

AMENDMENTS TO SCHEME OF DELEGATION

To: **Planning Committee**

Date: **2 November 2017**

From: **Head of Growth and Economy**

Electoral division(s): **N/A**

Purpose: **To consider the following report**

Recommendation: **The Planning Committee is requested to note the content of this report, and where appropriate make any recommendations they would like the Executive Director to consider to assist the request made in paragraph 1.1 of this report.**

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1 INTRODUCTION

- 1.1 Members of this Committee have asked officers to review and consider amending the Scheme of Delegations relating to items which are automatically brought before Planning Committee in order to reduce the time that Committee spends determining planning applications that only receive one neighbour objection or limited objections that are either non material or could be dealt with by appropriate planning conditions.
- 1.2 In reviewing this aspect of the current Scheme, officers have also taken the opportunity to undertake a wider review of the current scheme of officer delegations and make amendments to improve efficiency in the processing of planning functions.
- 1.3 The details of the amendments to the scheme can be found in section 3 below.

2 BACKGROUND / CURRENT SITUATION

- 2.1 Cambridgeshire County Council's Constitution delegates wide powers in relation to County planning services to the Executive Director of Economy, Transport and Environment. The Executive Director can then delegate powers to Planning Committee and nominated officers as appropriate.
- 2.2 Changes to the Scheme of Delegation are made by the Executive Director and as such Member approval for these changes is not required. Therefore, this report is for information purposes only and members are asked to note the amendments that have been proposed by officers and where appropriate make any recommendations they would like the Executive Director to consider to assist the request made in paragraph 1.1 of this report.

3 AMENDMENTS TO THE SCHEME

- 3.1 This review of the scheme and the amendments made have not included any fundamental planning processes such as the authorisation of planning Decision Notices (including Section 73 decision notices), formal Enforcement and Breach of Condition Notices which will continue to be authorised by the Head of Growth and Economy (from January 2018 this role is expected to change to Assistant Director for Environment and Commercial Services). The authorisation of planning injunctions and prosecutions will continue to be for the Executive Director. However, the following amendments to the authorisations are proposed to be put in place from 1 January 2018 and these are explained and then summarised in paragraphs 3.2 to 3.10 below.
- 3.2 Planning applications where objections have been received
Planning Committee has noted that the automatic call in to Committee of any application where an objection had been raised was not always necessary in their opinion and therefore the scheme of delegations is proposed to be altered so that not all applications with objections will be brought before members. Only those that

have unresolved material objections from statutory consultees, or where at least 5 separate householder responses have been received which raise complex issues for discussion that cannot be resolved through the imposition of appropriately worded conditions or planning obligations; or that are considered not to accord with policy and therefore considered by the Head of Growth and Economy (or post as renamed) to be unsatisfactory will be brought to Planning Committee. The proposed exclusions are those which:

- Constitute a major departure from the Development Plan as defined in the Town and Country Planning Act 1990; or
- Relate to development which in the opinion of the Head of Service (or post as renamed) or the Business Manager, County Planning, Minerals and Waste, is considered to be of public interest as being of unusual or novel nature.

3.3 The above proposed exclusions list does not include reference to an application that is subject to an Environmental Impact Assessment (EIA), as currently exists, as should such an application not receive any objections from statutory consultees or the other criteria set out in paragraph 3.2 above, then there should be no reason for the application to be heard by Planning Committee. However, it should be noted that the Local member(s) will retain the right to ask the Chairman (or in his absence the Vice Chairman) to bring decisions before Planning Committee in discussion with officers, which would include EIA development, should they feel there is an overwhelming reason why the application should be heard by the Planning Committee members. It is also important to note that these amendments are in relation to the County Planning Committee and the scheme of delegation for the Joint Development Control Committee for the City Fringes has separate arrangements that will still stand. Finally, that the delegated determination of planning applications may be for approval or refusal in cases where there are overriding policy considerations or other material considerations against development or where there is inadequate information provided with the application to enable permission to be granted.

3.4 Planning Conditions

The agreement of details, plans and schemes to satisfy the requirements of planning conditions, or to impose or amend a condition or conditions following a Planning Committee, are proposed to be changed from the Head of Growth and Economy only (or post as renamed) to include the Business Manager, County Planning, Minerals and Waste to try and avoid any need for double handling and allow the flexibility of agreement to be sought from either post holder. In the latter case consultation would be undertaken with the Chairman (or in his absence the Vice Chairman), alongside legal colleagues, before changes were made.

3.5 Non-Material Amendments

Following the grant of planning consent there are occasions when an approved proposal may need to be amended. Where these amendments do not materially affect the proposal i.e. they are not fundamental or substantial, they are termed non-material amendments. Non-material amendments are therefore by their nature only minor changes, and are normally agreed in writing with the planning authority. The proposed amendments to the Scheme of Delegation will mean that like the

planning conditions discussed in paragraph 3.3 above, non-material amendments are proposed to be approved by either the Business Manager, County Planning, Minerals and Waste or the Head of Growth and Economy (or post as renamed). It is considered that where any approval of details following an outline permission or details for development permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 where matters such as siting and design must be agreed, these will also follow the same proposed delegated sign off process.

3.6 Notices for Information / Planning Contravention Notices (PCN)

A PCN is a notice served under the provisions of Section 171C of the Town and Country Planning Act 1990 (as amended) in the form of a legal questionnaire which seeks information in relation to land ownership and breaches of planning control. Section 330 of the same Act allows the service of a notice served to seek information about the ownership and occupation of premises and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 allows the same questions to be asked in relation to the ownership and occupation of land. There is no right of appeal against the service of such a notice and no avenues to claim compensation and therefore no risk to the Council and therefore the authorisation of all these notices (within the Growth & Economy Service) is proposed to be changed from the Head of Growth and Economy (or post as renamed) to include the Business Manager, County Planning, Minerals and Waste, so that these can be issued as quickly as possible.

3.7 District planning application consultation replies for proposals falling in Minerals and Waste Plan designations

The adopted Cambridgeshire and Peterborough Minerals and Waste Plan makes a number of designations which essentially seek to safeguard existing and planned (including allocated) mineral, waste management and rail head operations (Policies CS23, CS23, CS30 and CS31). Similarly the Mineral Safeguarding Area (Policy CS26) safeguards the wider mineral resource to ensure that it is not unnecessarily sterilised by development permitted by district councils e.g. housing and industry. When proposals fall in such designations the district councils consult the County Council as Mineral and Waste Planning Authority for their views on the proposed development.

3.8 Consultation on major planning applications is coordinated across the County Council by another Team and comment on these applications is made through a separate process. For other planning application consultations the County Planning, Minerals and Waste Team is able to provide a straight forward reply in respect of the implications of proposals falling in mineral and waste designations and may, for example, request further information or provide wording for planning conditions. The proposed amendments to the Scheme of Delegation would mean that replies on these planning applications could be approved by the Business Manager, County Planning, Minerals and Waste, as well as the Head of Growth and Economy (or post as renamed).

3.9 Duty to Cooperate Responses.

The County Council has a statutory Duty to Cooperate (DtC) with other planning authorities. This can cover a variety of matters, such as responding to

consultations on emerging Mineral and Waste Local Plans in adjoining authority areas; and providing information to assist in their formation, including confirmation of mineral and waste flows between authority areas. The proposed amendments to the Scheme of Delegation would mean that replies on DtC matters could be approved by the Business Manager, County Planning, Minerals and Waste, as well as the Head of Growth and Economy (or post as renamed).

3.10 Table summarising proposed changes to be made:

Item	Old Delegation	New Delegation
Planning applications where objections have been received and meet the criteria set out in paragraph 3.2 for delegation	Planning Committee	Head of Growth & Economy in consultation with the Chairman (or Vice Chairman in his absence)
Planning Conditions	Head of Growth & Economy (or post as renamed)	Head of Growth & Economy (or post as renamed) or Business Manager, County Planning, Minerals and Waste
Non-material amendments	Head of Growth & Economy (or post as renamed)	Head of Growth & Economy (or post as renamed) or Business Manager, County Planning, Minerals and Waste
Notices for Information (PCNs) etc.	Head of Growth & Economy (or post as renamed)	Head of Growth & Economy (or post as renamed) or Business Manager, County Planning, Minerals and Waste
District Consultations falling within M&W plan designations	Head of Growth & Economy (or post as renamed)	Head of Growth & Economy (or post as renamed) or Business Manager, County Planning, Minerals and Waste
Duty to co-operate responses	Head of Growth & Economy (or post as renamed)	Head of Growth & Economy (or post as renamed) or Business Manager, County Planning, Minerals and Waste

4 COST, LEGAL AND OTHER IMPLICATIONS

- 4.1 There is no cost to the changes proposed as a result of this report, and as set out in paragraph 3.1, the amendments have been based on a risk approach, so where the potential for claims costs and legal bills could be brought against the Council the delegated powers are proposed to remain the same at the appropriate level. In the case of EIA development, as discussed in paragraph 3.3 above, should the planning application be controversial, either with statutory consultees or the general public, it will still be brought in front of the Planning Committee, so again this is not considered to offer a risk either financially or legally to the Council.
- 4.2 The decision to change the authorisation process for Section 16 notices from the Head of Growth and Economy to the Business Manager, County Planning, Minerals and Waste, will also affect and apply to the Business Manager, Floods and Water. The Floods and Water team have been advised of and agree with this amendment to the scheme. Other departments within the County Council will be unaffected by this change and can serve Section 16 notices under whichever Scheme of Delegations is relevant to their Service.

5 CONCLUSION

- 5.1 Members are asked to note the content of this report and the changes to the Scheme of Delegations that have been made, and where appropriate make any recommendations they would like the Executive Director to consider to assist the request made in paragraph 1.1 of this report.

Source Documents
Scheme of Delegation in the Council's Constitution (see Part 3D): https://cmis.cambridgeshire.gov.uk/ccclive/Documents/PublicDocuments.aspx
Authorisations to officers by the Executive Director: https://www.cambridgeshire.gov.uk/council/council-structure/council-s-constitution/