

DELEGATED

AGENDA No.

**REPORT TO PLANNING
COMMITTEE**

29 MAY 2013

**REPORT OF THE
CORPORATE DIRECTOR
OF DEVELOPMENT AND
NEIGHBOURHOOD
SERVICES**

ALTERATION TO THE SCHEME OF DELEGATION

As Members will be aware the Government has introduced new permitted development rights for a 3 year period which require prior notification to the Local Planning Authority and notification to neighbours to make representations resulting in a deemed approval if the applicant has not been formally notified of a decision by the last day of the statutory period for determination.

The Council's current scheme of delegation authorises the Head of Planning to determine applications which do not generate more than 5 individual letters contrary to the officer recommendation. There is genuine concern that there may be situations arising under the new prior notification process where more than 5 individual letters of objection are received but officers informally are not opposed to the proposal but the application cannot be reported for determination by the Planning Committee before the expiry of the statutory period for determination and the deemed approval provisions would take effect.

This report therefore examines the new prior approval process and proposes alterations to the scheme of delegation to make it possible for prior notification applications to be determined lawfully within the statutory time period and prevent prior approval being obtained via the deemed approval provisions.

RECOMMENDATIONS

That the views of Planning Committee be sought and incorporated into the consideration of the report to be considered by Executive Scrutiny Committee

PURPOSE

To outline proposals for a further revision to the scheme of delegation which will be considered at a future meeting of the Executive Scrutiny Committee.

DELEGATION

Issue for consideration

1. One of the current criteria for determining whether an application is delegated to officers is

d) Those cases where there are more than 5 letters/emails by way of response which are contrary to the recommendation of the case officer, with the exception of mobile phone mast applications where they remain delegated regardless of the number of objections received;

2. As Members will be aware the Government has introduced new permitted development rights for a 3 year period which require prior notification to the Local Planning Authority and notification to neighbours to make representations resulting in a deemed approval if the applicant has not been formally notified of a decision by the last day of the statutory period for determination. In particular these are

- Class A extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse,
Subject to
(c) the expiry of 42 days following the date on which prescribed information referred to in the Order was received by the local planning authority without the local planning authority notifying the developer as to whether prior approval is given or refused.
- Class J Development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from a use falling within Class B1(a) (offices) of that Schedule
Subject to
(the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused
- Class K . Development consisting of a change of use of a building and any land within its curtilage to use as a state-funded school, from a use falling within Classes B1 (business), C1 (hotels), C2 (residential institutions), C2A (secure residential institutions) and D2 (assembly and leisure) of the Schedule to the Use Classes Order
Subject to
the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused
- **Class M** where the cumulative floor space of the building or buildings which have changed use under Class M within an original agricultural unit exceeds 150

square metres and does not exceed 500 square metres, Development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.

Subject to

the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused

3. The local planning authority is required to notify the owners and occupiers of adjoining properties about the submission of the proposed development and provide 21 days for representations to be received. The prior approval of the local planning authority is only required if an objection to the proposed development is received. If no objections are received or only letters of support are received the local planning authority's prior approval is not required but notice of that must still be given within the statutory period.

4. The Council's current scheme of delegation authorises the Head of Planning to determine applications which do not generate more than 5 individual letters of contrary to the officer recommendation. There may be situations arising under the new prior notification process where more than 5 individual letters of objection are received but officers informally are not opposed to the proposal but the application cannot be reported for determination by the Planning Committee before the expiry of the statutory period for determination and the deemed approval provisions take effect.

5. This situation would be clearly contrary to the rules of natural justice if the Local Planning Authority were unable to decide a prior notification application within the statutory time period. This would be totally unsatisfactory for neighbours if their representations cannot be properly considered.

6. The Secretary of State for Communities and Local Government has indicated that it is up to the Local Planning Authority to determine how it wishes to determine prior notification applications.

7. The proposed change would still result in the scrutiny applied under the existing scheme of Determination of applications under delegated powers

Signatures

8. Each application requires the signature of the case officer, and the Area Team Leader/Major Projects Officer from one of the other teams. During the course of a prior notification application, case officers will liaise with their own line manager to discuss the case and recommendation. Therefore to ensure consistency in decision making and for an independent view, another team leader must act as signatory on the delegated decision, i.e. they cannot sign off their own team members' decisions.

Refusals

9. Applications recommended for refusal, in addition to the 2 signatures above, will require to have a third signature, that of the Development Services Manager to ensure

consistent decision making across the teams and as a way of monitoring performance with regards to appeals. As with the existing scheme, there will be other signatories in place in the absence of the above staff including the Corporate Director, Head of Planning and Spatial Planning Manager.

CONCLUSION

10. It is therefore recommended that the Head of Planning is authorised to determine all applications for prior notification

Corporate Director, Development and Neighbourhood Services
Contact Officer: Carol Straughan
Tel: 01642 527027
carol.straughan@stockton.gov.uk

FINANCIAL AND LEGAL IMPLICATIONS

Financial

No planning fee will be received for dealing with prior notification applications which impacts on planning fee income and the ability to fund the service to ensure it remains efficient and effective.

RISK ASSESSMENT

The suggested reforms are categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

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COMMUNITY SAFETY

The proposal has no direct impact upon community safety.

WARD AND WARD COUNCILLORS: ALL