

PLANNING COMMITTEE – 2 MARCH 2021

REVIEW: SCHEME OF DELEGATION

Background

The following report was presented to Councillors' Commission on 25th February. Any observations to the proposals from that meeting will be advised to Members at Planning Committee. The amendments to the Scheme of Delegation as set out within the attached Appendix will then be reported to Full Council on 9 March together with any comments received.

Introduction

Members will be aware the current Scheme of Delegation (SoD), which forms part of the Council's Constitution setting out a set of criteria for committee and officer decisions was reviewed late 2019. A number of changes were made to delegation arrangements and it was agreed that a further review would take place over the following 12 months and a report presented of the outcome.

The purpose of this report is to set out the findings of this review, which highlights both positive and negative impacts as a result of the amendments. It then makes a number of recommendations as a result of these and requests that Members consider amending the SoD in line with the concluding recommendations. Should the Councillors' Commission support the proposed changes, the matter would then be presented to Planning Committee and finally Full Council.

Scope of Review

This review has focused upon the SoD which in simple terms is what effectively sets the agenda for who determines which planning applications and associated planning matters.

The operational elements of how the Committee is serviced, arrangements for site inspections, the amount of debate, officer presentations and public speaking are all matters for the Planning Committee itself to review. They do not require any decision-making at a constitutional level, which this report seeks to cover. As advised previously, it is known for example that public speaking has been examined previously and there was no appetite to allow this beyond the existing arrangements which allows for a representative of the Town/Parish Council and Local Ward Member to address the committee for 5 minutes each. This was on the basis, it is understood, that Town/Parish Councils are elected to represent the voice of their parishioners as a whole. Additionally it is understood that it was concluded that allowing third party members of the public and applicants/agents to speak would be unacceptably disproportionate in terms of capturing the material planning considerations of relevance. Members are able to review public speaking as part of any operational review of the Committee as it has been operational for more than 6 months in the new Council cycle.

PART 1: REVIEW OF EXISTING COMMITTEE ARRANGEMENTS

Existing Committee Arrangements at NSDC

The Local Planning Authority as a whole generally deals with approximately 2,500 planning and

related applications a year.

The Planning Committee at Newark and Sherwood District Council (NSDC) is scheduled to meet once a month. Prior to the changes to the SoD in 2019, a number of additional committee meetings had been required due to the volume and importance of applications requiring determination.

During 2017, four additional committees (so 16 for the whole year) had to be scheduled due to complexities and volume of matters and during 2016 an additional 3 committee meetings were held.

During 2018 there were a total of 14 planning committee meetings starting at 4pm lasting on occasions for almost 4 hours. In 2019 alone the time spent in planning committee was 39h12m minutes, excluding site inspections, which are ordinarily (outside of the Covid-19 pandemic) conducted by bus on the morning of the planning committee.

During 2019, there were 13 Planning Committee meetings with the committee during the first quarter determining 43 applications, (a total sitting time of 10hrs 46m) averaging at over 14 applications per month. The June committee meeting opened at 4pm and lasted until almost 9pm. In total, 144 applications were determined by Planning Committee during the year.

The number of applications presented to Planning Committee during 2020 have been fewer than previous years with 68 applications presented. This is a significant reduction compared to 2019, however consideration also needs to be given to the impact of Covid-19 and the type of proposals being submitted to the Council for a decision. Whilst the number of applications being submitted for determination are at a similar level compared to previous years, a number of these are small-scale. For example in 2019 there were 375 applications submitted for works to trees within a conservation area. In 2020, 592 applications were received. Therefore, the types of applications being submitted will have had some influence over those presented to Committee. However, it is not considered that the pandemic has resulted in a change, to such a degree, to influence the reduction in numbers and it is principally as a result of the amendments to the Scheme.

Existing Scheme of Delegation at NSDC

The existing SoD in simple (summarized) terms sets out the following:

Applications that **WILL** be determined by the Planning Committee:

- Major applications (10 dwellings or more, floorspace of 1,000m² or greater, site area of 1 hectare or more) where officer recommendation does not align with views of Parish/Town Council, provided that response is based on material planning considerations (unless the Environment Agency or Highways England directs a refusal), or where contrary to view of a statutory consultee
- They would give rise to significant financial consequences
- Submitted by community or voluntary organisation which would result in community benefit and would otherwise be refused;
- Applications made by Members or officers that have direct involvement in the application.
- Applications that are a significant departure from the development plan and recommended for approval;
- Applications submitted by the Council or where the Council has an interest; and

- Where an Authorised officer refers the application to Planning Committee.

Applications that will **NOT** be determined by the Planning Committee:

- Major applications where the recommendation aligns with the views of the Town/Parish Council;
- All applications where the recommendation is in line with representations from all consultees (but doesn't necessarily align with views of neighbours)
- All non-housing minor applications (including applications on sites of less than 1 hectare in size or are 999m² or less in new floorspace, householders, changes of use, listed building consents, advertisement consents, plus notifications) contrary to views of Parish/Town Council's/statutory consultee, unless the application has been requested by the Local Member to be determined by Committee and is accepted by the Panel.

Current Process

The key change with the previous review was to remove the automatic presentation of minor applications to Planning Committee when the Officer recommendation did not align with the Town/Parish Council response. Minor applications include developments of between 1-9 dwellings, commercial proposals, retail and service and [small] gypsy/traveller proposals.

Proposals for between 1-9 dwellings, when the recommendation is contrary to the Town / Parish Council, are referred to the local Ward Members to seek clarification on whether they wish the application to be determined by Planning Committee. Should a Member request this, a planning reason must be given and the Panel, comprising the Chairman and Vice-Chairman of Planning Committee together with the Business Manager – Planning Development determine whether there are “...*material planning considerations such that the application should be debated by the Committee.*”

Should the Panel agree the application warrants wider debate, it will then be presented to the next available committee. If the request is declined, Members are able to challenge this decision with the Chief Executive.

This process has brought frustration to a number of Councillors who consider they have had their right to represent their constituent(s) taken away from them. It has also added, in some cases significant time to the decision making process due to the initial referral, waiting for Member response, waiting for the Panel to consider the request and if declined, further delay whilst it is established whether an appeal is going to be made and then time for the Chief Executive to consider his response. Aside from Members frustrations, which cannot be ignored, having such delay and Officers not being able to advise applicants or neighbours the likely timescale for a decision of an application is not good customer service. However, it is also recognised that in the majority of instances, applicants or their agents have worked positively and proactively with us when extensions of time for the determination of the application has been sought.

Data Relevant to the Current Process

The following data has been recorded since the amended SoD came into effect in 2019 and records applications up until mid-December 2020. It is understood that all applications that have been referred for the Panel are included, but as this is a manual process there may be one or two applications that have inadvertently been omitted.

171 applications have been referred to Ward Members following the response from the Town/Parish Council by Officers.

Of the 171 referrals, 33 applications have been requested to be determined by Planning Committee. In addition, 8 were requested by Members following receipt of the weekly list. These initial statistics therefore show that 138 applications that would previously have been dealt with by Planning Committee have been dealt with under delegated authority. The amended Scheme has therefore reduced the numbers presented to each Planning Committee by approximately 11.

Of the 41 applications:

18 were accepted by the Panel,

2 were not referred to the Panel but taken to Committee due to being a Council application and referred by the Business Manager;

21 were refused by the Panel.

Of the 21 applications refused by the Panel, 7 appeals have been made to the Chief Executive, of which 2 have been accepted.

The breakdown of those declined to be presented to Planning Committee in terms of application types comprise (figure 1):

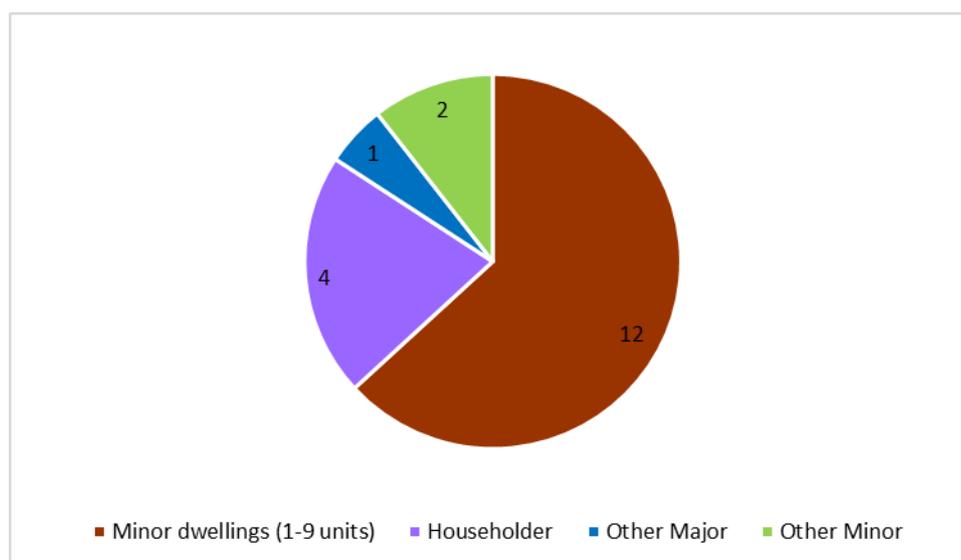


Figure 1: Referred Applications Not Presented to Planning Committee

The greatest number of applications declined by the Panel (Table 1), not surprisingly is for proposals for new dwellings (between 1 and 9 units), bearing in mind these are the proposals the SoD requires referral of.

Application Type	Number	Decision
Minor dwellings (1-9 units)	1	Pending
Minor dwellings (1-9 units)	5	Refused
Minor dwellings (1-9 units)	7	Approved
Minor dwellings (1-9 units)	1	Withdrawn
General Industry/Warehousing (Minor)	1	Approved

Householder	2	Approved
Householder	2	Refused
Other Major	1	Approved
Other Minor	1	Withdrawn

Table 1: Applications Determined Under Delegated Authority and the Decision Made

NB: The decisions shown as withdrawn are when the applicant has withdrawn the application for determination.

To summarise, of decisions made by the Council under delegated authority 11 have been approved, 7 refused and 1 pending.

Table 2 provides details of the applications determined by Planning Committee, the Officer recommendation and final decision following referral. Only those applications that have gone through the Panel referral process are listed i.e. those applications which would have been presented due to other requirements of the SoD (e.g. being a major development) or referred by the Business Manager – Planning Development have been excluded.

Table 2: Applications Referred to Planning Committee for Decision

Application Reference	Location	Proposal	Officer Recommendation	Committee Decision (appeal details given where applicable)
20/00054/FULM	Bridgefield Farm, Wigsley Road, Thorney Moor	Retrospective planning application for the retention of mobile poultry units and access drive	Approve	Approve
20/01433/FUL	Land At Rear Of 49 & 49A The Ropewalk Southwell	Erection of 5(no.) single storey dwellings (Scheme D)	Approve	Refuse Appeal in progress
20/01418/FUL	Land At Rear Of 49 The Ropewalk Southwell	Erection of 4 No. 2-storey dwellings (Scheme A)	Approve	Refuse Appeal in progress
20/01421/FUL	Land At Rear Of 49 The Ropewalk Southwell	Erection of 3 No. dwellings: 2 x 2-storey and 1 x single storey (Scheme B)	Approve	Refuse Appeal in progress
20/01405/FUL	Land Off Main Street Balderton	Material change of use of land for stationing of caravans for residential occupation with associated	Approve	Approve

		development (new access, hard standing, utility block) - part retrospective		
20/01422/FUL	Land At Rear Of 49 & 49A The Ropewalk Southwell	Erection of 2(no.) 2 storey dwellings (Scheme C)	Approve	Approve
20/00889/FUL	17 Gunthorpe Road Lowdham NG14 7EN	Demolition of dwelling and erection of replacement dwelling	Approve	Refuse
20/00550/FUL	Orchard Stables Cottage Lane Collingham NG23 7QL	Change of use of land to site up to six wigwam pods, one managers office with storage, biodisc tank, landscape bund and associated infrastructure	Approve	Refuse Appeal in progress
20/00659/FUL	The Homestead Main Street Edingley NG22 8BE	Erection of a single storey residential dwelling and associated works	Approve	Approve
20/00579/FUL	Friary Fields Residential Nursing Home 21 Friary Road Newark On Trent NG24 1LE	Proposed change of use from Residential Institution (class C2) to large House in Multiple Occupation (class - Sui-Generis)	Approve	Refuse Appeal allowed
20/00253/FUL	Stonewold Gravelly Lane Fiskerton NG25 0UW	Demolition of existing dwelling and garages. Construction of new 5 bedroom dwelling and self-contained 1 bedroom annex with associated hard and soft landscaping	Approve	Refuse Appeal in progress

19/02146/FUL	7 Sycamore Road Ollerton NG22 9PS	Proposed detached house	Approve	Approve
20/00525/FUL	4 Yew Tree Way Coddington NG24 2RZ	Construction of a single detached dwelling and garage (resubmission of 19/00131/FUL)	Approve	Refuse Appeal in progress
19/02064/FUL	Land Rear Of 49 The Ropewalk Southwell	Erection of 5 new dwellings	Approve	Refuse Appeal in progress
19/02237/FUL	First Floor At Robin Hood Hotel Kirklington Road Rainworth Mansfield	Conversion of first floor space into 6 apartment units, 5 x One Beds and 1 x Studio, external entrance and fire exit staircase introduced on the facade facing the existing car park.	Approve	Refuse
20/00041/FUL	Land Adjacent Old Norse House Station Road Bleasby NG14 7GD	Change of use of land from paddock land to residential use and erection of three bay garage with store above (for use by Old Norse House)	Approve	Refuse Appeal - allowed
20/00113/S73	Land At Rear 37 Easthorpe Southwell	Application to vary condition 02 to add extension to approved dwelling, attached to planning permission 17/01839/FUL; Demolition of shed and erection of 1 No. 4 bedroomed house	Refuse	Refuse Appeal - dismissed
19/02287/FUL	9 Fisher Close Collingham	Proposed new single detached	Approve	Refuse

	Newark On Trent	bungalow		Appeal - dismissed
20/00593/FUL	Chapel Farm Newark Road Wellow	Erection of 8no holiday accommodation with swimming pool	Approve	Refuse
20/00886/FUL	Garage Off Bull Yard Southwell	Replace existing garage with a self-contained unit to provide additional guest accommodation	Approve	Refuse
20/01312/FUL	5 Chaucer Road Balderton NG24 3RA	Demolition of existing garage and erection of single storey dwelling	Approve	Approve
19/00131/FUL	Land Adjacent 4 Yew Tree Way Coddington NG24 2RZ	Construction of 2no. dwellings	Approve	Refuse Appeal in progress
18/02175/FUL	6 Barkstone Close Balderton Newark On Trent	Change of use of property to run a pet sitting service and erection of dog shed building.	Approve	Refuse Appeal in progress

Of these 23 applications, 7 decisions have been in line with the Officer recommendation. 16 have been overturned, all of which have been from a recommendation of approval to refusal. 13 of the decisions have been appealed, of which 4 have been determined by the Planning Inspectorate (at the time of finalizing this report). One of the Inspector's decision was both recommended by Officers and determined by Committee as a refusal – this was dismissed by the Inspector, upholding the Council's decision. Of the other 3 (overturns by Planning Committee) 1 was allowed and 2 dismissed. It is therefore too soon to infer any conclusions from this data.

Types of Applications Considered by Planning Committee in 2020

Figure 2: Type of Applications determined by Committee 2018

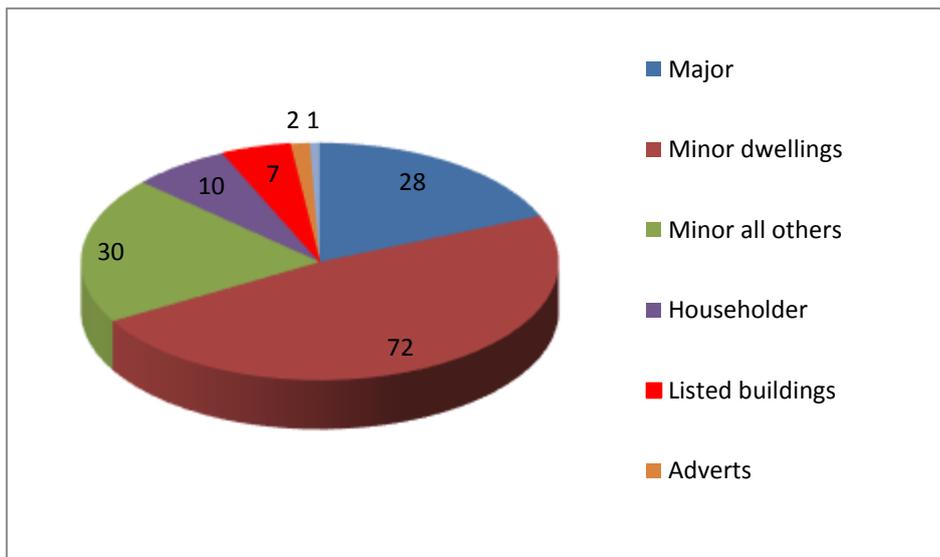
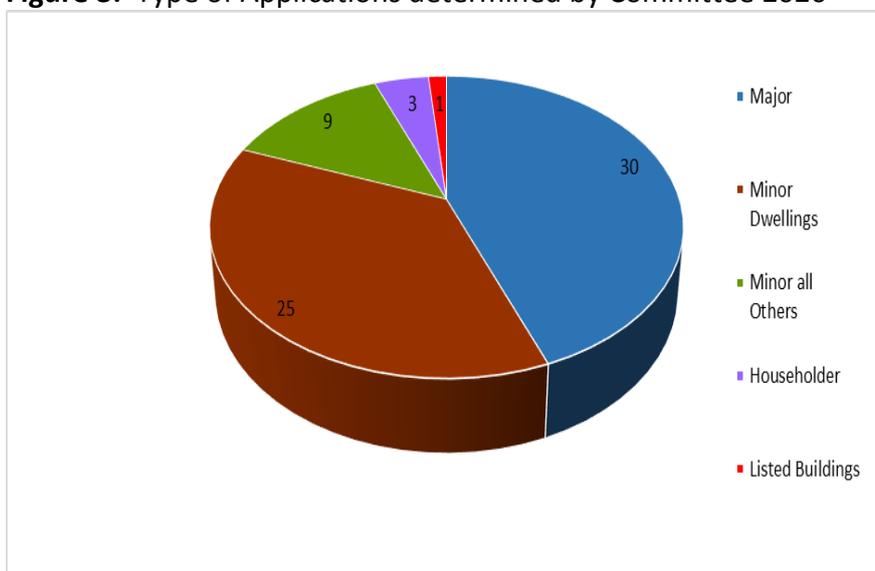


Figure 3: Type of Applications determined by Committee 2020



Even accounting for the effect the pandemic has had on the types of applications submitted, it can clearly be seen that proportionally more of the Committee’s time has been focused upon larger schemes, and generally more controversial proposals in 2020 compared to 2018. Taking into consideration guidance from Government as to who should make planning decisions:

“It is in the public interest for the local planning authority to have effective delegation arrangements in place to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area.”

Paragraph: 015 Reference ID: 21b-015-20140306, Revision date: 06 03 2014

the above data would indicate the Planning Committee is now more focused on determining the ‘correct’ [in terms of the above statement] applications compared to 2018.

Overall, it is therefore concluded the amended SoD has worked in terms of Members determining, in the main, the larger as well as more controversial and sensitive applications. However, the frustration felt by all with the process (applicants, Members and Officers) as outlined above, somewhat outweighs this benefit. However, returning to the previous SoD and the number of

applications previously presented, as set out in figure 2, is equally not the right course of action. This is particularly relevant when operating virtually although it is hoped that a new form of normality will come into play during 2021.

In view of this and taking account of all of the information above the following proposals are recommended.

PART 2: PROPOSED CHANGES TO THE SCHEME OF DELEGATION

Based on the findings of the analysis undertaken and consideration of options within the previous report to Committee in 2019, the following changes are suggested which are considered would maintain the objective of retaining the reduced number of applications presented to Planning Committee whilst enabling Members to be able to represent their constituents as they consider is appropriate.

- **Refer Applications for Minor Dwellings to Ward Members when the Officer recommendation is for Approval and if request received, present application to Planning Committee**

This would only involve the referral to the Ward Member(s) when the Town/Parish Council has objected to the proposal and the Officer is minded to recommend approval of the proposal for between 1-9 dwellinghouses. Members will be aware that an applicant has a right of appeal against the decision of the Council for all applications – for a refusal in terms of the decision made and in the case of an approval, against one or more conditions imposed. An appeal is most commonly made in relation to a refusal. This is to an independent body, the Planning Inspectorate, who is able to take into account all representations received as part of the application as well as any further letters that might be submitted during the appeal. This option was considered previously but discounted as it was not considered the numbers that would be presented to Committee would be reduced by such a number that would make it worthwhile.

Referring as recommended allows the applicant to have an opportunity to challenge the decision to the Inspectorate if an appeal is made. In relation to approvals, as there is no third party right of appeal against an approval, it will mean the Planning Committee have the ability to debate the position and also benefit from legal advice relevant to the discussion.

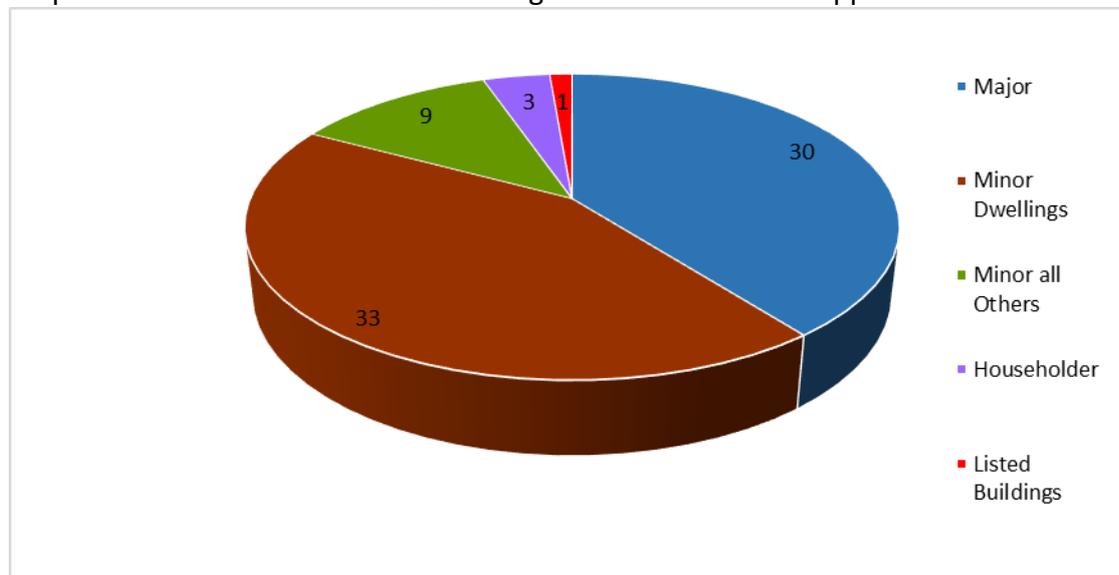
In terms of number of applications that would be presented based on this proposal, with reference to the applications referred last year and not accepted by the Panel, this would have increased the number of minor dwellings presented by 8 to 32, thus increasing the number of applications determined by Planning Committee by approximately 1 per month.

It is noted that of these 8, 5 were not appealed to Chief Executive. As noted above, it is not known why applications have not been appealed. It is important that referrals are for planning reasons material to the application, ideally with reference to the development plan and which policies the proposal is considered to comply with. The SoD currently sets out that requests should be for clear planning reasons.

If this recommendation were implemented, based on 2020's applications, the type and number considered by Planning Committee would be as shown in figure 4 below. Whilst the number of minor applications can be seen to be reflective of the number of major applications (taking account of Government guidance that Planning Committee Members should be determining the

larger and more controversial schemes), the overall number of minor applications received by the Council compared to majors is significantly greater and therefore the number would be somewhat reflective of applications received.

Figure 4: Example of the Number of Applications Determined by Committee if only Referral Requests Undertaken for Minor Dwellings Recommended for Approval



➤ **Member Call In/Referral Reasons**

Members currently have powers to refer all applications to Planning Committee within 21 days of receiving the weekly list. There is also the ability to refer applications subject to the referral mechanism described above. When a Member chooses to refer an application within their Ward, the request, inter alia, should set out clear planning reasons behind the request. As currently set out the Panel then considers whether it raises 'material planning considerations that warrant debate by Committee.'

Many of the referral requests received have been declined as they either do not set out clear planning reasons or most commonly the reasons are not ones that are considered to warrant the wider debate of Planning Committee.

A number of requests have referred to the reason as being 'as set out by the Parish/ Town Council'. However, understandably Town / Parish councillors are not always familiar with wider planning issues across the District. The aim is to, as far as possible, have consistent decision making acknowledging each application is determined on its own merits. Nor are Town/Parish councillors always aware of a particular policy that applies to a proposal or matters such as permitted development rights and so forth. Training has been offered to Town/Parish Councils as well as Members over recent years and for those that have taken this up, some of their comments and reasons can be seen are more relevant to the issues at hand.

Requests that have been declined by the Panel have tended to be due to not having clear planning reasons or where they do have clear planning reasons, they are not considered to be matters that warrant the wider debate of the Committee, often because they are not material to the proposal or professional consultees have a differing view.

As referenced above, it is recommended that the Scheme of Delegation is amended so that

referrals:

- Include a statement outlining material reasons why the proposal needs to be considered by Committee and
- Include a list of related Development Plan policies (or part of) and, where applicable, national planning policies (including paragraph numbers).

In the event that this is not provided within the referral, either the Case Officer or Authorised Officer will contact the relevant Ward Member to fully understand the reason(s) for referral. This in turn, will assist officers in preparing their report to ensure that they are discussing matter(s) that the Member considers is/are important to the proposal. Members who refer applications will, as is currently the case, be expected to speak to the Planning Committee, or to ask another [Ward] Member to speak on their behalf.

Training will be offered to any NSDC Councillor who requests this to assist them in representing their constituents.

Other Matters

During the course of the implementation of the amended SoD, it has come to light that a few other more technical matters have arisen which require clarification within the SoD. These include:

- The inability of Officers to make [minor] amendments to conditions or reasons for refusal following the Committee decision. This has meant that delegation has been confirmed by Committee during the last 12 months either as part of the voting of each application or is set out at the beginning of the meeting. However, for transparency this should be clearly set out. The reason for the addition is to ensure conditions meet the tests for their imposition or provide precise and robust reasons for refusal in order to protect the interests of the Council.
- Amendments to the Non-Designated Heritage Asset list (once adopted)
- Applications submitted by the Council for an extension or other alteration affecting a dwellinghouse forming part of its HRA housing stock
- Refusals for major applications as a result of a Statutory Consultee (defined in the Town and Country Planning (General Permitted Development) (England) Order 2015 when the Town/Parish Council or Parish meeting support the proposal

It has also been identified that navigating the weekly list of planning applications in order to review the proposal and drawings as well as find out who the case officer is, is somewhat cumbersome. There will therefore be changes to the weekly list to include the case officer's name, phone number as well as a link to the application on the Council's website. It must be noted that on occasions the case officer dealing with a proposal may change. However, should this occur, the original case officer would be able to advise anyone enquiring on the proposal. Any other improvements that Members consider might be helpful for themselves or the public are welcomed.

Conclusions

The review of the Scheme of Delegation in 2019 has had positive impact in terms of the numbers of applications determined by Planning Committee. In the main, the Committee's time has been focused towards the larger scale and more controversial applications. However, the changes have brought challenges and frustrations to all parties involved.

It is therefore concluded that changes are required to the Scheme of Delegation, principally with the removal of the Panel in considering referrals. Referrals will continue to be made for minor applications of 1-9 dwellinghouses but only when the officer recommendation is going to be one of approval and the Town/Parish Council/Meeting has objected. Applications that are refused under delegated authority can be appealed by the applicant to the Planning Inspectorate and therefore the applicant in such cases still has an ability to challenge the Council's decision.

Other minor changes are considered necessary to the SoD to provide clarification and respond to changes over the previous 12-months. These are shown within Appendix 1 with additions shown in bold text and text suggested for omission crossed out.

OVERALL RECOMMENDATIONS

That Planning Committee accepts the changes to the Scheme of Delegation as detailed and the changes be referred to Full Council for approval.

These changes summarized are:

- **Refer Applications for Minor Dwellings to Ward Members when the Town/Parish Council has objected and the Officer recommendation is for Approval and if request received, present application to Planning Committee; and**
- **Greater Clarity (i.e. planning reasons) from Member within Referral Requests; and**
- **Amend the Scheme of Delegation as set out within Appendix 1.**

In addition, changes will be made to the weekly list of planning applications to include a link to the planning application and for the case officer's name to be included.

Background Papers

Review of Scheme of Delegation - <https://democracy.newark-sherwooddc.gov.uk/documents/s6262/15.10.19%20-%20Review%20of%20Scheme%20of%20Delegation.pdf>

Part 4 – Codes and Protocols - [https://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/democraticservices/pdfs/constitution/PART%204%20Codes%20and%20Protocols%20\(July%202020\).pdf](https://www.newark-sherwooddc.gov.uk/media/newarkandsherwood/imagesandfiles/democraticservices/pdfs/constitution/PART%204%20Codes%20and%20Protocols%20(July%202020).pdf)

For further information, please contact Lisa Hughes on ext. 5565.

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