

10th December 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 reviews the temporary measures that were introduced to allow planning decisions to be made during the Covid-19 lockdown and changes to the scheme of delegation while virtual committees are in operation. It also details all those applications that have been determined under the delegated arrangements since the last update in October.

2. Recommended Decision

- 2.1 The Committee are asked to agree an extension to the revised scheme of delegation for a period of approximately 6 months.
- 2.2 Planning Committee are also asked to note those applications that have been determined under the emergency 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 In March 2020 due to the Coronavirus pandemic and in response to Government advice on social distancing etc, the Council 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 was to be taken on all applications decided under these Interim Arrangements where there was particular public interest. This consideration included deciding whether the application should be deferred to a later date. It was intended that the Interim Arrangements would be used for as short a period as possible and they were designed to ensure that the Council's planning decision process could be maintained despite the lockdown. 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 were necessary prior to the first virtual committee meeting.
- 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 was 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 provided 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 member of the Planning Committee is an important consideration. With the Chairman and Group Spokespersons consent, provision was 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 are 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 was introduced with online meetings being broadcast to the Council's YouTube channel from where they are 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 initial Interim Arrangements were in place for 11 weeks between March and June. This demonstrated that there are certain types of applications/developments that can be determined without the need for a formal committee decision. It was therefore agreed at the first virtual Planning Committee held on 18th June that the arrangements detailed above at 5.2 would be adapted so fewer applications would be referred to the committee while it operates on a virtual basis. It was also agreed that the arrangements would be reviewed in December 2020.
- 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 below.

- 5.10 Officers, the Committee Chair and Group Spokespersons discussed a revised scheme based on their experience of the initial interim arrangements which would allow virtual committee meetings to focus on a few applications which were considered to be strategically important. This changed 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 It was also agreed that all those applications to be determined under the revised Interim Arrangements would be reported to 'The Members' who could recommend that an application is referred to the Virtual 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, have been reported to the next available committee meeting.
- 5.12 Since March, 48 planning applications have been determined under the interim delegation arrangements (approx. 5 per month). These have ranged from replacement windows to changes of use and new housing. This has allowed virtual meetings to focus on applications that are in the public interest and also facilitated public speaking on each.
- 5.13 It is considered that the interim arrangements are working well and should continue for the next 6 months. If agreed, a report reviewing the arrangements will be presented to the first planning committee meeting in the next municipal year.
- 5.14 All applications determined under the interim procedures are reported to the next available committee. In line with this protocol details of each application determined since the last update 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. Standard References

- 6.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; equality, diversity and human rights implications, or health and safety implications.

7. Risk Management Implications

- 7.1 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.

8. Environmental and Sustainability Implications

- 8.1 The purpose of the planning system is to contribute to the achievement of sustainable development.

Appendix 1

App. Ref.	Site	Ward	Recommendation	Decision
201365	Stanway Community Centre	Stanway	Approval	Approval
200533	Tankerton, Nayland Rd, Great Horkesley	Rural North	Approval	Approval
201949	30 Gainsborough Road	Prettygate	Approval	Approval
201208	Boxted Road	Mile End	Approval	Approval
202045	Keelers Lane, Wivenhoe	Wivenhoe	Approval	Approval
201705	Severalls	Mile End	Approval	Approval
202136	54 Goldcrest Close, Longridge	Greenstead	Approval	Approval
202122	17 Magnolia Drive	Greenstead	Approval	Approval