

Tendring District Council

DECISION MAKING BUSINESS CONTINUITY ARRANGEMENTS

PLANNING COMMITTEE

Without pending changes to legislation (*) to enable formal meetings to be undertaken remotely, we are either in the position of deferring all items or invoking our urgency powers, as set out in the Constitution. It is considered that responding to COVID-19 satisfy the grounds of urgency, we are in exceptional times. Guidance from Government so far is to look to business continuity arrangements.

(*) Section 78 of Coronavirus Act 2020 enacted on 25th March provides for the Secretary of State to pass regulations to amend the way local authority meetings are held. Once these regulations are in place, this note will be reviewed accordingly. Therefore, these proposals may only be in place for a short while.

This note only applies to decisions which will normally be referred to Planning Committee. Determining planning applications are regulated by a statutory framework which includes strict time periods that remain in place during this period, unless legislation is amended. Where possible planning case officers will work with the applicants to agree extension of time in which to make determinations, however the guidance from Government is that the planning system will continue to operate and different approaches are required, within the statutory framework and national guidance.

Matters which are normally referred to the Planning Committee are those which are either:

- Council applications;
- Applications by, or on behalf of TDC Members or staff;
- Applications recommended for approval contrary to the Council's planning policies (departures);
- Applications specifically 'called in' by TDC Members, often in response to local concerns or issues; and
- Other applications that the Head of Planning (now Assistant Director) considers should be determined by the Committee by virtue of their scale, complexity or contention.

Officer decisions will continue to be made, in accordance with the principles set out in the Constitution and Scheme of Delegation. These are published and notified to all members. Electronic signatures will be accepted via emails.

Scheme of Delegation:

It is not lawfully possible for a single member to make decisions for committee functions, decisions can only be made by the Committee or an Officer, individually or in consultation with members (*Section 101 Local Government Act 1972*).

Schedule 2 [Responsibility for Council (Non-Executive) Functions] of Part 3 (Scheme of Delegated Powers) of the Constitution authorises the Chief Executive (under General Matters Principle No.6) to deal with any matter on exceptional grounds of urgency, following consultation with the Chairman (or failing them the Vice-Chairman of the Committee).

For planning applications which require determination during the COVID-19 period, and would normally have been referred to Committee, the Chief Executive has delegated his urgency powers to the Assistant Director for Planning, to be exercised in accordance with this note. This is consistent with the Scheme of Delegation principles on certain professions and qualifications.

To enable formal decisions to be made by Officers we are endeavouring to try and replicate our existing procedures, as far as possible.

- The Public Speaking Scheme only applies to meetings of the Planning Committee however, we are proposing to include certain elements as set out below. It will be noted that we have not included at this stage, the ability for the public to have further input, if they responded during the statutory consultation their comments are summarised within the officer's report.
- Site visits for members of the Planning Committee will not be arranged during this time, because it would be in contradiction of government's direction for individuals to stay at home and prevent gatherings, to reduce the spread of COVID-19. Members can however access google earth via the internet should they wish to view the location.

It is therefore recommended that for the Planning Committee the following procedure should be adopted:

- Reports that would have been considered by the Committee are emailed to the members of the Planning Committee together with a copy of the Officer's presentation (by Committee Services);
- a copy of the Report will also be provided to the Ward Councillor(s) (by Committee Services);
- once the Report has been circulated to members, it will be placed on the planning portal for public access and the applicant/agent will be notified (Planning Services);
- the relevant Town and Parish Council will be notified (by Committee Services);
- the Ward Councillors and Town and Parish Council can submit comments/statement which they would have made through the Public Speaking Scheme. These will be collated by Committee Services;
- a period of five working days would be provided for members of the Planning Committee to email any comments and indicate whether they would approve

or refuse the application to Committee Services, who will collate the responses to be forwarded to the case officer and Assistant Director for Planning;

- Members of the Planning Committee must in providing their comments remember that should they wish to depart from the Officer's recommendation give the relevant planning reasons for doing so;
- responses to comments will be supplied to the Committee by way of an update sheet;
- all of the information received will be taken into account by the Assistant Director for Planning through consultation with the Chairman of the Planning Committee and prior to making their formal officer decision; and
- a formal decision will be published recording the matters taken into account.

Please note an officer cannot in law fetter (constrain) their discretion entirely, but that does not mean that they cannot give almost overwhelming weight to a vote of committee members responding remotely to a report and officers' advice, so long as the position is defensible on planning grounds.

LISA HASTINGS, MONITORING OFFICER

26.03.20