



## Belfast District Council (Shadow)

<b>Report to:</b>	Shadow Planning Committee
<b>Subject:</b>	Deferred Applications post April 2015
<b>Date:</b>	11 <sup>th</sup> March 2015
<b>Reporting Officer:</b>	John Walsh, Town Solicitor, Ext 6042
<b>Contact Officer:</b>	Nora Largey, Solicitor, Ext 6049

<b>1</b>	<b>Relevant Background Information</b>
1.1	Members will be aware that a number of planning applications have been deferred by the Council's Town Planning Committee. It is proposed to have a mop up meeting of the Town Planning Committee on 26 <sup>th</sup> March 2015 to deal with those applications.
1.2	It is envisaged however that it will not be possible to deal with all of the deferred applications at that meeting. This will mean that there will be some applications which would have been decided by the DOE Planning Service but will then have to be determined by the Council as a result of the Council deferring the application.
1.3	There will also be a number of applications which have been deferred by Lisburn City Council and Castlereagh Borough Council which will be transferred to Belfast on 1 <sup>st</sup> April 2015.

<b>2</b>	<b>Key Issues</b>
2.1	As members will be aware, the first actions of the Council as a local planning authority are likely to come under great scrutiny from the press, the general public, and in particular, those parties interested in the applications which have been deferred.
2.2	As the Council was not the decision maker in respect of those applications which have been deferred, it is likely that members have in the past made comments or expressed a view in relation to a particular application, or to a particular type of

	<p>application. This will give rise to issues in relation to pre-determination, potential conflict of interest or the appearance of bias.</p>
2.3	<p>In addition, members will recall that the decisions of the Committee will be subject to the supervision of the High Court by way of judicial review. Judicial review is typically concerned with the decision making process as opposed to the decision itself. One of the grounds for judicial review is that there has been procedural unfairness in dealing with an application which includes, amongst other things, the appearance of bias.</p>
2.4	<p>In light of those considerations it is essential that the Planning Committee has a robust process in place for determining those applications which have been deferred so as to ensure that there is no appearance of bias, pre-determination or any other alleged impropriety.</p>
2.5	<p>In order to do so, it would appear that there are two options available to deal with deferred applications post April 2015. These are:</p>
2.6	<p><b>Option One</b></p> <ul style="list-style-type: none"> <li>• Delegate permission to the senior authorised planning officer to determine all applications which have been deferred prior to April 2015.</li> <li>• This will be subject to the senior authorised planning officer, in consultation with the Town Solicitor and Director of Development, bringing any application to Committee where it is deemed appropriate in all the circumstances to do so.</li> <li>• Any major applications, applications made by the Council, an elected member of the Council, a Council employee and applications relating to land in which the Council has an interest cannot be delegated and will therefore be brought before Committee.</li> </ul>
2.7	<p><b>Option Two</b></p> <ul style="list-style-type: none"> <li>• Apply the Scheme of Delegation to all deferred applications. Those applications which are not delegated under the Scheme will be brought before Committee to be determined. A copy of the Scheme is attached at Appendix One.</li> <li>• Any member who had requested that the application be deferred, together with any member who has had any involvement in the process or has expressed a view in relation to the application, shall not take part in the decision making process so as to avoid any suggestion of impropriety.</li> </ul>
2.8	<p>Officers have estimated that approximately 10-12 applications will have to be determined at each Committee meeting, taking into account the Scheme of Delegation and the average number of applications received. That estimate does not include those applications which are currently deferred.</p>
2.9	<p>If Option Two is selected that will increase the number of applications which will have to be considered by Committee in the initial months and may cause delay in determining other applications. Members are reminded that if a decision is not made within 8 weeks of a non major application being lodged (and 16 weeks in</p>

	respect of a major application), an applicant can appeal that 'non-decision' to the Planning Appeals Commission ('the PAC'). If the PAC finds in favour of the application it has the power to make an order for costs against the Council.
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<b>3</b>	<b>Resource Implications</b>
3.1	It is not possible to determine resource implications at present; thought it should be noted that the proportion of decisions brought before Committee will have an impact upon the required committee support provided by Democratic Services, Legal Services and the Planning Service.

<b>4</b>	<b>Equality and Good Relations Implications</b>
4.1	None.

<b>5</b>	<b>Call In</b>
5.1	Members are advised that any decision relating to the governance of the committee is subject to Call In.

<b>5</b>	<b>Recommendations</b>
5.1	The Committee is asked to; <ul style="list-style-type: none"> <li>• Agree to either Option One or Option Two as set out in the body of the Report.</li> </ul>

<b>6</b>	<b>Documents attached</b>
6.1	Appendix One – Scheme of Delegation

<b>7</b>	<b>Decision Tracking</b>
7.1	The person responsible for any actions arising from your meeting is John Walsh.