

Burton Bradstock Parish Council

BBPC recreation group report item 8dh

Purpose of Paper

The Clerk was asked to investigate electronic communications and decision making to report to full council for consideration given the new paperless planning and

Background

The PC are constantly being asked to consider consultations and make decisions by specific deadlines electronically. In order to make these deadlines between meetings the clerk was asked to investigate the legal obligations of the PC.

Actions

The Clerk sent a request to DAPTC for information from other Clerks on this subject and how they deal with these kinds of issues efficiently given the constraints of arranging meetings.

This is the wording for an addition to Standing orders I sent to DAPTC for consideration and comment by Clerks in Dorset:

a. In order to expedite the Council's business, comments on planning consultations or other items that require an urgent decision between PC meetings and that a meeting cannot reasonably be called to meet the deadline for the decision. The Clerk will forward (via email) the link to the application or report that requires a fast tracked decision, Councillors will respond via email using the "reply all" facility for Councillors to decide if a meeting should/can be called.

The Clerk will then ask for the decision of each of the Councillors again using the "reply all" facility. The Clerk in discussions with the Chairman using the responses received will process the decision/comments accordingly; this will then be reported at the next available full Council meeting. In all instances every effort will be made to make decisions at full Council meetings.

This was the request sent to Clerks by DAPTC as a covering email

As part of a project by Dorset councils (West Dorset District Council, North Dorset District Council and Weymouth and Portland Borough Council) to move to paperless planning consultation with parish and town councils, one of the West Dorset clerks feels that they should make changes to their Standing Orders to accommodate this new way of working in the parish council.

Shown below is the addition that she would like to add to her parish council's Standing Orders, but she is wondering if any other councils have already made the change in the way that they look at planning applications and if they have amended their Standing Orders already.

Therefore, if you and your parish council have already update your Standing Orders and you think that it would be helpful to the West Dorset clerk, please can you let me have your comments and copies of the relevant sections within your Standing Orders and I will pass them on.

This is the wording used at Cerne Valley to accommodate the new paperless planning process:
“The Parish Council has come to a resolution to discuss and submit correspondence on planning applications via electronic communications unless it is deemed by any Councillor either complex or controversial in which then a full planning meeting will be convened at the earliest opportunity”

There were at least 30 responses to this email request with many differing views but there was one that gave a definitive answer and quoted:

Schedule 12 Para. 39 (1) Local Govt. Act 1972 refers.

39(1) Subject to the provisions of any enactment (including any enactment in this Act) all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.

The only way this will be lawful is if the Council delegates to the clerk the authority to comment on planning applications (in consultation with Members).

The clerk cannot otherwise lawfully seek a ‘decision’ from the Council unless a meeting is held.

Outcomes

The DAPTC view as of today is that Parish and Town Councils should follow the guidance and training and the LGA and they cannot give any further advice on the request I sent although it is apparent that some Parish Councils make their own arrangements to get over these issues.

RECOMENDATION

- 1. Note the Schedule 12 Para. 39 (1) Local Govt. Act 1972 as statute**
- 2. To consider a resolution that in exceptional circumstances that a decision using the “reply all” facility to make a decision as noted above in blue**