

Planning Committee

21 July 2023

Agenda item number 9

Scheme of powers delegated to Chief Executive and other authorised officers- amendment to section 37

Report by Senior Governance Officer

Summary

As part of the ongoing implementation of the recommendations from the external review into the formal complaint, there is a need to amend the wording for section 2(e) para. 37 of the Scheme of powers delegated to the Chief Executive and other authorised officers, which relates to the delegation of planning applications. There is also a related change to the wording of the Code of Practice for members of the Planning Committee and officers.

Recommendation

- i. To recommend to the Broads Authority the adoption of the proposed changes to section 37 of the Scheme of powers delegated to the Chief Executive and other authorised officers, and
 - ii. To delegate authority to the Director of Strategic Services to make the necessary changes to the Code of Practice for members of the Planning Committee and officers.
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1. Introduction

- 1.1. At its meeting on 14 March 2023, the Audit & Risk Committee considered a [report](#) on the recommendations from the external review into the formal complaint and agreed a set of actions to implement the recommendations, together with a relevant timetable.
- 1.2. These recommendations included some improvements to the Authority's governance and processes, one of which was to review the existing "call-in" arrangements for planning applications so that when the interpretation of delegated powers is challenged, it should be a matter that the CEO and Chair jointly take a role on, and if they cannot resolve the issue (or feel that it should be placed before members of the Authority), the matter is placed before members.

2. Proposed changes

- 2.1. Section 2(e) of [4. Powers delegated to the Chief Executive and other authorised officers](#) (Scheme of Delegation) covers planning and heritage, and paragraph 37 specifically relates to the delegation of planning applications. “All planning applications are considered to fall within the delegation scheme and will be determined by officers unless...”. It then refers to a number of caveats, which include the ability of any member of the Authority or Ward Councillor of the relevant District Council to request that the application is placed before the Planning Committee and provides “appropriate planning reasons”.
- 2.2. The recommendation is to cover those instances where there is potential for challenge on the interpretation of the delegated power.
- 2.3. The Senior Governance Officer and Deputy Monitoring Officer have worked together to produce some suggested wording, and this can be found in appendix 1 (with tracked changes). A “clean” version can be found in appendix 2.
- 2.4. The proposed changes have been shared with the Senior Planning Officer, Head of Planning, Director of Strategic Services and Chair of this Committee who all support the proposed changes to the wording.
- 2.5. To reflect the proposed changes in the Scheme of Delegation, it is proposed to amend the Code of Practice for members of the Planning Committee and officers.
- 2.6. The opportunity has also been taken to review the term “appropriate planning reasons” and provide examples of what would constitute either a material or non-material (i.e. those which cannot be taken into account) planning reason to assist members. These will be included in both the Scheme of Delegation and the Code of Practice for members of the Planning Committee and officers.

3. Risk implications

- 3.1. The proposals are in response to the recommendation from the external review into the formal complaint. There is a risk of potential conflict between officers and members if there is a difference of opinion on whether the requirements for “call-in” have been satisfied, and the inclusion of this additional provision will help mitigate any risks.
- 3.2. The Authority’s Monitoring Officer has been consulted and has confirmed their agreement with the proposed changes.

Author: Sara Utting

Date of report: 27 June 2023

Appendix 1 – Amendments to Scheme of Delegation and Code of Practice for members of the Planning Committee and officers (with tracked changes)

Appendix 2 - Amendments to Scheme of Delegation and Code of Practice for members of the Planning Committee and officers (no tracked changes)

Scheme of powers delegated to Chief Executive and other authorised officers

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2 General powers of all officers

2.1 The exercise of the delegated powers set out in the Scheme are subject to the following conditions.

- (g) The decision of the Chief Executive, in consultation with the Monitoring Officer, as to the scope and interpretation of these delegated powers shall be final, subject to the provisions in section 4, paragraph 2(e)(37).

4 Powers delegated to Chief Executive and other authorised officers

Table 2

Powers delegated to Chief Executive and other authorised officers

2(e) Planning and heritage

Note: Where reference is made to ‘Planning Team’, it includes the following roles: Planning Policy Officer, Senior Planning Officer, Planning Officer, Planning Assistant, Historic Environment Manager, Planning Officer (Heritage), Planning Officer (Compliance and Implementation), and Planning administration team.

Powers delegated to Chief Executive	Other authorised officers
<p>(37) All planning applications¹ are considered to fall within the delegation scheme and will be determined by officers, unless:</p> <ul style="list-style-type: none"> (i) it is for a major development as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015; (ii) the application represents a departure from the development plan policies, including the Broads Local Plan and any relevant policy adopted by the Authority, and it is proposed to grant planning permission; (iii) objections are received from any statutory consultee (excluding parish councils) in respect of any proposed development within the 21-day period for consultation, and it is proposed to grant planning permission; (iv) representations are received in writing from parish councils in respect of any proposed development within the 21-day period for consultation where these raise material planning considerations of significant weight; 	<p>Director of Strategic Services or Head of Planning or Senior Planning Officer</p>

¹ The applications and notification shall include planning permission, approval of reserved matters, advertisement consent, listed building consent, conservation area consent submitted under the Town and Country Planning (General Permitted Development) Order 1995 and consent under the Hazardous Substances regulations. ©

Powers delegated to Chief Executive	Other authorised officers
<p>(v) representations are received in writing from other persons in respect of any proposed development within the 21-day period for consultation where these raise material planning considerations of significant weight;</p> <p>(vi) any member of the Authority requests, within 21 days of receipt of the schedule of planning applications, that the application is placed before the Planning Committee for a decision, and provides appropriate-material <u>planning reasons considerations</u> in writing;</p> <p>(vii) the Ward member of the relevant District Council requests, within 21 days of receipt of the schedule of planning applications, that the application is placed before the Planning Committee for a decision, and provides appropriate-material <u>planning reasons-considerations</u> in writing;</p> <p>(viii) the Director of Strategic Services considers the matter ought more appropriately to be referred to the Planning Committee for a decision;</p> <p><u>(ix)</u> any Authority member (including co-opted members of the Navigation Committee) or Authority officer is involved² in the application.</p> <p><u>Where there is a question raised about the interpretation of the delegated authority in paragraphs (vi) to (vii) and therefore whether the requirements for “call-in” have been satisfied, it will be a matter for the Chief Executive jointly with the Chair of the Planning Committee to review. If they cannot resolve the issue or feel that the application should be determined by members, then the application will be referred to the Planning Committee for determination.</u></p>	

² Involved in this context means somebody with either:
 Disclosable Pecuniary Interests, which include business, trade, profession, contract and wider financial interests such as land, payments, securities, shares etc;
 If a spouse or civil partner has interests which would be considered Disclosable Pecuniary Interests;
 A personal interest which is likely to be seen as prejudicing their impartiality or ability to meet the principles of public life.

Powers delegated to Chief Executive	Other authorised officers
<u>A non-exhaustive list of material planning considerations (ie those which can be taken into account) together with a non-exhaustive list of non-material planning considerations (ie those which cannot be taken into account) can be found in Appendix 1.</u>	

Appendix 1

Material planning considerations (not an exhaustive list) which can be taken into account

- residential amenity, overlooking or loss of privacy
- highway safety and traffic generation
- noise and disturbance resulting from use
- contamination
- impact on trees
- effect on listed building, conservation area or archaeological interest
- layout and density of building
- design, appearance and materials
- landscaping
- local, strategic, regional and national planning policies, including emerging policies (incl. NPF, Written Ministerial Statements etc).
- Governance circulars, orders and statutory instruments
- previous planning decisions (incl. appeal decisions)
- nature conservation and biodiversity issues
- flooding
- drainage

Non-material planning considerations (not an exhaustive list) which cannot be taken into account

- the perceived loss of property value
- private disputes between neighbours
- the loss of a view
- the impact of construction work or competition between firms
- restrictive covenants
- ownership disputes
- personal morals or views about the applicant
- boundary disputes

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