

WIRRAL COUNCIL

PLANNING COMMITTEE

20 FEBRUARY 2014

SUBJECT:	CHANGES TO THE SCHEME OF DELEGATION TO OFFICERS FOR THE DETERMINATION OF PLANNING APPLICATIONS AND PLANNING RELATED MATTERS
WARD/S AFFECTED:	ALL
REPORT OF:	STRATEGIC DIRECTOR REGENERATION AND ENVIRONMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR PAT HACKET, ECONOMY
KEY DECISION? <i>(Defined in paragraph 13.3 of Article 13 'Decision Making' in the Council's Constitution.)</i>	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report recommends that the current Scheme of Delegation relating to the determination of planning applications and planning related matters be revised.
- 1.2 The Regeneration & Environment Department and the Development Management Division teams are committed to continuous improvement and performance in the delivery of planning decisions. It is important that a balance is struck between the need to achieve speedy delivery of decisions and effective process and it is hoped that the revisions to the Scheme of Delegation as set out will aid the most economical use of both Members and officers time and allow focus on the more complex or contentious applications.
- 1.3 It is important to stress that Members still retain ultimate control over all aspects of the Scheme of Delegation. Notwithstanding the proposed changes outlined above, Members will retain their right to remove any application from delegation should they wish to, provided there are sound planning reasons for referring the application to the Planning Committee.

2.0 BACKGROUND

- 2.1 The legal basis for delegation is Section 101 of the Local Government Act 1972. Elected Members determine the basis on which a delegated agreement operates, the level of Member involvement and the circumstances in which an officer's delegated power to make a decision may not be exercised. The amendments proposed seek to delegate authority for determining planning applications and planning related matters to the Head of Regeneration and Planning, assisted by the Development Management Manager and Area Team Leaders/Principal Officers.

- 2.2 Delegation schemes vary between local planning authorities, allowing for local discretion in their operation to reflect the diverse nature of local authorities. Delegation has benefits for all stakeholders in terms of simplifying procedures, minimising costs for an authority and freeing up Planning Committee Members to concentrate on applications that are controversial or have significant strategic importance for the Borough. Where there is no need to await a committee decision, up to four weeks can be saved in determining planning applications, resulting in improvements to performance management and improved responsiveness for applicants.
- 2.3 Central Government and the Local Government Association consider that a level of delegation above 90% should be achieved by local planning authorities. Wirral Council’s level of delegation for determining planning applications is currently at 86%. This figure is below the national average for delegation and is the lowest of the Merseyside authorities. The table below sets out for Members a comparison of delegation levels for determining planning applications within the Liverpool City Region:

Name of Local Authority	Level of Applications Delegated to Officers (as a %)
Halton	94%
Knowsley	98%
Liverpool	95%
Sefton	95%
St Helen’s	98%
Wirral	86%

In addition to those authorities within the Liverpool City Region, Cheshire West and Chester Council currently operate a delegation level on 98% in relation to determining planning applications.

- 2.4 The Scheme of Delegation for Determining Planning Applications was last reviewed in May 2009. Central Government advises that such schemes should be regularly reviewed and updated to take account of any changes to national and/or local planning policies and to allow for the delivery of decisions as efficiently as possible, particularly having regard to performance improvement and best value. As Members will be aware, the Government sets targets for performance on delivery of planning decisions. Every local planning authority is required to submit data on its performance for delivering decisions on a quarterly basis. Those targets are set as follows:
 - i. 60% of all Major Applications determined within 13 weeks;
 - ii. 80% of all Minor Applications determined within 8 weeks; and
 - iii. 80% of all Other Applications determined within 8 weeks.
- 2.5 There has been concern at national Government level that sometimes planning decisions can take too long. This can slow down or prevent people from building new homes, creating new places and bringing disused or neglected land and buildings back into use. As such, there has been a significant amount of change to national planning

legislation including the introduction of a simplified National Planning Policy Framework and the relaxation of many permitted development rights. However, two significant changes that came into force from 1st October 2013 are as follows:

- i. local authorities who fail to deliver decisions on planning applications within 26 weeks (unless first agreed in writing with the applicant to extend the determination period) will be required to refund the application fees paid on such applications. This may potentially impact on Major applications or those that require Section 106 agreements as part of any decision issued; and
- ii. where local planning authorities consistently under-perform on delivering decisions with regards to Major applications (defined as delivering fewer than 30% of majors within 13 weeks over a 2 year period), such local planning authorities will be placed under 'special measures' meaning that they will no longer be able determine such applications themselves but instead these applications would be determined by the Planning Inspectorate.

- 2.6 There is, therefore, a need to ensure that planning processes do not unnecessarily prevent or delay development whilst also reconciling democratic accountability and the important and crucial role that Elected Members play in that process. Making the best possible use of delegated powers has been identified by the Audit Commission as one of a number of ways to reduce delays in making decisions on planning applications. Maximising the number of decisions made under delegated powers allows Elected Members to focus on those applications that require additional scrutiny and have more strategic importance for the Borough as a whole.
- 2.7 It is anticipated that the proposed changes to the current Scheme of Delegation (as appended to this report at Appendix A) will result in simplified procedures, minimise costs to the Authority, result in improved performance around the delivery of planning decisions and give Members on the Planning Committee more time to focus on those applications that have wider strategic implications for the Borough or which may be particularly controversial in nature, thereby requiring additional scrutiny.
- 2.8 In order for performance targets to be achieved and for planning decisions to be delivered in a timely manner, there will need to be shift towards establishing greater freedom and flexibility. Central Government stresses that Council's must be able to demonstrate that delegation is accepted as the procedural rule rather than the exception.
- 2.9 Concern may be felt that extending the scope of determining applications under delegated powers will result in a loss of Members' control. However, delegation is not a process designed to transfer control from elected Members to officers and indeed, an examination of the proposed Scheme of Delegation will show that Members remain in complete control of the delegation process. Members decide the Council's development plan policies within which all applications are judged. They will also determine other council policies, standards and guidance within which context applications may be considered. And ultimately, Members retain their right to ask for any application to be considered by the Planning Committee subject to such requests being made having regard to material planning considerations.

3.0 PROPOSED CHANGES TO SCHEME OF DELEGATION FOR DETERMINING PLANNING APPLICATIONS

3.1 The existing Scheme of Delegation is attached at Appendix A for Members' information. For ease of reference, the proposed changes are highlighted in bold and italicised red text. However, the changes can be summarised as follows:

- i) Delegated authority to determine all applications, including major applications, with the exception of those set out at (a) (i) 1,2,3,4 & 5 of the proposed Scheme of Delegation attached at Appendix 1;
- ii) Require Members removing applications from delegation to do so prior to the expiration of the statutory publicity period (know as the 'last date for comment.')
- Members should be aware that the Council can lawfully make a decision on an application once the statutory publicity period has closed so it is important to have regard to the last date for comment in considering removing applications from delegation;
- iii) To relax the requirement for applications subject to Section 106 agreements to be considered by the Planning Committee unless the financial contributions involved total £200,000 or more. One of the principal causes for decisions being issued beyond the statutory determination date is Section 106 Agreements and the need to take reports to Committee beforehand;
- iv) Finally, to relax the requirement for applications where an Elected Member is involved in the capacity of agent or a consultant unless at least one objection has been received. To maintain a degree of transparency, however, it is proposed that such applications would only be determined under delegated powers following consultation and agreement with the Chair of the Planning Committee together with the other Party Spokespersons, and would only be authorised by the Head of Regeneration & Planning and/or the Development Management Manager.

3.2 In respect of 3.1 i) above, the current scheme of delegation requires all majors to be reported to Planning Committee. Recently, a number of such applications have been brought to Members where there have been no objections and the issues have been straight-forward and compliant with planning policies and could have been dealt with more expeditiously under delegated powers. It is proposed to allow greater flexibility around determining such majors in future, especially given some of the new measures introduced by Central Government as highlighted above at Para 2.5. However, as with all applications, those Majors which generate a petition of objection signed by 25 signatories or 15 individual letters of objection will be reported to Planning Committee for a decision. All majors, with the potential for significant strategic impacts for the Borough, such as Wirral Waters etc., will automatically be reported to Planning Committee.

3.3 In respect of 3.1 ii) above, it is proposed to require Members to remove applications from delegation prior to the expiry of the statutory publicity period (last date for comment). The Council can lawfully make decisions once the publicity period has passed so it is important that Members have regard to this date. Also, early indication of requests to have applications reported to Planning Committee would allow for officers to consider Member's views and to bring the application to the first available Planning Committee, thereby increasing the chances of the application still being determined within the statutory timescales set by Central Government. An analysis of applications removed from delegation by Members has shown that, unfortunately, too

often requests have been made late in the process and has resulted in applications going out of time. The requirement for Members to give planning reasons for removing an application from delegation remains in place. Members are asked to give due consideration to proposals and discuss them with case officers before making a final decision as to whether they remove an application from delegation. Objections from local residents would not, in themselves, be sufficient reason to remove an application from delegation.

- 3.4 In respect of 3.1 iii) above, the current scheme of delegation requires all applications with the requirement for a Section 106 Agreement (with the exception of those S106 Agreements requiring the provision of additional litter bins for hot food takeaway) to be reported to Planning Committee. It is proposed to relax this requirement unless the financial contributions to the Council are proposed to be significant (contributions of £200,000 or more). This will allow for decisions to be issued much more expeditiously without first having to wait for a Committee resolution before the Council's solicitors are instructed to draft the relevant legal documents etc.
- 3.5 Finally, in respect of 3.1 iv) above, it is proposed to relax the requirement where an Elected Member may be involved in an application in the capacity of agent or consultant unless such an application has received one or more objections, in which case the application will still be reported to Planning Committee. Clearly there is still a need to have some level of transparency in determining applications where a Member may have had some professional involvement in preparing that application, and as such, where no objections have been received, it is proposed that the Head of Regeneration & Planning and/or the Development Management Manager will have delegated authority to determine such applications following consultation and agreement with the Chair of Planning Committee and the other Party Spokespersons. This would reduce the number of applications being reported to Planning Committee and improve performance on the delivery of decisions whilst still maintaining the need for accountability and transparency.

4.0 CONCLUSIONS

- 4.1 The Regeneration & Environment Department and the Development Management Division teams are committed to continuous improvement and performance in the delivery of planning decisions, and this is closely scrutinised as part of the Council's performance management systems, especially in relation to Major applications which is a corporate performance indicator for the department. The implementation of the changes to the Scheme of Delegation for Determining Planning Applications as outlined above would assist in freeing up resources and allow officers to go some considerable way to achieving such improvements. It is important that a balance is struck between the need to achieve speedy delivery of decisions and effective process and it is hoped that the revisions to the Scheme of Delegation as set out will aid the most economical use of both Members and officers time and allow focus on the more complex or contentious applications.
- 4.2 It is important to stress that Members still retain ultimate control over all aspects of the Scheme of Delegation in so much as they can remove any application from delegation should they wish to, provided there are sound planning reasons for referring the application to the Planning Committee. By freeing up some of those applications that are currently required to come to the Planning Committee for resolution, Members will

be able to focus their attention on the larger schemes that come in front of them that potentially have more lasting and strategic implications.

5.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

5.1 There are no direct impacts for voluntary, community and faith groups.

6.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

6.1 A more efficient use of delegation will result in savings in officer and committee time and resources. Performance targets set by Central Government for all types of applications are currently struggling to be achieved as a result of the large number of applications that are being referred to Planning Committee. Agreement to the amendments to the Scheme of Delegation as outlined will result in improvements in service delivery and performance and reduce costs for the Council.

8.0 LEGAL IMPLICATIONS

8.1 The legal basis for delegation is Section 101 of the Local Government Act 1972, as amended. Elected Members determine the basis on which a delegated agreement operates, the level of Member involvement and the circumstances in which an officer's delegated powers to make a decision may not be exercised. For the determination of planning applications and planning related matters, these are set out in the appended Scheme of Delegation for Determining Planning Applications. There are no further legal implications arising from these proposals.

9.0 EQUALITIES IMPLICATIONS

9.1 There are no direct implications arising from these proposals which adversely affect equality and diversity.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 The implications of these proposals on climate change and carbon resources are largely neutral.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 The planning implications arising from this report are outlined above and there are no direct Community Safety implications arising from this report.

12.0 RECOMMENDATION/S

12.1 That the Planning Committee note the proposed changes to the current Scheme of Delegation for Determining Planning Applications and Planning Related Matters and recommend to Council that the amendments be adopted as set out in Appendix A.

12.2 That the Chair of Planning Committee attends the appropriate Cabinet meeting.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 The recommendations reflect Central Governments changes to national planning legislation and are set against the background of the provisions within the Growth and Infrastructure Act 2013.

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APPENDICES

None

REFERENCE MATERIAL

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date