

## FOR PUBLICATION

### REVIEW OF DELEGATION SCHEME AND PLANNING COMMITTEE PROCEDURES (EG350L)

**DATE:** 10 NOVEMBER, 2017

**REPORT BY:** DEVELOPMENT MANAGEMENT AND  
CONSERVATION MANAGER

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#### **1.0 PURPOSE OF REPORT**

1.1 To consider a review of the Councils agreed delegation scheme relating to application determination and planning committee procedures including public speaking and site visits following consideration by planning committee.

#### **2.0 BACKGROUND**

2.1 Chesterfield Borough Council has an agreed delegation scheme which is part of its Constitution and which was last reviewed in 2009 along with its guidance documents relating to the operation of planning committee, namely:

- Your View Your Voice – speaking at Planning Committee;
- Planning Committee site visits
- Planning Committee procedures

2.2 In May 2017 planning committee expressed concerns that few items were being reported for their consideration inferring therefore that some decisions were perhaps being taken by officers outside the agreed delegation scheme and which should actually have been reported to planning committee. No examples could however be given at the time however in response it was agreed to undertake a review / refresh of the delegation scheme and the procedure notes referred to above.

2.3 Planning committee considered this report on 30<sup>th</sup> October 2017 and resolved to accept the recommendations put forward and which would be referred to the Cabinet Member for Planning for a decision.

### **3.0 GOVERNMENT APPROACH**

3.1 Government advice in National Planning Guidance sets out the process and expectations on planning performance and decision making. It makes it clear that once a planning application has been validated, the local planning authority should make a decision on the proposal as quickly as possible, and in any event within the statutory time limit unless a longer period is agreed in writing.

3.2 [Section 62B of the Town and Country Planning Act 1990 \(as amended\)](#) allows the Secretary of State to designate local planning authorities that “are not adequately performing their function of determining applications”, when assessed against [published criteria](#).

Those criteria relate to:

- the speed of decisions made by local planning authorities for applications for major and non-major development, measured by the percentage of applications that have been determined within the statutory period or such extended time as has been agreed between the local planning authority and the applicant
- the quality of decisions made by local planning authorities for applications for major and non-major development, measured by the proportion of decisions on applications that are subsequently overturned at appeal (including those arising from a ‘deemed refusal’ where an application has not been determined within the statutory period)

If a local planning authority falls below the performance thresholds set out in the criteria it may be designated for its performance in relation to applications for major development, non-major development, or both.

3.3 [Section 101 of the Local Government Act 1972](#) allows the local planning authority to arrange for the discharge any of its functions by a committee, sub-committee, or an officer or by any other local authority. The exercise of the power to delegate planning functions is generally a matter for individual local planning authorities, having regard to practical considerations including the need for efficient decision-taking and local transparency. It is in the public interest however for the local planning authority to have effective delegation arrangements in place to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area.

### **4.0 THE CURRENT DELEGATION SCHEME AND COMMITTEE PROCEDURES**

- 4.1 The current agreed Delegation scheme sets out the framework for the split between officer decisions and those which need planning committee consideration. The scheme is arranged such that the committee considers those proposals which are more controversial or complex and which add value through planning committee consideration. This generally results in a more transparent decision being taken.
- 4.2 The agreed scheme says:  
 P140D To determine all applications for planning permission EXCEPT for the following categories. These excepted categories are shown in column 1 of the following table, and are for determination by the planning committee. In some cases there is a qualification, shown in column 2. Where there is a qualification shown in column 2, applications within the scope of that qualification are for determination by the delegated officers

<b>Col 1 - Planning Committee</b>	<b>Col 2 - Delegated Officers</b>
Where the proposal is contrary to the policies of the adopted development plan.	Where the proposal is contrary to the development plan but <input type="checkbox"/> nevertheless accords with surrounding uses or <input type="checkbox"/> permission is to be refused
Where the proposal involves the Borough or County Council either as applicant or land owner and the scheme is of a major nature.	Where the proposal involves the Borough or County Council either as applicant or land owner and the scheme is of a minor nature.
Where the applicant is a councillor.	
Where the applicant is an officer of the Council who could be seen as having a direct input to, and therefore influence on, the application decision.	
Where the application is for telecommunications development and one or more objections is received.	Where the application is for telecommunications development and no objection is received.
Where the application is for dwelling/s or residential development where any objection is received.	Where the application is for dwelling/s or residential development where any objection is received, and <input type="checkbox"/> the proposal is contrary to a policy (or policies) of the adopted

	Local Plan or Local Development Framework and is recommended by the Development Management and Conservation Manager to be refused or <input type="checkbox"/> the only objection is from the Highway Authority and is not on the grounds of public safety or <input type="checkbox"/> the substance of all objections received does not constitute any material planning consideration
Where five or more objections are received to the proposal.	Where up to four objections are received to the proposal.
Where a Chesterfield Borough councillor makes a written or e-mail request for any application to be considered by planning committee.	
In any case where the Development Management and Conservation Manager considers that the application should be considered by planning committee.	

#### 4.3 Analysis of last 2/3 years decisions:

Year	Total decisions	No of meetings	Committee decisions	% Delegation/Committee split
2015	489	17	62	87.3/12.7
2016	507	17	68	86.6/13.4
2017 so far	385	12	40	89.6/10.4

NB: the number of decisions referred to in the table excludes Prior Approvals; Non Material Amendments, Tree applications, CLOPUDs, Temporary Permitted Development submissions, EIA determinations and those applications which have been withdrawn.

#### 4.4 Breakdown of committee decisions by category

Year	Committee decisions	Delegation scheme category	Site visits	speakers	Decisions contrary to officer recommendation
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2015	62	2 Departures 1 Telecom 40 housing 13 5+ objection 7 Officer referred	61	68	4 1 Highfield Road 33 Westmoor Lane Walton Works Dunston Lane
2016	68	7 Departures 1 CBC applicant 46 housing 10 5+ objection 11 Officer referred	68	74	1 195 Old Hall Road
2017 so far	40	1 Departures 1 cllr referred 26 housing 10 5+ objection 6 Officer referred	38	45	7 1 Branton Close Oldfield farm The Shrubberies Troughbrook Road Thompson Street Rear Crispin PH x 2

## 5.0 BENCHMARK WITH OTHER DERBYSHIRE AUTHORITIES DELEGATION SCHEMES

- 5.1 In general all Derbyshire authorities have delegation schemes similar to Chesterfield whereby all planning application decision making is permitted by officers with a number of exceptions which are set out. Each authorities scheme is however subtly different but all such schemes include opportunities for local members to request a committee consideration with adequate reasons being provided and for officers to refer proposals to committee where it is considers to be of significant public interest and / or would have major impact on the environment for example.
- 5.2 Most schemes allow a number of objections before the item is turned into a committee item however the High Peak scheme does not base itself on the number of objections received in any of its categories but does set thresholds of site area, floorspace or number of dwellings proposed (15 and over).
- 5.3 The North East Derbyshire scheme has however more complicated elements in that it requires that where a delegation decision is to be taken contrary to any material representations received, detail of the intended decision has to be forwarded to the relevant ward councillors and chair of committee and they are allowed 48 hours to determine that the matter should be a committee matter. No response results in the default to an officer decision. It is also a requirement that full reasons for the decision are required.

5.4 Without exception all Derbyshire Authorities have procedures set out which allow the public to address planning committee and all schemes general follow similar limitations and processes however there are inevitable differences.

## 6.0 CONSIDERATION OF POTENTIAL FOR CHANGE

6.1 There is an opportunity to change the delegation scheme if it can be shown that it is in need of change.

6.2 For planning application determination an assessment suggests that the scheme is sufficiently refined and generally working well however there is an omission in that it does not refer to the opportunity for the local MPs to call a scheme to committee (with adequate reasoning) in the same way as local members can do. This opportunity should be included in an updated Delegation scheme.

6.3 It is also considered that some clarification/qualification would be useful in so far as the requirement to report to planning committee where 5 or more objections have been received. It is considered that this should be on the same basis as for objections to dwellings with a qualification that it can still be delegated to officers if the proposal is contrary to a policy (or policies) of the adopted Local Plan or Local Development Framework and is recommended by the Development Management and Conservation Manager to be refused or if the substance of all objections received does not constitute any material planning consideration. The opportunity should also be taken to include this in the Delegation scheme.

6.4 The determination of EIA development (scoping and screening) is currently delegated to the Economic Growth Manager under reference P760D. It states: *in connection with any application for planning permission, to carry out any function of the Council as local planning authority under the TCP (Environmental Impact Assessment) (England and Wales) Regulations 1999, including:*

- *determining whether any development is Environmental Impact Assessment development;*
- *requiring an Environmental Statement.*

This requires an update to make reference to the current regulations which are the TCP(Environmental Impact Assessment)(England and Wales) Regulations 2017 and to change the delegation to the Development Management & Conservation Manager.

- 6.4 The existing Delegation scheme is generally resulting in an appropriate split between delegation and committee and which generally accords with the 90/10 split which was advocated by the government and which was a few years ago a bvpi target.
- 6.5 In the meeting in May 2017 a request was made for consideration of the suggestion of a chair and vice chair meeting on all decisions to decide on which applications can be dealt with at officer level. Such a scheme would effectively result in no delegation to officers and which would not be appropriate. Decisions are taken on a daily basis and, with the current volume of applications, often results in many decisions being issued on day 55/56 (out of 56) and such a process would inevitably result in delay and decisions being taken beyond the timeframe having the consequence of resulting in poor performance on timely decision making. This would also result in regular (if not daily) meetings with the chair and vice chair which is not practical.
- 6.6 Planning committee business can vary from one meeting to the next with periods of less activity and those where many major or complex proposals are being reported. There have been meetings which have been cancelled because of lack of business and meetings where up to 10 items have been considered (30<sup>th</sup> August 2016). It is considered that there is no ideal number of items for committee consideration at each meeting. Evidence since 2015 shows that the committee most often includes between 3 and 4 items (average) and regularly takes between 1 and 2 hours to debate and decide the most controversial applications. Meetings usually finish between 17:00 and 18:00 however they have extended beyond this for the larger agendas.
- 6.7 It is agreed however that appropriate short breaks are introduced in a structured way into meetings which extend beyond 2 hours. Officers have recently dealt with a complaint from one attendee of planning committee earlier in the year (3<sup>rd</sup> April 2017) who alleged that the item she was attending for was not given appropriate and full attention and consideration by members because they had already considered 4 items over 2 hours without a break. For larger agendas it is also useful to predetermine the agenda order so that prior arrangements can be made to delay those arriving for later items to avoid wasting their time in attending for other items. This is already referred to in the agreed speaking at committee leaflet but will need to be built into the committee process and procedure guidance leaflet.
- 6.8 The updated leaflets showing the changes which have been made are attached at Appendix A

## 7.0 CONCLUSIONS

7.1 With addition of the opportunity for the local MPs to call matters to planning committee it is considered the right balance is already provided for within the delegation scheme and that there is no real need to change the scheme. As with most delegations schemes across Derbyshire, Members need to be more proactive to make sure they are aware of the applications which have been submitted in their wards and the opportunity for them to call matters to planning committee if they consider it appropriate and necessary. This opportunity in the scheme has generally not been used over the last 3 years however in respect of the item on Thompson Street (CHE/17/00344/FUL) Councillor Innes and Toby Perkins MP both requested it should be considered by planning committee.

## 8.0 RECOMMENDATIONS

8.1 That the delegation scheme be amended to include the following addition to the table:

<b>Where a local MP makes a written or e-mail request for any application to be considered by planning committee.</b>	
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8.2 That the general reference to objectors in the existing scheme be amended as follows:

Where five or more objections are received to the proposal.	Where up to four objections are received to the proposal or where <input type="checkbox"/> <b>the proposal is contrary to a policy (or policies) of the adopted Local Plan or Local Development Framework and is recommended by the Development Management and Conservation Manager to be refused or</b> <input type="checkbox"/> <b>the substance of all objections received does not constitute any material planning consideration.</b>
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- 8.3 That the delegation reference at P760D concerning EIA Development be changed to the **Development Management & Conservation Manager** and be updated to include the latest regulations as follows:  
***in connection with any application for planning permission, to carry out any function of the Council as local planning authority under the TCP (Environmental Impact Assessment) Regulations 2017, including:***
- ***determining whether any development is Environmental Impact Assessment development;***
  - ***requiring an Environmental Statement.***
- 8.4 That the the Planning Committee site visits guidance note and the Planning Committee procedures guidance note be amended as attached at Appendix A of this report.

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***Further information on this report can be obtained from Paul Staniforth on 345781.***