

REPORT OF DIRECTOR OF PLANNING AND PARK DIRECTION

SUBJECT: TO EXTEND THE TEMPORARY CHANGES IN LIGHT OF THE IMPACT OF COVID 19 TO THE AUTHORITY'S SCHEME OF DELEGATION

Purpose of Report

In order to enable continuity of the planning service during this on-going Covid -19 period it is proposed to extend the temporary amendments made to the scheme of delegation on 6th May 2020 and again on 29th July 2020 until 16th June 2021. The amendments being:-

- i) Delegation to the Chief Executive/Director of Planning and Park Direction for applications submitted by the Authority or by a Member of the Authority or an employee of the Authority;
- ii) With agreement from the Chair and Vice Chair of the Development Management Committee, delegation to the Chief Executive/Director of Planning and Park Direction for applications with a recommendation contrary to the view of the city/town/community council;
- iii) With agreement from the Chair and Vice Chair of the Development Management Committee, delegation to the Chief Executive/Director of Planning and Park Direction for major applications which had not received any objections from third parties.

Background

a) *Delegation*

The original scheme of delegation is attached at Appendix A
The minutes of the NPA meetings of 6th May 2020 and 29th July 2020 are attached at Appendix B.

b) *Covid – 19*

Members will be aware that the Authority took the decision to postpone the Development Management Committee meeting on 18th March 2020 as the Authority could not ensure social distancing thus putting Members, staff and the general public at risk. Members will also be aware that the Development Management Committee has now resumed virtually via 'Lifesize'. In order to ensure that future virtual meetings are manageable for both Members and staff it is proposed to extend the temporary scheme of delegation until 16th June 2021.

The processing of planning applications received from 22nd March 2020 was severely impacted upon due to the limitations on staff to carry out appropriate neighbour consultation and site visits. The recent fire-break also impacted upon the ability of officers to undertake site visits, however these have now restarted. So far, there have been 17 applications which have fallen under the extended delegation scheme. If the extension to the temporary scheme of delegation is permitted by Members this should ensure manageable numbers of applications on future Committee agendas.

Policy considerations

None

Financial considerations

There is the potential for applicants to request a refund of the application fee if a decision is not made within 16 weeks of validation.

Risk considerations

The reputation of the Park Authority is a consideration in the timely management of planning application decisions.

Equality considerations

Comments from City/Town/Community Councils will be given proper consideration during the processing of the application and will be addressed in the delegated report.

Welsh Language

None

Conclusion

This temporary operational change will ensure continuation of the planning service and allow for manageable Committee meetings during this Covid-19 period.

RECOMMENDATION:

That Members resolve to temporally amend the scheme of delegation with regard to planning until 16th June 2021.

Background Documents

*Scheme of delegation – Planning
NPA minutes*

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Consultees: Tegryn Jones, Caroline Llewellyn, Janet Evans

PEMBROKESHIRE COAST NATIONAL PARK AUTHORITY

DELEGATIONS TO OFFICERS IN RESPECT OF PLANNING APPLICATIONS AND RELATED MATTERS



- 1) The following matters are delegated to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16) (exceptions to this are listed under 2 (Exceptions) below): (NPA 15/03/06)

Where applicants requested that applications be considered by Committee to give them the opportunity to speak at Committee, these requests be refused if that is the only reason given. (NPA 14/10/09)

a) The consideration and determination of all submissions made under current planning legislation. These include:

- Planning applications;
- The imposition of conditions and reasons for decisions on planning permissions;
- Detailed information required by conditions of planning permissions;
- The discharge of conditions in relation to applications submitted by Members or officers or their immediate family, where officers or Members are declared as the owners on the ownership certificates, where officers have an interest in the application, by Members who have been Members of the Authority less than 12 months prior to the application, or the application is made on behalf of the Authority. (NPA 5/2/14);
- The formulation of reasons for the refusal of planning applications;
- Applications to develop land without compliance with conditions previously imposed;
- Retrospective applications;
- Listed Building and Conservation Area applications;
- Service of Listed Building Preservation Notice;
- Advertisement applications;
- Applications for Hazardous Substances Consent;
- Minerals and Waste applications;
- Proposals affecting trees covered by a Tree Preservation Order;
- Proposals required to be notified to the L.P.A. under Planning regulations (General Permitted Development Order, etc);
- Applications for Certificate of Lawful Use and Development (CLEUD), and Certificated of Proposed Use and Development (CLOPUD);
- Applications to vary or discharge Section 106 agreements;
- The revocation or modification of a planning permission;

- Appeals against the refusal of planning permission, conditions of consent, etc;
- Applications for Certificates of Appropriate Alternative Development.
- Approving applications for non-material amendments made under Section 96A of the Town and Country Planning Act 1990 (*NPA 17/12/14*)

b) The consideration and determination of issues under the Environmental Impact Assessment regime:

- The need for a Scoping Opinion
- The need for a Screening Opinion
- The need for the submission of an Environmental Impact Assessment.
- Engaging public consultation in respect of an Environmental Impact Assessment.
- Consideration of the adequacy of the Environmental Statement

c) The consideration of “Working amendments” (*Policy Committee 18/07/2001 Amended NPA 17/12/14*)

- the working programme within a quarry where the changes were contained within the excavated area of the quarry;

d) Other Functions:

- Tree preservation orders and applications to fell/lop within such areas
- Purchase Notices
- Designation of Conservation Areas
- Completion Notices

The Authority is also required to comment on applications being considered by other authorities.

2) EXCEPTIONS

The following matters have to be the subject of a report to the Development Management Committee:

- Any application subject to Environmental Impact Assessment.
- Any “major” application as defined by the need to advertise the proposal under article 8 of the General Development Procedure Order, 1995.
- Any application that is contrary to the provisions of the Development Plan but which is to be recommended for approval.
- Any application where there is conflict between the Development Plan policies and policies proposed in an emerging plan.

- Any application (except discharge of condition or non- material amendment *(NPA 10/08/16)* – see above) submitted by a Member of the Authority, or a member of his immediate family, or a member who has left the Authority less than twelve months prior to the submission of the application.
 - Any application (except discharge of condition – or non- material amendment *(NPA 10/08/16)* see above) submitted by, or in which an officer employed by the Authority has an interest.
 - Any application (except discharge of condition – or non- material amendment *(NPA 10/08/16)* see above) where the owner of the land is a Member or an officer of the Authority as declared on the ownership certificate accompanying the application.
 - Any application that is to be determined contrary to the view expressed by the Community Council, where that view is a material planning consideration. The only reason for bringing an item to Committee in these circumstances should be based on a material planning consideration. The comment ‘support’ or ‘object as it is retrospective’ would not be judged a sufficient reason to bring an item to Committee if the officer recommendation was contrary. *(Caveat amended by NPA 14/10/09)*
 - Any application that is to be recommended for approval contrary to the advice of a Statutory Consultee.
 - Any application which the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) *(NPA 10/08/16)* decides should be referred to Committee because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial. Justification for this approach to be recorded on the file.
 - Any application made by or on behalf of the Authority or an application in which the Authority has a financial interest as landowner
 - The designation of a Conservation Area.
 - Any application that a Member requests be brought before the full Committee. Members wishing to take advantage of this provision are to advise the officer in writing using the appropriate form within 21 days from the receipt of a valid application, giving the reasons why they would like the matter considered by the Committee. *(Criterion added NPA 14/10/09 and amended NPA 07/12/11)*
- 3)** The Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead

officer on Planning Policy) (NPA 10/08/16) be authorised to approve provisional Tree Preservation Orders – the signatures of any two officers being required on such an Order. (NPA 20/09/04)

4) **ENFORCEMENT**

- a) Consideration of the need to serve the following are delegated to the Chief Executive (National Park Officer), in the absence of the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16):
- Planning Contravention Notices (Principal Planning Officers also authorised to sign, subject to no officer signing PCNs which relate to cases on which they are the case officer) (NPA 01/02/12)
 - Breach of Condition Notices
 - Enforcement Notices
 - Listed Building Enforcement notices
 - Stop Notices
 - Injunctions
 - Institute Prosecutions or other legal proceedings
- b) Every enforcement case is delegated unless (NPA 01/02/12):
- i. There is a breach of planning control and the case is contrary to the provisions of the Development Plan but it is recommended that enforcement action should not be taken (this would not include cases that are lawful by virtue of the passage of time or are of such a minor nature that it is not expedient to take action).
 - ii. There is a breach of planning control and the case complies with the provisions of the Development Plan but it is recommended that enforcement action should be taken.
 - iii. The case relates to a Member of the Authority, or a Member of his /her immediate family or a Member who has left the Authority less than twelve months prior to the commencement of the investigation.
 - iv. The case relates to a site in which an officer employed by the Authority has an interest.
 - v. The case is one which the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16) or the Authority's Solicitor/Legal advisor decides should be referred to Committee because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial

or which could have financial implications for the Authority. Justification for this approach is to be recorded on the file.

- vi. The case relates to land in which the Authority has an interest or has a financial interest as landowner.
- vii. Any Member may ask for a particular case to be brought before the Committee by writing to the Head of Development Management and giving full reasons which should be based on planning grounds.
- viii. Prosecution action is required - unless in relation to a breach of the advertisement regulations or in relation to works to a listed building which are criminal offences and often require immediate action as a result.

This scheme of delegation relates to the taking or not of enforcement action, breach of condition action, action under Section 215 of the Town and Country Planning Act, action in respect of unauthorised advertisements etc

The delegation for taking action is given to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Team Leader: Development Management (Lead officer on Development Management) and/or the Head of Park Direction (Lead officer on Planning Policy) (NPA 10/08/16) and the two Principal Planning Officers. The Authority's Solicitor will also be required to check all enforcement notices.

The delegation for serving a Stop Notice is given to the Chief Executive or Director of Park Direction and Planning in consultation with the Chair or Deputy Chair of the Development Management Committee.

5. The following matters under the Nationally Significant Infrastructure Projects regime:

- All procedural matters including responses to the Statement of Community Consultation and adequacy of consultation request
- Response to Pre-application enquiries
- Preparation and Presentation of Evidence at Examinations
- The consideration and determination of information required by conditions of development consent orders

(NPA 17/12/14)



9. To make temporary changes in light of the impact of Covid 19 to the Authority's Scheme of Delegation

The Director of Planning and Park Direction reported that in order to enable continuity of the planning service during this Covid -19 period, the following amendments were proposed, for a temporary period of 3 months, to the scheme of delegation:-

- i) Delegation to the Chief Executive/Director of Planning and Park Direction for applications submitted by the Authority or by a Member of the Authority or an employee of the Authority;
- ii) With agreement from the Chair and Vice Chair of the Development Management Committee, delegation to the Chief Executive/Director of Planning and Park Direction for applications with a recommendation contrary to the view of the city/town/community council;
- iii) With agreement from the Chair and Vice Chair of the Development Management Committee, delegation to the Chief Executive/Director of Planning and Park Direction for major applications which had not received any objections from third parties.

She clarified that in respect of points ii) and iii) above, a report on each application would be sent to, and discussed with, the Chair and Vice Chair which took account of any comments received. Should either the Chair or Vice Chair consider that the application should be not be determined under the extended scheme of delegation, the application would be brought to the next Development Management Committee for consideration.

It was noted that the above mentioned amendments were sought to enable the current backlog of applications to be cleared and allow the planning service to continue. It would also reduce the number of applications being considered by the Committee, and therefore the duration of Committee meetings.

One Member had sought clarification regarding the terms 'Officer' and 'employee' of the Authority and the Director responded that in practice the reference in the existing Scheme of Delegation had always applied to all employees irrespective of their grade and this would be amended in the next full review of the Scheme of Delegation.

The Chair of the Development Management Committee was happy with amendments to the Scheme of Delegation before Members and hoped that this would enable decisions to be taken on a number of straightforward applications which were currently awaiting a decision. The recommendation was proposed and seconded.



Other Members, however wanted to receive details of applications that were proposed for delegation as they were concerned that there was insufficient oversight. A protocol which amended the recommendation had been sent to officers and the Chair of the Authority prior to the meeting and this was read out, however some Members found this to be confusing as they did not have a copy before them.

A simplified Amendment was proposed and seconded under which the reports prepared in respect of items (ii) and (iii) be circulated to all Members, with any responses to be returned within 72 hours of receipt. These responses would then be considered by the Chair and Vice Chair of the Committee. This amendment was then put to the vote and was carried, becoming the Substantive Motion. A vote then took place on the Substantive Motion, and this was also carried.

It was **RESOLVED** that the following amendments were agreed, for a temporary period of 3 months, to the scheme of delegation:-

- i) Delegation to the Chief Executive/Director of Planning and Park Direction for applications submitted by the Authority or by a Member of the Authority or an employee of the Authority;
- ii) With agreement from the Chair and Vice Chair of the Development Management Committee, delegation to the Chief Executive/Director of Planning and Park Direction for applications with a recommendation contrary to the view of the city/town/community council;
- iii) With agreement from the Chair and Vice Chair of the Development Management Committee, delegation to the Chief Executive/Director of Planning and Park Direction for major applications which have not received any objections from third parties.
- (iv) The Delegation Reports prepared in respect of items (ii) and (iii) above to be circulated to all Members and any comments to be returned to officers within 72 hours of receipt. These comments then to be supplied to the Chair and Vice Chair of the Development Management Committee prior to making their decision.



8. To Extend the Temporary Changes, in light of the Impact of Covid-19, to the Authority's Scheme of Delegation

Members were reminded that at the meeting of the National Park Authority on 6 May 2020, temporary amendments had been made to the Authority's scheme of delegation in order to enable continuity of the planning service during the COVID-19 period. It was noted that the processing of planning applications had been severely impacted due to the limitations on staff carrying out appropriate neighbour consultations and site visit, however both of these had now recommenced. An extension of the temporary changes was therefore sought until 2nd December 2020 in order to ensure there were manageable numbers of applications for consideration at forthcoming Development Management Committee meetings.

Members asked both officers and the Chair/Deputy Chair of the Development Management Committee for their views on the operation of the changes. Officers were happy with the arrangements and reported that applicants were also satisfied as they received a timely decision. The Chair and Deputy Chair also felt the arrangements had worked well and paid tribute to the work of the Director and Development Management Team and the way they had carried out their duties.

A question was asked regarding responses from Town and Community Councils, many of whom were not meeting, and the Director replied that additional efforts were being made to seek their responses.

It was **RESOLVED** that the temporary amendments to the scheme of delegation be extended until 2 December 2020.