

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Executive Director – Commercialisation and Growth s151

To: South Holland District Council Wednesday, 25 November 2020

(Author: Lisa Davies Senior Planning Lawyer)

Subject Coronavirus - Continuation of Emergency Governance Measures for Planning

Purpose: To consider extending the emergency Governance measures in relation to the determination of planning applications

Recommendation(s):

- 1) That the protocol/delegation for determination of planning applications, as set out in **Appendix A**, be approved until such time as the report referred to in paragraph 1.2 is considered by the Council, at which point the current temporary planning delegations will expire and the Council will either adopt new permanent planning delegations or the planning delegations will revert to those contained in the Constitution immediately prior to 13 May 2020
- 2) That the Constitution remains amended as shown in **Appendix B**, such amendments to apply until such time as the report referred to in paragraph 1.2 is considered by the Council, at which point the amendments will expire.

1.0 BACKGROUND

- 1.1 On 13 May 2020 the Council agreed temporary amendments to the scheme of delegation in order to ensure that as many planning applications as possible can be determined in a timely manner whilst maintaining member oversight. Whilst the delegations aim to reduce the number of applications that might need to be submitted to Planning Committee, they supplement but do not reduce or remove any of the powers of the Planning Committee to determine any application.
- 1.2 The continued uncertainty around the current crisis has resulted in changed working arrangements. Since the original measures were approved by Council, Virtual Planning Committee Meetings have been held successfully. The temporary delegations have provided flexibility that has allowed planning performance against national indicators with respect to timeliness of decision making to be maintained. In the context of the continuing concerns relating to COVID-19, including a second national lockdown, approval to extend the temporary delegations is sought to enable this flexible approach to continue. During this extended period officers will take the opportunity to reflect and bring forward a revised set of permanent delegations for Council consideration at the AGM in May.
- 1.3 The proposals:
 - are intended to be in force until such time as officers bring forward a revised set of delegations for Council consideration at the AGM in May;

- extend the level of officer delegation but includes a ‘filter’ at Chairman’s Panel for significant/contrary to policy applications, those where members or Senior Officers make the application or have an interest, those relating to Council land and where the ward member has requested that the application be subject to consultation with the Chairman’s Panel prior to determination and the request clearly relates to material planning considerations; and
- do not remove the ability of the Planning Committee to determine planning matters, as its powers will co-exist with any extended delegations.

2.0 **OPTIONS**

2.1 To agree an extension to the amended protocol/delegation detailed in **Appendix A**.

2.2 To propose alternative arrangements and/or timescales.

2.3 To do nothing.

3.0 **REASONS FOR RECOMMENDATIONS**

3.1 Whilst Virtual Planning Committees are now able to meet successfully it is considered that the amended protocol/delegation provides flexibility in terms of decision making to enable the Committee to focus on key applications and performance to be maintained.

3.2 The proposed delegation/protocol ensures that the Chairman’s Panel has an extended consultative role where Officers have wider delegated authority.

3.3 The new delegation/protocol is temporary and does not prevent the Planning Committee from determining applications. Where the Panel is consulted, the Officer with delegated authority must give significant weight to the Panel’s views. Members are able to request that any application be considered by the Chairman’s Panel.

4.0 **EXPECTED BENEFITS**

4.1 The proposed amendments will help to ensure that delays to applications are minimised, and provide clarity to members and members of the public and help to reduce the risk of legal challenge.

5.0 **IMPLICATIONS**

5.1 **Constitutional & Legal**

5.1.1 Under section 101 of the Local Government Act 1972 the Full Council may authorise officers to discharge any functions. There are no legal impediments to the proposed amended delegations, but officers will, as is usual in any delegation, retain the right to refer applications to the Planning Committee where they consider this necessary.

5.2 **Financial**

5.2.1 Where any application is not determined in good time an applicant may be able to secure a refund of fees if the application is not determined within 26 weeks, unless they agree to

extend the determination period. The continued flexibility in delegations helps to mitigate this risk.

5.3 Reputation

5.3.1 It is anticipated that this report will go as far as possible in ensuring that applications are determined in the most efficient manner possible pending any permanent change to the delegations.

5.4 Risk Management

5.4.1 It is considered that this report mitigates, so far as possible, risks to the local economy arising from the time taken to determine planning applications; the risk of refunding planning application fees to developers; and the risk of challenge on the basis of fairness. Some risk of delay cannot be mitigated by the Council – such as where statutory consultees are unable to respond to consultation in the usual timescales as a result of the current coronavirus emergency.

6.0 WARDS/COMMUNITIES AFFECTED

6.1 All wards.

7.0 ACRONYMS

7.1 None.

Background papers:- The Council's Constitution, which can be found on the South Holland District Council website

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Key Decision: N

Exempt Decision: N

This report refers to a Mandatory Service

Appendices attached to this report:

Appendix A Proposed protocol/delegations to Officers relating to determination of planning applications

Appendix B Proposed amendments to the Constitution arising from the proposed amended protocol/delegation to Officers