



Subject Heading:

Exclusion of Prior Approvals from Councillor Call-In Process

CMT Lead:

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Policy context:

Council's Constitution

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

- Havering will be clean and its environment will be cared for []
- People will be safe, in their homes and in the community [X]
- Residents will be proud to live in Havering [X]

SUMMARY

Alongside the processing of planning applications, the Council is also responsible for the handling of prior approval submissions. Unlike planning applications, prior approval submissions have strict timescales for determination which, if not adhered to, can result in their default approval irrespective of the Council's intended decisions. This report sets out the current approach to handling requests from Councillors to call in these applications to Regulatory Services Committee for determination.

RECOMMENDATIONS

That:

1. The Committee confirms the approach set out within the report that prior approval submissions cannot be called-in for determination by the Regulatory Services Committee unless an Extension of Time Agreement has been sought from the applicant.
2. If the Committee confirms the proposal above then the proposal will take effect in the interim until the matter is put before Full Council.

REPORT DETAIL

1. For certain types of development, rather than submitting an application for planning permission, an applicant is able to make a submission for prior approval. Unlike a planning application where all matters can be considered including the principle of the development, with a prior approval, only certain matters can be assessed depending upon the type of approval being sought.
2. Planning legislation currently allows for various prior approval submissions to be made. The list below identifies those submissions likely to be received by the Council. The timescale quoted in brackets is the period the Council has to make, and for the applicant to be in receipt of, its decision:
 - a. Larger Home Extensions (42 days, 6 weeks)
 - b. Certain changes of use (56 days, 8 weeks)
 - c. Certain temporary uses of building or land (56 days, 8 weeks)
 - d. Certain agricultural development (28 days, 4 weeks)
 - e. Forestry developments (28 days, 4 weeks)
 - f. Click and collect facilities (56 days, 8 weeks)
 - g. Demolition of buildings (28 days, 4 weeks)
 - h. Installation or alteration of solar equipment on non-domestic premises (56 days, 8 weeks)
 - i. Telecommunications development (56 days, 8 weeks)
3. In each case, if the applicant does not receive the Council's written notice of decision within the timescales stated, then the Council's decision automatically defaults to an approval irrespective of what the Council's decision would have been.

4. Committee Procedure Rule 13(e) of the Council's Constitution sets out the framework and circumstances under which a Councillor can call-in an application for determination at the Regulatory Services Committee. Constitutionally, a Councillor is able to call-in any application.
5. Given the consequences of decision making on prior approval submissions outside of timescales identified in paragraph 2, requests to call-in a prior approval submission by a councillor (as per the call-in process) have historically been declined by officers. This is because it can be very difficult to thoroughly consider a submission, prepare a report and present it to a committee meeting (which occurs every three weeks) within the timescales prescribed to enable the subsequent decision to be dispatched and received by the applicant. This is particularly challenging for those prior approval submissions which require determination within 28 or 42 days (4 or 6 weeks) of receipt.
6. As a result of a recent councillor query as to the constitutional basis for declining a request to call-in a prior approval submission (in that case, a proposal for a telecommunications installation), this report has been prepared to seek formal confirmation from the Governance Committee that the approach employed by officers to-date should continue and that prior approval submissions cannot be called-in to committee for decision.
7. The only exception to this arrangement would be in instances where the applicant has agreed to formally extend the time period available to make a decision, as permitted by Paragraph 7 of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended). In such cases, the applicant has to expressly agree in writing to an extension of time. Securing such an extension would enable the associated prior approval to be reported to the Regulatory Services Committee. Where there is no agreement however, the Council has to make its decision within the prescribed timescales identified so as to prevent a default approval.

IMPLICATIONS AND RISKS

Financial implications and risks:

The described changes to delegated powers would have no material financial implications.

Legal implications and risks:

There are no material legal implications. The Planning Service would continue to seek and incorporate Legal Advice where necessary.

It is noted that the report being presented to the Governance Committee is the correct procedure as set out in Article 11 of the Council's Constitution and will be

Governance Committee 26 May 2016

presented to Full Council to make the final decision on whether to accept the proposal.

Human Resources implications and risks:

There are no material implications.

Equalities implications and risks:

There are no direct equalities implications arising from this report. Where relevant, the Planning Service would continue to seek and incorporate advice from the Council's Corporate Policy and Diversity team.

BACKGROUND PAPERS

None