



ADUR & WORTHING
COUNCILS

Joint Governance Committee
22 September 2020
Agenda Item 9

Ward(s) Affected:All

Scheme of Officer Delegations

Report by the Monitoring Officer

Executive Summary

1. Purpose

1.1 It is important that Councils have appropriate officer delegations and committee delegations in place to ensure that decision making is made by the appropriate person or committee.

1.2 This report seeks to update the Councils' Scheme of Delegation to Officers in relation to planning matters.

1.3 Members are asked to approve the proposed changes to the Councils' Scheme of Delegation to Officers as set out in this report and recommend their adoption to each full Council

2. Recommendations

2.1 The Joint Governance Committee is asked to take into consideration the comments of the Adur Planning Committee and consider the proposed changes to the Scheme of Delegation to Officers and recommend its adoption as part of the Constitution to Adur District Council.

2.2 The Joint Governance Committee is asked to take into consideration the comments of the Worthing Planning Committee and consider the proposed

changes to the Scheme of Delegation to Officers and recommend its adoption as part of the Constitution to Worthing Borough Council.

3. Context

- 3.1 The Councils have set out the powers granted to officers in the Scheme of Delegation to Officers which forms part of each council's Constitution.
- 3.2 The delegated powers allow officers to make decisions in accordance with the scheme whilst ensuring that members retain decision making where appropriate.
- 3.3 As part of the ongoing review of the Councils' practices and procedures, the Scheme of Delegation to Officers have been reviewed by officers and revised versions are proposed.

4. Issues for consideration

- 4.1 Paragraph 3.6.5 of the Scheme of Delegation to Officers provides the Head of Planning and Development with the authority to determine applications for planning permission. However the delegation shall not be exercised in the following circumstances:
 - Applications requiring the Secretary of State to be notified under the Town and Country (Development Plans and Consultations) (Departures) Direction 2009;
 - Applications for development requiring an environmental impact assessment but excluding applications for a screening or scoping opinion in connection with an environmental impact assessment;
 - Applications comprising 'major' development within the meaning of the Town and Country Planning (General Permitted Development) Order;
 - Applications for development which conflicts materially with the development plan;
 - Applications materially affecting ancient monuments, and sites of special scientific interest;

- Applications made by, on behalf of, jointly with, or promoted by the Council, a Parish Council, West Sussex County Council, or any other Local Authority;
- Where the application has been made by a Member or an Officer; and
- Where a Member of the Council not more than 28 days after validation of an application requests otherwise.

4.2 It is considered by officers that three of these provisions do not facilitate good, agile, prudent decision making and that efficiency could be gained by making amendments whilst retaining sufficient balance and control.

4.3 It is therefore proposed that the provision of:

- “Applications comprising ‘major’ development within the meaning of the Town and Country Planning (General Permitted Development) Order”, be amended to, “Applications comprising ‘major’ development within the meaning of the Town and Country Planning (General Permitted Development) Order, other than those where the proposed amendment is minor or non material. Members will be notified when minor amendments to major applications have been approved”.

- It is further proposed that the provision of: “Where the application has been made by a Member or an Officer” is amended to “Where the application has been made by a Member of Adur District Council or Worthing Borough Council, or an Officer of either Council who is either the Chief Executive, a Chief Officer, Deputy Chief Officer, Planning Services Manager or Planning Policy Manager or work within the Planning and Development Section”.

- It is further proposed that the provision of: “Where a Member of the Council, not more than 28 days after validation of an application, requests otherwise” be amended to “Where a Member of the Council not more than 28 days after validation of an application, requests otherwise, providing valid planning reasons”.

4.4 These amendments would enable agile, streamlined decision making, whilst still ensuring independence and fairness in the Councils’ procedures and processes.

4.5 Currently applications for minor amendments to major applications must be

determined by the relevant planning committee. Such amendments by their nature are minor and include amendments where the scale or nature of the change does not result in a development that is substantially different from the one that has been approved. Non-material amendments are very small changes to planning permissions. The proposed changes will result in applications for minor and non-material amendments being dealt with faster and more efficiently but with the planning committees still determining major applications.

- 4.6 There are no proposed changes to the Scheme of Delegation to Officers in relation to planning applications made by members. However, the current provisions require all officer applications to be referred to the relevant planning committee for determination. This is regardless of who makes the application and their influence within the Councils. The proposed changes will require applications made by senior Council officers and officers working within the Planning department to be referred to the respective planning committee for determination. Applications made by other officers would be dealt with under officer delegated powers. These changes will ensure that the planning committee continues to determine any application from officers who have or may be seen to have influence in the decision making process.
- 4.7 The final change is to the members' call in provisions. Currently members can call in any planning application for determination within 28 days of the application being validated. The proposed amendment would permit a member to call in an application where there are planning reasons for this. This amendment would make the application process more efficient whilst allowing members to call in an application where there are valid planning issues to be considered.
- 4.8 This report recommends that members recommend to each full Council that the the three proposed amendments are made to the respective council constitutions. Members could decline to recommend the changes proposed. This course of action is not recommended as the current delegations create inefficiency and delay as well as taking up officer and committee resources unnecessarily. Members could recommend implementation of some but not all the amendments. This course of action is not recommended as inefficiencies will remain with planning committee agendas being clogged up with applications that could properly be dealt with by officers.

5. Engagement and Communication

- 5.1 Engagement and communication has taken place with both the Adur District Council Planning Committee and the Worthing Borough Council Planning Committee. Both Committees have received and considered this report and were invited to make comments, by way of consultation, to the Joint Governance Committee. The Joint Governance Committee is recommended to take into account any comments from the Planning Committees before determining this matter.
- 5.2 Worthing Borough Council's Planning Committee did not make any comments in relation to the proposed amendments. Adur District Council's Planning Committee asked that members be notified when minor changes are made to major schemes. This amendment has been incorporated into the first proposed change outlined above.
- 5.3 Engagement and communication has also taken place with the Head of Planning and Development, Democratic Services Officers and Planning lawyers.

6. Financial Implications

- 6.1 There are no financial implications arising from this report.

7. Legal Implications

- 7.1 The Councils' governance arrangements are set out in their respective Constitutions; the Scheme of Officer Delegations form part of the Constitution. The authority of the Councils is sought to amend the Constitutions, other than in respect of minor or consequential amendments.

Background Papers

- Report to Worthing Borough Council's Planning Committee on 26th February 2020 and minutes of the meeting
- Report to Adur District Council's Planning Committee on 9th March 2020 and minutes of the meeting
- Adur District Council Constitution
- Worthing Borough Council Constitution

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Sustainability & Risk Assessment

1. Economic

No issues identified.

2. Social

2.1 Social Value

No issues identified.

2.2 Equality Issues

No issues identified.

2.3 Community Safety Issues (Section 17)

No issues identified.

2.4 Human Rights Issues

The current requirement for all officer applications to be referred to the planning committee for a decision affects officers' rights to privacy and family life and the peaceful enjoyment of their property. The proposed changes balance the need to ensure that applications made by officers with influence on decision making are dealt with by the planning committee and applications made by other officers who have no influence on decision making which can properly be dealt with by officers.

3. Environmental

No issues identified.

4. Governance

Having a revised Scheme of Delegation to Officers ensures that the Councils have robust governance arrangements in place that are efficient whilst providing the necessary balance and control.