

Report to Planning Services Scrutiny Standing Panel

Date of meeting: 11 February 2010

**Subject: Recommended Alterations to Officer Delegation
to improve planning performance against targets**



**Officer contact for further information: Nigel Richardson, Assistant Director of
Planning and Economic Development (01992 56 4110)**

Committee Secretary: Mark Jenkins (01992 56 4607)

Recommendations/Decisions Required:

- (1) That the alterations to parts (f), (h) and additional (m) of part (1) to
Delegation CL56 - Planning Applications, be agreed,**
- (2) That the alterations to part (3) to Delegation CL56 - Planning Applications,
be agreed,**
- (3) That the alteration to CL36 - Enforcement Action, be agreed.**

Report:

1. At the last meeting of this Panel, the Chairman asked for Officers to come forward with suggested alterations to planning delegated powers.
2. The current delegated powers for dealing with planning applications and enforcement matters are contained in CL56 and CL36 respectively and are attached as Appendix 1. Roughly 85% of planning application are dealt with under Officer delegated powers, however, the Council have set over the last few years quite tough performance targets in respect of the three categories of type of planning applications ("major", "minor" and "others") in a bid to get into top quartile performers of district council's. This is proving to be too much of a challenge and relies not only maintaining staff levels throughout the year, but that more planning applications are decided in target time. 2009/10 as seen the vast majority of delegated planning applications dealt within the time limit for each application, but it is those going to planning committees where the target is proving harder to attain.
3. Officers have looked at the current appended delegated agreement as contained in Delegation CL56, that states that planning applications may be determined by the Director of Planning and Economic Development except in certain circumstances, which are then listed in parts (a) to (l) in Schedule A. To make some performance improvement, one addition, and small changes to only two parts of Schedule A are independently suggested: one by Officers and the other by the Leader of the Council.
4. Under part (1), Schedule A, Officers suggested alterations are to the following:
 - (f) *Applications recommended for approval on which there is more than one*

expression of an objection material to the planning merits of the proposal to be approved other than householder applications;

So that it reads, (changes underlined):

“(f) Applications recommended for approval on which there is more than two expression of an objection material to the planning merits of the proposal to be approved other than householder applications and all “Other” applications (Government definition).”

5. Reason:

“Other” applications include, changes of use, householder development (development within the curtilage of a residential property), adverts, listed building consents, conservation area consents, lawful development certificates, agricultural notifications, telecommunications masts, shop fronts, vehicular crossovers. The Council is currently very close to achieving the target of 93% set for this category, but there are applications that go to Committee because more than 1 objection has been received despite there being no objections raised from Parish or Town Council’s. Should these be allowed to be determined under delegated powers, than there is greater chance that any subsequent performance target rise in this category can be achieved.

6. It is also suggested by Officers, that after (l), there is a new addition, so that it would read:

(m) Applications for extensions to the time limit for implementing planning permission, listed building consents or conservation area consents, unless there has been no changes to material considerations, including planning policy, from when the permission was granted.

7. Reason:

The Government on 1 October 2009 introduced powers so that developers can now extend their existing planning permissions to give them more time to weather the economic downturn. Developers with planning permissions granted up until 30 September 2009 where the time limit for implementation has yet to expire may apply to extend their permissions. This procedure allows applicants to apply for a new planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development. The hope is that council committees do not revisit all the planning matters again, given that planning permission would have been granted only 3 years ago. The move has been made to boost the industry and to save costs for developers badly hit by the recession. Many developers have put projects on hold over the last year because of difficulties faced in raising the funds. The option of extending a planning permission, without having to re-apply through the usual lengthy and expensive process, is intended to help development and regeneration projects to take place. This would include all type of applications, but it could particularly help to improve “Major” applications reach a decision within 13 weeks of receipt and therefore improve performance in a category which has so far proved hard to achieve.

8. The Panel should also be aware, that the Leader of the Council has also asked that there is a review of the “call-in” by Councillors, which would affect part (h) of delegation CL56 that currently states:

“(h) Applications which any member requests within 4 weeks of the notification of that application in the Council Bulletin should be the subject of consideration by the relevant committee”.

9. The opportunity to call in applications (which incidentally should be on planning grounds) is open to any member of the Council. The Leader of the Council has asked for this to be reviewed at Overview and Scrutiny Panel because:

(a) allowing any member to call in may increase the number of such references to Sub-Committees to the detriment of planning performance against targets; and

(b) allowing any Councillors to call in an application goes against the principle of Area-based Plans Sub Committees.

10. It will be put to the Overview and Scrutiny Panel, that they may wish to consider the following options for meeting this request:

(a) restricting the call in to the local ward member(s) for the application concerned; or

(b) restricting the call in to any Councillor representing a ward within the Area Plans Sub Committee area concerned; or

(c) make no change.

11. If either options (a) or (b) are preferred, it will be put to Overview & Scrutiny Panel, that this change should be recommended for adoption to the Overview & Scrutiny Committee and the Council.

12. The other two suggested alterations to delegation below are not necessarily to improve NI performance, but to partly provide an updating of delegation and to respond to members.

13. Under part (3) , relating to application for works to trees, it currently states that delegated powers can be used:

To determine applications for works to preserved trees (other than felling) unless subject to criteria (f), (g), and (h) of the preceding schedule and dispensing with requirements to replace a preserved tree, and to respond to consultations from Essex County Council.

Officers suggested wording change (underlined) reads as follows:

To determine applications for works to preserved trees, including felling (unless there is a significant risk for a claim for compensation against the council), unless subject to criteria (f), (g), and (h) of the preceding schedule and dispensing with requirements to replace a preserved tree.

14. Reason:

Members have shown little interest at Committees in applications to fell trees, generally in the knowledge that the tree officers are experts in this area and only accept tree felling if the tree no longer has an amenity value because of its limited years and health. Felling where there may be financial compensation issues, say

through subsidence, ought to remain outside Officer delegated powers and still go to planning committees. The other reason is that the Essex County Council TPO's are being revoked and Epping Forest are nearing completion of reviewing these as new TPO's, so the reference to Essex County Council is no longer required.

15. Finally, planning enforcement powers under Delegation CL36 (1) sets out delegated authority to issue enforcement notices, stop notices, contravention notices etc. but if officers wish to serve a discontinuance notice to remove an advert, it currently requires Area Plans Committee authorisation. Such action is rare, but given there is full planning enforcement action at a delegated level, it appears not unreasonable for this notice to be added.

Reason for decision:

In the case of recommendation (1), these proposals seek planning performance target improvements for processing of planning applications in respect of NI 157A (Major applications), 157B (Minors) and 157C (Others).

In the case of (2), to update the delegated agreement following the revocation of Essex County Council Tree Preservation Orders and respond to comments made at previous Development Control Chairman/Vice-Chairman meetings.

In the case of (3), to up-date planning enforcement operational needs.

Options considered and rejected:

To not make the recommended changes to the delegation, and to seek other effective alterations to delegation (such as, make decisions on all householder planning applications under delegated powers) and/or that Area Plans Committees and District Development Control Committee meet more regularly.