

CABINET
28 January 2021

PLANNING SERVICES SUB DELEGATIONS

1. Summary

1.1 To seek authority to delegate to Officers, the functions related to Neighbourhood Plans and the deferrals of CIL payment requests, for the reasons outlined in the body of the report.

2. RECOMMENDATION

2.1 That, authority be delegated to Officers to undertake the Neighbourhood Plan functions and the deferral of CIL payments, as detailed in the Planning Services Sub delegations, at Appendix A to the report.

3. Background and Discussion

3.1. The Scheme of Delegations provides for the delegation, by the GAC and Cabinet of their respective functions. The Scheme also provides authority to Officers to manage the administrative aspects of the Council's work. The Scheme was adopted with the intention that there should be a streamlining and simplification of the decision-making process.

3.2. All delegated powers are exercised in accordance with Council policies, within any financial limits imposed and within any guidelines prescribed by the GAC or Cabinet. All delegations are without prejudice to the overriding rights and powers of the GAC and the Cabinet to exercise those functions delegated to Officers.

3.3. Decisions about policy directions remain reserved to the GAC and Cabinet, as appropriate, unless specifically delegated to Officers on an issue-by-issue basis.

3.4. Planning legislation changes regularly and the Planning Services Sub-Delegations have to be updated to respond to these. However, sometimes the need to amend the delegations does not become apparent until a specific matter arises. The Council has now received its first submission of a Neighbourhood Plan and is required to take this forward in accordance with the relevant legislation.

Neighbourhood Plans

3.5. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), the default position is that every function of the local authority is an executive function unless it is one of a number of exceptions set out in legislation.

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- 3.6. The local authority's powers for neighbourhood planning are set out in the Neighbourhood Planning (General) Regulations 2012 and section 61(G)(1) of the Town and Country Planning Act 1990 (as amended) (executive functions under the default position referred to above).
- 3.7. The current Planning Services Sub-delegations allow only for officers to respond to Parish Councils on consultations with regard to the consultation draft and publication of the Parish Council's Neighbourhood Plan. However, the legislation requires that there are a number of formal stages to be actioned by the Council, within set timescales.
- 3.8. On reviewing the details of the legislation, there is very little ability for the Council to exercise any level of discretion, as the Council's role is to ensure that the Neighbourhood Plan follows the correct legal processes. A summary of the Neighbourhood Plan stages is attached at Appendix B to the report.
- 3.9. Delegated authority is required for those parts of the process set out in Neighbourhood Planning (General) Regulations 2012, specifically, regulations 5A, 6, 7, 14, 15, 16, 17, 18 and 19, and section 61(G)(1) of the Town and Country Planning Act 1990, as set out in Appendix A to the report.
- 3.10. Following examination and the Inspector's report, if the Neighbourhood Plan meets the required tests, then a public referendum must be held. Following the referendum, the matter will be referred to Cabinet to decide whether to make or refuse the Neighbourhood Development Plan. However, it should be noted that where a referendum results in a majority Yes vote (i.e. over 50% plus 1), the Council must make the Neighbourhood Plan as soon as reasonably practicable after the referendum is held and in any event, within 8 weeks of the referendum (section 38A(4) Planning and Compulsory Purchase Act 2004), unless a legal challenge has been brought in relation to the decision to hold a referendum or around the conduct of the referendum or the Plan is considered incompatible with any retained EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1998).

Deferral of CIL payments

- 3.11. In order to ease the financial burden on small and medium size developers as a result of the Coronavirus pandemic, the Government has amended the Community Infrastructure Levy Regulations 2010 to provide some flexibility for local authorities, exercising their discretion, to defer the payment of CIL for a limited period, being no more than 6 months after the receipt of the request. Due to the timescales involved in making the decision to grant or refuse a request to defer, delegated authority is sought under s72A of the 2010 Regulations, for officers to take the decision.

4. Relationship to the Corporate Plan

Not Applicable

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5. Financial, legal, staffing and other implications and risk assessments*

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| Financial Implications | Potential deferral of payment CIL liability notices for 6 months for small and medium sized developments. |
| Legal Implications | Section 9E(3) of the Local Government Act 2000 provides that Cabinet may arrange for the discharge of its functions by Officers. |
| Staffing Implications | None |
| Administrative Implications | None |
| Risk Assessment | No uncertainties and/or constraints |

6. Details of Exempt Information Category

Not applicable

7. Appendices

Appendix A - Planning Services Sub Delegations

Appendix B - Summary of Neighbourhood Plan Stages

BACKGROUND PAPERS

| <u>Documents consulted</u> | <u>Date / File Ref</u> | <u>Report Author</u> | <u>Section and Directorate</u> | <u>Exempt Information Category</u> |
|-----------------------------------|----------------------------|---------------------------------|--|--|
| Planning Services sub-delegations | January 2020 | Sonia Collins (01322) 343620 | Planning Services External Services | N/A |