

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee
AUTHOR/S: Development Control Manager

6th February 2008

Delegation Procedures

Purpose

1. To review the officer delegation procedures to determine planning and other applications.

Effect on Corporate Objectives

2. Quality, Accessible Services	An efficient delegation scheme improves performance and customer service
Village Life	All decisions are made in accordance with the Development Plan aimed at improving village life
Sustainability	Planning Policies aim to achieve a high degree of sustainability for all new developments
Partnership	Planning decisions are reached, having regard to comments made by Parish Councils and other consultees

Background

3. In August 2007 Committee agreed changes to the delegation procedure. A copy of the Committee agenda report is attached, together with the agreed procedures (Appendix 1).
4. This responded to the Department for Communities and Local Government (DCLG) Report (26th June 2006) which assessed this Authority's planning performance, particularly in regard to the determination of major applications. The report highlighted the need to work with Members to develop an improved scheme of delegation to officers. It noted that "delegation has recently been reviewed and a wider scheme has been agreed which is likely to further increase the delegation rate."
5. In addition Hephher Dixon, who was formally instructed by the Planning Advisory Service (PAS) in November 2006 to carry out a review of the Council's procedures as they relate to performance on major planning applications, recommended a review of the scheme of delegation.

Considerations

6. Prior to the changes introduced in August 2007 the percentage of decisions delegated to officers was consistently around 90%, as recommended by:

"Delivering Delegation" (2004), a guide jointly produced by the former office of the Deputy Prime Minister (ODPM) and Local Government Association (LGA).
7. In the period 1st September to 31st December 2007, the rate increased to 94.8%. This has had a bearing on the number of applications considered at Planning Committee. At the five meetings from September, an average of 11 applications per meeting have been considered. In the period July 06-June 07 the average was 19.

Options

8. The Council's delegation scheme is based upon the "by-exception" model, one of two broad models noted in "Delivering Delegation".
9. In my opinion it has successfully achieved a balance between the need for efficiency in the determination of applications that are relatively straightforward and those that are more significant and controversial and which require Member scrutiny.
10. I am not recommending any further relaxation, in view of the success in meeting the national BV109 indicators for speed of determining applications and the additional capability of Committee in being able to assess Major Applications along with public speaking.
11. However, four matters need to be resolved:
 - (a) In view of Senior Management Team's decision to re-organise the four area development control teams into two teams, the existing powers delegated to Area and Senior Planning Officers should be transferred at the appropriate time to the new Team Leaders, Assistant Team Leaders and Senior Planning Officers respectively;
 - (b) In the absence of the Design and Conservation Manager, powers should also be exercised by the Conservation Area and Design Officer.
 - (c) The powers of Chairman's Delegation Meeting (ChDM) at paragraph A2 in Appendix 1 should be amended to include the matters in A1(iii) (Member written requests for 'other' developments to be referred to Committee) and A1(iv) (a recommendation of approval upon a 'major' development contrary to written representations from owners or occupiers of property), both of which were agreed by Committee in August 2007 and have been incorporated into the approved delegation procedure. This is, in effect, a correction to Paragraph A2, which was not updated at that time; and
 - (d) The role of ChDM was discussed at Scrutiny and Overview Committee on 11th October 2007. The Full Minute of the meeting is attached. In response to the discussion points:
 - (i) Four clear working days notice is provided;
 - (ii) A copy of the agenda will be sent to each relevant Parish Clerk;
 - (iii) The agenda for the meeting can be posted on the Council's intranet through the members' weekly bulletin;
 - (iv) In regard to a member of a Parish Council speaking at ChDM when the ward Member is absent, I consulted the Council's Principal Solicitor, who advises:

"You quite rightly point out that the process described is actually the exercise of officer's delegated powers in consultation with the Chair, Vice chair and local members. The officer decision is the decision of the authority. We must not lose sight of this. Delegated powers must be exercised lawfully i.e. within the powers and scope of the delegation.

A local authority may place reliance on the views of other persons or bodies in reaching the decision and this, therefore, extends to officer delegated decision making. Of course, the Local Planning Authority elicit those views through consultation including consultation with the Parish Council. It is reasonable to invite local members to these meeting as this is still an internal meeting relating to the officer exercising powers in consultation. Parish Councils will already have had an opportunity to comment on any application within their jurisdiction. I think it would be unhelpful to extend the meeting to include them. They are a third party organisation and their involvement will inevitably lead to calls of unfairness

and injustice in the regulatory decision-making where no other third party can be present. Parishes can always feed their views through their local member if they wish. If the local member cannot attend for whatever reason then their views can be presented in writing.”

I have nothing to add to this advice, with which I concur.

Financial Implications

12. Maintaining an efficient delegation system will maximise the potential to achieve and sustain the Government’s performance indicator targets for determining major (60% in 13 weeks), minor (65% in 8 weeks) and other applications (80% in 8 weeks).
13. Although the new Housing and Planning Delivery Grant will focus exclusively on two areas (plan-making and housing delivery), the Government has indicated that an abatement of some HPDG payments in development control will be included where performance falls below acceptable levels. (ref Communities and Local Government: Housing and Planning Delivery Grant (HPDG) Consultation on allocation mechanism) October 2007.)

Legal Implications

14. The legal basis for delegation is Section 101 of the Local Government Act 1972, as amended. Section 100(G)(2) requires that a list of powers exercisable by offices should be maintained and open to public inspection. 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.

Staffing and Risk Management Implications

15. If the Performance Indicator targets are not maintained, the Council could lose resource and make it difficult to meet all our targets. Increasing pressure on officers could lead to a leakage of experienced staff when it is increasingly difficult to recruit suitable professionals with relevant skills and experience.

Equal Opportunities

16. None

Consultations

17. See Paragraph 11(c)(iv) above.

Summary and Conclusions

18. This review was required by Committee in August 2007. “Delivering Delegation” recommends that schemes be regularly reviewed and that an effective scheme of delegation will ensure economical use of time and allow focus on the more complex or contentious applications.
19. Although the Council achieved the three application determination performance indicator targets for the year ending September 2007 (Majors 77%, Minors 72% and Others 87%), there is a need to sustain that level of achievement.
20. I consider that the revisions to the delegation scheme agreed in August 2007 have worked well and have enabled the Committee to implement public speaking and to focus upon the most controversial and major applications. No changes are proposed.

Recommendation

21. That the points of clarification and correction at Paragraphs 11(a).11(b) and 11(c) be agreed, that the procedures for Chairman's Delegation Meeting be amended in accordance with Paragraph 11(d)(i) to (iii) and that Committee endorses the role of the Local Member in presenting the Parish Council views (in addition to the Case Officer) to the ChDM.

Background Papers: the following background papers were used in the preparation of this report:

- (a) "Delivering Delegation": ODPM and LGA, March 2004.
- (b) Department for Communities and Local Government Report, "Evaluation of South Cambridgeshire District Council" dated 26th June 2006.
- (c) South Cambridgeshire District Council: Process Mapping for Determining Planning Applications – BV109A – A Review by Hephher Dixon (March 2007).
- (d) Housing and Planning Delivery Grant: Consultation on allocation mechanism, October 2007.

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