

Report to District Development Control Committee

Date of meeting: 16 October 2013



**Epping Forest
District Council**

Subject: Scheme of Officer Delegation for Development Control Functions -
Proposed Changes

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Recommendation(s):

That a report be submitted to Council recommending:

- (1) Approval of the changes to officer delegation in respect of Council Development Control Functions as set out in Appendix 1 to this report (changes underlined); and
- (2) The consequential amendment of the Constitution.

Report Detail

1. Background

- 1.1 The Government has recently introduced a number of mainly temporary changes to permitted development rights aimed at deregulating the planning system and stimulating the economy.
- 1.2 A number of the changes involve the introduction of a prior approval process, allowing the Council to assess the impact of the development. As with other current prior approval regimes, unless a decision is made within the prescribed time period, the applicant will be able to proceed with the development.
- 1.3 The Director of Planning and Economic Development currently has delegated authority to determine whether or not prior approval of details is required for demolition, telecommunications equipment and agricultural / forestry buildings and operations and to approve or refuse such submitted details.
- 1.4 The Committee are asked to agree to extend the scheme of delegation to allow the Director of Planning and Economic Development to determine all prior approval applications types submitted following the recent changes to permitted development rights through the introduction of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013. This will include a permanent change to the delegation agreement in respect of prior approval applications relating to change of use permanently to a state-funded school and change of use to agricultural buildings; but only a temporary change to the scheme of delegation for a period of three years in

relation to prior approval applications for single storey rear house extensions and changes of use from offices to residential. The attached Appendix 1 show the additions which are underlined in Schedule 1 of the Development Control Functions.

2. Prior Approval for Single Storey Rear House Extensions

- 2.1 In respect of the house extensions, Members will note that the authority only has 42 days to determine the application, otherwise it is automatically permitted. The authority can however only consider the merits of the application in respect of amenity impact (overshadowing, overbearing and privacy) loss of where an objection has been raised and only then an objection by an adjoining neighbour within a statutory 21 days of being consulted. The process advocates a 'light touch' in respect of the level of information which is required to be submitted with an application. Members however will be aware that currently more than four objections are required to trigger a house extension planning application to be reported to a planning committee where the recommendation is for approval, so in effect these extensions are not normally decided at Committee. Given also committee meetings are on a four week cycle with a 12 day lead in time, in each case where a decision is not made within the prescribed period of time, the consent is deemed to have been granted. Therefore, there is a significant risk that many of these applications if they were reported to committee, may simply gain consent by default.
- 2.2 Dealing with decisions on these prior approval applications can only therefore be dealt with under powers delegated to the Director of Planning and Economic Development (see additional item 9 in the attached Appendix 1).

3. Other Prior Approvals Being Introduced

- 3.1 The remaining prior approval applications can only be considered on the basis of those matters referred to within the relevant statutory instruction, they are :-

Class J – Change of use of B1a (Offices) to C3 (Dwellinghouse). Matters as follows:-

1. Transport and highway impacts of the development
2. Flood Risk
3. Contamination

Class K – Change of use from B1 (Business), C1 (hotels), C2 (residential institutions), C2A (secure residential institutions) and D2 (assembly and leisure) to a State funded school:-

1. Transport and highway impacts
2. Noise impacts of the development
3. Contamination

Class M – Change of use from agriculture building (between 150 – 500 square metres) to a flexible use falling either within Class A1(shops), A2 (financial and professional services), A3 (restaurants and cafes), B1 (business), B8 (storage and distribution), Class C1 (hotels) or D2 (assembly and leisure):-

1. Transport and highway impacts
2. Noise impacts of the development
3. Contamination

4. Flood Risk

- 3.2 As in the case of the single storey householder extension prior approval process, the validation requirements simply require minimal information to be submitted, it is only once an application has been received will it be possible to consider whether there are implications in respect of the issues outlined above. The LPA will have to ensure that additional information that is necessary is received and assessed during the 56 day period. Therefore, as much of this information is likely to be provided in technical reports, the Authority will need to ensure that a sufficient period of time is provided to enable the applicant to submit the information as well as seeking to ensure that Officers will have sufficient time to make an assessment of the proposal. Failure to make a decision will result in consent given in default.
- 3.3 Due to nature of the changes to the process set down nationally, the basis upon which these applications would be considered is on a specialised technical basis in respect of the impact of the proposal. No other matters can be taken into consideration, for example design or suitability of the building for the use.
- 3.4 Officers have considered whether it would be possible to factor in a committee process into these Class J, K and M applications, and have concluded that even with the ability to call emergency meetings; in many cases there would simply be insufficient time to enable this to take place. Despite all best endeavours with the time and resources available, officers already struggle to report current planning applications to a committee date within 56 days of applications being received, so consent is likely to be again reached by default.
- 3.5 In addition to the proposed changes to the scheme of delegation, which are appended to this report, the weekly list of development applications have been amended to ensure that these types of applications can be readily identified. The parish and town council's have already been notified of this amendment. They are not however able to make any objections to the householder prior approval applications, as the legislation is clear that objections can only be taken into consideration where they are raised by an adjoining premises. Comments though can be made to Classes J, K and M prior approval applications, but as stated above, only those relating to the technical matters above. The proposed changes to the scheme of delegation in respect of these three classes are shown at additional items 5, 10 and 11 in the attached appendix 1.
- 3.6 It is important to acknowledge that in the event that a scheme was to benefit by gaining consent by default this may expose the authority for claims by aggrieved parties of maladministration. This would be due to the authorities' failure to follow its own procedures. The proposed changes to the scheme of delegation would safeguard against this.
- 3.7 Finally, two small changes have also been made (i) to item 1(e) in appendix 1, deleting any reference to conservation area consents, as these are now obsolete from 1 October 2013; and (ii) to Appendix 1 section (f) to reflect that the four week call in period begins from the publication of the application in the weekly list rather than the Members Bulletin.

4. Summary

- 4.1 This report seeks Committee's agreement to revise the Scheme of Delegation to allow prior approval applications submitted as a result of the recent changes to permitted development rights to be determined by the Director of Planning and Economic Development.
- 4.2 When the current scheme of delegation was approved by this committee at their meeting of 10 December 2010, at that time it brought the scheme of delegation up to date in line with recent legislative changes. The Committee at the time also agreed that the Director of Planning and Economic Development be authorised to update the schedules of functions, subject to the agreement of the relevant portfolio holder(s) to any substantive changes. Whilst this course of action could have been taken, Officers considered that given this is a substantive change, a Committee approval is appropriate in this case.

Background Papers:

Scheme of Delegation to Officers (Appendix 1)

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.