

MUNICIPAL YEAR 2005/2006 REPORT NO. **281**

MEETING TITLE AND DATE:

Planning Committee
24/01/06

REPORT OF:

Assistant Director
(Planning and Transportation)

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| AGENDA - PART: 1 | ITEM: 5 |
| SUBJECT: Scheme of Delegation – Planning Applications Proposed renewal of amendments for major applications | |

1. SUMMARY

- 1.1 The revised Scheme of Delegation, whereby major applications recommended for refusal can be determined under Delegated Authority, originally agreed for a temporary period in September 2004 was extended for a further temporary period at planning committee on 15th November 2005. It was agreed by the committee that the arrangements should be extended until the January 2006 meeting. This report seeks that arrangements for the refusal of major applications under delegated powers are made permanent.
- 1.2 The purpose of the revised scheme of delegations was to assist in meeting the Government's performance target for determining major applications.
- 1.3 In addition the report seeks further extension of delegated powers to allow officers to determine all major planning applications for industrial and commercial use (use and development within use classes B1 – B8). Such arrangements would assist further in meeting and exceeding the Government target for determining applications in 13 weeks.

2. RECOMMENDATION

- 2.1 That the revised scheme of delegation be amended to provide that any application which is to be refused planning permission may be determined under delegated authority, subject to the exceptions set out in the revised scheme.
- 2.2 The revised scheme including authority to determine major planning applications for wholly industrial/commercial development is detailed in appendix 1.

3. BACKGROUND

Government targets for determining major planning applications

- 3.1 The current Best Value Government targets for determining planning applications are 60% in 13 weeks for major applications; 65% in 8 weeks for minor applications and 80% in 8 weeks for other applications. The council over recent years and at the current time exceed government targets for the minor and other categories of applications. It is mainly on this basis that the service has been awarded significant Planning Delivery Grant over the last two years. However the service has not achieved the Government target for dealing with major applications. For 2004/2005 the council were made a performance 'standards authority' by the ODPM and were required to determine 52% of major applications in 13 weeks in order to avoid sanctions. In the event we achieved 55% and are no longer a standards authority. This decision was not made on the basis of the service meeting the target but the service's 'direction of travel' indicating potential to meet the target by March 31st 2006 (the end of this fiscal year).
- 3.2 Under the Governments current performance monitoring regime the key emphasis is on authorities dealing with major applications in an efficient manner. Accordingly the assessment for planning delivery grant allocations 2007/2008 will give significant weight to meeting targets in that area. In addition performance improvement in handling major applications is recognised corporately as a key objective as it is critical to the council further improving its Corporate Performance Assessment rating.

Impact on performance of extension to delegated powers

- 3.3 Since September 2004 36 major applications have been determined under delegated authority of which 32 (89%) were determined within the target period of 13 weeks. This has made a significant impact on overall performance figures. As you will see from the graph and table in Appendix 2 showing BVPI 109 performance monitoring over 2005/2006 the cumulative total for dealing with major applications within time by December 31st had risen to 55%. Clearly the revised delegated powers have greatly assisted in the improvement and it is critical that these arrangements continue if the council is to meet the required 60% target. For reasons stated above it is not only important in the short term that performance continues to improve but that improvement is sustained in the future. Accordingly this report seeks authority to determine major applications recommended for refusal under delegated powers on a permanent basis.

Determination of major applications for industrial and commercial development under delegated powers

- 3.4 At present the planning committee determines all major planning applications that are recommended for approval. In a lot of cases this approach is justified due to the scale, complexity and public interest in such proposals. However

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there are a number of applications that are only presented to committee due to the proposals level of floorspace exceeding the 'major' threshold of 1000 square metres rather than for reasons of public or strategic interest. These types of applications are notably developments for wholly commercial or industrial development. These applications are for industrial, light industrial and warehouse and distribution uses which lie within use classes B1, B2 and B8 of the Use Classes Order. Applications for development wholly within these uses are usually situated within areas of the borough specifically designated for commercial and employment uses, surrounded by similar uses. As such the proposals do not usually have any impact on residential amenity or conservation and visual amenity issues. The matters for consideration are normally technical requirements such as servicing, parking and highways requirements. These applications are very rarely politically sensitive.

- 3.5 It is considered for the above reasons that there is justification for major planning applications for wholly B1-B8 development to be determined under delegated authority. Such an amendment would assist in meeting and exceeding the Government targets for determining major applications in 13 weeks. In 2005 whilst 7 such planning applications were determined by committee only 4 were determined within time (57%). All of the applications were determined by planning committee in accordance with the officer's recommendation.
- 3.6 The revised scheme would be subject to the existing provisions relating to councillor requests for an application to be determined by planning committee

4. LEGAL IMPLICATIONS

- 4.1 By Virtue of s101 of the Local Government Act 1972 a Local Authority may arrange for the discharge of any of their functions by a committee, sub committee or an officer of the authority. Where any function of a local authority is discharged by a committee then the committee may arrange for the discharge of any of those functions by a sub committee or officer of the authority.
- 4.2 The Borough Solicitor is satisfied that the council has sufficient powers to extend the scheme as set out in this report.

SCHEME OF DELEGATION PLANNING APPLICATIONS

The Assistant Director (Planning & Transportation), Head of Development Control, Area Planning Managers and Principal Planning Officers (Subject to limitations imposed by the Assistant Director - Planning and Transportation) will determine all applications for planning permission and other development, enforcement and tree matters under the Planning Acts, the Planning and Compensation Act 1991, Section 11 of the London Local Authorities Act 1995, Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976 and any statutory re-enactment or modification thereof and subordinate legislation made there under as scheduled. The Head of the Environmental Crime Unit and the Planning Supervisor – Environmental Crime Unit (Subject to any limitations imposed by the Assistant Director – Planning and Transportation) will determine enforcement decisions detailed in part (n) of the schedule.

SCHEDULE OF POWERS THAT MAY BE DELEGATED

| Category | Relevant legislation |
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| Applications for: | |
| a) Planning Permission | S.57-63, S.70, S299 of the Town and Country Planning Act 1990 Town and Country Planning (General Development Procedure) Order 1995 |
| b) Advertisement Consent | S.220-223 of the Town and Country Planning Act 1990 S.9-14 of the Town and Country Planning (Control of Advertisement) Regulations 1992 |
| c) Listed Building Consent | S.10-19 of the Planning (Listed Buildings and Conservation Areas) Act 1990 |
| d) Conservation Area Consent | S.74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 |
| e) Certificate of Lawfulness of Development (existing and proposed development or use) | S.191-192 of the Town and Country Planning Act 1990 S.10 of the Planning and Compensation Act 1991 |
| f) Prior approval of: | |
| Telecommunications | Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 |
| Agricultural development | Part 6 of the Town and Country Planning (General Permitted Development) Order 1995 |

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| Demolition | Town and Country Planning (Demolition – description of buildings) Direction 1995 |
| g) Development by the Council and development on Council owned land | Regulation 3 and 4 of the Town and Country Planning General Regulations 1992 |
| h) Other Authority Development | Article 10 of the Town and Country Planning (General Development Procedure) Order 1995 |
| i) Reserved Matters | S.92-93 of the Town and Country Planning Act 1990 |
| j) Variation of Conditions | S.73 of the Town and Country Planning Act 1990 |
| j) Legal agreements associated with applications determined under delegated authority. | S.106 of the Town and Country Planning Act 1990 S.278 of the Highways Act 1980 |
| k) Environmental Impact: Screening opinion Scoping opinion | Town and Country Planning (Environmental Impact Assessment) Regulations 1999 Part II Part IV |
| l) Works to protected trees | S.198 and 211 of the Town and Country Planning Act 1990 |
| m) The making and confirmation of Tree Preservation Orders | S.198-199, S.201, S.300 of the Town and Country Planning Act 1990 |
| n) In consultation with the Borough Solicitor the authorisation and service of: Planning Contravention Notices Breach of Condition Notices Enforcement Notices Stop Notices Injunctions Listed Building Enforcement Notices | S.171C of the Town and Country Planning Act 1990 S.1 of the Planning and Compensation Act 1991 S.187A of the Town and Country Planning Act 1990 S.2 of the Planning and Compensation Act 1991 S.172 of the Town and Country Planning Act 1990 S.183 of the Town and Country Planning Act 1990 S.187B of the Town and Country Planning Act 1990 S.3 of the Planning and Compensation Act 1991 S.38 of the Planning (Listed Building and Conservation Areas) Act 1990 |

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| Conservation Area Enforcement Notices | S.74(3) of the Planning (Listed Building and Conservation Areas) Act 1990 |
| Special Enforcement Notices – Crown Land | S.294 of the Town and Country Planning Act 1990 |
| Completion Notices | S.94 of the Town and Country Planning Act 1990 |
| Tree Replacement Notices | S.207 of the Town and Country Planning Act 1990 |
| Dangerous Tree Notices | S.23-24 of the Local Government (Miscellaneous Provisions) Act 1976 |
| Notices requiring the proper maintenance Of land | S.215 of the Town and Country Planning Act 1990 |
| Notices under S.11 of the London Local Authorities Act 1995 | S.11 of the London Local Authorities Act 1995 |
| Hazardous Substances Contravention Notices | S.24 of the Planning (Hazardous Substances) Act 1990 |
| Advertisement Discontinuance Notices | S.224-225 of the Town and Country Planning Act 1990 |
| Decisions not to take enforcement action | S.172 of the Town and Country Planning Act 1990 |
| In consultation with the Director of Corporate Services, undertake:- Prosecutions arising from failure to Comply with the requirements of any Enforcement action taken under Section (n) of the Scheme of Delegation | |

Subject to the following **EXCEPTIONS**:-

The determination of the following categories of application which are to be granted planning permission:

1. Detailed applications for the erection of 10 or more residential units.
2. Outline applications for residential development with a site area of more than 0.5 hectares.
3. Detailed applications for the erection of non-residential development (excluding extensions to existing buildings), in excess of 1,000 sq. metres (gross) unless the development is for wholly B1, B2 or B8 uses.
4. Outline applications for the erection of non-residential development with a site area of more than 1 hectare unless the development is for wholly B1, B2 or B8 uses.
5. Applications for the winning and working of minerals or the use of land for mineral working deposits.

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6. Applications which are advertised as a departure from the Unitary Development Plan.
7. Applications for development in conservation areas and for listed building consent to which the Conservation Advisory Group raise objection.

The following applications are required to be determined Planning Committee:

1. Applications that have been considered by a Panel of the Planning Committee.
- 2.. Applications which any Councillor requests in writing to the Assistant Director (Planning and Transportation) within 21 days of the circulation of details of the application should be determined by Committee, subject to agreement of the Chairman.
3. Any other application or issue which, by reason of its scale, impact upon the environment, or the level of public or likely Councillor interest, should, in the opinion of the Assistant Director (Planning and Transportation), be determined by the Committee.

Background Papers

Report No.104, Scheme of Delegation – Planning Applications Proposed Amendments for Major Applications - Planning Committee 16 September 2004