

Fews  
Lane  
Consortium  
Ltd

Daniel Fulton  
DIRECTOR  
T: 01954 789237  
E: dgf@fewslane.co.uk

The Elms  
Fews Lane  
Longstanton  
Cambridge  
CB24 3DP

6 January 2020

Dear Councillor Daunton, Councillor Van de Weyer, and Councillor Howell,

**Re: Changes to planning delegation scheme in Council's constitution**

I very much appreciated the Civic Affairs Committee taking into account my representations at its meeting on 3 December, and I was pleased that the task and finish group will be looking at the proposed revisions further before bringing them back to the full committee.

There is one issue that I would like to address further, and that is the proposed change to the planning delegation arrangements.

In response to my representations on this issue, Mr McKenna said that the only change proposed was that instead of the chair or vice-chair of planning making delegation decisions in consultation with officers, officers would be making delegation decisions in consultation with the chair and vice-chair of planning.

This response failed to address the substance to my objection to the proposed change, namely, the shift of the actual decision-making power from a democratically elected local councillor to a single, unaccountable officer employed under a joint arrangement with another local authority. The phrase "in consultation with" is sufficiently vague as to be legally inoperative and nearly meaningless in practical terms. Regardless of who the decision maker does or does not consult, the decision is that of the decision maker, and the proposal is to change who makes delegation decisions for planning applications.

Parliament has seen fit to vest the authority to determine planning applications in the hands of democratically elected local authorities, and it has done so with good reason. The public can generally trust that when their locally elected councillors consider planning decisions, the weight that councillors afford to various material considerations will broadly reflect the public interest concerns of the local residents of their wards. Should elected councillors repeatedly make planning decisions that are at odds with the views and priorities of the residents of their wards, they can be, and frequently are, voted out of office.

In the case of most controversial planning applications, decisions could often go either way depending on how the various material considerations are weighed by the decision maker. In such circumstances, two perfectly reasonable planning officers can reach completely different decisions based on how they personally weigh the various material considerations. The outcome of controversial planning decisions should not be dependent on which officer happens to have been assigned a particular decision.

In the British democratic tradition, no governmental decision, whether political, administrative, or judicial, should be made on an arbitrary basis, and all decision makers must be accountable for their decisions. For planning decisions made by local authorities, the accountability for those decisions comes solely through the democratic process. While planning appeals do exist, planning decisions can only be appealed by an applicant if an application is refused. No one else has any right to appeal any planning decision on any basis except if the decision has been taken in such a grossly unlawful manner that it can be challenged through judicial review (which itself is only open to those who can afford to spend thousands of pounds on legal costs).

If local councillors make planning decisions that are contrary to the general political sentiment of the community, it is reasonable for residents to vote them out of office. However, it would not be reasonable to expect local residents to vote elected councillors out of office because they disagreed with the problematic decisions of one or more planning officers making decisions under delegation arrangements. Furthermore, local authority officers enjoy considerable security of tenure, and even voting the entire local authority out of office would likely leave the majority of planning officers still in place.

The solution to avoid this problem is to have a system where concerned local residents can have controversial planning applications considered by their democratically elected councillors in the form of the planning committee. Many local planning authorities allow parish councils and local members to call-in planning applications, and I see no reason why such an arrangement is not suitable for South Cambridgeshire.

I recognise that it takes more time and resources for the planning committee to determine an application. To ensure that the call-in system is not abused, I would have no problem if the Council wants to require that a parish council calling-in an application must send a representative to address the meeting. However, I feel very strongly that an effective call-in procedure must be available to local residents through their local members and parish councils.

I realise that the issue of the delegation of planning decisions may seem like a small issue in the scheme of the overall constitution, but planning decisions have tremendous impacts on local communities, and those impacts will continue far into the future, impacting generations of future residents of this district.

For your reference, I have again attached a notional delegation scheme that I have prepared based on an adaptation of the planning delegation scheme in use at Milton Keynes Council, and I would be happy to provide feedback on any other alternate proposals that are put forward.

Thank you very much for your time in considering these comments.

Kind regards,

Daniel Fulton

# Responsibility for Council Functions (Table 5)

## Delegation of Powers and Functions in relation to Planning Applications

South Cambridgeshire District Council operates a scheme of delegation which sets out the range of decisions that officers may make on behalf of the Council. Decisions on the majority of planning proposals and associated applications are delegated to officers without the need for them to be decided by members at Planning Committee.

Delegated decisions are carefully considered by the case officer, who outlines their recommendations and reasons behind the recommendations in a balanced report, which is checked by a designated officer before a decision is agreed and issued.

By operating a scheme of delegation, decisions are made in good time, in line with statutory target dates, and the Planning Committee can concentrate on the most contentious and significant proposals.

**All planning applications shall be determined by an officer under delegated powers subject to the limitations stated in Part A below.**

### Part A

#### Limitation on Delegated Authority

1. No delegated decision shall be made by an officer where the development, in the opinion of the officer, is likely to be of a controversial nature, taking into account such factors as the scale and nature of the proposed development, the history and sensitivity of the site and the likely level of public interest.
2. No delegated decision shall be made by an officer where, in the opinion of the officer, a decision on the application should be made by the Planning Committee because of special planning policy considerations, the complexity of the application or the application's significance and / or strategic importance to an area beyond the specific site.
3. No delegated decision shall be made by an officer which is materially in conflict with any of the Council's approved planning policies.
4. No delegated decision shall be made by an officer until the formal consultation period has expired.
5. No delegated decision shall be made by an officer if a written request or e-mail is received within 28 days of the date of notification, or in the case of any subsequent significant amendment to a current proposal within 14 days of the date of notification of the amendment, giving notice of an objection from:
  - a. A local member in respect of an application within their ward.

- b. A local member where an application in an adjacent ward will have an impact on their ward.
- c. A parish council in respect of an application within their parish.
- d. A parish council in respect of an application in an adjacent parish will have an impact on their parish.
- e. In the case of all planning applications except major applications, 5 or more members of the public from different households.
- f. In the case of a major application, 20 or more members of the public from different households.

In all cases an objection must form a material planning consideration and an explicit request must be made that the application be referred to the Planning Committee for determination.

Where a request to refer an application to the Planning Committee has been received from a parish council, an undertaking must be given that a member of the parish council or the parish clerk will attend the Planning Committee meeting.

Failure to attend a Planning Committee meeting following an undertaking to do so on two occasions within any 12-month period will result in the parish council being barred from requesting an application be referred to the Planning Committee for a 3 month period from the date of the second incidence.

A party having requested that an application be referred to the Planning Committee on an objection based on the procedures outlined above may withdraw the request for a referral to the Planning Committee if the proposal is amended to their satisfaction or conditions agreed to address the issue as long as notice of the withdrawal is received prior to the publication of the agenda for the relevant meeting.

- 7. No delegated decision shall be made by an officer where the application relates to land owned by an elected member or officer of the Council.
- 8. No delegated decision shall be made by an officer where the application is made by or on behalf of an elected member or an officer of the Council, or a close friend, relative or partner of either of such persons.
- 9. No delegated decision shall be made by an officer where a planning application for any 'Major' or 'Minor' development that relates to the Council's own land and one or more representations have been received against the proposal.
- 10. No delegated decision shall be made by an officer where, in the opinion of officers, the application should be determined by the Planning Committee because of special planning policy considerations, the complexity of the application or the application's significance and / or strategic importance to an area beyond the specific site.