

**WORKING GROUP ON CONTRACT STANDING ORDERS, FINANCIAL REGULATIONS
AND OFFICER DELEGATION**

SCHEDULE OF DELEGATION REVIEWS – COUNCIL

1. Development Control (Delegation Reference P4 (g) and (h).)

(a) Local Councils and Members' Requests for Reference of Planning Applications to Area Plans Sub Committees

1. This delegation relates to planning applications which would normally be dealt with under delegated authority but which under certain circumstances can be referred to an Area Plans Sub Committee.

2. Items (g) and (h) of P4 was amended last year to require that member requests for applications to be referred to Area Plans Sub Committees should be subject to a deadline of 4 weeks from the date of receipt of the relevant Council Bulletin list. This was to avoid such requests being received shortly before Sub Committee meetings resulting in the item having to be deferred to a later meeting with an adverse effect on the Council's performance against the eight week BVPI target.

3. A similar change was made in respect of representations by local councils whereby such comments would only result in reference to a Sub Committee if the views expressed related to material planning considerations.

Planning Comments:

4. The net effect of these changes, together with the change to the 3 weeks Area Plans Sub cycle has resulted in 36 more cases being determined within the 8 week period.

Recommendation:

To confirm the changes to P4(g) (subject to item (b) below) and (h).

(b) Objections by Parish and Town Councils (Delegation Reference P4)

5. Item P4(g) requires that any proposed decision under the Director of Planning and Economic Development's delegated authority to grant consent contrary to an objection from a local council on grounds which are material to the planning merits of the proposal, must be referred to Area Plans Sub Committee for determination. This change was made last year for a trial period of one year.

Councillor J Knapman wishes the Panel to consider the following proposal:

6. "Delegated powers should not be used if the Director of Planning and Economic Development intends to refuse a planning application where a local council

has indicated a measure of support in its response and that such cases should stand referred to the relevant Area Plans Sub Committee.

Reason:

7. "Most Parish Councils state "no objection" which appears to be viewed by Planning Officers as a neutral stance on applications, thereby giving authority to make a delegated decision either to grant or refuse consent. Sometimes, the comments of local councils which accompany "no objection" can indicate support for an application. The officer delegation should therefore provide for such comments to be taken into account in deciding whether reference to a Sub Committee should take place."

Comments from Planning Directorate

(1) This proposal would lead to uncertainty since it is unclear what should be taken as an indication of support. Because of the lack of clarity the amendment will be likely to lead to disagreements on whether a local council has actually expressed support. Councillor Knapman's proposal could therefore cause uncertainty and conflict between officers, members and local councils. That uncertainty could also threaten the validity of decisions taken under delegated powers and therefore leave them open to legal challenge.

(2) It should be recalled that if local councils are supportive of an application it is open to them under existing arrangements to express their support. They can start their comments with the word "Support".

(3) The proposal will also result in more applications going to Committee for decision. This could result in a decision on an application being made outside the statutory period. The District Councils' objective of achieving upper quartile performance for planning performance could therefore be undermined.

8. As an alternative, it is suggested that further advice could be given to local councils to avoid any ambiguity in their responses. It is also suggested that when the Council is, moving to an era of electronic responses, it might be useful to include "tick" boxes with supporting comments which make the views of the local council clear.

Recommendation:

To consider the following options:

Option 1 - to amend P4(g) to read as follows:

"Applications recommended for refusal contrary to an objection from a local council which are material to the planning merits of the proposal or applications recommended for refusal where the local councils have made representations which indicate support for the granting of consent, even if no objection is raised to the proposed decision."; or

Option 2 - to give further advice to local councils on the current format for submission of applications.

(NB underlined text shows additions to the present wording of P4(g) if Councillor Knapman's proposal is agreed)

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