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VIA EMAIL

Clerks to all Town and Parish Council



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Dear Clerk

Planning Officer Delegations changes and Parish Council representations

Further to the consultations on how this authority have been dealing with planning applications and decisions, the full Council, at its meeting on 31 July 2018 approved a number of changes to the delegation arrangements that now apply to all planning applications.

You may wish to bring the contents of the letter to the attention of your Councillors.

These changes took immediate effect and I am writing to outline how we, as officers, are going to implement the new delegations.

Essentially these delegations fall into two types:

- (a) **Category A** Those that are delegated except in a number of circumstances where they are brought to district members to determine either by call-in or as a result of consultation; or
- (b) **Category B** Those that are delegated to officers (unless the Service Director for Planning considers it appropriate to be determined by members.

Applications under Category A

The following will be determined by officers under (a) above:

- (a) All Full Planning Applications
- (b) All Householder Planning Applications
- (c) All Outline Applications and Reserved Matters Applications
- (d) All applications for Advertisement Consent,
- (e) All Applications for Listed Building Consent
- (f) All applications for Demolition in Conservation Areas

- (g) All Applications for Hazardous Substance Consent
- (h) Tree Preservation Order Consent applications where felling is proposed.
- (i) All Applications for Variation or Removal of Conditions

Unless they are:

1. Applications for residential developments consisting of 10 or more dwellings (unless approval of reserved matters only) which are recommended for approval;
2. Applications made by the Council on land and / or property in its ownership which are for disposal, in accordance with the size of application set out in Article 10 of the Constitution.
3. Applications recommended for approval where at least one of the following have been received:
 - a. At least 5 expressions of objections material to the planning merits of the proposal are received (or where less than five have been consulted, the majority of those have objected); or
 - b. An objection is received from a local council, supported by at least one non-councillor resident, with material planning reasons; or
 - c. An objection from a Local Council, material to the planning merits of the proposal is received and confirming in writing their intention to attend and speak at the meeting where the proposal will be considered.
 - d. Applications which a member (whose ward is within the Plans Sub-Committee Area) has requested be referred to committee for consideration subject to the request being made in writing within 4 weeks of that application's notification in the weekly list.
5. Any application by an elected member or Senior Officer (Head of Service and above) of the Council or a relevant person (see code of conduct for definition) recommended for approval.

In these circumstances only, an application will come before a Subcommittee (or Committee) for determination. All other previous situations no longer apply.

For Local Council's this means:

- (1) That in 3 (a) above, local council's and amenity groups etc are counted within the five expressions required.
- (2) That in 3(b) above, the expectation is that a resident local to the application site will be the other objector.
- (3) That in 3(c) above, Local Council's do not have to attend plans subcommittee meetings if they are submitting objections or support a proposal. However, the Local Council **must indicate at the time of submitting their objection** that they intend to attend and speak at the meeting where the proposal will be considered. This will enable clarity about whether the matter creates the right workflow and therefore a subcommittee item.

Local Council Clerks will be informed when applications are coming before members in these circumstances and will be expected to confirm speaker's names at that point. There is a clear expectation that Local Council's representatives attend and speak at the meeting. It should be noted that asking your local (dual hatted) district member to speak on your behalf is likely to create a conflict of interest for that member and should be avoided.

Clerks can also contact Democratic Services if they wish to be sent automatic notification of the publication of Area Plans Agendas.

Applications under Category B

The following will be determined by officers under (b) above:

1. Planning Related Applications

- (a) Tree Preservation Order consent applications other than where felling is proposed
- (b) All notification applications
- (c) All prior approval applications.
- (d) All certificates of lawful use and development.
- (e) All applications for non-material amendments to applications.
- (f) All applications for approval of details reserved by condition.
- (g) All applications for Permission in Principle for Minor Housing Led Development and for Technical Details Consent

2. Planning and Related Procedures

- (a) Finalising the conditions or reasons for refusal, which appear on decision notices.
- (b) The preparation of legal agreements, in consultation with the Service Director Governance and Member Services/Solicitor to the Council within the terms of any relevant Committee resolution.
- (c) Determining the need for information required to make a decision on a planning application including the need for, and scoping of, an Environmental Assessment.
- (d) Deciding the charge to be made for the provision of information where the normal scale of charges is inappropriate (e.g. information requiring research and/or to be used for commercial purposes.)
- (e) Deciding what should be within the Councils Local Validation Checklist.

3. Enforcement

- (a) To determine whether any enforcement should be taken and what such action should entail.
- (b) Issuing Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Notices under Section 215-219 of the Town and Country Planning Act 1990 (as amended), for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy.
- (c) Prosecution of the unauthorised display of advertisements, unauthorised works to a listed building, and non-compliance where enforcement action has previously been authorised.
- (d) Take appropriate enforcement action, including serving an injunction where the Head of Planning or their nominee, having regard to the evidence, considers the circumstances to require urgent action.
- (e) Investigation and prosecution of breaches of temporary market requirements

(f) Variation of the requirements for compliance with any enforcement related notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices.

(g) To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice subject to budget provision being available and to local District Councillors being notified.

(h) To report to an Area Plans Sub-committee on specific enforcement cases were requested by members.

4. Entry onto Land

(a) To authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary and make application to the magistrates court for a warrant authorising entry where applicable in relation to any matter.

Review

It is the intention of the Constitution Working to review the operation of these new arrangements after one year. If your Council has observations during the year I would be grateful for feedback at the time it occurs.

I will be attending the Local Council's Liaison Committee in September to talk members through these arrangements and to answer any questions clerks or members may have.

Yours faithfully



Simon Hill
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Epping Forest District Council