

**REDDITCH BOROUGH COUNCIL**

**RECORD OF DECISION TAKEN UNDER URGENCY PROCEDURES**

**SUBJECT:** Delegations for Planning and Regeneration Services

**BRIEF STATEMENT OF SUBJECT MATTER:**

The following urgent decision is required to facilitate the continued functioning of Council business given the expected inability to call Member meetings and potential executive staff absence as a result of the Covid-19 outbreak.

The decision invites Members to approve the attached document, which sets out in detail proposed temporary delegations for Planning and Regeneration Services. As detailed in the attached document, the proposed delegations would apply for a period of three months.

**DECISION:**

To **RESOLVE** that

**the amendments to the scheme of delegations to officers in respect of Planning and Regeneration Services, attached to this urgent decision form, be approved.**

**(This delegation should apply until a virtual or physical Planning Committee meeting can be convened).**

**(Council)**

**GROUND FOR URGENCY:**

This decision is required urgently due to the immediate need to reduce the requirement for Member meetings and anticipated officer absence in the context of the Covid-19 outbreak

**DECISION APPROVED BY:**

*(Deputy)* **CHIEF EXECUTIVE  
RESOURCES**

**EXECUTIVE DIRECTOR FINANCE &**

*(if financial implications)*

.....  
**(Signature) (Sue Hanley / Kevin Dicks - (D)CX)      (Signature) (Jayne Pickering)**

**Date: April 2020**

**PROPOSED ACTION SUPPORTED** *(amend as appropriate)*

..... <b>(Signature)</b>	..... <b>(Signature)</b>	..... <b>(Signature)</b>	..... <b>(Signature)</b>	..... <b>(Signature)</b>
<i>(Block Capitals)</i>	<i>(Block Capitals)</i>	<i>(Block Capitals)</i>	<i>(Block Capitals)</i>	<i>(Block Capitals)</i>
<b>MAYOR *</b>	<b>PF HOLDER**</b>	<b>LEADER of the LABOUR Group</b>	<b>LEADER / LDR CONSERVATIVE** Group</b>	<b>CHAIR O&amp;S Committee</b>
Date:	Date:	Date:	Date:	Date:

Notes:

\* In addition to the Executive decision above regarding the matter under consideration, the Mayor is signing to agree both that the Executive decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. This is to ensure that the call-in procedures as set out in Part 8 of the Constitution shall not apply where an Executive decision being taken is urgent.

\*\*The Leader is also the relevant Portfolio Holder for Planning.

## **Purpose**

In light of the Coronavirus COVID-19 pandemic and with respect to the Planning and Regeneration Services, it is proposed to revise for a temporary period, essential elements of Redditch Borough Council's Constitution.

## **Background**

The *Coronavirus Act 2020* gained royal assent on 25<sup>th</sup> March and whilst this enabled the virtual meeting of a Committee in principle, the secondary legislation (i.e. The Regulations) have only just been published. Officers are aware that it will be necessary to gather equipment, undertake training and make necessary adjustments in processes to enable virtual committee meetings to occur. These adjustments will take a little time, and this is against the back drop of already having cancelled Planning Committees scheduled for 25<sup>th</sup> March and the 15<sup>th</sup> April.

Officers have therefore been considering what alternative routes may exist to enable Planning Applications to still be determined during this difficult time.

## **Alternative routes**

Alternative routes to making Planning decisions during this period may involve two steps; firstly increasing the Delegation given to the Head of Planning and Regeneration Services to enable additional applications to be determined without referral to Planning Committee. It is proposed that this additional Delegation would be exercised in consultation with the Chair of Planning Committee (or if absent the Vice-Chair of Planning Committee). This would mean the number of applications presented to Planning Committee could be reduced to essential items only.

Secondly and when suitably informed by the Regulations, further revisions to relevant processes will be required and which may include changes to public speaking rules etc. to enable virtual meetings to function.

## **The scheme of delegation**

The Constitution, at Part 5, table 5.08, relates to Development Management/Plans (inc Enforcement) function. The Delegation as currently stands is that;

*All planning decisions, actions or advice / responses on behalf of the Local Planning Authority within the list of Planning and Associated legislation / regulations, are considered to fall within the delegation scheme and will be determined by Officers,*

UNLESS; and then follows a lists of exceptions to that Delegation numbered 1 to 11. The effect of which is that if planning decisions, actions or advice / responses fall within those exceptions numbered 1 – 11 then it is necessary to report those items to Planning Committee for determination.

(Table 5.08 is reproduced at the end of this document for reference)

## **Proposed revision**

The revision proposed relates only to applications falling within paragraphs 7 and 8 and 9 of the current Delegation Scheme i.e. Major Applications, those with a Legal Agreements and those instances where 2 or more letters of objection have been received. All other parts of the existing Delegation Scheme remain changes.

It is proposed to revise, for a temporary period until a virtual or physical Planning Committee meeting can be convened, the Delegations given by Full Council to the Head of Planning and Regeneration Services. The effect of this revision is that;

1. Where applications fall within the definition of Major development (paragraph 7) and or where a Legal Agreement is required (paragraph 8)) where the recommendation is for APPROVAL and where there have been NO OBJECTIONS FROM THE PUBLIC OR LOCAL WARD MEMBER, the decision will be Delegated to the Head of Planning and Regeneration Services in consultation with the Chair of Planning Committee (or if absent the Vice-Chair of Planning Committee).
2. Where two or more individual letters of objection from separate addresses and raising material planning considerations are received from separate members of the public and the Officer recommendation is for approval (paragraph 9) the decision will be Delegated to the Head of Planning and Regeneration Services in consultation with the Chair of Planning Committee (or if absent the Vice-Chair of Planning Committee).
3. The Delegations listed above would be undertaken using the attached Emergency Powers Delegations process.

The scheme of Delegation also includes a list of Legislation/Regulations under which decisions will be taken. It is proposed to add to this list a new piece of Legislation. This is a housekeeping item which would enable Permission in Principle applications to be considered under the scheme of Delegation. (Information regarding a PIP application is included below).

4. It is proposed to add; *Town and Country Planning (Permission in Principle) Order 2017 (as amended) and the Town and Country Planning (Brownfield Land Register) Regulations 2017* to the list of Legislation /Regulations.

## **Emergency Powers Delegations process.**

1. In the relevant situations, the case officer prepares a written report similar to the current Planning Committee report accompanied by the relevant site plan.
2. The report is uploaded to the relevant application on the Council's Public access system and is labelled 'Officers Report'.
3. Planning Committee members and Ward Members receive an email from the case officer stating that the report has been published and inviting members to express a view, if any, upon that report. That view should be sent, by email, directly to the case officer within 5 working days of the date of notification. (Time for closure of comments to be 5pm of the 5<sup>th</sup> working day)
4. All objectors/supporters/those who made representations on the application (excluding consultees) will receive an email from the case officer stating that the report has been published and inviting them to acknowledge that their comment is included in the report and submit any further comment, if any, upon that report. That view should be sent, by email, directly to the case officer within 5 working days of the date of notification. (Time for closure of comments to be 5pm of the 5<sup>th</sup> working day)
5. Normal declaration of interest rules apply and Members should seek advice from Legal and Democratic Services should they require clarification.
6. Should questions arise then the case officer should be contacted as normal to clarify matters.
7. The case officer will collate all comments received and present them in the form of an 'Update report'. This report shall also be uploaded application on the Council's Public access system.
8. Once all information has been collated and uploaded the case officer will notify the Head of Planning and Regeneration Services, by email, that the application is available for determination.
9. The Head of Planning and Regeneration Services will consider the proposal in the light of all available information including the Officers report, site plan and update report. The Head of Planning and Regeneration Services will then liaise with the Chair of Planning Committee (or if absent the Vice-Chair of Planning Committee). Following this consultation with the Chair the Head of Planning and Regeneration Services will make a decision, with regard to the officer's recommendation and in the context of the relevant polices in the Development Plan and all other material planning considerations. The Head of Planning and Regeneration Services will record this decision.
10. The Head of Planning and Regeneration Services will notify the Planning Decision to the case officer, who in turn will notify relevant members and objectors identified in 3 and 4 above.
11. The case officer issues the planning decision.
12. It is envisaged this process could be a rolling process, not necessarily governed by the currently scheduled Committee dates.

## Extract of Constitution with respect to Development Management – existing position.

RBC May 2019

### PLANNING & REGENERATION

#### 2. Development Management / Plans

Subject	Detail	Delegated by:	Delegated to:
Calling in procedure for Ward Members for Planning Committee	<p>When a ward member wishes to call in an application to Planning Committee for consideration, they will, within 21 days of receipt of the notification of that application, contact the case officer and set out their reasons for wanting the application to be considered at committee rather than by officer delegation. The Case Officer will, in writing, record the request and reasons and send a written record to the Portfolio Holder, Planning Committee Chair and any other ward member(s) for the area in which the application site is situated, of the request and reasons.</p> <p>If a request is made after the deadline set out above, the Planning Committee Chair shall make the final decision, taking into account all relevant matters, as to whether the application is considered by the Planning Committee, and will inform the Case Officer of his/her decision within 2 working days of receiving the request from the Case Officer. The ward member who made the request will also be informed of the Chair's decision.</p>		
Planning Applications	All planning decisions, actions or advice / responses on behalf of the Local Planning Authority within the list of Planning and Associated legislation / regulations, are considered to fall within the delegation scheme and will be determined by Officers,	Council	[Head of Planning & Regeneration]

#### UNLESS:

	<ol style="list-style-type: none"> <li>1. A Member makes a written request within 21 days of the application receipt for the application to be considered by the Planning Committee.  (see procedure set out above)</li> <li>2. The Planning Officer considers that the application should be considered by Committee.</li> <li>3. The approval of the application would represent a departure from the policies of the statutory development plan.</li> </ol>		[Head of Planning and Regeneration]/ Planning officers
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	<p>4. The proposal involves the Borough or County Council either as applicant or landowner.</p> <p>5. The applicant is a Councillor or known to be an employee of either Redditch Borough Council or Bromsgrove District Council, or employed by other local authorities who provide services for or on behalf of Redditch Borough Council under shared service arrangements.</p> <p>6. There is a known involvement by a Council employee or other employee as in 5 above in any capacity - e.g. as agent or adviser</p> <p>7. The application is for major development (as defined in the BV109 returns i.e. more than 10 dwellings - more than 1000 sq m new industrial / commercial floor space) where the recommendation is for approval or where five or more letters of support have been received.</p>		
	<p>8. The Council will be required to become party to a Planning Legal Agreement under Section 106 (applies only to those agreements where RBC would be a signatory and bear an obligation under the agreement – not to Unilateral Undertakings)</p> <p>9. Two or more individual letters of objection from separate addresses and raising material planning considerations are received from separate members of the public and the Officer recommendation is for approval.</p> <p>10. The application has resulted in a formal objection being received (and has not been resolved through Officer negotiation) from a statutory consultee.</p> <p>11. The application seeks erection of a new, or Change of Use <u>to</u>, A3 use (restaurants and café) A4 (Pubs and wine bars), A5 (hot food take away), or D2 (assembly and leisure – cinemas, sports halls, dance halls etc), or seeks (change of use or erection of a new) consent for a night club, theatre or casino.</p> <p><i>Legislation / regulations under which decisions will be taken include:-</i></p> <ul style="list-style-type: none"> <li>• Town &amp; Country Planning Act 1990</li> </ul>		

	<p>(as amended)</p> <ul style="list-style-type: none"> <li>• Planning and Compensation Act 1991</li> <li>• Town &amp; Country Planning (General Permitted Development) Order 1995 (as amended)</li> <li>• Town &amp; Country Planning (General Development Procedure) Order 1995 (as amended)</li> <li>• Planning (Listed Buildings &amp; Conservation Areas) Act 1990 (as amended)</li> <li>• Building Act 1984 (as amended)</li> </ul>		
	<ul style="list-style-type: none"> <li>• Circular 5/2000: Planning Appeals: Procedures (including inquiries into Called in Planning Applications)</li> <li>• Circular 18/1984: Crown Land &amp; Crown Development</li> <li>• Town &amp; Country Planning (Environmental Impact Assessment) Regulations 2011</li> <li>• Highways Act 1980</li> <li>• Planning (Hazardous Substances) Act 1990</li> <li>• Hedgerow Regulations 1997</li> <li>• Goods Vehicles (Licensing of Operators) Act 1995</li> <li>• Goods Vehicles (Licensing of Operators) Regulations 1995</li> <li>• Town &amp; Country Planning (Control of Advertisements) Regulations 2007</li> <li>• Wildlife and Countryside Act 1981</li> <li>• Caravan Sites and Control of Development Act 1960</li> <li>• Acquisition of Land Act 1981</li> <li>• Telecommunications Act 1991</li> </ul>		



	<ul style="list-style-type: none"> <li>• Electricity Act 1989</li> <li>• Planning and Compensation Act 1991</li> <li>• Flood and Water Management Act 2010</li> <li>• Ancient Monuments and Archaeological Areas Act 1979</li> </ul>		
	<ul style="list-style-type: none"> <li>• Local Government Planning and Land Act 1980</li> <li>• Planning Listed Buildings and Conservation Areas Regulations 1990 (as amended)</li> <li>• Planning Act 2000</li> <li>• Planning and Compulsory Purchase Act 2004</li> <li>• Clean Neighbourhoods and Environment Act 2005</li> <li>• Localism Act 2011</li> </ul>		
Development Plans	Preparation of scoping reports and consultation with statutory consultees as required in connection with the preparation of draft SPD Sustainability Appraisals.	Council	[Head of Planning & Regeneration] and/or [Development Plans Manager]
Planning Obligations	<p>All planning obligation variations and discharges, other actions or advice / responses on behalf of the Local Planning Authority within the list of Planning and Associated legislation / regulations, are considered to fall within the delegation scheme and will be enacted by Officers unless any of the following apply:-</p> <ol style="list-style-type: none"> <li>1. Deletion or addition of one or more of the heads of terms.</li> <li>2. Significant change in overall area of land to be transferred to Redditch Borough Council.</li> <li>3. Significant change in financial contributions to be provided to Redditch Borough Council [except where this is a result of (an)other Member decision(s)].</li> </ol>	Council	[Head of Planning & Regeneration]

	4. A Member makes a written request for a case to be considered by the Planning Committee, as set out above in the Calling in Procedure.		
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End of extract

### **THE PERMISSION IN PRINCIPLE**

The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed.

Extract from NPPG