Scheme of Delegation

Portfolio Holder: *Angie Singleton, Strategic Planning (Place Making)*
Assistant Director: *Martin Woods, Economy*
Lead Officer: *David Norris, Development Control manager*
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Action Required

That members consider and comment on the review of the existing Scheme of Delegation.

Background

It was agreed at Full Council that a review of the Scheme of Delegation in relation to planning applications would commence in 2015.

The current scheme was introduced in 2006 in response to concerns that were expressed by an external auditor who had been appointed to advise the council on how planning performance could be improved. At that time the majority of applications were being determined by the area committee and this was having an impact upon the speed of decision. It was also at odds with the ODPM guidance ('*Delivering Delegation'*) that encouraged local authorities to delegate the determination of all but the most contentious applications.

Impact of the Scheme of Delegation

Over 90% of all planning applications in South Somerset are now determined under delegated powers. The Scheme of Delegation has worked very effectively in terms of:

- allowing decisions to made in a more timely basis,

- providing a clear and transparent decision making 'route;'

- reducing the amount of committee time spent on the smaller, less contentious applications.

The current Scheme of Delegation

A copy of the Scheme of Delegation is attached however the basic principles are outlined below:

- If a representation is received that is contrary to the officer's recommendation then ward member will be sent the officer's report. This will explain why the officer made that recommendation.

- The pro-forma that the member receives allows them to either agree with the officer or request that the application be considered by committee. It is important that the member provides a planning reason as to why they consider the decision should be made by committee. If a member (in a single member ward) declares an interest then the application will be referred to the Chair.

- In a ward where there is one more than one member then **any** member requesting that the application be considered by committee will trigger the referral to the Chair.

- If a member does not respond within **7 days** then this will be taken as an endorsement of the officer's recommendation.

- If a member requests that the item be considered by committee then the matter is referred to the **Area Chair** and they make the **final decision** as to whether they agree with the officer or consider that it should be heard by committee**.** The member is entitled to contact the Chair and explain why you believe it is essential that the application be considered by members in a public forum**. The Chair will make an assessment as to whether a committee determination would be in the public interest.**

There are a few applications that will automatically have to be determined by committee e.g. very large scale development, applications that have been submitted by members and officers etc.

Issues that have been raised

Whilst the scheme has been widely accepted there have been several concerns raised by various members and other stakeholders:

- Ability for an Area Chair to over-rule ward members and PC/TC
- Should Parish and Town Councils have some powers delegated to them?
- Should there be a threshold in terms of representations (e.g. 50 letters will trigger a committee referral)?
- Ambiguous representations should trigger a ward member referral.
- Should all SS2 applications be considered at committee to allow them to consider local benefit?
- No response from a Town or Parish Council should mean referral to ward member ?
- Is 7 days for a member response sufficient to consider issues?
- Should amended schemes automatically be referred to committee?
- Role of Regulation committee?

Response

The issues that have been raised were discussed with Area Chairs and Portfolio Holder at a meeting on the 17th September. All of the points that have been highlighted were debated and Area Chairs agreed the following:

- *Ability for an Area Chair to over-rule ward members and PC/TC*

Whilst the Chairs accepted that there may not be complete acceptance that they have the ability to over-rule the community and the ward member they strongly believed that their authority is exercised responsibly. The Chair will read the report carefully and will understand the local issues and ward members can contact them to discuss the matter in more detail should they wish.

- *Should PC/TC's have some powers delegated to them?*

It had been suggested that parish and town council recommendations could, in some instances, be adopted as the officer's recommendation. The Chairs did not consider this to

be necessary as the views of the Parish and Town Councils were already a fundamental element of the decision making process and their views were always thoroughly considered.

It was also mentioned that they would need to be provided with professional advice in order to make an informed decision and there was also a further complication should a parish decision be appealed against.

- *No response from a Town or Parish Council should mean referral to ward member?*

An essential element of ensuring that the views of Parish and Town Councils are considered is the receipt of their comments. Not all parishes send through their comments on planning application and some have said that they did not consider it necessary to respond when they had no objection. There have also been a couple of instances where the parish has provided a considered response but it has not reached the case officer.

In order to ensure that the views of our communities are considered it was recommended by the Area Chairs that no recommendation will be made by an officer without the views of the parish or town. Officers will be required to contact them and obtain their comments before making a formal recommendation.

The Development Manager has also carried out training sessions for more than 200 parish councillors and clerks at which the issue of their consultation responses was discussed. The need for a response was reinforced as was a clear indication as to whether they supported the proposal. If they do object to the scheme then it is important that the reasons are explained as this will enable officers to assess whether negotiations can overcome the objection.

- *Should there be a threshold in terms of representations (e.g. 50 letters will trigger a committee referral)?*

It was considered that the creation of a threshold could lead to abuse of the system e.g. lobbying residents to ensure that the required number of letters was achieved. Furthermore, the current referral system does allow the Area Chair to assess whether the public interest would be best served by determining the application at a public meeting

- *Ambiguous representations should trigger a ward member referral.*

It was agreed that planning officers should err on the side of caution when it was unclear as to whether a consultee's comment was in accordance with the recommendation. Applications will be referred to the ward member in such circumstances

- *Should all SS2 applications be considered at committee?*

As members will be aware, applications for new dwellings within our smaller settlements are considered against Policy SS2 of the adopted plan. This policy requires the applicant to be put forward a justification as to how their proposal will benefit the community (housing, employment or community infrastructure).

Area Chairs discussed the advantages of such applications being considered by committee however it was felt that the Scheme of Delegation would mean that such applications were very likely to trigger the referral process and as such they did not warrant any special provision.

- *Is 7 days sufficient for members to respond to a planning referral*?

It was considered that the 7 day period was a sufficient amount of time to allow the member to consider the merits of a planning application.

It was accepted that there may be an issue when a member goes away on leave but it is the responsibility of members to notify officers of their absence and to appoint a 'substitute' if they consider it to be necessary. Furthermore, if a member is away on extended leave then they are encouraged to speak to the Area Lead Planner to ascertain what applications may be referred to them in their absence.

- *Should any applications to revise schemes that were considered by committee automatically be referred to committee*?

It was not considered necessary to automatically refer any revised scheme to the committee. The nature of the amendment needs to be assessed as does the level of local interest and this is covered by the Scheme of Delegation.

- *Is there still a Role for the Regulation committee?*

Historically, the majority of applications referred to the Regulation Committee have been for small scale residential development outside of any recognised settlement. The implementation of policy SS2 now allows area committee members to consider such applications on their own merits and make an assessment of the contribution the development can make to the community.

It was considered that there is still a role for the Regulation Committee, particularly in relation to the council's own applications or very large scale proposals, some of which may straddle area boundaries.

Recommendation

That there are no significant changes to the Scheme of Delegation required. Further guidance will be produced which will incorporate the suggestions made by the Area Chairs. Further training will also be provided for members in relation to their role and responsibilities in the determination of planning applications

Financial Implications

There are no direct financial implications associated with changing the Scheme of Delegation

Background Papers

Council Constitution – which can be viewed at:
http://modgov.southsomerset.gov.uk/ieListMeetings.aspx?CId=358&info=1&MD=Constitution

Ward Member Referral Process (Scheme of Delegation)

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                    ┌─────────────────────────────┐
                    │ Officer recommendation      │
                    │ conflicts with any          │
                    │ consultation reply          │
                    └─────────────┬───────────────┘
                                  ↓
                    ┌─────────────────────────────┐
                    │   Refer to Ward Member(s)    │
                    └─────────────┬───────────────┘
                                  ↓
                         ╱─────────────╲
                        ╱   Has Ward    ╲        No
                        ╲ Member replied ╱──────────────→
                        ╲ within 7 days? ╱
                         ╲─────┬───────╱
                               ↓
                         ╱─────────────╲
         Yes            ╱   Has Ward    ╲
    ←──────────────────╱    Member       ╲
                       ╲   declared an    ╱
                       ╲   Interest?     ╱
                        ╲─────┬────────╱
    ╱─────────────╲            ↓
   ╱ Is it a       ╲     ╱─────────────╲
   ╲ multiple       ╱    ╱ Does Ward    ╲       Yes
   ╲ Ward           ╱    ╲ Member agree  ╱──────────────→
   ╲ Member?       ╱     ╲ with officer? ╱
    ╲───┬─────────╱       ╲─────┬───────╱
        │     ↓                  ↓
        │  ┌──────────────────┐
        │  │ If yes and other │
     No │  │ member doesn't   │
        │  │ declare an       │
        ↓  │ interest then    │
           │ main process     │
           │ applies.         │
           └──────────────────┘
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No ──────────→ Refer application to Area Chair

Does Chair agree with officer? Yes ──────→

No ↓

Refer to Committee

Issue decision in accordance with recommendation