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## SCHEME OF DELEGATION TO OFFICERS

### 1 SUMMARY

- 1.1 In accordance with Article 14 of the Council's Constitution, this report examines the current Scheme of Delegation to Officers and recommends changes to simplify and clarify the scheme.

### 2 BACKGROUND

- 2.1 Prior to adopting a written Constitution in 2002, the Council delegated responsibility to officers by a series of ad hoc resolutions, many dating back to the inception of the Council in 1974. The Constitution now provides for general delegation within specific defined limitations. Exceptionally, a number of specific delegations, based on the old scheme, have been retained by the Head of Planning Services.
- 2.2 The Monitoring Officer is required under Article 14 to monitor and review the Council's Constitution and make recommendations for improvement.
- 2.3 In March 2004, the Office of the Deputy Prime Minister, in conjunction with the Local Government Association, published "Delivering Delegation", a guide to efficient and effective delegation arrangements for the determination of planning applications.
- 2.4 The guide explains the advantages of a Scheme of Delegation and recommends a preferred approach, based on a 'by exception' model. There is nothing within the guidance that contradicts this Council's approach to delegation and this report does not propose any significant change to the Council's current practice.
- 2.5 The guide recommends that any Scheme of Delegation be regularly reviewed and this, together with the recent Best Value review of Public Regulation, Inspection and Protection Services recommending adjustments to Enforcement delegations, suggests that it is now appropriate for a review of the current scheme.
- 2.6 The Planning Services Committee responsibility for functions is detailed on page 3.6 of the Council's Constitution, the general principles of delegation to officers on page 3.9 – 3.10 and the onward delegations to the Head of Planning Services on pages 3.12 - 3.14.

### 3 CURRENT SCHEME

- 3.1 The current Scheme of Delegation provides for the Head of Planning Services to deliver the functions of Town & Country Planning, Building Control and Regulation, and dangerous, neglected or derelict premises, these being the matters within the responsibility of the Planning Services Committee.

- 3.2 Unlike all other service areas, this broad authority is then resolved into a number of specific delegations, including a schedule of application types. Each section of this detailed list is discussed below.

#### **4 PROPOSED AMENDMENTS TO THE SCHEME**

##### **PART A: Under the provisions of the Town & Country Planning Act 1990**

- 4.1 The Act includes many sections dealing with the day-to-day administration and delivery of the Planning Service. However, this section of the onward Delegation Scheme highlights several areas, including the issue of Planning Contravention Notices, the issue of Untidy Site Notices and the completion of Section 106 Agreements.
- 4.2 These issues are important but, given the broad delegation of responsibility under the Act, there is no reason for them to be specifically listed over any other Planning procedures. Therefore, it is proposed that Part A of the onward delegations be deleted.

##### **Part B: Under the provisions of the Building Act 2000**

- 4.3 The delegation of responsibility to the Head of Planning Services provides for the delivery of the Building Control Service, including the discretion to set charges to cover the costs of the delivery of the service. Therefore, Part B is a duplication of that delegation and is not considered to be required.

##### **Part C: General Delegations**

- 4.4 This section lists a series of miscellaneous delegations. However, the majority of these are covered by general delegation of responsibility and there is no need for them to be separately specified here.
- 4.5 A number of Planning Enforcement delegations are included in Part C and the recent Best Value Review of Regulatory and Enforcement Services recommended several additions to the list (Minute 333/04). There is a duty on Local Planning Authorities to investigate any reported breaches of planning control, although any decision to then take enforcement action, whether that be the service of an Enforcement Notice or not, is discretionary.
- 4.6 The provisions for dealing with Planning Enforcement matters are set out in the Act and, therefore, there is no need to specify categories where Enforcement action is the subject of delegation. All reported breaches will be investigated. Once an investigation has taken place, a decision has to be made about the need/justification for Enforcement action. It is considered that, regardless of the category, the decision to issue Enforcement Notices or take other action should be dealt with under the main delegation of responsibility without the need to seek additional committee approval. A monthly report, as per the current report on delegated planning applications,

will be provided to keep Members informed of actions and progress. The aim of this procedure is to speed-up the enforcement process to enable swift action to be taken where justified.

- 4.7 At present, the arrangements for Street Numbering have been agreed by Council. (Minute 416/98) and there is no requirement for this issue to be listed separately in Part C.
- 4.8 Finally, the procedure for the operation of the Weekly List (Yellow) has also been agreed by Council. The Weekly List has proved to be very successful over a long period and it is not proposed that any changes be made to the basic arrangements. The inclusion of the Weekly List as an item in this list simply duplicates the agreed Council procedure.

#### **Part D: Categories of Delegation related to Planning Applications**

- 4.9 The arrangements for this part of the delegation process differ somewhat from the advice included in the "Delivering Delegation" guide. This has though generally worked well in Rochford and, despite the advice in the guide it is considered that this section should be retained as the basis for the Delegated Scheme.
- 4.10 It is not proposed that the current list of application types be altered, except that item v. has been slightly amended to comply with a Council resolution (Minute No. 139(6)/00). There may be rare occasions where a delegated application raises controversial issues or generates significant community concern; in these cases, it will be at the discretion of the Head of Planning Services, in consultation with the Chairman of the Planning Services Committee, to decide whether such an application should be reported to the Committee for a decision.
- 4.11 It is also considered that an item be added to deal with consultations from neighbouring authorities on the basis that any responses will be delegated unless the proposed development is considered to have a major environmental impact on the district.
- 4.12 Finally, it should be noted that any application submitted by Rochford District Council as the applicant will be reported to the Planning Services Committee as a matter of course.

### **5 CONCLUSIONS**

- 5.1 The proposals outlined in this report seek to simplify the delegated scheme, particularly the arrangements for taking prompt action in relation to planning enforcement matters. The proposed amended section of the scheme is detailed in Appendix 1 to this report.

5.2 Notwithstanding the advice in the ODPM/LGA guide, it is concluded that the current arrangements for delivering delegated planning decisions has worked well in Rochford and no major changes are therefore proposed.

5.3 The Weekly List procedure has also proved its effectiveness over many years.

## **6 RISK IMPLICATIONS**

### **6.1 Operational Risk**

The delivery of a competent planning service is assessed by national performance indicators, which measure the speed and quality of decision making. The performance of a planning authority is dependent on a range of factors, including the adoption of a robust system of delegated decision making.

### **6.2 Reputation Risk**

The decisions made by a planning authority are constantly in public view and the process must be fair, open and transparent and deliver decisions of good design and high environmental quality.

## **7 ENVIRONMENTAL IMPLICATIONS**

7.1 The delivery of a competent planning service is a key determinant of the environmental character of the district.

## **8 RECOMMENDATION**

8.1 It is proposed that the Committee **RECOMMENDS to Full Council**

That the Scheme of Delegation to Officers be amended in accordance with this report.

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### **Background Papers:-**

None

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**Appendix 1**

To the Head of Planning Services

To be the responsible officer for and take decisions and exercise discretion on matters within Planning Services except for the determination of planning applications when the following categories only will be determined under delegation.

- i. Applications determined in accordance with the Weekly List procedure
- ii. Private garages within curtilage of established residential properties
- i. New or altered means of access to existing developments subject to the necessary consultations with the Highway Authority
- ii. Shop fronts relating only to shopping uses outside and not materially affecting designated Conservation Areas
- iii. Fences, boundary walls and other means of enclosure to residential properties
- iv. The approval of reserved matters relating to landscaping and external materials
- v. Minor amendments to approved plans not determined by the Planning Services Committee
- vi. The temporary siting of caravans where an approved building is in the course of construction
- vii. All extensions to residential buildings
- viii. Refusal because of Metropolitan Green Belt policy
- ix. Changes of use in accordance with an appropriate formal planning policy or plan
- x. Applications for changes of use of land to private residential gardens
- xi. Advertisements outside Conservation Areas and/or which do not affect the character or setting of Listed Buildings
- xii. Listed Building Consent where a concurrent planning application is within the existing delegation scheme
- xiii. Listed Building Consents where the building work involved does not require planning permission

- xiv. Applications under the prior notification procedures in Part 6 (agricultural development), Part 7 (forestry development) and Part 24 (telecommunications development) of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995
- xv. Applications under the provisions of the Town & Country Planning (Demolition - Description of Buildings) Direction 1992: Planning Controls over Demolition (DoE Circular 16/92).
- xvi. Response to consultations on County Matter applications in consultation with the Chairman of the Planning Services Committee and the Ward Members.
- xvii. Response to consultations on Deemed County Council consent applications.
- xviii. Response to consultations from neighbouring authorities unless the proposed development would have a major environmental impact on the district.

Exceptionally, where a delegated application raises controversial issues or significant community concern, it will be at the discretion of the Head of Planning Services, in consultation with the Chairman of the Planning Services Committee, to decide whether such an application should be reported to the Committee for a decision.