

PROPOSED CHANGES TO THE SCHEME OF DELEGATION FOR DETERMINING PLANNING APPLICATIONS AND THE PLANNING PROTOCOL

Report of the Deputy Chief Executive

1. INTRODUCTION AND PURPOSE OF REPORT

- 1.1 The planning system in England has undergone a period of significant change over recent years. During this time multiple new types of applications have been introduced and most recently an increased focus is being placed on the importance of making timely decisions.
- 1.2 In light of the changes to the planning system and the increased emphasis placed on the speed and quality of planning decisions it is considered necessary to consider the need to make a number of changes to the scheme of delegation for the determination of planning applications. In parallel it is also considered appropriate to review the Planning Protocol to ensure that it reflects accurately long standing custom and practice in how we exercise our planning powers.
- 1.3 Appended to this report are relevant extracts from the Councils constitution which are provided with tracked changes which reflect the proposed changes to be made.

2. BACKGROUND

- 2.1 The legal basis for delegation is Section 101 of the Local Government Act 1972. Elected Members determine the basis on which a delegated agreement operates, the level of Member involvement and the circumstances in which an officer's delegated power to make a decision may not be exercised. The amendments proposed seek to make amendments and provide clarification in respect of the delegated authority for determining planning applications and planning related matters to the Deputy Chief Executive, Assistant Director for Place Making and Planning and their authorised officers.
- 2.2 Delegation schemes vary between local planning authorities, allowing for local discretion in their operation to reflect the diverse nature of local authorities. Delegation has benefits for all stakeholders in terms of simplifying procedures, minimising costs for an authority and freeing up elected Members to concentrate on applications that are the most controversial or have significant strategic importance for the Borough.
- 2.3 Central Government and the Local Government Association consider that a level of delegation above 90% should be achieved by local planning authorities. In Stockport delegations sits at over 90%.
- 2.4 Central Government advises that schemes should be regularly reviewed and updated to take account of any changes to national and/or local planning policies and to allow for the delivery of decisions as efficiently as possible, particularly having regard to performance improvement and best value. As Members will be

aware, the Government sets targets for performance on delivery of planning decisions. Every local planning authority is required to submit data on its performance for delivering decisions on a quarterly basis with performance assessed on a rolling 2 year basis. Those targets are set as follows:

- i. 60% of all Major Applications determined within 13 weeks;
- ii. 80% of all Minor Applications determined within 8 weeks;
- iii. 80% of all Other Applications determined within 8 weeks.

Stockports current performance against the 2 year rolling targets are :-

Majors – 96.7%

Non Majors (Minors) – 89.6%

Other applications – 89.3%

- 2.5 In reflection of the pressures facing the planning service, Group leaders and group planning leads came together in 2022/23 to discuss the situation and to consider a number of changes that could be introduced to assist and support the planning service.
- 2.6 The work of the Development Management Task and finish group considered a number of matters including discussion of the scheme of delegation, the length of planning reports and the overall performance of the planning service. In recognition of the need to address issues and concerns in respect of performance, structure, processes and procedures, an interim role was created within the service to oversee a series of transformation projects. This has included updating the suite of standard planning conditions, amending report templates to allow for shorter more succinct reports, advising on capacity and structural matters as well as the further development of suite of performance management tools for service managers and officers.
- 2.7 The operation of the development management service has been further assisted by the recent increase in planning application fees which are set nationally, with fees increased by 35% for Major Planning applications and 25% for all other applications. The Government has also, in recognising the challenges being faced by Local Planning Authorities invited applications into a new fund to support authorities in tackling planning application backlog and skills gaps. Stockport is one of 180 Local Planning Authorities to benefit from this fund. Our successful application has secured just under £100,000 with approximately £65,000 allocated to dealing with a backlog of planning applications.
- 2.8 The Secretary of State (SOS) made clear that this additional investment should enable Local Planning Authorities to deliver improve performance in determining planning applications. At the same time the SOS advised that the Government has grown increasingly concerned that the performance of Local Planning Authorities against the national targets are being affected by the significant number of planning applications which use extensions of time. It is considered that this results in misleading statistics and concerns in respect of the operation of the system. The Government intend to move towards removing the ability of using extensions of time for householder applications and seek to limit their usage for other applications.

- 2.9 Further changes are also anticipated to the way in which planning performance is reported, by introducing Planning league tables that clearly illustrate performance against the Government targets, highlighting best practice and to identify areas which are overly reliant on the use of extensions of time. The Secretary of State also indicated that the Planning Inspectorate will be required to publish information in respect of member overturns of planning recommendations which are not successfully defended at appeal, having grown increasingly concerned that the cost of the defence of those decisions is at the expense of the tax payer. In Stockport member overturns are very rare, but this is a reminder that planning decisions should always be based on a robust and informed consideration of the information presented having regard to the recommendation provided by the officer. This does not mean that members are obliged to always follow officer recommendations, it simply reminds us that when taking decisions against advice, we must carefully consider whether they are robust and will stand up to scrutiny at appeal.
- 2.10 Changes have also been made to the 'Planning Guarantee' which was first introduced in 2013. This now requires planning fees to be refunded on non-major planning applications where an authority fails to determine an application within 16 weeks unless an agreed extension of time is in place. As a consequence, it is necessary to revisit the scheme of delegation to ensure that the Council reduces potential risk of exposure to fee refunds.
- 2.11 It is anticipated that the proposed changes to the current Scheme of Delegation (as appended to this report at Appendix A) will result in simplified procedures, reduce costs to the Authority, result in improved performance around the delivery of planning decisions and give Councillors on Area and Planning and Highways Committee more time to focus on those more complex or controversial applications many of which have wider strategic implications for the Borough.
- 2.12 Concern may be felt that extending the scope of determining applications under delegated powers will result in a loss of Members' control. The changes seek to ensure that the most straightforward applications we consider are dealt with in a timely fashion and ensure that customers of the planning service receive timely decisions and that we avoid situations whereby planning application fees are returned purely on the basis that an application has been considered by a committee.
- 2.13 It is also important to remember that planning applications are decided against the Council's development plan policies, standards and guidance which are set by Members through the normal process, these changes will not affect that.

Proposed changes to the way householder planning applications are considered

- 2.14 The changes proposed seek to delegate all decisions on householder applications to officers to determine, apart from circumstances where those applications are made by Councillors, Senior Officers or officers involved in the planning process. Firstly, these applications carry the lowest planning application fee of £258 and whilst this cost has increased following the recent national planning application fee uplift of 25% (35% for major planning applications) this fee remains low in terms of the cost of processing the applications when delegated and it does not cover the additional costs of processing the applications where those applications are

determined by Committee. Whilst no recent national benchmarking has taken place, work led by the Planning Advisory Service most recently in 2014, indicated that the average cost of processing a householder application was closer to £400.

2.15 The Council has clear policies and supplementary planning guidance which ensures a clear and consistent application of policy. Currently, householder applications which are considered by committee, are considered because they are either :-

- Called-up by a Councillor
- Receive 4 or more letters of objection
Departures from the development (mainly those which depart from out of date Green Belt policies)

2.16 Proposals to extend homes can often prove a particularly emotive subject, the applicant is seeking to make an investment to improve their homes and neighbours can sometime become incredibly concerned about the impact changes will have on their home. Concerns in respect of noise and disturbance during the development as well as property devaluation are regularly raised, neither of which are material planning considerations. Our policies and supplementary guidance explain clearly how we will consider matters of impact, including overshadowing, overlooking and overdevelopment and we ensure that the officers who deal with these applications are supervised by more senior staff to ensure that a consistent approach is maintained.

2.17 It is incredibly rare for householder planning applications which are considered by committees to be refused, for the very reason that policies are clear and are applied in a consistent basis. This is because, officers work with applicants to ensure that the proposals are in accordance with policy and guidance and this often includes addressing issues raised by those objecting to the application to ensure compliance with policy, meaning that by the time the application is considered at committee all issues that have needed to be addressed to reach a positive recommendation have already been made.

2.18 Not all householder applications that we receive are approved, where recommended for refusal, under the current system they are determined under delegated powers. As a consequence, members have little involvement in those applications which cannot be supported by officers – it is incredibly rare for these applications to come before a committee.

2.19 The removal of householder planning applications from Area Committee agenda, does not mean that Members involvement in those applications would be removed entirely. Councillors will continue to receive weekly lists of planning applications, that will enable members to maintain an understanding of the types of applications that are being considered and Councillors, could if they so wish, raise objections on behalf of a resident / group of residents.

Proposed increased to the level of letters of support / objection to applications.

2.20 The current scheme of delegation requires that where an officer recommends an application for approval, in the event that 4 or more letters of objection are received, the application must be considered by committee. Where the officer

recommends refusal, 4 or more letters of support currently trigger consideration by committee.

2.21 While it is less common for an application to proceed on the basis of letters of support, applications regularly can receive 4 or more letters of objection. These are applications that are usually more complex and often generate many more objections than 4, it is therefore considered that a minor increase to require 6 or more letters would assist in reducing the number of planning applications that are delayed by the committee process. Whether applications are considered at an officer or committee level, consideration must be given to the comments are received where the issues are relevant to planning and a material consideration. Officers read each letter received, summarise the comments and consider those that are material.

Further changes

2.16 In addition to seeking delegated authority to determine householder applications, the proposal also seeks delegated authority to determine applications for advertisement consent. In practice, very few of these applications are considered by committees as they tend not to receive significant level of objection nor are they called-in. Given that matters for consideration for adverts are relatively narrow matters of visual amenity and highway safety, it is proposed that they should also be delegated to officers for consideration.

2.17 Following consideration of the proposed changes thus far via CWP and Planning and Highways regulation committee, a number of further proposals were discussed. This includes considering whether the proposed representation trigger of 6 is high enough and whether amendments should be made to the Member call-in procedure.

2.18 In terms of the most recent 59 householder applications, 28 had 4 or fewer objections, 15 had 5 or 6 and 7 had more than 6 objections.

2.19 The member call in procedure has remained largely unaltered in recent years, with the exception of a reduction in the call-up period from 21 days to 14 days. Member call-in differs between authorities with some requiring the agreement of the Chief Planning Officer and/or Chair of main Planning Committee as well as a variety of options in between. What is clear however clear is that members should clearly state a planning reason for the call up and as such an amendment is made to the form to complete when calling up applications. It is also proposed to amend the call-up procedure so that it will require a minimum of 2 members to call up an application. This change is proposed to ensure that Members carefully consider whether an application that would otherwise be delegated should in fact go to committee.

2.20 In addition to proposed changes to the scheme of delegation, a series of amendments have been made to the Planning protocol. In many respects these changes relate to changes in job titles and are made to reflect custom and practice and to address any lack of clarity in the document. This document is provided at Appendix B.

3. CONCLUSIONS AND RECOMMENDATIONS

- 3.1 The proposed changes to the scheme of delegation have been reported via the Constitution Working Group, Planning and Highways Regulation Committee, Area Committees and have been tabled at Corporate, Resource Management & Governance Scrutiny Committee. Although at the time of writing this report, members are yet to consider the proposals via Area Committee. Thus far, Members have both noted the rationale for the changes as well as considering the implications for the way we make planning decisions in Stockport. As the proposals have progressed changes have been made to reflect of the requests of members. In particular members have been keen to make clear that where applications are delegated and subject to call-in by there should be a requirement for 2 members to call up an application, alongside a requirement to provide clear planning reasons for committee consideration. Additional comments were made regarding whether the threshold for increasing the number of representations received should be further increased from 6 but it was considered that it would be difficult to justify a further increase at this time. Members acknowledged the importance of the review and the need for change and it is suggested that we monitor the impact of the changes and report back following the first year of implementation.
- 3.2 Members of cabinet are asked to recommend that Council approves the changes to the scheme of delegation relating to planning and the planning protocol as outlined in the report attached and that the Assistant Director Legal and Democratic Governance / Monitoring Officer be asked to make the necessary changes in time for the new municipal year.

BACKGROUND PAPERS

There are none.

Anyone wishing to inspect the above background papers or requiring further information should contact Emma Curle on 0161 474 3542 or by email on emma.curle@stockport.gov.uk