

Delegated Authority Relating to the Local Development Framework

1. Purpose

- 1.1 To establish an appropriate reporting process to the Executive and full Council for Local Development Framework (LDF) documents prepared under the Planning and Compulsory Purchase Act 2004 in compliance with The Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2004.
- 1.2 Also to consider the alternative arrangements as set out in options 2 and 3 (see paragraph 2.2) with particular reference to the need for effective overview and scrutiny.

2. Recommendation

- 2.1 The options are as follows
- 2.2
 - (1) That the present reporting structure remains the same.
 - (2) That an Executive Member be granted delegated powers from the Executive for all its LDF responsibilities with the advice of the relevant Authorised Spatial Planning Team Leader and a Spatial Planning Advisory Group as constituted by the Executive.
 - (3) That the Authorised Officer be granted delegated powers from the Executive for all its LDF responsibilities with the advice of a Spatial Planning Advisory Group as constituted by the Executive.
- 2.3 **It is recommended that option 3) be agreed and that appropriate Authority be written and entered into the Scheme of Delegation. The Implementation of the Authority is subject to the final consent of the Executive to the formal constitution of the Advisory Group.**

3. Link to the Corporate Plan

- 3.1 The report is directly related to the Corporate Business Plan in respect of the delivery of the Local Development Framework, Partnership work and Affordable Housing.

4. Background

- 4.1 The new Local Development Framework system under the Planning and Compulsory Purchase Act 2004 (the "Act") has replaced the old Development Plans system and introduces new arrangements for the delivery of the planning policy function of the local planning authority.
- 4.2 In addition, the new system has also prompted changes to the Regulations relating to Part 2 of the Local Government Act 2000. These Regulations specify functions that are the responsibility of full Council and thereby those that are the responsibility of the Executive.
- 4.3 In essence the division in law is clear. The Council must approve any Development Plan Document and any Local Development Scheme that is intended to be submitted to the Secretary of State for approval. This cannot be delegated.

- 4.4 Any other document produced under the “Act” such as the Statement of Community Involvement, Supplementary Planning Documents, the Annual Monitoring Report and any work pursuant to the preparation of Development Plan Documents (such as documents intended to be in compliance with the Strategic Environmental Assessment Regulations) is the responsibility of the Executive.
- 4.5 Simply put, delegation of these Executive responsibilities would mean that the Executive would no longer receive reports on the content of the various Local Development Documents as they are being produced through the evidence gathering stage, Issues and Options stage, and Preferred Option stage. The Executive would also no longer receive Supplementary Planning Documents for approval as this would be a delegated matter in its entirety. The Executive would, however, receive regular progress reports and reports on the decisions that have been taken under the delegated authority.
- 4.6 It is essential that appropriate arrangements are put in place for the efficient conduct of this mandatory function of the Council.

5. The Experience of Other Local Planning Authorities

- 5.1 Kennet District Council operates an “Enhanced Committee” model whereby there is a single Planning and Development Committee that considers all planning issues. However, Kennet District Council does not operate under Executive arrangements.
- 5.2 West Wiltshire District Council has a separate Planning Committee for Development Control. There are a range (five or six) of time limited Policy Project Groups to advise the Cabinet of Local Development Framework matters, and those decisions requiring Council approval are forwarded on.
- 5.3 Salisbury District Council have delegated Development Control to their Area Committees. The Local Development Framework is considered by a Planning and Economic Development Scrutiny Panel who advise the Cabinet of Local Development Framework matters, and those decisions requiring Council approval are forwarded on. It is understood that these arrangements are under review.
- 5.4 Plymouth City Council is an example of an Authority who have delegated the Local Development Framework decisions to a Strategic Planning Cabinet Member with advice taken from the Director of Development. There is no “advisory panel” system.
- 5.5 All local planning authorities have a “delegation to officers” system with varying degrees of substantive delegation. In the limited research time available, it has not been possible able to discover any local planning authority that has solely delegated all of the executive functions concerning Local Development Framework matters to an officer. There are no legal impediments to doing so and so it is suspected that this reflects the fact that Authorities tend to chose to divide the delegated authority in very different ways between the Executive (a Member) and the Proper Officer.

6. The Role of Overview and Scrutiny

- 6.1 It is important that there are arrangements for ensuring that decisions relating to the production of a Local Development Framework are taken in proper accordance with regulations, codes of conduct and with regard to Performance Management.
- 6.2 The first and most obvious safeguard where delegated authority is exercised by a Member or Authorised (the 'Proper') Officer is that every such decision (delegated from the Executive as one of its functions) must be recorded and is subject to call in by Members of the Council. The Executive can itself call-in such decisions.
- 6.3 In addition, there is a 10 day waiting period before such decisions can be implemented to allow the Overview & Scrutiny Committee to require the matter to be referred to that Committee. The Member or Proper Officer can be called to that Committee to report on such matters. In Plymouth City Council, for example, there are regular weekly "delegated decision" days and a formal system is in place to allow appropriate recording and monitoring of decisions.
- 6.4 Many authorities create a Working Group or Panel from the Overview and Scrutiny Committee to help in this process. Such a Panel at Salisbury District Council effectively operates as an advisory group similar in function to NWDC's Public Spaces and Local Plans Panel.
- 6.5 It must be recalled that the ultimate decision on Development Plan Documents and the Local Development Scheme for submission to the Secretary of State remains with full Council. This cannot be delegated.

7. The Advisory Group

- 7.1 In principle, there is no need to set up an advisory group or panel. In practice, most Authorities have an arrangement whereby advice can be made available to the decision making body. There are countless variations on this theme but the usual approach is to constitute a body of elected Members from outside of the Executive/ Cabinet.
- 7.2 Both of the suggested options allow for such a group. The Group could be made sufficiently large to include interests outside the Council and encourage a contribution from more elected Members. This would have the advantage of reducing the influence of individual interests whilst offering a stake in the planning process more widely. An analogy may be made with the Regional Assembly which is made up of 70% local authority Members and 30% from other social, economic and environmental groups.
- 7.3 Further work would be required to organise the Group, but at this stage only a decision in principle is required. A further report would be placed before the Executive, following further consultation with stakeholders, on the constitution of the Advisory Group.

8. The Authorised Officer and Role of the Portfolio Member

- 8.1 The Authorised Officer will be responsible for taking the formal decisions under the delegated authority and for the recording and reporting of such decisions. He/she will also be responsible for preparing reports and presenting information to the Overview and Scrutiny Committee on all aspects of the exercising of that delegated authority.

- 8.2 The Authorised Officer would normally be the professional head of the development plans service. As the structure of the organisation presently stands, this would be the Spatial Planning Team Leader.
- 8.3 The requirements of the delegated authority are mostly covered by the responsibilities of this post as set out in the job description. An adjustment would be necessary to include a specific responsibility to act as the Authorised Officer.
- 8.4 It will be essential that the Authorised Officer meets with the relevant Local Development Framework Portfolio Member on a regular basis to ensure that there is an appropriate reporting structure of decisions taken under delegated authority, to the Executive.

9. Consultations

- 9.1 A position paper was presented to the informal Group Leaders meeting of the Council for discussion purposes and this report prepared in the light of their views. The Member who holds the portfolio for the Local Development Framework/Local Plan corporate priority and the Chief Executive have also been consulted and the report prepared in the light of their views.
- 9.2 Views have also been sought of the Corporate Management Board and the Human Resources, Development Control, Estates and Design and Finance Team Leaders. Any comments received will be reported to the meeting.

10. Financial Implications

- 10.1 There will be direct financial implications through the altered use of staff time, but at present these have not been specifically costed. In general, however, there is likely to be a cost saving of officer time as there would be no requirement to devote significant officer time to the preparation of reports with substantial content on Local Development Framework documents to the Executive. The speed of decision making will be improved and therefore more time will be available for the delivery of the documents to the timetable required.
- 10.2 There will be an additional resource implication in that further staff time may be required to organise and service any advisory group that involves a membership that includes individuals from outside of the Council.

11. Human Resources Implications

- 11.1 There will be direct Human Resources implications on the post of Spatial Planning Team Leader. These are likely to be require minor alterations to the Job Description to include the requirement that the post act as the Authorised Officer.

12. Environmental Implications

- 12.1 There will be indirect environmental implications arising directly from this report as any new arrangements will impact positively upon the ability of the Council to perform its duties under the Planning and Compulsory Purchase Act 2004.

13. Community Implications

- 13.1 There will be direct community implications arising from this report where the advisory group may be widened to include stakeholders who would have a greater degree of influence upon the content of the Local Development Framework Documents. This is considered to be a positive benefit and in line with general good practice as set out in Planning Policy Statement 12 – Local Development Frameworks.

Documents Used:

- The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended by the (Amendment) (No 2) Regulations 2004.
- The Scheme of Delegation to Officers.

REPORT OF THE PLANNING SERVICES STRATEGIC MANAGER TO THE EXECUTIVE – 11TH MAY 2006

Report prepared by: Lachlan Robertson
Spatial Planning Team Leader
01249 706532
lrobertson@northwilts.gov.uk

Peter Jeremiah
Monitoring Officer
01249 706600
pjeremiah@northwilts.gov.uk