

REVISIONS TO THE CONSTITUTION TO AMEND THE SCHEME OF DELEGATION (PLANNING APPLICATIONS)

REPORT OF THE MONITORING OFFICER



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Wards affected - All Wards

1. PURPOSE OF REPORT

- 1.1 To agree amendments to the scheme of delegation for planning applications as set out in Part 3 of the Hinckley and Bosworth Borough Council Constitution (version 11).

2. RECOMMENDATION

- 2.1 That Council be recommended that the current scheme of delegation relating to delegations for planning applications (and related matters) be deleted and replaced as follows:

All planning and related applications to be delegated to the Chief Planning and Development Officer, except where the following circumstances apply:

1. An application that has attracted interest from occupiers of five or more addresses (including the Parish Council), the views of which are contrary to the officer recommendation.
2. An application where an Elected Member of the Borough Council requests in writing to the Chief Planning & Development Officer that the application be referred to Planning Committee for determination. The request must be based on sound planning reasons, as determined by the Chief Planning & Development Officer, and received within 21 days of publication of the weekly list.
3. A major application that is submitted by, or on behalf of, the Borough Council for its own development.
4. Any application made by, or on behalf of, a Member of the Borough Council or member of staff.
5. An application that the Chief Planning & Development Officer in discussion with the Chair of the Planning Committee considers necessary to be determined by the Planning Committee.

3. BACKGROUND TO THE REPORT

- 3.1 This report sets out the changes proposed to the Scheme of Delegation in relation to planning applications as set out under Part 3 of the Constitution. The changes are brought to Members following discussions at two cross-party task and finish groups in 2014 (see section 10).
- 3.2 This report sets out proposals to amend the Scheme of Delegation in respect of planning applications that must be considered by Planning Committee to allow Members to focus on the most strategic and sensitive items whilst ensuring that the planning decision making process remains as transparent and as open as

possible. Existing powers for Members to 'call-in' an application to Planning Committee and for the Chief Planning and Development Officer to refer an application to Planning Committee are retained within the proposed changes.

4. PROPOSAL & REASONS

4.1 The proposed changes will:

1. Reduce the length of Planning Committee agendas;
2. Allow Planning Committee to focus on dealing with applications that are the most controversial, complex or strategic;
3. Enable routine applications to be dealt with quicker;
4. Make resource savings by freeing up officer time that would otherwise be spent preparing reports for Planning Committee agendas;
5. Address the perception that routine items being reported to Planning Committee are not debated before decisions are taken;
6. Allow discretion for decisions to be delegated where there is consensus between officers, Members and the local community;
7. Stimulate greater officer and Member discussions early in the planning process.

4.2 The delegation arrangements for planning and related applications, taken from Part 3 of version 11 of the Constitution, are set out in full at Appendix 1. The current arrangements require that planning applications for developments that exceed certain threshold triggers must be referred to Planning Committee. This includes where the minimum site area exceeds 0.5ha; where the minimum number of dwellings exceeds 10; where the minimum building size exceeds 500m²; and where the number of representations received exceeds 5 addresses. Other provisions requiring a committee decision relate to where the proposal is for an agricultural workers dwelling or where an application is subject to an Environmental Statement. This requirement is irrespective of the officer recommendation or the views of Elected Members.

4.3 The effect of the current delegation arrangements is that planning applications that are not contentious or controversial need to be reported to Planning Committee solely because of the trigger set out in the constitution. The fact that a scheme relates to a large site area, for instance, does not mean that it is always contentious or sensitive. Similarly, the receipt of objections from more than five addresses would automatically trigger a committee referral even if the officer recommendation is reflective of the views of the community. This process does not allow officers or Members to be able to respond appropriately to the scale or impact of the proposal as the scheme of delegation does not allow flexibility. This reduces transparency, openness and effective governance.

4.4 Planning Committee agendas vary in length, but it is not unusual for 12 items or more to be considered. This results in Planning Committee meetings taking a considerable amount of time, often dealing with routine matters that are not sensitive or have public interest. It is important that Members have a manageable workload and are able to have the time to carefully consider relevant issues. This can be difficult if too many items are being considered on each agenda.

4.5 It is recognised nationally, that local planning authorities that take too many items to Planning Committee have difficulty determining planning applications in a timely manner. This is because those applications that are reported to Committee take considerably longer to process because of the work involved preparing reports and the lead-in time for compiling agendas for monthly Committee

meetings. Councils that process applications quickly and strike the right balance between Committee and delegated decision making tend to perform more efficiently and effectively. This enhances service reputation amongst developers and agents, which in turn encourages investment. Striking the right balance also frees up officer time to engage in active dialogue with local Ward Members and the community and also to proactively focus on priority areas such as enforcing breaches of planning control.

4.6 The proposed changes will create and build on the existing level of trust between officers and Members and ensure discussions on planning proposals are held early in the process. Changes will also make sure that Members of Planning Committee have more time to discuss the scheme with officer, which can result in negotiated improvements to the design or wider community benefits.

4.7 The proposed revisions would introduce a simplified delegation arrangement. The requirement to refer applications to Planning Committee because of the size of the development would be replaced with a scheme that would only report contentious applications that are contrary to the officer recommendation. Most major applications would continue to be reported to Planning Committee as would applications that Members wished to 'call-in'. However, the changes will allow officers to refuse applications under delegated powers where the community is raising objections in line with officer views and Members are comfortable with the approach taken. Similarly, the changes will allow applications for developments to be approved quickly, even if this relates to a large site, again provided Members are content and the application isn't contentious. The new arrangement will build upon existing close working relationships between officers and Ward Members, the Committee Chair and Members of Planning Committee.

4.8 As set out at section 2 of this report, it is proposed to amend the Scheme of Delegation to the following:

All planning and related applications to be delegated to the Chief Planning and Development Officer, except where the following circumstances apply:

1. An application that has attracted interest from occupiers of more than 10 addresses (including the Parish Council), the views of which are contrary to the officer recommendation.
2. An application where an Elected Member of the Borough Council requests in writing to the Chief Planning & Development Officer that the application be referred to Planning Committee for determination. The request must be based on sound planning reasons, as determined by the Chief Planning & Development Officer, and received within 21 days of publication of the weekly list.
3. A major application that is submitted by, or on behalf of, the Borough Council for its own development.
4. Any application made by, or on behalf of, a Member of the Borough Council or member of staff.
5. An application that the Chief Planning & Development Officer in discussion with the Chair of the Planning Committee considers necessary to be determined by the Planning Committee.

5. ALTERNATIVE OPTIONS THAT HAVE BEEN CONSIDERED

- 5.1 One alternative revision to the scheme of delegation has been considered. This relates to removing the existing requirement to refer applications to Committee for developments above 500m² floor space or where the size of the site is over 0.5ha, but keep other committee triggers as existing.
- 5.2 This option would give delegated authority to officers for non-controversial developments on large sites or where the floor space of a development is large. However, many applications need to be referred to committee where representations are received from more than five addresses, even where officer and Member views are aligned. Retaining this requirement would be continuing with arbitrary system and would not allow delegated decisions where items are not sensitive or contentious.
- 5.4 The proposed system would provide greater discretion and give more control to Members and the Committee Chair in making decisions about which items to take to Planning Committee.

6. SUMMARY

- 6.1 It is proposed to revise the scheme of delegation for planning matters to introduce a system that encourages greater Member involvement in deciding what planning applications should be referred to Planning Committee. The changes would reduce the number of non-sensitive or controversial items being considered at Committee, speeding up the decision making process and allowing Members to directly focus their attention on those planning matters which are of a strategic and sensitive nature.

7. FINANCIAL IMPLICATIONS [SJE]

There are no financial implications arising as a result of this report.

8. LEGAL IMPLICATIONS [EH]

- 8.1 Changes to the Constitution require a two thirds majority approval by council.
- 8.2 By ensuring the planning application process determination process and the Committee agenda is streamlined the council will be ensuring its meets its duties in relation to performance.
- 8.3 Planning is a function which is reserved for council and therefore cannot be delegated to the Executive.

9. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 1 of the Corporate Plan

- Creating a vibrant place to work and live.

10. CONSULTATION

A Task and Finish Group was formed from Members of the Planning Committee to consider the proposed options.

The following Members were part of the Group that met on 15 October and 11 December 2014:-

Cllr Mayne, Cllr Moore, Cllr Witherford, Cllr Morell & Cllr Boothby.

The following comments were received:-

- Supported the intention to improve dialogue between officers and Members on planning matters.
- Welcomed reduced agenda lengths and paperwork.
- Requested that the changes do not remove the option for Members to call-in applications outside of their ward.
- Asked for clarification about how officers would ensure consistency in deciding which applications are deemed controversial.

In response to those comments:

- The proposed delegation arrangements will continue to improve and build on the dialogue with Members on planning matters, particularly in relation to sensitive issues within a Member's ward.
- The proposed changes will reduce agenda lengths and therefore simplify the process for Members.
- The existing provision to allow any Member to call-in an application to Planning Committee, within or outside their Ward, is unaffected by these changes.
- In the vast majority of cases, it is clear where a planning application is controversial. This might be because of the number of representations received, the nature of the proposal or where a Councillor has requested that the Committee deals with an application. Where there is uncertainty, a discussion would take place with Ward Members and where appropriate, the Chair of Planning Committee. Retaining the requirement for Committee referral where representations are received from more than 10 addresses (contrary to the officer recommendation) would ensure that schemes generating significant public interest would typically be referred to Committee irrespective of whether Ward Members or the Chair makes a request.

11. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Risk of not meeting statutory planning performance targets.	Improved delegation arrangements and efficiency will ensure performance is achieved.	Nic Thomas

12. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

It is not considered that there are any equality or rural implications arising as a direct result of this report.

13. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- | | |
|---------------------------------|------------------------------|
| - Community Safety implications | None relating to this report |
| - Environmental implications | None relating to this report |
| - ICT implications | None relating to this report |
| - Asset Management implications | None relating to this report |
| - Human Resources implications | None relating to this report |
| - Voluntary Sector | None relating to this report |

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Appendix 1

Existing Scheme of Delegation - Planning Applications (all to be replaced)

1. 10 or more dwellings or a proposed site area of 0.5ha or more.
2. All major office or light industry uses where the proposed floor space is greater than 500m² or where the proposed site area is 0.5ha or more.
3. All general and special industrial uses and warehouses where the proposed floor space is greater than 500m² or more or where the proposed site area is 0.5ha or more.
4. All retailing, distribution, servicing and catering uses where the proposed floor space is greater than 500m² or where the proposed site area is 0.5ha or more.
5. All other developments not included in the above where the proposed floor space is greater than 500m², or where the proposed site area is 0.5ha or more.
6. Any application for agricultural workers' dwellings where an agricultural appraisal is required.
7. All new developments for recreation and leisure uses (Class D) involving sports centres; public open space; cinemas; concert halls; bingo and dance halls; swimming pools and gymnasias which have a proposed floor area of more than 500m² or the proposed floor area is 0.5ha or more.
8. New development for Institutional uses (Classes C2 and D1) involving hospitals; colleges; nurseries; art galleries; museums; exhibitions or public halls and churches which have a proposed floor area of more than 500m² or the proposed area is 0.5ha or more.
9. All applications which raise local or wider controversial issues.
10. All applications requiring Environmental Impact Assessment.
11. All applications by members of the Council or staff.
12. Any application that the Chief Planning & Development Officer or Development Control Manager considers to be necessary to be determined by Members.

Exceptions to Planning Applications Scheme of Delegation

An application which normally would be delegated for officer decision will be referred to Planning Committee if any of the following applies:-

- A. A request for referral to Planning Committee has been received in writing by the Deputy Chief Executive (Community Direction), Chief Planning & Development Officer or Development Control Manager from a Member of the Borough Council within the specified period of three weeks from the date of publication of the weekly list. The request must be made of sound planning reasons, acceptance of which is at the discretion of the Deputy Chief Executive (Community Direction) or Chief Planning & Development Officer and the Chair of Planning Committee.
- B. The application is submitted by, or on behalf of, the Council for its own development, except minor development to which no objection has been received.

- C. Objections have been received from more than five addresses (which include any Parish Council objection) within the specified period of three weeks from the date of publication of the weekly list, unless the objections have been resolved by negotiation or may be resolved through the imposition of planning conditions.