

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**Revised scheme of delegation
for determining planning and associated applications**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To refresh the scheme of delegation for the determination of planning and associated applications to make it more fit for purpose in efficiently dealing with development proposals.

2. BACKGROUND INFORMATION

- 2.1 Section 101 of the Local Government Act 1972 allows the local planning authority (LPA) to arrange for the discharge of any of its functions by a committee, subcommittee or an officer. An exception where this power may not be applied is where the local authority's own application for development could give rise to a conflict of interest when Regulation 10 of the Town and Country Planning General Regulations 1992 applies.
- 2.2 The exercise of the power to delegate is discretionary and a matter for individual LPAs, having regard to practical considerations, including the need for efficient decision-making and local transparency. It is in the public interest for the LPA to have effective delegation arrangements in place to ensure that decisions on planning and associated applications that raise no significant issues are made quickly and that resources are appropriately focused on the applications of greatest significance to the local area.
- 2.3 It is clear that LPAs' delegation arrangements may include conditions or limitations as to the extent of the delegation or the circumstances in which it may be exercised. That is the case with the council's present scheme of delegation which has not been amended for several years and which is laid out in the North Lincolnshire Constitution and attached as Appendix 1 to this report.
- 2.4 Under the present scheme of delegation 76% ($\frac{1}{4}$ 2015/16) of the decisions on applications were made by officers with the remainder reported to the Planning Committee (or for a very small number of cases at appeal against non-determination). Nationally over the same period 94% of decisions were delegated to officers.

2.5 The present scheme of delegation is understood and works reasonably well, however it needs refreshing, having regard to changes in legislation, regulations and procedures. It also needs amending to ensure, as far as is practicable, that officer, councillor and committee time is best utilised.

2.6 On average, if a planning application has to be referred to the Planning Committee, this doubles the amount of time in the process. For example, based on the last two quarters (01/04/2015 to 30/09/2015):

Average number of days to determine an application = 86

Average number of days to determine a delegated item = 78

Average number of days to determine a committee item = 147

This is generally because committee items are the more complex cases but also because of the extra procedures necessary to prepare and publish Planning Committee agendas, minutes and legal agreements and then issue the decisions.

2.7 In line with government guidance, the scheme of delegation for many local authorities is designed to allow 90% of applications to be determined by officers. Safeguards are always built in to ensure propriety and necessary member involvement.

2.8 North Lincolnshire Council determines about 950 planning applications a year and numerous planning enforcement cases. These applications vary in scale from householder-type applications, which seldom raise complex issues, to the most complex, large-scale residential, commercial and industrial schemes. The aim is to devise a scheme of delegation that best uses the resources of the authority.

3. OPTIONS FOR CONSIDERATION

3.1 **Option 1:** Maintain the current scheme of delegation as laid out in Appendix 1.

3.2 **Option 2:** Amend the scheme of delegation to as laid out in Appendix 2 through a report to Full Council and revisions to the constitution.

4. ANALYSIS OF OPTIONS

4.1 The current scheme of delegation is dated and in a number of respects is not terribly clear. Its operation results in several types of minor application being referred to Planning Committee which is not necessary, for instance applications subject to a request from a member of the public that the item be put to the Planning Committee so that they may address the committee. This might be the applicant, a neighbour, agent, supporter or objector asking for the matter to be debated at the Planning Committee. This inevitably delays the determination of the application and bulks out the agenda with items that are often not of wide public interest.

4.2 Option 2 is preferred – it updates the relevant legislation and procedures and respects the democratic process. The main change proposed is that

individuals will not be able to automatically trigger their applications being put to the Planning Committee. Elected members will, however, still be able to request that any application is put to the committee. The new scheme of delegation also refers explicitly to matters that were not previously considered, for instance the regime for commenting on Nationally Significant Infrastructure Projects and the role of Planning Performance Agreements.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 The operation of option 2 has the potential to improve the efficiency of the planning service with time and some administrative savings for members and officers.
- 5.2 The scheme of delegation will clarify that in the relevant cases the Planning Committee's authority to make decisions is delegated to the following officers:
 - Director of Places
 - Assistant Director Planning and Regeneration
 - Head of Development Management and Building Control
 - Principal Development Management Officer
 - Strategic Development Officer.
- 5.3 There are no implications for property or IT.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

- 6.1 No significant issues raised.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

- 7.1 No external consultation has been undertaken. The revised scheme of delegation does consider issues of probity to ensure that decisions made are robust. Confirmation of the revisions would need to be agreed by Full Council and incorporated in the council's Constitution before being relied on.

8. RECOMMENDATIONS

- 8.1 That option 2 is implemented and that the Planning Committee resolves to request Full Council to agree to the revised scheme of delegation for incorporation in the North Lincolnshire Constitution when it is next amended.

DIRECTOR OF PLACES

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Background Papers used in the preparation of this report:

North Lincolnshire Constitution
DCLG Statistics

HEAD OF REGENERATION AND PLANNING

1. TOWN AND COUNTRY PLANNING

- 1.1 Determination of applications for permission, approval or consent, requirements for assessment, issuing of notices and completion or modification of agreements or obligations under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991 and the Environment Act 1995, or any subordinate rules, orders or regulations made under that legislation.
- 1.2 Determination of all other matters required to be dealt with as part of the management and administration of the Council's development control function and powers, including (but not exclusively).
 - Amendments to approved plans
 - Details submitted pursuant to conditions
 - Matters relating to protected trees
 - Consultation with other bodies on planning matters
 - Enforcement of planning control (in consultation with the Service Director Legal and Democratic
 - Appeals
 - Screening opinions under the 1999 Environmental Assessment Regulations
 - Determination of and signing off decisions relating to the Council's function as competent authority, as defined in The Conservation (Natural Habitats, & C.) Regulations 1994.
- 1.3 Payment of historic building and conservation grants in response to applications fulfilling the relevant criteria, subject to finance being available within the current budget.

EXCEPTIONS TO THE SCHEME

1. Applications made by members of the council, or senior officers (unit manager level and above) or any other officer responsible to the Service Director Highways and Planning, or the spouse of partner of any of the foregoing who resides at the same address, and/or applications relating to any land in which any of the foregoing have an interest.
2. Applications vetoed by any member of the council.
3. Approvals contrary to policy - i.e. departures and potentially justifiable exceptions.
4. Applications which have aroused significant public interest on valid planning grounds or an objection from a statutory consultee, at the discretion of the Service Director Highways and Planning or his nominated representative.

5. Applications subject to a parish council objection on valid planning grounds* where the recommendation is to grant permission or applications specifically supported by the parish council where the recommendation is to refuse.
6. Applications subject to a request from a member of the public that the matter to address be referred to the Planning Committee so that they may address the committee.
7. Confirmation of tree preservation or other orders or directions which are the subject of an objection.

Proposed scheme of delegation – November 2015

1 Town and Country Planning Act

- 1.1 Determination of applications for permission, approvals or consent, requirements for assessment, issuing of notices and completion or modifications of agreements or obligations under:
- The Town and Country Planning Act 1990 as amended;
 - The Planning (Listed Buildings and Conservation Areas) Act 1990;
 - The Planning Hazardous Substances Act 1990;
 - The Planning and Compensation Act 1991;
 - The Environment Act 1990;
 - The Environmental Impact Assessment Act;
- or any subordinate rules, orders or regulations made under that legislation.
- 1.2 Determination of all other matters required to be dealt with as part of the management and administration of the council's Development Management and Building Control functions and powers, including (but not exhaustively):
- planning applications;
 - listed building consent applications;
 - advertisement consent applications;
 - lawful development certificates
 - prior notification applications;
 - responses to NSIP applications, local impact reports, statements of common ground;
 - responses on overhead lines;
 - works to trees;
 - hedgerow removal/retention notices;
 - screening and scoping for environmental impact assessments;

- discharging planning conditions;
- discharging the requirement of development consent orders;
- formatting section 106 agreements;
- instigating enforcement investigations and proceedings.

with the following exceptions:

- (a) decisions that are a significant departure from the development plan
- (b) applications submitted by elected members or senior officers and above within Planning and Regeneration
- (c) determination contrary to the advice of a statutory consultee, including the local town or parish council
- (d) applications where elected members have requested in writing, for material planning reasons, that the planning application is referred to the Planning Committee for determination.