

18th June 2020

Report of	Assistant Director of Place and Client	Author	Karen Syrett ☎ 506477
Title	Temporary Changes to Planning Scheme of Delegation		
Wards affected	All		

1. Executive Summary

- 1.1 This report sets out the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown. It also details all those applications that were determined during this period and proposes a further change to the scheme of delegation while virtual committees are in operation.

2. Recommended Decision

- 2.1 Planning Committee are asked to note those applications that have been determined under the emergency delegation.
- 2.2 The Committee are also asked to agree an update to the revised scheme of delegation.

3. Reason for Recommended Decision

- 3.1 To allow council decision making to continue in the most efficient manner whilst ensuring those applications which are controversial or contrary to policy are determined in the public domain.

4. Alternative Options

- 4.1 The Committee could decide to change the proposed scheme of delegation or the length of time it operates.

5. Background Information

5.1 Due to the Coronavirus pandemic and in response to Government advice on social distancing etc, the Council in March 2020 cancelled all scheduled formal decision-making meetings for the remainder of the 19/20 Municipal Year. However, it was recognised that it was important to ensure that the Council's ability to determine planning applications which would ordinarily have been considered by members of the Planning Committee could still function during this period. Accordingly, Interim Planning Arrangements following agreement by the Leader of the Council, Group Leaders and the Chair of the Planning Committee, were introduced with effect from 18 March 2020.

5.2 The Interim Arrangements comprised of the following:

1. Formal meetings of the committee will be cancelled until further notice. This will be kept under review in line with the Govt's emergency legislation which may change the way in which we can conduct formal meetings.
2. All applications that are required to be considered by the Planning Committee will now be determined by the Planning & Housing Manager following consideration and recommendation by the Chair and Group Spokespersons of the Planning Committee; i.e Councillors Liddy , Hazel, Barton & P Oxford ("the Members")
3. Applications will be emailed to the Members who will consider the reports and decide them on a majority decision with the chair having a second and casting vote. The Members will have the option of deferring an application if they feel they require further information.
4. A record of all decisions will be maintained and if any decisions are contrary to the recommended decision in the report, reasoning must be provided.
5. Any councillor which has requested that an application be called in will be afforded the opportunity to submit a written submission by email to the Members who will consider the submission when determining the application.
6. A report will be submitted to the first formal meeting of the Planning Committee (howsoever formed) which will detail the applications and decisions made in relation to all applications considered under these Interim Arrangements.

5.3 A decision will be taken on any application to be decided under these Interim Arrangements where there is particular public interest. This may include deferring the application to a later date. It was intended that the Interim Arrangements would be used for as short a period as possible and were designed to ensure that the Council's planning decision process could be maintained during the current national situation. The Monitoring Officer kept the arrangements under review so adjustments could be made if necessary and expedient in consultation with the Group Leaders and Chair of Planning Committee. No such changes have been necessary.

5.4 The Local Authorities and Police and Crime Panel (Coronavirus) (Flexibility of Local Authority and Police and Crime Meetings) (England) Regulations 2020 ("the Regulations") came in to force on 4 April 2020 and apply to meetings taking place before 7 May 2021 (which could be brought back to an earlier date if the existing restrictions are relaxed). The Regulations override any provisions to the contrary in the Constitution. The Regulations provide that, amongst other provisions, Council meetings can be held remotely. Remote meetings bring new challenges, require alternative ways of working and require a different discipline by all who participate. As a result, it is necessary to consider how Planning Committee should function during this period.

5.5 There are a number of documents and best practice guidance available from the likes of the Planning Advisory Service (PAS) and Planning Officers Society (POS). Planning committee exists to make decisions on significant and sometimes finely balanced

applications. It is recognised that at least in the short term it is very likely that the workload of a committee will need to be reduced. One way of achieving this is to increase the scheme of delegation.

- 5.6 The arrangements for public participation at the majority of the Council's online meetings provide for the submission of written representations only. However, the ability of members of the public, objectors or supporters of applications to make their representations in person to the Planning Committee members was an important consideration. With the Chairman and Group Spokespersons consent, provision has been made for public participation at Planning Committee meetings online to replicate the conventional speaking arrangements which had been in place previously, so far as is possible. As such, members of the public will be able to register to speak at meetings and will be invited to make their representations in person to the Committee members. In addition, a new innovative approach to enable meetings to be more accessible to the public has been introduced with online meetings being broadcast to the Council's YouTube channel from where they will be freely available to view live and afterwards.
- 5.7 The practice guidance suggests that in the short term, it might be wise to consider whether applications, previously earmarked for a committee decision, should instead be determined under delegated powers, go through a virtual planning committee or instead be deferred. It is vital that there is no perception that these emergency conditions reduce scrutiny, public engagement or accountability. However, set against these considerations is the risk of a large backlog building up and of important applications becoming delayed or starting to drift. It is recognised at both a national and local level that the construction industry is extremely important to economic recovery and it is not desirable to put unreasonable obstacles in the way.
- 5.8 The Interim Arrangements have been in place for 11 weeks now and have demonstrated that there are certain types of applications/developments that can be determined without the need for a formal committee decision. It is therefore recommended that the arrangements detailed above at 5.2 are adapted so fewer applications are referred to the committee while it operates on a virtual basis.
- 5.9 The substantive scheme of delegation from the Planning Committee is as follows;

Delegated to Assistant Director for Place and Client Services;

1. The determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application:
 - a) significantly contrary to adopted policies or a departure from the development plan, and which is recommended for approval;
 - b) which any Ward Councillor requests in writing to the Assistant Director for Place and Client Services within 25 days of notification, should be subject of consideration by the Committee;
 - c) which constitutes a major application on which a material planning objection(s) has been received in the stipulated time span and the officer recommendation is to approve;
 - d) which constitutes a major application, that is recommended for approval and where a section 106 Agreement is required (excluding unilateral undertakings);

- e) submitted by or on behalf of a Colchester Borough Council Councillor, Honorary Aldermen (or their spouse/partner) or by any Council officer (or their spouse/partner);
- f) submitted by or on behalf of Colchester Borough Council (for clarity, this does not include applications made by other parties on land owned by the Council where the development is not by or on behalf of the Council).

Note: this scheme of delegation is temporarily superseded by the Interim Arrangements set out above at 5.2.

5.10 Officers, the Committee Chair and Group Spokespersons have discussed a revised scheme based on their experience of interim arrangements. This would change the delegation for a limited period to the following;

1. Delegated to Assistant Director for Place and Client Services - the determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application which is significantly contrary to adopted policies or a departure from the development plan, and which is recommended for approval.
2. Those applications where a Ward Councillor requests in writing to the Assistant Director for Place and Client Services within 25 days of notification, that an application should be subject of consideration by the Committee will be referred to 'The Members' who will consider if the application needs to be determined by Committee or whether the Interim arrangements would be appropriate.
3. Those major applications, that are recommended for approval and where a section 106 Agreement is required will only be referred to Committee if there is a dispute about the detail of the S106 agreement.

5.11 All those applications determined under the revised Interim Arrangements will be reported to The Members who will be able to recommend that an application is referred to the Committee if they consider it to be in the public interest. All decisions taken under the Interim Arrangements, that would ordinarily be considered by the Committee, will be reported to the next available committee meeting. If agreed the revised Interim Arrangements are intended to operate for the duration of the operation of virtual meetings.

5.12 In the 11 weeks since the Interim Arrangements have been in place 16 applications have been determined. Every application was determined in accordance with the protocol set out above and in line with the Officer recommendation. The details of each application are contained in Appendix 1 to this report. A verbal update will be provided at the committee if further applications have been considered under the Interim Arrangements following the writing of this report.

6. Equality, Diversity and Human Rights implications

6.1 In completing this section you should give proper weight to equality and diversity considerations and demonstrate how the decision will impact on the promotion of equality and overcome discrimination in relation to gender, gender reassignment, disability, sexual orientation, religion or belief, age and race/ethnicity.

- 6.2 All new policies and any major changes to a policy need an Equality Impact Assessment (EIA) to be completed. Senior Management Team has advised that the following process must be complied with:
- EIA to be completed in line with the policy or change being introduced;
 - EIA to be uploaded to the website and Equality and Diversity Officer informed who will amend the master timetable to include the new EIA and review date;
 - A link to the EIA to be included in the relevant section of the report.

Reports will not be processed without a link to a completed and agreed EIA.

- 6.3 Furthermore, you need to generally consider whether a course of action will involve a breach of human rights and show that these have been taken into account by recording the reasoning behind a particular decision. For help contact Andrew Weavers ext. 2213.

7. Standard References

- 7.1 There are no particular references to the Strategic Plan; consultation considerations or financial; community safety; health and safety or risk management implications.

8. Risk Management Implications

- 8.1 The proposed scheme of delegation is intended to improve decision making by ensuring the Planning Committee can concentrate on matters that are of most importance.

9. Environmental and Sustainability Implications

- 9.1 The purpose of the planning system is to contribute to the achievement of sustainable development. Each report should consider the social, environmental and economic implications which are the overarching objectives set out in the National Planning policy Framework, which are interdependent and need to be pursued in mutually supportive ways.

Appendix 1

App. Ref.	Site	Ward	Recommendation	Decision
191830	Land south of School Road Langham -	Rural North	Approval subject to S106 agreement	Approval subject to S106 agreement
20019	Axial Way, Braiswick - extension	Myland	Approval	Approval
192963	76 Maidenburgh Street – replacement windows	Castle	Approval	Approval
190522	Land West of Gosbecks Road – 144 dwellings	Shrub end	Approval subject to S106 agreement	Approval subject to S106 agreement
193049	Timberlands Spring Gardens Rd, Chappel – change of use – agricultural and B2	Rural North	Approval – temporary period	Approval – 2 year temporary consent
193133	Land to the north/south Tollgate West – vary outline permission for retail park, cinema, etc	Stanway	Approval subject to s106 linking agreement	Approval subject to s106 linking agreement
192841	Eight Ash Green – vary conditions attached to 171529 (up to 150 units)	Lexden and Braiswick	Approval subject to S106 agreement	Approval subject to linking S106 agreement
200037	5 Military Road, Colchester – conversion of 10 flats to 27 bedsits/studios (retrospective)	New Town & Christ Church	Refusal	Refusal
192756	Breton Hill Barn, Layer Breton	Marks Tey & Layer	Approval	Approval with changes to 2 conditions
200275	Embassy Suite, Balkerne Hill – Change of Use	Castle	Approval	Approval with extra condition re. glazing
200079	Northern Gateway – Infrastructure works	Highwoods	Approval	Approval on receipt of satisfactory highway drawings
2000094	Highfields Farm, Messing – Solar Farm – extend the permission to 40 years	Tiptree/outside of borough	Approval	Approval with extra conditions/informative
200303	R/O International House, Moss Rd, Stanway	Stanway	Approval	Approval

200202	55 Harwich Road – change of use from HMO to guest house	St Annes & St Johns	Approval	Approval – extra condition/informative
191997	Colchester Rd, West Bergholt – 41 new homes	Lexden & Braiswick	Approval subject to S106 agreement	Approval subject to S106 agreement
192271	Colchester Rd, West Bergholt – 41 new homes	Lexden & Braiswick	Approval subject to S106 agreement	Approval subject to S106 agreement