

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Reporting Officer: Head of Democratic Services

(i) TEMPORARY SUSPENSION OF COUNCIL PROCEDURE RULES FOR THE CURRENT VIRTUAL COUNCIL MEETING ONLY

RECOMMENDATION: That, under Council Procedure Rule 26.1, Council agrees to temporarily suspend the specific Council Procedure Rules set out in this report for the purposes of holding this virtual Council meeting only.

Introduction

1. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Regulations) 2020 were published on 2 April and came into force on 4 April. They remove the 'place' requirement so meetings can be held virtually. These are temporary national regulations and, unless the Council determines otherwise, will only last until May 2021.
2. To provide for the efficient and effective conduct of virtual Full Council meetings, it is proposed to temporarily suspend parts of the Council's Procedure Rules (Part 4, Schedule A of the Constitution). The proposed suspensions cater for the fact that there cannot be any physical attendance at virtual Council meetings, seek to ensure the meeting runs in a business-like way and, in respect of questions from the public, that technology is not a barrier to those who wish to put their views across and have a response from decision-makers.

Suspension of standing orders

3. Under Council Procedure Rule 26.1, if at least half of the whole number of members of the Council are present, they can vote to suspend Council Procedure Rules with the exception of Rules 19.6 and 20.2 which are detailed later. Article 15 of the Constitution also requires that where parts of the Council Procedure Rules are to be suspended, to give the reasons for this and the duration of the suspension which is set out in this report.
4. For the avoidance of doubt, it is proposed that this is a temporary measure and will, upon both UK Government advice and if the Council determines, be resumed for traditional meetings.
5. It is also important to note that, as an alternative to suspension, Council can amend the Council Procedure Rules. However, there is no ability to immediately amend them because under Council Procedure Rule 26.2, if a motion is proposed and seconded to amend the Rules it will stand adjourned without discussion to the next ordinary meeting of the Council (which would be in November). Hence, the route proposed to effect these changes is temporary suspension.

Proposals

6. In light of the above, the suspension of the following Council Procedure Rules is, therefore, proposed:

- i) **Recorded Votes (Council Procedure Rule 19.4)** – it is proposed to suspend this Rule which provides for a roll call to be entered into the minutes upon 7 Members present demanding it, e.g. before a vote on a motion. Instead a Group Leader will be able to request a recorded vote on behalf of 7 Members of their Group.

For 'normal' voting the existing (and remaining) Council Procedure Rule 19.3, allows for the Mayor to take a vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

It is proposed that this affirmation be sought by the Mayor asking both Group Leaders to cast a normal or recorded vote on behalf of their whole Group. The Mayor will then ask if any Member wishes to vote differently to their Group. Time will be allowed for responses – either verbally or by using 'chat'. Such votes will then be recorded in the minutes in the usual way (by name in the case of recorded votes).

It is important to note that Council Procedure Rule 19.6 cannot be suspended. This does not relate to any collective recorded vote as above, but relates to an individual Member asking that their vote be recorded in the minutes.

- ii) **Rules of Debate on Motions (Council Procedure Rule 14.5 a-c and Council Procedure Rule 14.9 c)** - It is proposed to suspend these extracts of the two Council Procedure Rules to provide for more structured debate in virtual meetings as follows on any motion:

The proposed Order of Members speaking on Motions would, therefore, be:

- i) Mover
- ii) Seconder

NB :If an amendment is to be moved it will be listed on the Order of Business – move to vi) below:

If no amendment is to be moved then:

- iii) Two other speakers from either Group – pre notified by the Whips (the order of speaking to be determined by the Whips Committee)
- iv) Right of reply (mover of motion)
- v) Vote on motion – in accordance with the above, the Group Leaders to cast the vote on behalf of their Groups.

NB: If a pre-notified amendment is to be moved:

- vi) Mover of amendment
- vii) Seconder of amendment

- viii) Two other speakers from either Group - pre-notified by the Whips (the order of speaking to be determined by the Whips Committee)
- ix) Right of reply (mover of amendment)
- x) Right of reply (mover of original motion)
- xi) Vote – in accordance with the above, the Group Leaders to cast the vote on behalf of their Groups.

To assist in this the Chief Whips will liaise with the Head of Democratic Services to provide a definitive list of notified speakers for each item. This will be the list that the Mayor will use to call those speaking, so all Members should be aware of this. However, Points or Order or Points of Personal explanation will still be permitted. If a Member wishes to utilise these then they should indicate to the Mayor verbally or by using the 'chat' facility.

- iii) **General (Council Procedure Rules 22.1 and 24.1)** – Council Procedure Rule 22.1 relates to Members physically signing attendance sheets when they walk into the meeting. It is proposed to suspend this for virtual meetings because of the attendance roll call that takes place. Council Procedure Rule 24.1 relates to physically standing to speak and addressing their statements through the Mayor. As Members will be taking part virtually this will not be required.

Legal Implications

The Local Authorities and Police and Crime Panels [Coronavirus] [Flexibility of Local Authority and Police and Crime Panel Meetings] [England and Wales] [Regulations] 2020, made pursuant to the Coronavirus Act 2020, permit local authority meetings to be held virtually.

The proposal set out in this report, if agreed by full Council, will allow the virtual meeting on 10 September 2020 to run effectively and democratically by permitting members of the public and Members of the Council to fully participate.

The Borough Solicitor can confirm that, subject to certain exceptions which are set out in the body of the report, Council Procedure Rule 26.1 allows the Rules to be suspended by motion or without notice if at least one half of the whole number of Members of the Council are present and vote accordingly. Suspension can only be for the duration of the meeting on 10 September.

BACKGROUND PAPERS: None

(ii) URGENT IMPLEMENTATION OF DECISIONS

RECOMMENDATION: That the Urgency decisions detailed below be noted.

Information

1. The Constitution allows a Cabinet or Cabinet Member decision to be implemented before the expiry of the 5 day call-in provided there is agreement from the Chief Executive and the Chairman of the Executive Scrutiny Committee to waive this. All such decisions are to be reported for information only to the next full Council meeting.
2. Since those noted at the 16 July 2020 Virtual Council meeting, the following decisions have been made using urgency procedures:

| Date of Decision | Decision Type / Nature of Decision | Decision-Maker |
|------------------|--|--|
| 14/07/2020 | Disabled Facilities Grant 2020/21 (Release No. 3) - works to assist disabled residents at home | Leader of the Council and Cabinet Member for Finance, Property & Business Services |
| 14/07/2020 | Housing Revenue Account Major Adaptations to Property 2020/21 (Release No. 4) - works to assist disabled residents at home | Leader of the Council and Cabinet Member for Finance, Property & Business Services |
| 23/07/2020 | School Conditions Programme 2020/21 - Appointment of Contractor and Capital Release for Replacement of Modular Classroom Unit at Yeading Infant School (Release No. 3) | Leader of the Council and Cabinet Member for Finance, Property & Business Services |
| 10/08/2020 | Transport for London 2020/21 - Bridge Assessment and Strengthening (Release No. 2) - Trout Road Bridge, Yiewsley | Leader of the Council and Cabinet Member for Finance, Property & Business Services |
| 25/08/2020 | ICT Corporate Technology & Innovation Programme: Contract Award for resources to support the move to Windows 10 including end user hardware refresh and migration to Microsoft 365 | Leader of the Council and Cabinet Member for Finance, Property & Business Services |
| 26/08/2020 | Battle of Britain Bunker Enhancement - Controller's Cabin - Release No 1 | Leader of the Council and Cabinet Member for Finance, Property & Business Services |
| 2/9/2020 | Proposed and Revised Article 4 Directions to Protect Employment Land with the London Borough of Hillingdon (recommend to Council) | Leader of the Council and Cabinet Member for Planning & Transportation |
| 2/9/2020 | Battle of Britain Bunker Enhancement - Polish Air Force Exhibition - Release No 2 | Leader of the Council and Cabinet Member for Finance, Property & Business Services |

Background Papers: Decision Notices

(iii) AMENDMENT TO THE COUNCIL CONSTITUTION – RESIDENT SERVICES SCHEME OF DELEGATIONS

RECOMMENDATIONS That:

- a) **the following new delegation in respect of planning functions be approved for inclusion in the Deputy Chief Executive and Corporate Director of Residents Services Scheme of Delegations (referred to in Part 3 of the Council's Constitution):**

“All applications to which 42 day or 56 day prior approval constraints apply shall be delegated to the Head of Planning, Transportation and Regeneration, subject to the following conditions:

- a. **Where a valid petition has been received and the officer recommendation is contrary to that requested by the petitioners, it shall be referred to the relevant planning committee for determination;**
- b. **Where there are 20 or more individual representations in support or objection received and the officer recommendation is contrary to that requested by the supporters or objectors it shall be referred to the relevant planning committee for determination.**
- c. **Where there is a petition received and the Head of Planning, Transportation and Regeneration is to make a delegated decision consistent with the petitioners' views, this is done in consultation with the relevant Planning Committee Chairman and Labour lead (or in their absence the Vice-Chairman and nominated Labour committee member). Should there be disagreement by Members concerning the recommendation then it should (if time constraints allow) be referred to the relevant planning committee for decision.”**

- b) **the Head of Democratic Services, in consultation with the Leader of the Council, be authorised to make any consequential changes required to the Residents Services Scheme of Delegations, so that the above delegation can take primary effect.**

Information

1. Under the Head of Planning, Transportation and Regeneration's powers of delegation (of the Residents Services scheme of delegation) it is outlined which type of planning application can be dealt with under delegated authority and which is automatically referred to an Area Planning Committee.
2. It currently states that: *'All telecommunication mast applications where the statutory time constraints allow for determination should be referred to Committee'*. It further states that the following applications should not be referred to Committee: *'All applications to which Paragraph A.4 of schedule 2 (Class A) of the Town and Country Planning (General Permitted Development) Order 1995 applies (42 day prior approval applications) cannot be referred to a Planning Committee (agreed by Council 2/2014)'* - This relates only to prior approval applications for single storey rear extensions.

3. The Government has, since 2013, introduced a number of changes to permitted development rights aimed at deregulating the planning system and stimulating the economy. Recent planning reforms have further increased the number of prior approval processes; there are now 30 different types of prior approval. Nonetheless the Planning scheme of delegation only refers specifically to two prior approval types. Prior approvals can cover a wide range of matters, but in all cases have strict time constraints.
4. For prior approvals what is called a 'deemed approval' is granted if a decision is not made within a specific timescale (42 or 56 days). Deemed approvals mean that approval is automatically granted irrespective of whether the proposals are considered acceptable. With such cases the priority (especially refusals) is to ensure a decision is made within the specified timescale.
5. Telecommunication masts are a particular problem as the relevant legislation requires that the decision notice has to be proven to be received by the applicant within 56 days (with the onus placed on the Council). This means for these prior approval decisions the Council has to issue decisions through the Royal Mail recorded delivery service, where the document must be signed on receipt by the addressee. Officers are finding themselves frequently drawn into disputes with agents of the telecommunication operators, who dispute every aspect of the process and threaten to erect masts if they consider processes are not followed.
6. In order to protect the Council from being drawn into disputes officers are, where possible, sending decision notices by recorded delivery up to a week or more before the applications expire. As telecommunication operators seek to roll out 5G networks it is anticipated that a high volume of mast applications will be lodged over the next couple of years. This is in addition to the many other prior approval categories being brought into use (including the contentious 'additional storey's on existing properties' prior approval category).
7. Recent committee decisions have indicated that officer opinions on the acceptability of 5G masts (and other prior approval application types) are very closely aligned to that of the Members who sit on the Committees. But officers are extremely concerned that the scheme of delegation is requiring reports for all cases, rather than those where a Committee report is in the public interest.
8. It is recommended that the focus of the scheme of delegation should be on the Planning Committees hearing those prior approval cases where officers are recommending approval and there are large volumes of local representation opposing the proposal (whether individual objections or via a petition). In cases where there are no objections at all or where there are objections and officers are recommending refusal, delegated decisions should be made.
9. In cases where there is a petition against a proposal and officers recommend refusal there could be referrals to the Chairman and Labour lead (thus ensuring greater scrutiny of such cases, but without a Committee referral being required). If there are concerns with officer recommendations (if time constraints allow) such cases could then still be referred to Committee.

10. The recommended changes to the scheme of delegation set out at the start of this report address all of the issues raised in this report.
11. Consequential changes may be required to other existing [old] delegations relating to prior approvals within the Residents Scheme of Delegation in order for the proposed new delegation to take primary effect and supersede them. Council is, therefore, also requested to delegate authority for any such changes required. This would not have the effect of amending other matters that are reported to Committee.

Legal implications

The Borough Solicitor confirms that there are no legal impediments to Council amending the Scheme of Delegation as set out in the report. The recommendations fully comply with the provisions of section 101 of the Local Government Act 1972 which authorises the delegation of functions to officers.

Finance Implications

None

Background papers: The Town and Country Planning (General Permitted Development Order 2015) as amended.