

**AM 595-21**

## **NEW FOREST NATIONAL PARK AUTHORITY**

**29 APRIL 2021**

### **AMENDMENTS TO DELEGATIONS**

**Report by:** Rosalind Alderman, Solicitor and Monitoring Officer

#### **1.0 Summary**

- 1.1 As members will be aware, the ongoing ability of local authorities to hold meetings by remote means is currently in doubt, because the provisions of the relevant legislation (The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020) will lapse on 6 May 2021 and have not been extended. The letter of confirmation from Luke Hall MP is attached as **Annex 1** to this report.
- 1.2 Assuming that there is no further lockdown imposed because the pandemic worsens and that the current relaxation of restrictions continues as planned, it would be possible for physical meetings to take place indoors from 17 May 2021, provided that a risk assessment is undertaken and appropriate safety measures are in place. However, whether in May or subsequently, it may appear at some point that it would be impractical or impossible to hold a meeting and/or to ensure the safety of members, officers and the public. Although this is not considered likely, it could occur if, for example, the infection rate were to increase locally, or a number of those who would otherwise have attended indicate beforehand that they do not feel comfortable exposing themselves to the risk of transmission by attending a physical meeting.
- 1.3 If this were to occur, it is anticipated that the majority of decisions that would ordinarily be made by the full Authority, the Resources, Audit and Performance Committee and the Standards Committee could be made by the Chief Executive, in consultation with the Chairman, under her delegation for urgent matters. In practice, prior to the use of that delegation the Chief Executive also consults with senior officers and all relevant Authority or Committee members as appropriate, and will seek to have regard to the views received.
- 1.4 This delegation may only be used where a failure to take action or make a decision would prejudice the Authority's interests, meaning that its scope is somewhat limited, but if a failure to take a decision on a particular matter did not appear to be prejudicial then that decision could presumably be deferred to a physical meeting as soon as it is considered safe to hold one. However, this would not be the case with regard to decisions that would usually be taken by the Planning Committee. Failure to take those decisions promptly might well not amount to being 'prejudicial' to the Authority's interests, notwithstanding the statutory determination timeframes, but could nonetheless cause harm to the interests of applicants and interested parties.

- 1.5 It is therefore proposed that the Authority's Scheme of Delegations be amended so that where, in the opinion of the Authority Chairman, the Planning Committee Chairman and the Chief Executive, it would not be possible or practicable to hold a particular Planning Committee meeting safely, items that would otherwise have been decided at that meeting could be determined by officers under delegated powers. It is suggested that this delegation be granted in line with the following parameters:
- It applies only to items that fall due for or (in the case of enforcement action) otherwise require determination prior to the next scheduled Committee meeting following the cancelled meeting; and
  - It does not apply to items that have been called in by Authority members or members of other local authorities, unless at the discretion of the Chairman of the Committee it could reasonably be determined by officers notwithstanding that it has been called in, and it appears necessary or expedient that the item should be determined without awaiting a physical meeting; and
  - It does not apply to applications made by the Authority itself or by the Executive Director; and
  - The Executive Director would make any such decisions in consultation with the Chairman or Deputy Chairman of the Planning Committee.
- 1.6 Ordinarily, major applications would be decided by the full Authority following a recommendation from the Planning Committee. Members may wish to consider whether they would also wish to limit the scope of the delegation to officers to householder applications only (together with enforcement matters such as prosecutions, etc.), rather than including the ability for officers to make recommendations to the full Authority as to major applications. It seems likely that the longer timeframes for the determination of those applications would render this further restriction unnecessary, given the limitation set out in the first bullet point in the preceding paragraph and the fact that the full Authority would still need to make the final decision, but it would be helpful to obtain members' views on this point.
- 1.7 Finally, it should be noted that at the time of writing this report two organisations, the Association of Democratic Service Officers and the Lawyers in Local Government, acting with Hertfordshire County Council, have sought a declaration from the High Court that the relevant provisions in the Local Government Act 1972 can be interpreted as allowing meetings to be conducted by remote means. Should this declaration be granted members may feel that there would be no need to amend the Scheme of Delegations, as it would be proper to continue holding remote meetings in these circumstances. Officers will update members at the meeting as to the outcome of this case if it is known.
- 1.8 The proposed amendments to the Scheme of Delegations are attached as **Annex 2** (see p28 – 29).

#### **RECOMMENDATION:**

**That the Authority adopt the revised Scheme of Delegations to Committees and Officers set out at Annex 2 to this report, subject to any further amendments agreed at the meeting, with effect from 7 May 2021.**