



Haringey Council

Agenda item:

[No.]

Planning Committee

on

17 March 2009

Report Title: Revising the Scheme of Delegation to Officers on Planning Matters

Report of: The Head of Legal Services and Monitoring Officer

Wards(s) affected: **[All / Some (Specify)]** Report for: Recommendation to full Council

1. Purpose

1.1 To consult the Planning Committee about proposed changes to the powers delegated to Planning officers

2. Recommendations

2.1 That the Committee note and approve the amendments to the scheme of delegation to officers set out in the Appendix to this report and recommend them to full Council for adoption as amendments to the Constitution

Report Authorised by:

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3. Director of Finance Comments

3.1 There are no specific financial implications

4. Head of Legal Services Comments

4.1 The legal implications are set out in the report.

5. Local Government (Access to Information) Act 1985

5.1 The Council's Constitution

6. Background

- 6.1 The full Council on 31 March 2008 agreed certain principles for revising the scheme of delegation to officers across the Council. These principles included the reducing the scheme in length, ensuring delegation down to team leader level wherever possible, updating the scheme and reflecting the “reshaping” of Council Services in 2007.
- 6.2 A report on the revised scheme of delegation, as a whole, is going to the Constitution Review Working Group (CRWG) for consideration. The CRWG is not a formal Committee of the Council but a “working group” including the Leaders of both party groups and other Chairs and Cabinet Members. The CRWG has the responsibility, under the Constitution, for making formal recommendations on all proposals to amend the Constitution to the full Council, probably at the 30 March Council meeting.
- 6.3 The Cabinet is being consulted informally on 24 March about the great majority of the proposed amendments to the scheme of delegation because most delegations are “executive-side”.
- 6.4 The proposed amendments will have little effect on the Council’s “non-executive” Committees and Sub-Committees with the exception of the Planning Committee and the General Purposes Committee but the changes affecting the GPC have already been agreed in principle by full Council. Therefore, this report comes to the Planning Committee to seek Members views on those proposals that involve a substantive change in the respective responsibilities of the Planning Committee and Planning Officers.

7. Proposed Amendments to the Scheme of Delegation

- 7.1 The proposed amendments to the officer delegations that involve substantive changes are set out in the Appendix to this report. The text proposed for deletion is shown struck through and the text for addition or insertion is shown in italics and underlined.
- 7.2 The intention behind the revised scheme is that in most cases the whole of the statutory functions, listed in the sections numbered in the left hand column, will be delegated and the verbal description in the central column is for information only, but not an essential “definition” of the powers being delegated.
- 7.3 The exceptions are those delegated powers marked as “Limited Delegations” in the central column where extent of the delegation is defined by the text in the central column.

8. Section 106 and Planning Agreements

- 8.1 It is proposed to clarify and extend the powers of the Assistant Director and Heads of Development Management to enter into section 106 agreements. There would be a new “free-standing” power to enter into an agreement whenever this would be expedient in the Council’s interest and in terms of planning considerations. It would not

be tied to the determination of a planning application but might be useful, for example, where in other circumstances it proved necessary to define the scope of an existing permission through an agreement with a developer. This could only be done in consultation with the Chair of this Committee who could require the matter to be referred to the Committee if the issues merited Members' consideration and decision.

- 8.2 It is also proposed to clarify officers' powers to modify or discharge planning agreements where this would not change the "heads of terms" or substantive benefits already reported to, and agreed by, the Committee. Such modification/discharge would mainly be technical details concerning the parties bound or the extent of the land subject to the agreement. Wherever there would be an impact on the substantive benefits, for example a change in the number of affordable housing units to be provided, this could only be authorised with the consent of the Chair.

9. Section 247 and Highway Stopping-Up or Diversion

- 9.1 At the top of the second page of the Appendix there are shown the proposed amendments to the delegation under section 247 Town & Country Planning Act 1990. There are two aspects to this.
- 9.2 The first is the power to object to proposals from other Boroughs that involve highway stopping up as a consequence of that Borough granting a planning permission. The amendments being recommended reflect the fact that the exercise of these powers no longer involves the Secretary of State. There is also the inclusion of holding objections from officers on behalf of the Local Planning Authority as well as the Local Highway Authority as at present. This would continue to be a power exercised where there was a short deadline for a holding objection and subject to Members' formal confirmation, or otherwise, of the objection.
- 9.3 The second aspect is a new power for officers to authorise the stopping up or diversion of any highway within Haringey when planning permission had already been granted (either by the Planning Committee or by officers under their established delegated powers) but for some reason the need for the highway diversion/stopping up had not been formally authorised at the time of granting planning permission. It should rarely be necessary for this power to be exercised in cases where the permission is granted by the Committee but there is a need for officers to have powers to authorise minor diversions/stopping up when consequent on a permission within established delegated powers.

10 Other Amendments under the Town and Country Planning Act 1990

- 10.1 The other amendments shown on the first page of the Appendix do not involve substantive changes of any significance but are, in reality, just clarifications and the filling of technical gaps in the scheme of delegation.

- 10.2 The text change at sections 70 to 73A ensures, for the avoidance of any doubt, that officers have authority to deal with conditions in the course of exercising their established delegated powers to determine applications.
- 10.3 The new powers at sections 78(2) and 78A make provision for applicants to be notified of the outcome whenever a decision is made on an application that has already been appealed for non-determination. This will assist with the proper handling of appeals. It does not affect the respective responsibilities of the Committee and of Planning officers for determining applications themselves.
- 10.4 Under section 107, the only change is to make clear that this is a “limited delegation” subject to the Planning Officers obtaining advice from Property Services and Legal Services.

11 Amendments relating to Planning Applications

- 11.1 The extent of the powers delegated to officers to determine planning applications is set out in an Appendix at the end of the revised scheme for the Directorate. There are no changes proposed in the categories of application that are delegated except for the final category (q) on the third page.
- 11.2 Under the current scheme any application where the officer’s recommendation is for approval, and the proposal accords with agreed planning policy, can be granted under delegated powers but only if there are no objections from consultation.
- 11.3 The proposal now is to extend the scope of delegation by including applications where there may be only a few objections below defined limits. Where there were more numerous and weighty objections, then the application would be referred to Committee notwithstanding that the application accorded with policy.
- 11.4 The objections that trigger a reference to Committee will be those: (i) from all three Ward Councillors or (ii) from a local community body or (iii) or from a local residents’ association or (iv) from at least 10 local residents.
- 11.5 It should be noted that applications will always be discussed with the Chair, or the Deputy Chair in the Chair’s absence, and the Chair can require any application to be referred to the Committee even if the new thresholds for objections are not met.
- 11.6 The other amendments on page 2 are to include the grant of these delegated powers to the Head of Development Management, Major Sites and the General Manager, Planning Policy.

12. Use of Appendices / Tables / Photographs

- 12.1 The Appendix to this report shows the proposed substantive changes to the scheme of delegation in relation to the Planning Committee and Planning Officers.

APPENDIX

Town & Country Planning Act 1990		
Section 70, <u>70A, 72, 73 & 73A</u>	Limited Delegation: Power to determine applications for planning permission, <i>including the imposition, variation and removal of conditions, and power to decline to determine applications</i> , subject to the limitations on delegation set by the Planning Applications Sub-Committee (above) out in Appendix I <i>below</i>	AD-P&R* HDM* <u>only</u>
Section 71	Power to consult on planning applications before determination	AD-P&R HDM
<u>Section 78(2) & 78A</u>	<i>Power to serve notice referred to in section 78(2) in cases where a decision has been made on an application subject to an appeal for non-determination provided that any decision on such an application shall be made within the limits of delegation set out in Appendix I to the Directorate's delegations</i>	AD-P&R HDM
Sections 106 & 106A(1) & (2)	Limited Delegation: Power to enter into planning agreements/obligations in accordance with, or to give proper effect to, existing decisions or policies of the Planning Applications Sub Committee <i>and, in consultation with the Chair of the Planning Committee, where this would be expedient in the interests of the Council as local planning authority and in terms of planning considerations. Power to modify or discharge any agreement provided this does not conflict with heads of terms and/or substantive benefits agreed by the Committee. In any case where this would conflict with the agreed heads of terms and/or substantive benefits, the power shall only be exercised with the consent of the Chair of the Planning Committee</i>	AD-P&R* HDM* <u>only</u>
Section 107	Limited Delegation: Power to pay compensation for revocation or modification of planning permission after obtaining advice from the Head of Property Services and the Head of the Legal Service.	AD-P&R HDM <u>only</u>

Section 247	<p>Limited Delegation: Power to submit a holding objection, on behalf of the Local Highway Authority <i>or the Local Planning Authority</i>, in respect of applications to the Secretary of State <u>proposals by another London Borough</u> to stop up highways for development until such time as the proposed stopping-up can be reported to Members for a formal decision <u>and power to authorise the stopping up or diversion of any highway if necessary to enable development (permitted by the Planning Committee or under other powers delegated to officers) to be carried out</u></p>	<p>AD-P&R* <u>HDM*</u> TTL* <u>HST*</u> <u>only</u></p>
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APPENDIX I – DELEGATIONS TO PLANNING OFFICERS OF MATTERS OTHERWISE WITHIN THE TERMS OF REFERENCE OF THE PLANNING COMMITTEE

Authority to determine the following categories of application for planning permission or other consents is delegated to the officers listed below and shall be exercised by any one or more of those officers acting in consultation with the Chair (or in the Chair's absence, the Deputy-Chair) of the Planning Committee:

Officers

- (i) The Assistant Director, Planning & Regeneration*
- (ii) The Heads of Development Management – North & South*
- (iii) The Head of Development Management, Major Sites*
- (iv) The General Manager, Planning Policy*

Categories of Application

- (a) Development within the curtilage of an existing residential property, including extensions, alteration and ancillary buildings and works, and including works that would be permitted development but for the use of the premises as flats or the effect of express planning conditions.
- (b) Conversion of dwelling houses or non-residential buildings into two or more self-contained dwellings.
- (c) Formation of vehicular access, or alteration to existing vehicular access, on to highways.
- (d) Minor amendments to the siting and design of buildings following approval or original developments.
- (e) The erection of not more than 5 dwellings.
- (e) Changes of use to up to 500 sq. metres of floor spaces (including application for H.M.O.'s and hostels).

- (f) Erection, or extension, of non-residential buildings where the new build does not exceed 500 sq. metres of total floor area (including installation of underground fuel and other storage tanks).
- (g) Installation of shop fronts.
- (h) Continuation of temporary planning permissions.
- (i) Display of advertisements.
- (j) Listed building consent applications, and applications for demolition of buildings or structures in Conservation Areas.
- (k) Works to trees (including pruning, lopping or felling) covered by a Tree Preservation Order, and works to trees within a Conservation Area; works to trees covered by a planning condition.
- (l) Certification of Lawfulness for Proposed or Existing Development
- (m) Sundry minor developments not including above and not involving the provision of more than 100 sq. metres of floor space (e.g. walls, fences, windows, replacement roofs or walls, electricity installations, external staircases, satellite dishes, cash dispensers, and the like).
- (n) The determination of the need for further details on outline applications; the approval of reserved matters following the grant of outline permission, and the approval of matters subject of condition on a full planning permission.
- (o) The determination of proposals for the erection or installation of telecommunications equipment, including masts, antennae, and equipment cabinets, including those submitted under the Prior Notification procedures of the General Permitted Development Order.
- (p) Any other applications where the officer's recommendation is for refusal unless requested by the Chair to be considered at the Planning Applications Sub-Committee.
- (q) Any other applications where the officer's recommendation is for approval and the proposal is in accordance with agreed planning policy ~~and there have been no objections as a result of consultation~~, following discussion of the case with the Chair *(or in the Chair's absence, the Deputy-Chair) of the Planning Committee. Applications where there have been objections from all the Ward Councillors and/or a local community body and/or a local residents' association and/or at least 10 individual local residents, are excluded from this delegation and will be referred to the Planning Committee for determination.*