

# **Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 12 November 2020**

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**Subject:**

**Revised Scheme of Delegation of Planning Decisions**

**Summary statement:**

**This report seeks to sets out proposed changes to the Scheme of Delegation of Planning Decisions. Members of the Regulatory & Appeals Committee are requested to adopted the revised scheme.**

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**Portfolio:**

**Change Programme, Housing, Planning and  
Transport**

**Overview & Scrutiny Area:**

**Regeneration and Economy**

## **1. SUMMARY**

- 1.1 The current Scheme of delegation of Planning Decisions was approved by the Regulatory & Appeals Committee on 11 August 2015 and took effect from 16 August 2015. It was subsequently amended in March 2017 to take account of changes of job descriptions. The current scheme as adopted is attached at Appendix 1.
- 1.2 Members are requested to adopt the revised scheme of delegation.

## **2. BACKGROUND**

- 2.1 Section 101 of the Local Government Act 1972 allows the local planning authority to arrange for the discharge any of its functions by a committee, sub-committee, or an officer or by any other local authority. Since its creation in 1974, the Council has adopted general arrangements to cover the responsibilities of Committees, Sub Committees and officers. With regard to the powers given to officers, the exercise of delegated powers has given flexibility, enabling decisions to be made efficiently and speedily.
- 2.2 The exercise of the power to delegate planning functions has been actively encouraged by Central government and the current Ministry of Housing, Communities and Local Government (MHCLG), having regard to practical considerations including the need for efficient decision-taking and local transparency. Current planning practice guidance states “It is in the public interest for the local planning authority to have effective delegation arrangements in place to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area”.
- 2.3 The government has also placed a strong emphasis on measuring the performance of local authorities in determining planning applications. The current approach is to assess local authorities performance on the speed and quality of their decisions on applications for major and non-major development. Targets are currently 60% of major planning applications within 13 weeks and; 70% of non major applications within 8 weeks. Performance against these targets is monitored and submitted to MHCLG on a quarterly basis. For 2020/21, the Planning Service has also set local performance targets of 80% for major applications, 80% for minor applications and 90% for other applications.
- 2.5 Previous changes to the scheme of delegation have ensured that the Service has been able to continue to improve its overall performance against national performance targets and also streamline the decision making process for planning applications.
- 2.6 It is also clear that the Courts and the Ombudsman continue to require reassurance that decisions taken within the Council, particularly those delegated to officers have a specific and clear underpinning by stated terms of reference.

### **3. OTHER CONSIDERATIONS**

- 3.1 The current role and functions of the Regulatory & Appeals Committee as the decision making body is set out in Article 8 of the Council's Constitution and Article 14.20 deals with the delegation of functions, to the Strategic Director of Place, including routine decisions of a professional, managerial, operational or regulatory nature. It also sets out the authority for other officers to exercise these functions on their behalf.
- 3.2 The functions delegated to the Strategic Director of Place in relation to decision making on planning applications and enforcement matters, is set out in the current Scheme of Delegation of Planning Decisions. This is a very complex and detailed document which comprises of 76 individual powers with associated interpretation set out within 5 levels of decision making. It essentially lists everything that can be determined under delegated powers.
- 3.3 Whilst the scheme of delegation has been in this format since its original conception it has become apparent in recent times that this approach and level of details is no longer the optimum approach to decision making. Primary and secondary planning legislation is being amended more frequently in the light of changing government policy, with new application types, procedures and permitted development rights being introduced on a more regular basis. This means that many of these new provisions fall outside the remit of the scheme of delegation and it requires updating accordingly.
- 3.4 The very rigid and detailed provisions within the existing scheme of delegation have resulted in routine matters being referred to Area Planning Panels thus unnecessarily increasing the length of agendas and meetings. These onerous requirements have also led to the adoption of practical working arrangements which do not always strictly adhere to the provisions contained within the scheme thus opening the Council to challenge. In addition, the 5 levels of authorisation and complex cross referencing within the document creates a lack of flexibility for decision making and has also caused interpretation issues as to what the correct course of decision making should be. This has resulted in applications being unnecessarily referred to Planning Panels.
- 3.5 Whilst the development management service achieved nearly 97% delegation during the last financial year, it is still considered that relatively straightforward applications have been considered by the Bradford and Keighley/Shipley Sub Committee's due to the wording of the existing provisions enabling referrals by members and also the ability for schemes with contrary representations to the recommendation to be referred. This results in unnecessary delays, increased costs and inequitable and inconsistent decision making across the District. The length of agendas and meetings increases too.
- 3.6 During the current covid pandemic temporary arrangements have been put in place to enable Planning Panels and Regulatory & Appeals Committee to continue to operate via an online platform. This change has inadvertently resulting in less applications being considered at the meeting for practical reasons and highlighted the need for simplification to the scheme of delegation in order to allow increased delegation.

- 3.7 In view of the above it is recommended that the scheme of delegation be revised and simplified to establish that all applications and related determinations be determined by officers except for clearly stated exceptions. This approach involves listing all of the exceptions where a planning application will be referred to Regulatory & Appeals Committee or an Area Planning Panel for consideration. The proposed scheme is set out at Appendix 2.
- 3.8 The revised scheme is the opposite approach to the current arrangements but will enable council officers, council members and other service users to clearly identify and understand the remit of Regulatory & Appeals Committee and Area Planning Panels and minimise the potential for interpretation and ambiguity issues.
- 3.9 Importantly a streamlined scheme of delegation will enable the Planning Committee's to concentrate on those key applications which justify their time and consideration, in accordance with the current planning practice guidance.
- 3.10 The revised scheme of delegation would be accompanied by an internal working document which sets out officer levels of decision making for the delegated powers for planning application and enforcement matters.

#### **4. FINANCIAL & RESOURCE APPRAISAL**

- 4.1 An effective and up to date Scheme of delegation will assist the Council in achieving the established turnaround time for dealing with planning applications and related matters.

#### **5. RISK MANAGEMENT & GOVERNANCE ISSUES**

- 5.1 A fully detailed and up to date Scheme of delegation will help to establish transparency and consistency of decision making for both delegated and committee decisions.

#### **6. LEGAL APPRAISAL**

- 6.1 The Council's Constitution contains a general delegation of powers to certain specified officers. This is set out at paragraph 14 Part 2 Articles of the Constitution.

#### **7. OTHER IMPLICATIONS**

##### **7.1 EQUALITY & DIVERSITY**

- 7.1.1 An updated scheme of delegation will establish transparency and consistency of decision making. .

##### **7.2 SUSTAINABILITY IMPLICATIONS**

- 7.2.1 There are no sustainability implications arising from this report.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

7.3.1 There are no greenhouse gas emissions impacts arising from this report.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

7.4.1 There are no direct community safety implications arising from this report.

### **7.5 HUMAN RIGHTS ACT**

7.5.1 The proposed Scheme of delegation specifically requires officers to take account of Human Rights issues when making decisions. Determination of applications by officers or the relevant Panel or Committee engages, and with the appropriate safeguards complies with, Human Rights.

### **7.6 TRADE UNION**

7.6.1 There are no trade union implications arising from this report.

### **7.7 WARD IMPLICATIONS**

7.7.1 There are no ward implications arising from this report.

### **7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS**

7.8.1 There are no committee action plan implications arising from this report.

### **7.9 IMPLICATIONS FOR CORPORATE PARENTING**

7.9.1 There are no implications for corporate parenting arising from this report.

### **7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT**

7.10.1 There are no privacy impact assessment implications arising from this report.

## **8. NOT FOR PUBLICATION DOCUMENTS**

8.1 None.

## **9. OPTIONS**

9.1 None.

## **10. RECOMMENDATIONS**

10.1 It is recommended that the Committee approve the adoption of the Revised Scheme of Delegation set out in Appendix 2 in substitution for the current Scheme of Delegation set out in Appendix 1.

10.2 That the revised Scheme of Delegation shall remain in force until such time as it may be substituted, modified, varied or repealed by decision of the Regulatory and Appeals Committee or such person or body inheriting the powers of the Regulatory and Appeals Committee, or the Council.

## **11. APPENDICES**

- 11.1 Appendix 1: Current Scheme of Delegation 2017
- Appendix 2: Proposed Scheme of Delegation

## **12. BACKGROUND DOCUMENTS**

- 12.1 Local Government Act 1972
- Local Government Act 2000
- The Council's Constitution