Committee and the designated Opposition Spokesperson it is proposed to make a temporary change to the circumstances in which planning applications may be escalated for determination by the Planning Committee from officer level with a view to preserving a focus by the Committee on only the most significant or controversial applications during the COVID-19 pandemic.
- 2.4 These proposed changes will not change the requirement for applications falling into the following categories to be reported to the Committee for determination:

(i) Where the applicant is the Council and the proposed development is a major proposal or for non-operational purposes.	Council
(ii) Where the applicant is a member of the Council or an officer directly or indirectly involved in the planning process.	Council
(iii) Where the Director of Place and Deputy Chief Executive refers the application to the Planning Committee (eg where the proposals are a significant departure from the development plan or otherwise are of a strategic nature in the context of the Council's planning and development policies).	Council
(iv) Where the proposal has other major implications for the authority.	Council

- 2.5 However, it is proposed that the following categories will be waived as part of these temporary arrangements, meaning that any planning applications falling into these categories will be determined under officers' delegated authority:

(v) Where a member of the Council has within 21 days of the publication of the weekly list of planning applications requested that an application be determined by Committee. In these cases members should identify the material planning considerations to warrant consideration by Committee.	Council
(vi) Where a parish council has within 21 days of the publication of the weekly list of planning applications requested that an application be determined by Committee. In these cases Parish Councils should identify the material planning considerations to warrant consideration by Committee, otherwise the Director of Place - and Deputy Chief Executive will deal with the	Council

<p>application.</p> <p>(vii) Where three or more relevant letters of representation are received (which may include letters from an Amenity Society but must also include at least two from separate households in the vicinity of the site) contrary to the proposed officer decision unless following consultation with the Chairman, Vice Chairman and designated Opposition Spokesperson(s) it is considered inappropriate to refer an 'other' application to the Planning Committee for determination. For the avoidance of doubt, the decision not to refer the 'other' application will need to be unanimous in each case and in the event of there not being a consensus, that application will be referred to the Planning Committee for determination.</p> <p>'Other' applications consist of:</p> <ul style="list-style-type: none"> • Householder applications • Change of use (no operational development) • Adverts • Listed building extensions/alterations • Listed building demolitions • Application for relevant demolition of an unlisted building within a Conservation Area • Certificates of Lawfulness (191 and 192). <p>(viii) Where one letter of representation is received from a Parish Council or a Residents' Association/Society contrary to the proposed officer decision (except, in the case of a representation by a Parish Council or a Residents' Association/Society, where the Director of Place - and Deputy Chief Executive, in consultation with the Chairman and Spokesmen of the Planning Committee, is of the opinion that the representation contains no reasonable planning grounds supporting the representation).</p>	<p>Council</p>
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2.6 To underpin these arrangements as an exception to the usual delegations, it is proposed that at the draft agenda stage, the draft agenda reports will be shared with the Chairman, Vice Chairman and Opposition Spokesperson remotely and escalated to Committee for determination only if any one of them requests that an application be referred to Committee. Such notification must be received within 3 working days. Those planning applications not escalated for referral will then be processed by the Director of Place and Deputy Chief Executive under delegated authority. This temporary measure will reduce the number of applications needing to be considered by the Committee during the COVID-19 pandemic.

3. Options

- 3.1 The option open to Members in relation to the escalation of planning applications is either to make no change to officer delegations or to make the temporary revisions shown as tracked changes in Appendix A.

4. Advice and analysis

- 4.1 The Planning Committee is recommended to approve the temporary change to the scheme of employee delegations as set out in Appendix A and to recommend that the consequential changes be approved by the Monitoring Officer as a minor change under his delegations.

5. Risk Management

- 5.1 This proposal will contribute to measures being taken by the Council to minimise the risk to Councillors, officers and the public in the context of guidance on social distancing.

6. Consultation

- 6.1 Consultation on the proposals in this report has been undertaken with the Chairman, Vice Chairman and designated Opposition Spokesperson(s) of the Planning Committee.

7. Financial implications

- 7.1 There are no direct financial implications arising from these proposals.

8. Legal implications

- 8.1 The determination of planning applications is a non-executive function of the Council. Section 101 of the Local Government Act 1972 provides for the Council to arrange for the determination of planning applications by a Committee, a Sub Committee or an officer and for a Committee to delegate its functions to a Sub Committee or an officer.

9. Recommendations

- 9.1 The Committee is recommended to approve a change, for a temporary period with effect from 2 April 2020 until such time as the Government's guidance on social distancing is lifted, to the scheme of employee delegations relating to the determination of planning applications, as set out paragraph 2.5 of the report and shown as tracked changes in Appendix A to this report and to agree that the consequential changes to the Constitution should be approved by the Monitoring Officer as minor changes under his delegations.
- 9.2 The Committee is recommended to approve the process for consultation with the Chairman, Vice-Chairman and Opposition Spokesperson to enable them to escalate any planning applications to Committee that will otherwise be determined by the Director of Place and Deputy Chief Executive under these temporary arrangements as set out in paragraph 2.6 of the report.

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Appendices:

Appendix A – Extract from Employee Scheme of Delegation

Background papers:

Medway Council Constitution