

## **Agenda Item No: 6**

Title: **Delegation of the power to enter into planning obligations in specified circumstances to the Development Control Manager**

Portfolio holder: **Cllr J Osborn**

Reporting officers : **David Hubbard – Development Control Manager**  
**Nicola Mathiason - Head of Legal and Democratic Services**

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### **Purpose**

1. To seek the agreement of the planning committee to delegate to the Development Control Manager the power to enter into planning obligations regulating development or use of land in respect of
  - planning obligations which are required as part of the determination of planning applications which in all other respects would be delegated to the Development Control Manager for determination subject to their being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance
  - planning obligations to vary existing planning obligations subject to any variation being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance
  - planning obligations as part of the planning appeal process subject to their being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance
2. To seek the support of the Planning Committee to a future change to the Council's constitution to incorporate the delegations to the Development Control Manager set out above

### **Background**

Under the council's constitution the power to enter into planning obligations to regulate new development, most commonly under s106 of the Town and Country Planning Act, 1990 rests with the Planning Committee. This power was rolled forward into the new constitution from the earlier constitution.

Historically planning obligations were usually required in connection with major development and more contentious proposals. Usually, these applications would have been referred to planning committee for determination. However in recent years, in order to deliver development plan policies increasingly section 106 agreements are required for smaller scale and less contentious development schemes. For example to secure affordable housing or contributions towards the provision and maintenance of public open space.

Furthermore, in the interests of improving the efficiency of the development control process, it is increasingly regarded as good practice to negotiate planning obligations during throughout the planning application process rather than close to the end of the process after a planning application has been considered by the Planning Committee. While this does not amount to entering into a planning obligation, it is a strong indication that the council will be seeking a planning obligation and leads to applicants using additional resources during the application process.

From time to time the council is asked to consider varying existing section 106 agreements. Again increasingly these may involve small scale non contentious development proposals which would not normally be referred to the Planning Committee

Also, in the context of planning appeal hearings and inquiries a growing practice is for the council's representatives to be asked to indicate to the Inspector any planning obligations and conditions, the council would like to see imposed in the event of the appeal being allowed. At short notice officers may be asked to negotiate the terms of a planning obligation.

### **Key issues**

The planning committee has powers under the constitution to delegate functions to officers in respect of the determination of planning applications and matters related thereto in accordance with policies determined by the authority (page 88, section 1B). Indeed extensive use of these powers to delegate has been made in the past.

It is now asked that the scheme of delegation be varied so that the Development Control manager has the power to

- Enter into planning obligations which are required as part of the determination of planning applications which in all other respects would be delegated to the Development Control Manager for determination subject to their being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance
- Enter into planning obligations to vary existing planning obligations subject to any variation being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance
- Enter into planning obligations as part of the planning appeal process subject to their being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance

The key principle here is that this additional delegation adheres to the established principle that all delegation to the Development Control Manager is constrained by compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance.

The main advantages of extending delegated powers to the Development Control Manager in this way are:-

- It will assist with sustaining and improving the development control performance targets.

- Applications and requests to vary existing agreements which accord with council policies and about which there is no contention will not add to this committee's workload.
- It will assist in making the appeal process run more smoothly and limit the detrimental impact of appeal decisions which may go against the council

### **Effect on strategies and codes**

Corporate Plan - Improving Development Control is a spotlight area for improvement in the corporate plan.

Development Control Performance Plan, 2006 /7

Development Control Improvement Plan

The first objective for development control in the corporate plan is to improve development control performance in terms of the time taken to determine planning applications. The Development Control Performance Plan, 2006 /7 and Development Control Improvement Plan also include improving development control performance as key objectives

The wider delegated powers sought will assist with meeting these objectives.

### **Risk management Implications**

The controls as to when this additional delegated power may be used are clear

### **Finance and performance implications**

There are no cost implications for the proposed change

The change will assist the council in continuing to improve its performance in determining in respect of BVPIs109a, b and c (the time taken to determine major, minor and other planning applications)

The performance of the council in respect of these key indicators may affect the amount of planning delivery grant allocated to the council.

### **Legal and human rights implications**

There are no human rights implications.

The delegation of the power to enter into a planning obligation to the Development Control Manager will apply only in cases where the requirement for a planning obligation complies with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance.

## **Recommendations**

- 1. The planning committee delegates to the Development Control Manager the power to enter into planning obligations regulating development or use of land in respect of:**
  - **planning applications where the power to determine those planning applications is already delegated to the Development Control Manager ;**
  - **variations to existing planning obligations subject to any variation being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance**
  - **planning obligations as part of the planning appeal process subject to their being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance**
- 2. The Planning Committee supports a future change to the Council's constitution to incorporate the delegations to the Development Control Manager set out in Recommendation 1. above**

## **Background papers**

Documents relied upon in compiling report and location (room no.) . Do not use a file reference unless you intend the whole file to be open for inspection.

West Wiltshire District Council /name of committee/date of meeting