

Birmingham City Council

Report to Planning Committee

7th May 2020

Subject: Temporary Revisions to the Scheme of Delegation

Report of: Acting Director, Inclusive Growth

Report author: Sean Hannaby, Interim Assistant Director Planning

Email Address: sean.hannaby@birmingham.gov.uk

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, provide exempt information paragraph number or reason if confidential :

1. Executive Summary

- 1.1. Consideration of proposed amendments to the Scheme of Officer Delegation was deferred at the last meeting to allow further discussions at an informal meeting, which took place on 30th April. As a result of that meeting the Scheme of Officer Delegation has been amended as set out in Appendix 1.
- 1.2. These arrangements will be reviewed when the Committee is able to physically meet again and there is no longer need for virtual meetings.

2. Recommendations:

- 2.1. Notes that the Scheme of Sub-Delegations will be amended as set out in Appendix 1.

3. Background:

- 3.1. As a result of the outbreak of coronavirus the country is facing unprecedented disruption to normal life and as a result it is now unsafe to hold face to face Planning Committee meetings. This situation will continue for an undetermined length of time but it could be for a number of months.
- 3.2. Planning Officers are working from home and although physical meetings need to be cancelled, it is important that the planning system continues to function as this will help to support the local economy and community by ensuring that planning permissions are in place ready for when businesses can get back to work. It is also important for the reputation of the Council for it to continue to function during this difficult period.

- 3.3. There are statutory timescales for determining planning applications and if the Council fails to determine an application within this timescale then the applicant can appeal to the Planning Inspectorate for non-determination. It is also possible to agree extensions of time to applications which could push the decision back to a later date, but this will not be possible in every case and, as we do not know how long this situation will last, we have to make provisions now to continue as closely as we can to 'business as usual.'
- 3.4. In accordance with the current scheme of delegation, many applications are able to be determined under delegated powers but there are still a large number that are currently required to be determined by Planning Committee and the Council needs to make arrangements to enable decision making to continue to take place without the need for public meetings.
- 3.5. In order to help Local Authorities continue to make planning decisions the government has introduced emergency legislation to allow council committee meetings to be held virtually; the Coronavirus Act 2020. This Act was swiftly followed by the relevant regulations coming into force on the 4th April; *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*. These regulations enable councillors to attend virtual, or remote, meetings rather than having to be physically in the same room. The regulations are temporary and allow virtual meetings to be held up to the 7th May 2021.

4. Changes to the Scheme of Officer Delegation:

- 4.1. The changes to the scheme of delegation are set out in Appendix 1. Any deleted or amended categories are highlighted in bold with explanatory comments in the column alongside. Where the wording of a category has not been changed it is stated.
- 4.2. As a result of the informal meeting with members of the Planning Committee on 30th April, the proposed changes have been scaled back as follows:
- Category 9(c) has been amended so that the number of representations required to trigger referral to committee has been reduced from 30 to 20.
 - Category 9(f) has been reworded to make it clearer.
 - The proposed changes to Category 9(k) have been withdrawn.
- 4.3. In view of the need to ensure timely decision making in the current difficult circumstances, it is intended that the Director will implement these changes immediately following Planning Committee.

Ian J. MacLeod

Ian McLeod
Director of Inclusive Growth (Acting)

Contact Officer: Sean Hannaby Interim Assistant Director Planning
E-Mail: sean.hannaby@birmingham.gov.uk

APPENDIX 1

PROPOSED REVISIONS TO THE OFFICERS SCHEME OF DELEGATION:

Planning & Development Matters:

The following is a record of amendments agreed by members of the Planning Committee who took part in an informal meeting on the 30th April 2020. It is intended that these amendments will be temporary and can be reviewed at a later date when it will be possible to assess the impact of the changes and also compare them to that of other Local Authorities.

The following table sets out the new wording as agreed by members and the comments explain what the change means:

Amended categories are in **Bold**.

9. Deal with, make, issue, review, approve, grant, allocate, refuse and decline applications, notifications and certificates in relation to the Council's planning and development function, EXCEPT applications or notifications:

No:	New wording:	Comments:
9 a	9(a) is deleted (Call in by Planning Committee)	Any member is still able to request a call in by email to the Director Inclusive Growth (see 9(b).
9 b	That any member of the Council requests be determined by the Planning Committee (such request to be made by email to the Director Inclusive Growth specifying the planning grounds on which the request is made and received by the Director Inclusive Growth within the specified consultation period for the application or notification) with the agreement of the Director Inclusive Growth in consultation with the Chair of the Planning Committee.	This change simply clarifies that all requests must be by email and are determined by the Director Inclusive Growth in consultation with the Chair.
9 c	Where there is substantial local public opposition to the officer's recommendation. 'Substantial' shall be considered as 20 or more representations against the recommendation or where a valid petition of more than 20 signatories has been submitted in accordance with the Council's Rules	A new threshold of 20 objections has been agreed. Members can still call in applications with fewer than 20 objections and there is still officer discretion to refer applications to committee that are considered sensitive or controversial.
9 d	9(d) deleted (refusal where there is	9 (d) has been amalgamated into 9(c) to

	substantial public support)	cover both permission and refusal.
9 e	<p>Where the Director Inclusive Growth is informed that a member of the Council or an officer in the Planning Service has an interest in the property or land which is the subject of the application or notification save for applications for householder developments where:</p> <ul style="list-style-type: none"> • All other criteria within the Scheme of Delegation are met • There are no public or consultee representations received contrary to the officer's recommendation. • The applicant is not a planning officer, a Director, an Assistant Director in Inclusive Growth, or a member of the Planning Committee or Cabinet. 	<p>The change allows applications to be delegated where the application is a householder application and the officer is not a planning officer, senior manager or the member is not a member of the Planning Committee or Cabinet. There must be no objections and the development must comply with all other criteria in the scheme of delegation.</p>
9 f	<p>Where there is significant objection from a statutory consultee and the decision is to approve; unless the objection has been specifically addressed by a condition or where other matters are considered to over-ride the objection in the planning balance.</p>	<p>This change allows a permission to be granted where the officers consider that a condition can satisfactorily resolve the matter, or where other matters are considered to over-ride the objection.</p> <p>A delegated refusal can be issued in accordance with the consultee objection.</p>
9 g	<p>9(g) deleted (Refusal of Policy compliant applications)</p>	<p>This change allows Planning Officers to refuse a policy compliant proposal in an instance where it has an unacceptable impact for other reasons.</p>
9 h	<p>(Approval of policy breaches)</p>	<p>No change</p>
9 i	<p>(Director's referral of particularly controversial or contentious applications)</p>	<p>No change</p>
9 j	<p>Which relate to Major developments comprising:</p> <ul style="list-style-type: none"> i. 40 or more dwellings or outline residential development of 1 hectare or more ii. Any other development with floor space of 5000 square metres or more. 	<p>This raises the bar to allow more applications to be delegated.</p> <p>The change would not allow smaller applications to be delegated where there is substantial local public opposition</p> <p>Applications below the 'bar' can still be called in by members and can still be referred to Committee by the Director's</p>

	iii. Outline applications where the site area is 1 hectare or more. EXCEPT for a variation or removal of condition, the renewal of an extant permission or a minor material amendment, where the change is not substantial and no significant objections have been received.	discretion.
9 k	(Listed Buildings)	No change
9 l	(Departure applications).	No change
9 m	9(m) deleted (S106 applications)	This deletion allows delegated decisions involving a S106 where it is straightforward and requires no judgement by the officer – ie is policy compliant. Any S106 requiring the apportionment of contributions between competing priorities will be referred to Committee.
9 n	Relating to major mineral workings	This change allows minor works to be delegated.
9 o	The approval of Telecoms development involving the erection or installation of new masts where there is no ICNIRP Certificate issued (proposals for additional antennae or dishes or existing telecom structures falls within the scheme for delegation)	This change allows delegated refusal where there is no ICNIRP Certificate
9 p	(Council applications)	No change
10	(Council applications)	No change
11	(making of Orders)	No change
12	(Tree works)	No change
13	(Screening & scoping opinions)	No change
14	(Powers of entry)	No change
15	(Inadequate information received)	No change
16	(Failure to sign a S106)	No change
17	(Extensions of time to sign a S106 and Deeds of Variation)	No change