

## 9. Review of the Development Control Scheme of Delegation

Corporate Director: Mark Pollock, Economic Vitality  
 Head of Service: Simon Gale, Head of Development & Building Control  
 Lead Officer: Simon Gale, Head of Development & Building Control  
 Contact Details: Simon.gale@southsomerset.gov.uk or (01935) 462071

### Purpose of the Report

To seek Members views on the review of the current Scheme of Delegation as agreed at Full Council in July 2006.

### Action Required

That Scrutiny Members comment upon the following report and recommendation, which will be made to District Executive and Full Council:

1. That the Scheme of Delegation be adopted, in accordance with the changes undertaken at the recommendation of Council on 20<sup>th</sup> July 2006.
2. Following further investigation, minor changes are made to the way in which information is passed to Members.

### Background

On 20<sup>th</sup> July 2006 Council consider a report on the Scheme of Delegation for Development Control, which at the time had been in place for around a year. At the meeting Members resolved:

*That the current Planning Scheme of Delegation be confirmed subject to the following amendments.*

- *that the Scheme of Delegation is again subject to a full and substantive review by District Executive, Full Council and Scrutiny Committee, with the review to take place in February 2007 with the outcome reported in March 2007.*
- *that the current 5-day period for ward members to consider Case Officer's reports is increased to 7 days*
- *in order to enhance the role of ward members in the process, the Head of Development and Building Control, in consultation with the relevant Area Chairman, can override the case officer's recommendation in the case of small-scale applications. Such applications shall be designated as 'level 1 applications' as set out at appendix 2*
- *that it be recognised that area committees should be involved in determining applications that have Area wide significance (such as key sites), and that such applications be designated as 'level 3 applications' and cannot be issued under delegated powers.*
- *that medium term applications that do not fall into levels 1 or 3 be designated as level 2 applications and be dealt with as set out in the report and flowchart.*
- *that town and parish councils be e-mailed a copy of the Case Officers' report to the Ward Member.*
- *that 'signing off' proformas as circulated at the meeting be sent to ward members allowing them the opportunity to declare personal/prejudicial interests, and similarly for Area Chairs when contrary opinions were referred to them (the wording on the proformas to be amended to show that completing this document did not mean the application had been pre-determined)*

Appendix 1 to this report shows the whole Scheme of Delegation with the proposed changes highlighted.

All aspects of the recommendations were put in place following the meeting, however, it was decided in consultation with the Leader of the Council and Chair of Scrutiny that the review should take place in June 2007 rather than March 2007.

During this time the Scheme of Delegation has continued to bed in, and whilst there have been some complaints from both District and Parish Members about the way certain applications have been handled, the cause of this has not been the Scheme itself.

## The Review

I have taken the time to speak to a number of Parishes about the Scheme and none have any fundamental concerns.

Furthermore, an e-mail survey of elected Members in the previous administration was undertaken at the end of April 2007. Again, there is no complaint from Members with regards to the principles of the scheme. Some Members took the opportunity to comment on other Development Control matters, but as this is a report on the Scheme of Delegation these comments are not included below. Some concerns have been raised about matters of detail with regards to the Scheme, and these are summarised below.

*I have no major problems at this moment, but would like to see a change in the way that the E-mails are headed. At the moment some officers put their name only, some new application and sometimes just the application number. I save all the notification E-mails in a planning folder so to find a specific one without trawling through all the folder would be a great help, it would save me a LOT of time if they were headed with the application site address.*

*I have had few problems with delegation in the past year. If we have had a problem the matter has been referred to committee! I still feel it would be nice to be kept informed of any changes and discussions! Thank you and your staff for all their help and understanding*

*I have found the scheme of delegation ok in my patch, however on speaking to Area Chairs I sense that there is still not a consistent approach over the District and (I may be wrong!) but some other chairs seem to have taken a more lenient approach to allowing applications to come to Committee.*

*I'm very pleased with improvements in process with planning but I'm uneasy about Delegation. As a Member I'm a One Man Band. I would very much like a member of the administrative staff be appointed to monitor applications which reach the stage of Delegation or Council Decision. Could Members be emailed a list of applications within the Ward which require the Members attention, and the date when action must be taken. This needs to be just a simple review which prevent applications slipping through the net.*

*The system is working better. I would like you to get rid of the need to go 'cap in hand' to the Chair of the Area Committee to get an application on the Area agenda.*

## Conclusions

As a result of the above comments there appears little or no reason to alter the present Scheme of Delegation *per se*. How and when information is passed to Members needs further investigation, but it is not considered that this requires any change in the Scheme itself.

One Member has raised the issue of having to get an agreement from the Area Chair for an application to be placed on a Committee agenda. Whilst the concern is appreciated, it is considered that the mechanism of referring matters to the Area Chair is one of the fundamental principles of ensuring that the Scheme is fit for purpose, and it is not recommended that this element is changed.

Statistically there is no evidence that suggests a change in the Scheme is necessary.

In the financial year 2006/07 the following applications were determined in each Area:

<b>Committee</b>	<b>Number of applics decided overall</b>	<b>Number of applics decided by Committee</b>	<b>Percentage</b>
East	910	31	3.4%
North	749	42	5.6%
South	618	26	4.2%
West	707	30	4.2%

Whilst there is a higher number of applications going to the Area North Committee, it is not considered that 5.6% of applications is sufficiently high to cause alarm.

Performance over the same period has significantly improved as follows:

<b>Application Type</b>	<b>Performance 2005/06</b>	<b>Performance 2006/07</b>
Major	36.3	62.2
Minor	41.7	66.2
Other	61.5	73.9

Again this suggests that the Scheme of Delegation has assisted in meeting performance targets and does not support any reason to change.

It is therefore recommended that the Scheme of Delegation be adopted, and that further refinements are made as to how and when information is passed to Members.

**Background Papers:** *Report to Full Council – 20<sup>th</sup> July 2006*

## Scheme of Delegation – Development Control

### The “by exception” model for the delegation of planning decisions

The following to be delegated to the Development Control Manager:

#### Part 1 – Applications, Approvals and Consents delegated to the Development Control Manager:

The determination of all applications for planning permission, the approval of reserved matters, the display of advertisements, works to trees with Tree Preservation Orders, listed building and conservation area consents, is delegated to the Development Control Manager except in the following cases: -

#### Criteria

1. A Ward Member makes a specific request for the application to be considered by the Area Committee and the request is agreed by the Area Chairman or, in his absence, the Vice Chairman. (This request must be in writing and deal with the planning issues to ensure that the audit trail for making that decision is clear and unambiguous). In the absence of the Chairman and Vice Chairman there should be nominated substitutes to ensure that 2 Members are available to make decisions. All assessments and decisions to be in writing.
2. The Development Control Manager **in consultation with the relevant Area Chair** considers that, due to the nature of the application, the Area Committee should consider it. **(A Level 3 Application)**
3. The application is recommended for approval and would represent a significant departure from the policies of the development plan or from the views of a statutory consultee. (Refusals for proposals directly in conflict with local plan policy to be delegated)
4. The proposal involves the council as applicant or landowner except in the case of minor proposals and where no objections have been received when the Planning Policy Manager will take the decision in consultation with the Chairman of the Regulation Committee and the relevant Ward Member(s).
5. The applicant is a councillor.
6. The applicant is a member of the council’s management team, a service manager, a member of staff within the Strategic Regeneration and Land Use Group, any member of the council’s staff who, in the course of their duties, has an input in to the planning application process.
7. Any other application from employees of the council may be delegated, subject to prior consultation with the Area Chairman and Vice Chairman and subject to prior notification to the monitoring officer of the council.
8. Any application where a council employee is involved in any capacity as either agent or consultant.

## Part 2 - Other matters delegated to the Head of Development & Building Control:

### Tree Preservation

- 1 The making of Tree Preservation Orders under Section 198 and provisional Tree Preservation Orders under Section 201 of the Town and Country Planning Act 1990 subject to where objections to the Order are received from the Town/Parish Council or any other interested persons, the Development Control Manager must refer the matter to the Area Committee, prior to the Order being confirmed, unless after consultation with the Area Chairman and relevant Ward Members, it is considered not to be necessary.
- 2 The approval of the lopping, topping and felling trees not subject to such Orders in conservation areas, after consultation with the Ward Member(s) where practicable.
- 3 To act as a Proper Officer for the issue of Tree Preservation Orders.

### Other matters

- 4 The determination of all notifications.

#### No longer do minor amendments

- 5 The making of observations on minor development proposals by local authorities or statutory undertakers.
- 6 The making of observations on minor applications upon which the Council is consulted by a neighbouring planning authority.
- 7 The approval of minor overhead lines where they are not contentious.
- 8 The issue of Section 64 Determinations under the Town and Country Planning Act 1990.
- 9 The making of representations to the Licensing Authority on applications for goods vehicle operators' licences, in consultation with the Ward Member(s) where practicable.
- 10 Acceptance of non-contentious proposals for development submitted for consultations by Government Departments and agencies entitled to Crown exemption.
- 11 The determination of Certificates of lawfulness of existing and proposed uses or development.
- 12 The approval or refusal of items reserved for further approval by a condition attached to a planning permission or approval, or an advertisement or listed building consent (for example, details of landscaping or materials).
- 13 Issue of Building Preservation Notices (after consultation with Chairman of Area and/or Ward Member(s)).
- 14 All forms of planning enforcement action and Stop Notice action.
- 15 The making and amendment/variation of Section 106 Agreements, agreeing consents to the release of land from such agreements and the making of Revocation and Discontinuance Orders (subject to there being no compensation payable in respect of such Orders).
- 16 Grants and loans under the Planning (Listed Buildings and Conservation Areas) Act 1990, in consultation with Ward Member if necessary, subject to report on decisions being submitted to Committee.
- 17 The making of Article 4 Directions (after consultation with Area Chairman and/or Ward Member(s)).
- 18 Power to serve requisition for information under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and the service of contravention notices under Section 1 of the Planning and Compensation Act 1991.

- 19 Decisions under the Planning (Hazardous Substances) Act 1990.
- 20 The service of Hedgerow Retention Notices in accordance with the criteria and requirements of the Hedgerow Regulations 1997, after consultation with the relevant Ward Member(s) where practicable.
- 21 To provide scoping and screening opinions under the provisions of the Town and Country Planning Act (Environmental Impact) Regulations 1999.

### **General Principles of operation within the delegated scheme**

1. All members are notified of applications within their wards. A weekly list is issued which is arranged on a ward basis and this enables ward members to see quickly all new proposals within their ward boundaries.
2. Members are encouraged to view the plans either in the offices, with their parish councils or via the internet. Members are also encouraged to contact the case officer if there are any queries or if they want to discuss issues of principle or detail.
3. Officers are encouraged to contact members where they feel that the matter may be contentious and this should be done as soon in the process as possible.
4. If any conflicting view is expressed on an application (i.e. if a letter of support on an application which officers recommend for refusal or an objection letter where the officer wishes to approve) the Ward Member will be sent a copy of the report.
5. A 7 day turnaround for responses will be strictly applied.
6. If the Ward Member disagrees with the Officer's recommendation on a Level 1 application, they should advise the case officer in writing on the relevant proforma, with clearly stated planning issues that give them concern. This should be done as soon in the process as possible.
7. The Case Officer will then send the report to the relevant Area Chair with a risk assessment if necessary. Should the Area Chair agree with the Ward Member rather than the Case Officer then he/she should discuss with the Head of Development & Building Control, in order to discuss whether a decision can be issued in accordance with the Ward Member's views under delegated powers.
8. Householder/Other applications will not normally be presented to a committee as they raise issues of only local impact. It is expected that members will work through any issues arising from the proposal with the case officer managing that process and with the involvement of applicants/agents as appropriate.
9. In the case of Level 2 applications, if a member wishes any application to be considered by the Area Committee, they should advise the case officer in writing on the relevant proforma, with clearly stated planning issues that give them concern. This should be done as soon in the process as possible.
10. Where the request by a Ward Member for an application to be considered by the Area Committee is agreed by the Area Chairman and the Vice Chairman, the reason given by the Ward Member should be included in the report.
11. If a scheme is capable of minor revision to overcome the members concerns (such as the addition of a condition) the case officer will seek to achieve such revisions with the applicant, provided it can be achieved within the deadline for decision.
12. Where Members have spoken to the officers they must exercise care not to go on public record with their views of a planning application, as this will mean that they are excluded from the process later on.
13. Members must not enter into any negotiations or discussions relating to planning applications with applicants or agents.
14. The process does allow the determination of the application to be contrary to the views of parish councils without the applications being aired before the Area Committee. Parish Councils will be

encouraged to “qualify” their comments and thus the basis on which an objection is raised or support given can be made clear. Parish Council comments are important as they are based, in almost all instances, on a wealth and depth of local knowledge, which can benefit the consideration of the application. Nonetheless the parishes, whilst important parties to the process, are one of a wide range of consultees and their comments should not be given additional weight purely because they are made by the parish councils. The substance of any comments rather than its source is the more important issue. Where the comments received are ambiguous or not firmly taking a position on an application etc., the Development Control Manager may decide that it is not necessary to follow the referral process referred to in paragraph 4 above.

15. Where a decision is made that is contrary to the view of the Parish Council the case officer writes to the Parish Council and explains the reasons for taking a contrary view. A copy of the case officer’s report may be sufficient in these circumstances.