

**NEW AND REVISED OFFICER DELEGATION PROPOSALS - COUNCIL FUNCTIONS**

**Overview and Scrutiny Committee  
(15.4.10)**

**APPENDIX 3**

	<b>Delegation Reference</b>	<b>Present Wording/Delegated Officer</b>	<b>Proposed Change</b>
1.	CL22 (Court, Tribunal, Inquiry Proceedings - Engagement of Staff and Advice)	"To appoint appropriate staff and/or external Solicitors and/or Counsel to appear for and conduct proceedings on behalf of the Council in Courts, tribunals, inquiries and other similar venues".  (Director of Corporate Support Services).	<b>DELETE</b>  "...to appear for and conduct proceedings..." in lines 2 and 3  and <b>SUBSTITUTE</b> the following:  "...to appear for conduct and settle proceedings ..."  <b>Comments:</b>  Proceedings in Court and similar bodies often require the settlement of proceedings on behalf of the Council. Inclusion of a delegated authority to settle such proceedings quickly without matters being delayed whilst a further authority is obtained is recommended.
2.	CL36 (Enforcement Action)	"1. Authority to issue Enforcement Notices, Breach of Condition Notices, Listed Buildings Enforcement Notices, Conservation Area Notices, Temporary Stop Notices, Stop Notices, Requisitions for Information, Planning Contravention Notices and Section 215 Notices under the Town and Country Planning Act 1990 as amended (and any subsequent legislation or regulations) and Planning (Listed Buildings and	<b>ADD:</b>  "...Discontinuance Notices in respect of Advertisements ..." after "Planning Contravention Notices".  <b>Comments</b>  Currently, action to serve a Discontinuance Notice in

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		<p>Estates Conservation Areas) Act 1990 as amended (and any subsequent legislation or regulations) for all breaches of planning legislation in accordance with the Council's adopted enforcement policy".</p> <p>(Director of Planning and Economic Development/Director of Corporate Support Services).</p>	<p>respect of advertisements requires authorisation by an Area Plans Sub-Committee because it is not included in this officer delegation. Inclusion of this item is consistent with the method of dealing with other kinds of enforcement action under the Planning Acts.</p> <p>(N.B. Supported by the Planning Services SSP).</p>
3.	CL51 (Magistrates' and County Court Defence and Pursuit of Proceedings).	<p>"To institute, defend and pursue proceedings on behalf of the Council and to appear on the Council's behalf in any proceedings in the Magistrates and County Courts".</p> <p>(Director of Corporate Support Services/Assistant Director (Legal)).</p>	<p><b>DELETE</b> the words:</p> <p>"To institute, defend and pursue proceedings ..."</p> <p>and <b>SUBSTITUTE</b> the following:</p> <p>"To institute, defend, pursue and settle proceedings..."</p> <p><b>Comments:</b></p> <p>See CL22 above (Item 1 of this Schedule).</p>
4.	CL56(1) (Planning Applications) (Schedule A - paragraph (f)).	<p>"(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".</p> <p>(Director of Planning and Economic Development).</p>	<p><b>DELETE</b> the present wording and substitute the following:</p> <p>"Apart from approvals in respect of householder and other developments (i.e. changes of use, adverts, listed building consents, Conservation Area consents, lawful development certificates, agricultural notifications, telecommunication masts, shop fronts and vehicle crossovers), those applications recommended for approval where there</p>

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			<p>are more than two expressions of objection material to the planning merits of the proposal to be approved are received".</p> <p><b>Comments:</b></p> <p>Paragraph (f) sets out one of the categories for excluding an application from being determined by the Director of Planning and Economic Development.</p> <p>In this case, the number of objections received is proposed to be increased to 2 material objections. At present 1 material objection is sufficient to trigger reference to an Area Plans Sub-Committee.</p> <p>An improvement in the time taken to deal with such applications would be achieved by making this change in that a smaller number of applications referred to a Sub-Committee would result. By requiring two material objections, greater weight would be given to the planning merits of the case.</p> <p>(N.B. Supported by Planning Services SSP).</p>
5.	CL56(1) (Planning Applications) (Schedule A - paragraph (h)).	"(h) Applications which any member requests within four weeks of the notification of that application in the Council Bulletin should be the subject of consideration by the relevant Committee".	<p><b>DELETE</b> existing wording and substitute the following:</p> <p>"Applications which a Councillor representing a ward within the relevant Area Plans Sub-Committee area requests in writing within four weeks of notification in</p>

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		(Director of Planning and Economic Development).	<p>the Council Bulletin should be referred to the appropriate Sub-Committee provided that the member concerned has notified the Ward Councillor in advance".</p> <p><b>Comments:</b></p> <p>This is a further condition attaching to the determination of planning applications by the Director of Planning and Economic Development.</p> <p>The Panel noted that the opportunity to call-in applications was currently open to any member of the Council. The Overview and Scrutiny Committee had asked for a review of this because allowing any member to call-in may tend to increase the number of such references to Sub-Committees which would affect planning performance against targets and because allowing any Councillors to call-in an application went against the principle of area based Plans Sub-Committees.</p> <p>The Panel previously noted the following options for meeting this request:</p> <p>(a) restricting the call-in to the local ward member(s) for the application concerned; or</p> <p>(b) restricting the call-in to any Councillor representing a ward within the Area Plans Sub-Committee area concerned; or</p>

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			<p>(c) making no change.</p> <p>The Panel favoured Option (b) as it emphasised the status of Area Planning Sub-Committees. This might also benefit performance against National Indicators.</p> <p>(N.B. The Planning Services SSP also supported Option (b) above and the proposed wording reflects this with the exception of an additional requirement inserted by the Constitution and Member Services SSP regarding prior notification to the Ward Councillor).</p>
6.	CL56(3) (Planning Applications)	<p>"(3) 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".</p> <p>(N.B. Criteria (f) relates to objections (see previous item), criterion (g) relates to contrary comments from local Councils and criterion (h) relates to "call in" by members (see previous item)).</p>	<p><b>DELETE</b> present (3) and substitute the following:</p> <p>"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."</p> <p><b>Comment:</b></p> <p>The Planning Services SSP noted that in cases where works to trees (other than felling and compensation cases which should remain outside officer delegated powers and still be referred to Area Plan Sub-Committees) were considered, there was no reason why these could not be dealt with by officers. The other change relates to Essex County Council TPOs which are now being revoked and</p>

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			<p>being replaced by new TPOs made by this Council. Reference to Essex County Council is therefore no longer required.</p> <p>(N.B. The Planning Services SSP support the changes).</p>