

REPORT OF DIRECTOR OF PLANNING AND PARK DIRECTION

SUBJECT: TO MAKE TEMPORARY CHANGES IN LIGHT OF THE IMPACT OF COVID 19 TO THE AUTHORITY'S SCHEME OF DELEGATION

Purpose of Report

In order to enable continuity of the planning service during this Covid -19 period the following amendments are proposed, for a temporary period of 3 months, to the scheme of delegation:-

- i) Delegation to the Chief Executive/Director of Planning and Park Direction for applications submitted by the Authority or by a Member of the Authority or an employee of the Authority
- ii) With agreement from the Chair and Vice Chair of the Development Management Committee meeting delegation to the Chief Executive/Director of Planning and Park Direction for applications with a recommendation contrary to the view of the city/town/community council
- iii) With agreement from the Chair and Vice Chair of the Development Management Committee delegation to the Chief Executive/Director of Planning and Park Direction for major applications which have not received any objections from third parties

Background

a) *Delegation*

The current scheme of delegation is attached at Appendix A.

b) *Covid – 19*

Members will be aware that the Authority took the decision to postpone the Development Management Committee meeting on 18th March 2020 as the Authority could not ensure social distancing thus possibly putting Members, staff and the general public at risk. The Development Management Committee requires Members to be present to make decisions and the Authority, following government advice, have suspended all committee meetings. It is imperative however that the planning function does not grind to a halt and that decisions continue to be made as far as possible.

Applications falling within categories ii) and iii) of the proposed amendments will be referred to the Chair and Vice Chair of the Development Management Committee for their agreement to be dealt with under delegated powers. In circumstances where agreement cannot be reached between the Chair and the Vice Chair the application will be reported to the next available Development

Management Committee. It is anticipated that the number of applications falling within these categories will be low.

Consequently this report seeks a temporary amendment to the scheme of delegation in order that the planning function is maintained as far as possible

In the system there are currently 16 applications which fall within these categories and could be determined under delegated powers.

Policy considerations

None

Financial considerations

There is the potential for applicants to request a refund of the application fee if a decision is not made within 16 weeks of validation.

Risk considerations

The reputation of the Park Authority is a consideration in the timely management of planning application decisions.

Equality considerations

Comments from City/Town/Community Councils will be given proper consideration during the processing of the application and will be addressed in the delegated report. The Chair and Vice Chair will be involved in the decision making process of applications where the recommendation differs from that of the City/Town/Community Council.

Welsh Language

None

Conclusion

This temporary operational change will ensure continuation of the planning service during this Covid-19 period.

RECOMMENDATION:

That Members resolve to temporality amend the scheme of delegation with regard to planning.

Background Documents

Scheme of delegation – Planning

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Consultees: Tegryn Jones, Caroline Llewellyn, Janet Evans



- 1) The following matters are delegated to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16) (exceptions to this are listed under 2 (Exceptions) below): (NPA 15/03/06)

Where applicants requested that applications be considered by Committee to give them the opportunity to speak at Committee, these requests be refused if that is the only reason given. (NPA 14/10/09)

a) The consideration and determination of all submissions made under current planning legislation. These include:

- Planning applications;
- The imposition of conditions and reasons for decisions on planning permissions;
- Detailed information required by conditions of planning permissions;
- The discharge of conditions in relation to applications submitted by Members or officers or their immediate family, where officers or Members are declared as the owners on the ownership certificates, where officers have an interest in the application, by Members who have been Members of the Authority less than 12 months prior to the application, or the application is made on behalf of the Authority. (NPA 5/2/14);
- The formulation of reasons for the refusal of planning applications;
- Applications to develop land without compliance with conditions previously imposed;
- Retrospective applications;
- Listed Building and Conservation Area applications;
- Service of Listed Building Preservation Notice;
- Advertisement applications;
- Applications for Hazardous Substances Consent;
- Minerals and Waste applications;
- Proposals affecting trees covered by a Tree Preservation Order;
- Proposals required to be notified to the L.P.A. under Planning regulations (General Permitted Development Order, etc);
- Applications for Certificate of Lawful Use and Development (CLEUD), and Certificated of Proposed Use and Development (CLOPUD);
- Applications to vary or discharge Section 106 agreements;
- The revocation or modification of a planning permission;
- Appeals against the refusal of planning permission, conditions of consent, etc;
- Applications for Certificates of Appropriate Alternative Development.

- Approving applications for non-material amendments made under Section 96A of the Town and Country Planning Act 1990 (*NPA 17/12/14*)

b) The consideration and determination of issues under the Environmental Impact Assessment regime:

- The need for a Scoping Opinion
- The need for a Screening Opinion
- The need for the submission of an Environmental Impact Assessment.
- Engaging public consultation in respect of an Environmental Impact Assessment.
- Consideration of the adequacy of the Environmental Statement

c) The consideration of “Working amendments” (*Policy Committee 18/07/2001 Amended NPA 17/12/14*)

- the working programme within a quarry where the changes were contained within the excavated area of the quarry;

d) Other Functions:

- Tree preservation orders and applications to fell/lop within such areas
- Purchase Notices
- Designation of Conservation Areas
- Completion Notices

The Authority is also required to comment on applications being considered by other authorities.

2) EXCEPTIONS

The following matters have to be the subject of a report to the Development Management Committee:

- Any application subject to Environmental Impact Assessment.
- Any “major” application as defined by the need to advertise the proposal under article 8 of the General Development Procedure Order, 1995.
- Any application that is contrary to the provisions of the Development Plan but which is to be recommended for approval.
- Any application where there is conflict between the Development Plan policies and policies proposed in an emerging plan.
- Any application (except discharge of condition or non-material amendment (*NPA 10/08/16*) – see above) submitted by a Member of the Authority, or a member of his immediate family, or a member who has left the Authority less than twelve months prior to the submission of the application.

- Any application (except discharge of condition – or non- material amendment (NPA 10/08/16) see above) submitted by, or in which an officer employed by the Authority has an interest.
 - Any application (except discharge of condition – or non- material amendment (NPA 10/08/16) see above) where the owner of the land is a Member or an officer of the Authority as declared on the ownership certificate accompanying the application.
 - Any application that is to be determined contrary to the view expressed by the Community Council, where that view is a material planning consideration. The only reason for bringing an item to Committee in these circumstances should be based on a material planning consideration. The comment ‘support’ or ‘object as it is retrospective’ would not be judged a sufficient reason to bring an item to Committee if the officer recommendation was contrary. (Caveat amended by NPA 14/10/09)
 - Any application that is to be recommended for approval contrary to the advice of a Statutory Consultee.
 - Any application which the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16) decides should be referred to Committee because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial. Justification for this approach to be recorded on the file.
 - Any application made by or on behalf of the Authority or an application in which the Authority has a financial interest as landowner
 - The designation of a Conservation Area.
 - Any application that a Member requests be brought before the full Committee. Members wishing to take advantage of this provision are to advise the officer in writing using the appropriate form within 21 days from the receipt of a valid application, giving the reasons why they would like the matter considered by the Committee. (Criterion added NPA 14/10/09 and amended NPA 07/12/11)
- 3) The Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16) be authorised to approve provisional Tree Preservation Orders – the signatures of any two officers being required on such an Order. (NPA 20/09/04)
- 4) **ENFORCEMENT**
- a) Consideration of the need to serve the following are delegated to the Chief Executive (National Park Officer), in the absence of the Director who has

responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (*NPA 10/08/16*):

- Planning Contravention Notices (Principal Planning Officers also authorised to sign, subject to no officer signing PCNs which relate to cases on which they are the case officer) (*NPA 01/02/12*)
- Breach of Condition Notices
- Enforcement Notices
- Listed Building Enforcement notices
- Stop Notices
- Injunctions
- Institute Prosecutions or other legal proceedings

b) Every enforcement case is delegated unless (*NPA 01/02/12*):

- i. There is a breach of planning control and the case is contrary to the provisions of the Development Plan but it is recommended that enforcement action should not be taken (this would not include cases that are lawful by virtue of the passage of time or are of such a minor nature that it is not expedient to take action).
- ii. There is a breach of planning control and the case complies with the provisions of the Development Plan but it is recommended that enforcement action should be taken.
- iii. The case relates to a Member of the Authority, or a Member of his /her immediate family or a Member who has left the Authority less than twelve months prior to the commencement of the investigation.
- iv. The case relates to a site in which an officer employed by the Authority has an interest.
- v. The case is one which the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (*NPA 10/08/16*) or the Authority's Solicitor/Legal advisor decides should be referred to Committee because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial or which could have financial implications for the Authority. Justification for this approach is to be recorded on the file.
- vi. The case relates to land in which the Authority has an interest or has a financial interest as landowner.
- vii. Any Member may ask for a particular case to be brought before the Committee by writing to the Head of Development Management and giving full reasons which should be based on planning grounds.

- viii. Prosecution action is required - unless in relation to a breach of the advertisement regulations or in relation to works to a listed building which are criminal offences and often require immediate action as a result.

This scheme of delegation relates to the taking or not of enforcement action, breach of condition action, action under Section 215 of the Town and Country Planning Act, action in respect of unauthorised advertisements etc

The delegation for taking action is given to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16) and the two Principal Planning Officers. The Authority's Solicitor will also be required to check all enforcement notices.

The delegation for serving a Stop Notice is given to the Chief Executive or Director of Park Direction and Planning in consultation with the Chair or Deputy Chair of the Development Management Committee.

5. The following matters under the Nationally Significant Infrastructure Projects regime:

- All procedural matters including responses to the Statement of Community Consultation and adequacy of consultation request
- Response to Pre-application enquiries
- Preparation and Presentation of Evidence at Examinations
- The consideration and determination of information required by conditions of development consent orders

(NPA 17/12/14)