

DELEGATED

AGENDA No.

**REPORT TO SPECIAL
PLANNING COMMITTEE**

DATE 14TH NOVEMBER 2007

**REPORT OF THE CORPORATE
DIRECTOR OF DEVELOPMENT
AND NEIGHBOURHOOD
SERVICES**

ALTERATION TO THE SCHEME OF DELEGATION AND COMMITTEE SITE VISITS

1. As Members will be aware the Government has set out an agenda for the delivery of a planning service appropriate for the 21st century through the Planning and Compulsory Purchase Act 2004, the Barker Review of Land Use Planning, and laterally, the White Paper-Planning for Sustainable Futures. The delivery of an expedient customer responsive service plays an important part in CPA rankings and in attracting financial income through the award of Planning Delivery Grant (PDG).
2. As part of the whole service review, an extended scheme of delegation was introduced in January 2004, and improvements made to Planning Committee such as a change in venue and the introduction of public speaking. In addition there was a reduction in the need for site visits by making greater use of IT display technology and digital photographs.
3. Furthermore, an IDea peer review was subsequently undertaken of the service and both a report and comprehensive Service Improvement Plan published in April 2007. A number of areas for improvement were highlighted, including the need to update the scheme of delegation, and the onerous requirement for signing off decisions. These issues have been carried forward into the Service Improvement Plan, which was approved by Cabinet and Full Council on 28th March 2007.
4. This report therefore examines both issues and proposes alterations to the scheme of delegation and signing off to make it more streamlined and efficient, as well as looking at the criteria for site visits.

RECOMMENDATIONS

1. ***That the views of Planning Committee be sought and incorporated into the consideration of the report by Cabinet and thereafter by Council.***

2. The operation of the new scheme be reviewed one year after implementation by Performance Review and Select Committee

PURPOSE

To outline proposals for a revised scheme of delegation which will be considered at a future meeting of Cabinet and thereafter by Council.

DELEGATION

5. Planning Committee, at its meeting held on 28th November 2003, considered a number of reforms that could be introduced to improve the quality of the service delivered and Cabinet was invited to comment on the content of the proposed revised scheme of delegation prior to Full Council determining the matter. Included as part of these proposals were a number of reforms including;-

- Suggested criteria for determining applications that warranted site visits,
- Changes to the venue for Planning Committee meetings to make them more accessible to the public and facilitate presentations,
- Changes to the day that such meetings were held to allow decision notices to be published earlier

Full Council accepted the changes in January 2004. The revised scheme of delegation which was introduced then is attached at **Appendix 1** to the main report.

6. There has been an increase in the number of planning applications dealt with by the authority over the last seven years and a pro-rata decline in the resources available to deal with such applications. A combination of factors therefore led to the following in 2005/6:-

- The failure to meet the targets set for the service.
- Failing to attract previous levels of Planning Delivery Grant.(PDG)
- Being made a 'standards' authority by the DCLG with a requirement to improve performance or face possible outsourcing of the service.

Clearly this is not consistent with the ambition and aspiration of excellence embedded into Stockton on Tees Borough Council.

7. An appropriate scheme of delegation allows members to devote sufficient time to more complex and contentious applications. However Members of Planning Committee will also appreciate that the amount of time taken to determine an application is not always proportionate to the size of the application. It is often the smaller applications which prove more contentious despite the material planning considerations being minimal

8. In 2003/04 the delegation rate to officers was 89%, and following its amendment in 2004, rose to 94%. Since that date the number of applications delegated to

officers has dropped to 91%. The highest rates of delegation in the area are South Tyneside with 96% and Newcastle with 94%.

9. Interestingly, Stockton are 3rd in the tables in the north east for the number of planning applications received and determined, with only Sunderland and Newcastle dealing with more. Statistically of course, that means that a larger number of applications are actually determined by Planning Committee in Stockton than at an authority who has a lower delegation rate but receives fewer applications overall. Last year Stockton received 2034 planning applications, equating to 208 cases per officer, (above the recommended target of 150 applications per officer).
10. Whilst performance has improved in the intervening period, there is no room for complacency and the scheme of delegation requires re-examination. The peer review final report, published in April 2007, specifically highlighted areas of concern around delegation and the signing off procedure. A commitment to review these issues has been carried forward into the Planning Service's Service Improvement Plan which has been presented to and adopted by Full Council on 28th March 2007.
11. The benchmark used by the peer review team is a new benchmark of an ideal planning service as developed by Planning Advisory Service (PAS) and IDeA. It forms the basis of all Planning Peer Reviews. The benchmark reflected changes in both the Corporate Performance Assessment (CPA) for 2005 and Service Inspection frameworks, as well as the legislative changes in the planning service. It also took into account the new statutory base for the delivery of the planning system, including the provisions for the preparation of Local Development Frameworks (LDF) and the inter-relationship with the preparation of Council's Community Strategies, Local Transport Plans, Regional Spatial Strategies and Regional Housing and Economic Development Strategies.
12. The peer review commented that:-

"the scheme of delegation of planning decisions to officers needs updating. At about 90 per cent, the rate of delegation supports quick decision making, though there is room to increase this level while retaining appropriate councillor involvement. However, councillors do not all understand the arrangements and time limits for calling in planning committee decisions that would otherwise be delegated. This could cause delays and affect the speed of decisions. A more simplified scheme which gives councillors the opportunity to call any application into committee may be a more transparent approach. Councillors should be asked to give clear planning reasons for a case to be considered by the planning committee within a set time of receiving notification of the application. The way decisions are delegated within the planning service could also be improved. The head of planning is currently signing all refusal decisions, and the development control manager is signing all decisions. This is unnecessary. It uses valuable senior officer time and implies a lack of trust in staff to exercise responsibility and accountability. The service should adopt a more risk based approach and develop a scheme that both delegates to an appropriate level and includes quality checks within the quality assurance system."

13. The opportunity has been taken to fully review our delegation scheme and compare it with other authorities, both in the Tees Valley and elsewhere. The Local Government Association and Office of the Deputy Prime Minister (now DCLG) published advice on “Delivering Delegation”, which recognises the need to provide for a simple model agreement based on the “by exception” approach to reflect local discretion. The suggested revised scheme is far simpler than the current scheme and makes it clear what applications cannot be determined by Officers ie. the exceptions to the scheme of delegation.
14. It also allows any Member to refer a delegated application to Committee subject to providing a written justification by letter or email on the proforma and to satisfying the agreed criteria to be reported to Planning Committee, that it is an issue of fundamental principle or an issue of precedent, both of which are defined within the Appendix of definition attached to the scheme of delegation. This request should be submitted to the Head of Planning within 21 days of publication of the details of the application. The Head of Planning in the first instance will arbitrate on the interpretation of the scheme and thereafter the Director of Development and Neighbourhood Services, in consultation with the Director of Law and Democracy (or nominee) if there are any challenges to this decision. The flow chart at **Appendix 2** outlines this procedure.
15. It is proposed therefore that delegated authority be granted to Officers to process and make decisions on all applications subject to the following exceptions:-
 - a.) those cases which appear to the Director of Development and Neighbourhood Services or the Head of Planning to be extraordinary when viewed against established policy guidelines, or warrant consideration by Planning Committee;
 - b.) development proposed by the Council itself except those of a minor nature as detailed in Appendix 3- definitions associated with the operation of the scheme of delegation;
 - c.) those cases where the Officer recommendation is for approval but it constitutes a departure from the Development Plan;
 - d.) those cases where there are more than 10 letters/emails by way of response which are contrary to the recommendation of the case officer, with the exception of mobile phone mast applications where they remain delegated regardless of the number of objections received;
 - e.) where a Member requests in writing or by email within 21 days of publication of details of the application that Committee determine the application on the grounds of a matter of fundamental principle or precedent;
 - f.) those cases which involve development on land owned, or in which an interest is held, by a Council Member (or their spouse/partner) or by any member of the Council staff (or their spouse/partner) as far as is reasonably practicable.
16. The determination of Mobile Phone Masts applications is one of the most contentious areas that Members have to deal with, as there are often substantial numbers of objections against proposals being submitted. As the objections are primarily on health grounds it might assist Members if the determination of mobile phone masts were to be delegated to officers. Given the traditional mass

opposition to mobile phone masts, they would have to be delegated regardless of the numbers of objectors as a departure from the normal '10 objections' rule which is being recommended as triggering a referral to committee. Should there be more than 10 objections to such an application, the Case officers will liaise directly with Ward Councillors to make them aware of the issues which are being raised, as often clarification can be given on the siting and design due to local knowledge. There have been 5 applications for mobile phone masts in the last year.

17. Under the scheme of delegation at present, all proposals need to be signed off by 3 officers, and in the case of refusal, the Head of Planning as well. Those applications which also have a Parish/Town Council comment, Ward Councillor comment or adverse consultee comment also require the signature of the Head of Planning, whilst the Development Services Manager must sign every application. It is this onerous and time consuming process which the Peer Review team have commented upon. It uses valuable officer time, and shows a lack of trust in senior officers when a refusal as opposed to an approval cannot be determined without the Head of Planning's signature.
18. It is therefore proposed to revise the current arrangement to streamline the process. In the interests of fairness and accountability, all comments, support or objections from Parish/Town Councils and Ward Councillors will be signed off in the same manner as those from members of the public, and will be summarised as necessary and weighted accordingly in the officer report. However the Development Services Manager will be called upon to arbitrate/sign off applications in cases where there is an outstanding consultee comment contrary to officer recommendation that cannot be resolved.
19. At present there are 3 teams in operation, 2 area based teams and the newly established Major Projects Team. Each team is led by the equivalent of an Area Team Leader. It is proposed that each application will require the signature of the case officer, and the Area Team Leader/Major Projects Officer from one of the other teams. During the course of an application, a case officer will liaise with their own line manager to discuss the case and recommendation. Therefore to ensure consistency in decision making and for an independent view, another team leader must act as signatory on the delegated decision, ie they cannot sign off their own team members' decisions. To introduce a quality control check into this process, each month the Development Services Manager will examine 5% of the delegated applications determined the previous month and report the findings to the Head of Planning.
20. Applications recommended for refusal, in addition to the 2 signatures above, will require a have a third signature, that of the Development Services Manager.to ensure consistent decision making across the teams and as a way of monitoring performance with regards to appeals and BVPI 204.
21. Any material objections or material letters of support for an application result in the ward member (s) being advised by e-mail. The case officer will not take any action to determine the application under delegated arrangements for a period of 48 hours after the ward member (s) has been notified, unless an application would expire in this period and views will be sought immediately on the matter.

This allows the ward member to view the correspondence online and decide whether to take any action relating to how the application is determined.

22. As with the current system, members receive weekly notification by email of the weekly list of applications received. Both this and the list of applications determined each week can be viewed 24/7 by Members on line through public access and online services, although it is acknowledged that sometimes the system may not be available for technical reasons.
23. Notwithstanding the above list of signatories, in the absence of an officer required to sign under the revised scheme, the decision can be delegated up to the next appropriate officer for signing ie. the Development Services Manager, Head of Planning, Spatial Planning Manager or Director of Development and Neighbourhood Services.
24. The revised scheme of delegation will ensure transparency, probity, fairness and consistency in decision making, and lead to continued improvements in performance.

CRITERIA FOR SITE VISITS

25. The use of Power Point presentations utilizing digital photographs of application sites has proved to be of great assistance to Members in considering applications and reducing the need for site visits.
26. The Head of Planning recommends that the criteria for Planning Committee site visits remains as:
 - An issue of fundamental principle is involved
 - An issue of Precedent is involved
 - An application by a Member or Officer of the Council to which one or more objections have been received.
27. However it would appear that not all Members are clear or aware of the protocol for site visits, as agreed by Planning Committee in September 2004 and subsequently adopted by Full Council. It is acknowledged that this is a proper part of the representational role for members and should normally be acceded to, so long as the request can be justified on the grounds of a principal or precedent in relation to material planning considerations. The definition of principal and precedent has been defined in the definitions of the scheme of delegation as attached at **Appendix 3**.
28. If a Member feels that a site visit is necessary, they must raise the issue at the earliest opportunity with the case officer, Development Services Manager or Head of Planning. The objective should be to ensure that site visits are arranged at the earliest possible date in advance of the meeting to enable applications to be determined within the 8 or 13 week timescale, and not deferred at Committee at the last moment, resulting in applications going over time. Once members are aware of what has been listed for committee, and the impact of a proposed

development may appear to them to be difficult to understand from the report and plans, then the opportunity exists to view the site for themselves prior to committee, even if only a drive by as this can often aid in understanding the particular situation and circumstances of the development proposed. In addition Members can come in to talk to the case officer or Development Services Manager in order to clarify issues.

29. If a member wishes to formally request a site visit they should be based on the grounds as set out above at paragraph 26, and be submitted to the Head of Planning within writing or by email within 21 days of publication of details of the application on the proforma available for such purposes. The reasons for a site visit should be stated and minuted clearly if not already contained within the officer report. The purpose of a site visit is not to allow objectors to have their say and speak to committee members, but to allow members to view the site for themselves. This is the format and good practice used during Planning Inspectorate site visits on appeals. The official forum for the public to address members is at Planning Committee itself, the reason for the introduction of public speaking in 2004 as part of the modernisation of the service.

30. Site visit meetings will be conducted in a formal manner:-

- Officers will highlight the issues relevant to the site inspection and other planning considerations.
- On site the Officer will be asked to point out relevant features, which can be observed. Members may also wish to point out features, which can be observed, or to ask factual questions of the Officer.
- To avoid giving an impression of being lobbied, Members should not listen or talk to any individuals whilst on site, unless being addressed as a group in accordance with arrangements agreed beforehand. Any comments should be made to the whole Committee through the Chair.
- The public, applicant and objectors may attend the meeting but will not normally be allowed to participate or address committee unless invited to do so by the Chair, in order to clarify a factual point or point out a feature on the site. If any are present, the Chair will explain this to them prior to commencing the inspection of the site.
- To avoid Members being spoken to individually, the Committee should attempt to keep together as a group.
- At the Planning Committee meeting, the Chair will give the Officer, after presenting the report on the proposal, the opportunity to comment on any planning matters raised by the site visit, and to clarify any other planning matters, before the normal Committee debate and decision takes place.
- No discussion or decision-making will take place on site, to ensure that decisions are clearly reached and understood – and are seen to be so.
- No hospitality will be accepted on site visits

CONCLUSION

31. The overall package of measures have led to significant improvements to the speed of the service and its accessibility by members of the public. There have

undoubtedly been some difficulties, but Members will recognise the continuing need to maintain improved performance, and it is recommended that the new scheme of delegation will lead to a more streamlined and efficient service.

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FINANCIAL AND LEGAL IMPLICATIONS

Financial

If next years award of Planning Delivery Grant is based in part upon the performance of the Development Services Team, there should be significantly less chance of targets not being met which lost the authority £250,000 for the period 2003/4 by the level of grant being reduced by the DCLG.

RISK ASSESSMENT

The suggested reforms are categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration Objective 6 'Ensure good and sustainable design in regeneration schemes and new developments-Meet government targets in determining planning applications'

COMMUNITY SAFETY

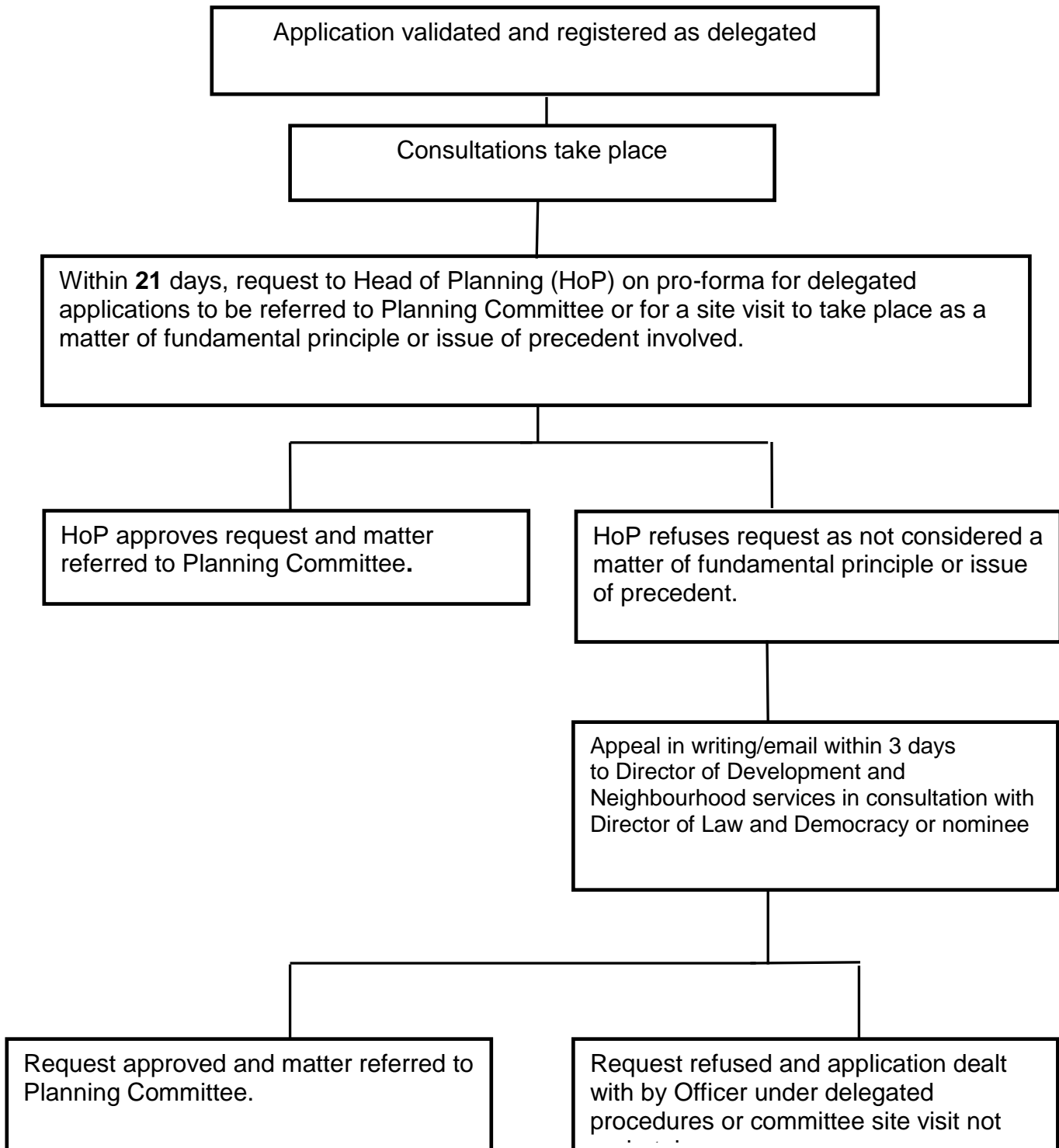
The proposal has no direct impact upon community safety.

WARD AND WARD COUNCILLORS : ALL

APPENDIX 1- CURRENT SCHEME OF DELEGATION

1. An application which is subject to Environmental Assessment Schedule 1 or 2 and accompanied by an Environmental Statement
2. Is recommended for Approval but does not accord with the Development Plan
3. Is recommended for Approval and would affect a public right of way to which the Countryside and Rights of Way legislation applies.
4. Involves proposal for the landfilling of waste.
5. Involves the winning and working of Minerals and use of land for Mineral deposits
6. Concerns the provision of dwellinghouses where the number of dwellings is 30 or more or there is a site area of more than 5 hectares and the principle has not yet been established by means of a detailed or outline planning permission
7. Involves the provision of a building or buildings for industrial or storage use where the floor space is over 50,000 sq. metres
8. Involves the provision of a building or buildings where the floor space to be created is over 25,000 sq. metres.
9. Requires a Traffic or Retail Impact Assessment
10. An issue of fundamental principle is involved
11. An issue of Precedent is involved
12. Generates more than 5 letters by way of response which are contrary to the recommendation of the case officer.

APPENDIX 2 - CALL-IN PROCEDURE FOR DELEGATED APPLICATIONS OR PLANNING COMMITTEE SITE VISITS.



APPENDIX 3- DEFINITIONS FOR SCHEME OF DELEGATION

1. Wherever necessary, all interpretations as to definitions will be made in the first instance by the Head of Planning. Where agreement is unable to be reached, further guidance will be available from the Director of Development and Neighbourhood Services and legal advisor.
2. An 'individual letter of response' shall be taken to constitute a letter within which it is stated that an individual or group of people , whether privately or in any other capacity object or support a proposal for reasons set out in a letter.
3. For the purposes of the operation of this scheme of delegation, petitions or pro-forma letters wherein the content remains virtually the same shall be treated as a single letter of objection/support regardless of the number of letters received or the size of the petition.
4. An issue of "precedent" shall be one where the determination of an application might reasonably lead to the expectation that the Council would reach a similar conclusion in other circumstances, where the principle being established is occurring for the very first time in the locality and having regard to the need to judge each application on its own individual merits.
5. An issue of "fundamental principle" shall be taken to involve the testing of any part of the Local Plan or any Local Development Framework where the testing is key to the delivery of the core objectives of the Local Plan or LDF.
6. For Council developments, "minor" development is classed as extensions of up to and including 100m² of floorspace, disabled access facilities, fencing, storage buildings and renewal of consents.