
PLANNING COMMITTEE

15 March 2018

REPORT OF THE DIRECTOR OF CITY OPERATIONS

AGENDA ITEM:

PLANNING COMMITTEE – DELEGATIONS

Reason for this Report

1. To agree a transparent approach to delegated power arrangements with regard to the Council's planning functions and the procedure to be used in the exercise of this delegated authority.
2. To recommend that the Planning Committee Scheme of Delegations attached in the Appendix to this report be approved.

Background

3. The Planning Committee is a standing committee established by full Council to discharge the town and country planning and development control functions of the authority in accordance with its terms of reference, which are set out in the Council's constitution.

Delegations

4. The Welsh Government Development Management Manual section 9.5 states with regard to a Scheme of Delegation:

"Section 70 of the 1990 Act provides LPAs with the power to determine an application for planning permission. Section 101 of the Local Government Act 1972 allows the local authority to arrange for the discharge of its functions, including the determination of an application for planning permission, by a committee, sub-committee or by delegation to an officer of the authority (normally the Head of Service in the case of planning decisions).

Every LPA has a scheme of delegation setting out the development types or other criteria of planning applications which will be determined by planning committee. It identifies the circumstances in which applications can be determined by the Head of Service under delegated powers. These circumstances normally relate to issues such as the type of development, the number of objections received, and who submits the application.

The delegation of decision-making to officers has benefits for all stakeholders in terms of simplifying procedures and freeing up committee members to concentrate on major development, policy issues or controversial cases, removing applications which would typically not elicit member discussion and evaluation at committee. Where there is no need to await a committee cycle and decision, time can be saved in dealing with planning applications.

A scheme of delegation should ensure that the right type of application is determined at the right decision level, reflecting the complexity and conformity of the proposal with planning policy. It should allow minor applications and those in conformity with the development plan, a straightforward route to determination since the LPA's policy position is already stated in the local development plan which is in the interests of efficient and consistent decision making."

- 5 It is considered that an effective scheme of delegation will have a number of benefits including:
- Providing clarity for all those involved in the development control process
 - Providing a clear and consistent approach that will increase efficiency by speeding up the process whilst ensuring that all appropriate cases are dealt with by the Planning Committee.
 - Increasing levels of probity and transparency by ensuring that developers and all those submitting or making representations on planning applications have clear and available information about how applications are delegated and decided.
 - Allowing Members more time to consider complex, sensitive or strategically important planning applications by reducing the level of applications that go to the Committee.
- 6 It is therefore proposed that The Head of Planning has authority to determine all matters which are delegated to the Planning Committee under the Council's constitution and to carry out any functions under Planning legislation, subject to consultation with the Chair of the Planning Committee (or in his or her absence, the Vice Chair) in any case where written objections on valid planning grounds have been submitted and remain unwithdrawn, EXCEPT for the following matters which are reserved for determination by the Planning Committee:
- 6.1 Planning applications submitted by current Elected Members of the Council, Directors and Assistant Directors.
 - 6.2 An Elected Member of the Council has requested in writing to the Chair of Planning Committee within the statutory consultation period (being 21 days from the commencement of the formal public consultation) that an application be referred to Planning Committee for consideration giving valid planning reasons, except in cases where the Head of Planning, in consultation with Chair of Planning Committee (or in his or her absence, the Vice Chair) determines at his discretion that the application should be determined as a delegated decision.
 - 6.3 The Director of Planning, Transport and Environment or the Head of Planning considers that the application should be determined by Planning Committee by virtue of the application raising significant policy and material considerations/concerns and/or widespread local concerns.
 - 6.4 Approval of the application would represent a significant departure from policies contained within the approved Local Development Plan.

- 6.5 Cardiff Council is the applicant and the scheme is not of a 'minor' nature in the opinion of the Director of Planning, Transport and Environment or Head of Planning.
- 6.6 Applications where the decision would conflict with an objection received from a statutory consultee and the objection has not been withdrawn or has been unable to be resolved by negotiation or by imposing a planning condition on any consent issued, except in cases where the Head of Planning, in consultation with Chair of Planning Committee (or in his or her absence, the Vice Chair) determines at his discretion that the application should be determined as a delegated decision.
- 6.7 Applications where a valid petition has been submitted in accordance with the Council's Planning Committee Procedure Rules.
- 6 In the absence of the Head of Planning, it is proposed that the delegation shall be exercisable by either of the Planning Operational Managers. In the case of a senior management re-organisation, any officers with similar duties to the officers and the job titles to those specified in the scheme will have the powers assigned to the officers and the job titles in the scheme.
- 7 In the absence of the Chair of Planning Committee, it is proposed that the authority passes to the Vice Chair of Planning Committee.
- 8 Reports will be prepared for all delegated applications outlining the material issues for consideration together with a recommendation. Each report is to be signed by the report author, the Head of Planning or either of the Planning Operational Managers and where written valid planning objections and/or concerns have been submitted, or as otherwise considered appropriate by the Head of Planning, also to be following consultation with, signed by, the Chair of Planning Committee (or in his/her absence, the Vice Chair).

Legal Implications

- 10 Under section 101 of the Local Government Act 1972, where any functions of a local authority may be discharged by a committee, then, unless the local authority otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority. The Council has made not contrary direction in this case, and therefore, it is within the power of the Planning Committee to delegate to an appropriate Council officer any of the functions falling within the Committee's terms of reference, provided Members are satisfied that it is appropriate to do so. It should be noted that any delegation so made does not prevent the Committee from exercising those functions in any case it considers appropriate. However, any such officer delegation may not be further delegated, unless expressly provided for in the Committee resolution (pursuant to the Scheme of Delegations, Section 4A, paragraph 1.6 (ii)).
11. Accordingly this report seeks approval from the Planning Committee to delegate those functions set out in the Appendix to the Council's Head of Planning and in his absence to either of the Planning Operational Managers to facilitate the efficient and effective discharge of those functions. Further, in the interests of clarity and transparency the Constitution Committee be asked to consider incorporating the delegations set out in the Appendix to this report within the Constitution Scheme of Delegations. Any such amendment to the Scheme of Delegations would be subject to approval by full Council.

Financial Implications

12 This report has no direct financial implications

RECOMMENDATION

Planning Committee is recommended to:

1. Approve the Scheme of Delegations to the Head of Planning as set out in the Appendix to this Report
2. Ask the Constitution Committee to consider incorporating the Planning Committee's approved delegations (under recommendation 1 above) in the Scheme of Delegations within the Constitution.

Andrew Gregory
Director of City Operations
15 March 2018

Appendix

Development Management Delegations Scheme

The Head of Planning has authority to determine all matters which are delegated to the Planning Committee under the Council's constitution and to carry out any functions under Planning legislation, subject to consultation with the Chair of the Planning Committee (or in his or her absence, the Vice Chair) in any case where written objections on valid planning grounds have been submitted and remain unwithdrawn, EXCEPT for the following matters which are reserved for determination by the Planning Committee:

1. Planning applications submitted by current Elected Members of the Council, Directors and Assistant Directors.
2. An Elected Member of the Council has requested in writing to the Chair of Planning Committee within the statutory consultation period (being 21 days from the commencement of the formal public consultation) that an application be referred to Planning Committee for consideration giving valid planning reasons, except in cases where the Head of Planning, in consultation with Chair of Planning Committee (or in his or her absence, the Vice Chair) determines at his discretion that the application should be determined as a delegated decision.
3. The Director of Planning, Transport and Environment or the Head of Planning considers that the application should be determined by Planning Committee by virtue of the application raising significant policy and material considerations/concerns and/or widespread local concerns.
4. Approval of the application would represent a significant departure from policies contained within the approved Local Development Plan.
5. Cardiff Council is the applicant and the scheme is not of a 'minor' nature in the opinion of the Director of Planning, Transport and Environment or Head of Planning.
6. Applications where the decision would conflict with an objection received from a statutory consultee and the objection has not been withdrawn or has been unable to be resolved by negotiation or by imposing a planning condition on any consent issued, except in cases where the Head of Planning, in consultation with Chair of Planning Committee (or in his or her absence, the Vice Chair) determines at his discretion that the application should be determined as a delegated decision.
7. Applications where a valid petition has been submitted in accordance with the Council's Planning Committee Procedure Rules.

In the absence of the Head of Planning, this delegation shall be exercisable by either of the Planning Operational Managers. In the case of a senior management re-organisation, any officers with similar duties to the officers and the job titles specified in this scheme will have the powers assigned to the officers and the job titles in this scheme.

In the absence of the Chair of Planning Committee, the authority passes to the Vice Chair of Planning Committee.

Reports will be prepared for all delegated applications outlining the material issues for consideration together with a recommendation. Each report is to be signed by the report author, the Head of Planning or either of the Planning Operational Managers and where written valid planning objections and/or concerns have been submitted, or as otherwise considered appropriate by the Head of Planning, also to be following consultation with, signed by, the Chair of Planning Committee (or in his/her absence, the Vice Chair).

