

## Agenda Item 11

Development Management

17 November 2009

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### Planning scheme of delegation

#### Summary

The Systems Thinking review of the Development Control function suggested changes to the scheme of delegation. Following the original changes made to the scheme of delegation as agreed by the Chief Executive and leading Members in 2008 a Planning Delegations working party was set up to look at this further. The working party (later endorsed by Executive Board) made further changes to the scheme which are now set out below for Members consideration. Following such consideration the matter will need to be forwarded to Full Council for their final adoption.

#### Recommendation

**That Members consider and agree the Planning Scheme of delegation and principles of use as set out in this report and that this is forwarded to Full Council for adoption.**

#### a) Reasons for Recommendation

To ensure all applications and planning related work are dealt with in a timely and efficient manner in the best interests of the customer, whilst taking into account the views of all parties

#### b) Alternative Options

Without a scheme of delegation the Committee would be faced with unmanageable agendas and the consequent cost and delays would be unacceptable and contrary to government advice on the efficiency of Local Planning Authorities.

#### c) Risk Considerations

It is important to ensure any scheme is properly adopted to ensure that planning decisions are sound and not liable to legal challenge

#### d) Policy and Budgetary Considerations

The proposals build on earlier schemes of planning delegation previously agreed and take into account the Systems Thinking review and other government advice as contained in the recent Killian/Pretty review. An efficient delegation system is in line with local policy and government best practice. With regard to budgetary considerations the lack of an efficient delegation scheme would drive up costs of the service both in terms of time spent on preparing agendas,

printing costs and committee time to consider applications. Further preventable demand would also occur with agents and applicants chasing decisions.

e) Date for Review of Decision

Review should take place on receipt of further government guidance that requires changes to the agreed scheme, or at the discretion of the Head of Planning and Countryside in consultation with the Chairman of the Development Management Committee, triggered as may be by further internal review of working practices.

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Members will recall a number of meetings previously held to discuss the scheme of delegation and the mechanics of how this would work in practice. This report sets out the various types of applications and how these would be dealt with. In addition it also sets out the principles to be applied in terms of officer/member working.

For ease of reference the earlier scheme of delegation that existed prior to the Systems Thinking review is appended for Members' information. In addition the various minutes of the Planning Delegation Working Party, DM minutes and Executive Board minutes are also appended.

## Applications to be determined by Committee

In all cases the following exceptions will still apply where the application will need to be determined by Committee.

- Applicant is a District Councillor, or an Officer (of any department of the Council)
- Applicant is a close relative of a District Councillor or an Officer (of any department of the Council)
- Significant Departure application requiring reference to the Secretary of State.
- Application where the Head of Planning & Countryside Services is recommending against adopted policy.
- There are financial implications for the Council e.g. EDDC is the applicant/landowner.
- Any application referred by the Head of Planning & Countryside Services at her discretion.

## Applications classified as 'Other' including the following -

- Householder (excludes flats) extensions or development within the curtilage of a dwelling,
- Changes of use (where no operational development is involved or such work is PD),
- Advertisement Consent (including those dealt with by Quality Councils),
- Listed Building Consent for internal and external alterations and demolition
- Conservation Area Consent,
- Notifications relating to Trees in Conservation Areas,
- Works to TPO trees,
- Agricultural notifications for new buildings and agricultural or forestry related works (but not dwellings),
- Certificates of lawful use for existing or proposed development
- Certificates of appropriate alternative development
- Notifications under the Hedgerow Regulations,
- Telecommunication notifications under the General Permitted Development Order
- Hazardous substances notifications

- Environmental Impact Assessment screening and scoping opinions
- Notifications under Circular 14/90 (overhead lines and electrical plant)
- Notifications by other statutory bodies for permitted development works

**should not normally be referred to Development Management Committee** notwithstanding any contrary views to Planning Officer/Arboricultural Officer recommendation, submitted by consultees, Parish Councils/Town Councils, neighbours, or Ward Members or other interested parties. Such applications to be determined by the Head of Planning and Countryside.

If a Ward Member does have a contrary view then it has been resolved that once the planning report and recommendation has been agreed by an appropriate senior officer, then a copy of the report shall be emailed to the Chairman of the Development Management Committee and the relevant Ward Member(s). The Members concerned can then discuss the issues raised, with the Chairman confirming to the appropriate planning team whether the application should be determined under delegated powers or by reference to the Development Management Committee. For this process to start the Ward Member must put forward a clear planning reason(s) based on material considerations setting out why the application should be determined by Committee. At the present time there is no time scale for a response back to the planning team. In order to avoid undue delay for the customer in receiving a decision (particularly a favourable one) it is requested that the turnaround time is as quick as possible.

Applications classified as 'Minor' including the following -

- 1 to 9 dwellings (or the number of dwellings is not specified in the application), for full or outline planning permission (where site area is less than 0.5 Ha.) or for approval of reserved matters for residential development of the same size,
- Approval of reserved matters for up to 9 dwellings as a phase of a larger development
- All types of office development of less than 1000 sq m floor area or less than 0.5 Ha,
- All types of industrial development – general, light, storage and warehousing, research and development of less than 1000 sq m floor area or less than 0.5 Ha
- All types of retail development of less than 1000 sq m or less than 0.5 Ha,
- Gypsy and traveller sites up to 9 pitches
- Small development such as stable blocks outside the curtilage of a dwelling
- Other minor developments

**should not be referred to the Chairman/Vice Chairman delegation meeting** if all parties (Ward Member, Parish Council and other consultees) are in agreement, or all object (and the recommendation is one of refusal), or make no comments. Such applications to be delegated to Head of Planning and Countryside.

**If there is a contrary view from a Ward Member(s) then the following course of events shall take place.**

The planning report will be completed and placed on the draft Committee agenda. Once the draft agenda is sent out a copy of the report shall be emailed to the Ward Member to allow them the opportunity to read the report and provide either additional comments in support of their view which can be written into the final agenda or to agree the Head of Planning's recommendation in which case the application can become delegated. To ensure this happens the Ward Member will need to provide the Development Manager or in his absence the Assistant DMs with their comments on the draft report prior to the Chairman's briefing session.

Only the Ward Member can trigger an application being referred to Committee. Again the Ward Member must provide clear planning reasons based on material considerations.

## Applications classified as major including the following –

Applications for the following which exceed the size limitations set out under minor applications

- Residential development
- Offices, research and development
- All industrial development
- All retail and commercial development
- Gypsy and traveller sites
- Large scale leisure and recreation proposals
- Other major applications

Where no contrary view to the recommendation of the planning team has been expressed by any consultee and the application is either in accordance with the development plan or is considered contrary to adopted policies and should be refused - as a minimum all applications shall be referred to the Chairman's Delegation meeting. Both the Chairman and the Head of Planning and Countryside reserve the right to send any such application to Committee. Again Ward Members have the same powers of call in to Committee subject to the principles set out above.

## Telecommunication notifications

Where all parties are in agreement these to be delegated to the Head of Planning and Countryside. If any contrary view has been submitted these notifications to be submitted to the Chairman's Delegation meeting.

## Legal action

No formal consultation with Parish Councils.

Enforcement and related notices to be delegated to the Head of Planning and Countryside in consultation with the Head of Legal Services.

In the case of direct action and court injunctions this to be delegated to Head of Planning and Countryside subject to consultation with Head of Legal Services and Chairman/Vice Chairman.

Issuing of a Stop Notice to be delegated to the Head of Planning & Countryside Services in consultation with the Head of Legal & Democratic Services.

To confirm no further action to be delegated to Head of Planning and Countryside in consultation with Chairman/Vice Chairman

**Parish Councils and Ward Members to be notified of any agreed action or where no action is to be taken.**

## County Matter applications

Where there are no objections raised by Planning Officers such applications to be delegated to the Head of Planning and Countryside. In the case of an objection by Planning Officers this to be subject to consultation with the Chairman/Vice Chairman and Ward Member(s).

## Tree Preservation Orders

The making, confirmation/non-confirmation and revocation of Tree Preservation Orders to be delegated to the Head of Planning and Countryside where all parties are in agreement.

Where a contrary view is received this to be delegated to Head of Planning and Countryside in consultation with Chairman/Vice Chairman.

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## Legal Implications

The parameters of legal action available under the planning delegation scheme are explained in the report. No further legal observations.

## Financial Implications

The financial implications are as set out in the report.

## Background Papers

- ❑ Previous scheme of delegation as operational prior to Systems Thinking review
- ❑ Minutes and relevant papers from Planning Delegation Working Party, Development Management and Executive Board meetings

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Development Management