

## Agenda item No. 6

**Title:** West Wiltshire District Council Constitution Review

**Reporting officer:** David Hubbard, Development Control Services Manager

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### Purpose

At the meeting of 4 January 2007, the Committee considered a report about the planning committee scheme of delegation in the context of West Wiltshire District Council Constitution Review. The report sought feedback from members for consideration by the Standards Committee on 1 February.

The committee asked that further consideration be given to two issues in a report to this committee. The issues are;

- The start date of the 28 day period by the end of which a town or parish council comments must be submitted which could result in a planning application being referred to Planning Committee
- How amended plans would be handled in the context of limiting the period for members and town and parish councils to make comments which could result in a planning application being referred to Planning Committee

### Background

The report to Committee on 4 January set out current planning committee delegated powers as follows:

The Committee has made extensive delegations to officers to determine such matters in accordance with policies determined by the Authority, as set out in the Scheme of Delegation and the matters which remain to be determined by the Committee comprise the following:

(i) Determination of planning applications and related matters.

The determination of planning applications and related matters is delegated to Officers except:

- A. cases where a councillor or a Parish or Town Council have requested that the matter be considered by the Planning Committee, in which event the councillor or Parish or Town Council, as the case may be, will be requested to give planning reasons for the referral.
- B. Where the application is made by or on behalf of a councillor or an Officer employed by the Council
- C. Where the Development Control Manager recommends that the application be granted despite it being contrary to the Development Plan.
- D. Where the Development Control Manager considers that the application should be referred to the Planning Committee

In these instances the Council has decided that the application shall be determined by the Planning Committee

(ii) Authorizing the making of Section 106 agreements or accepting unilateral undertakings with landowners except that the Development Control Manager shall be authorized, in consultation with the local ward members in the case of:

- a) planning applications where the power to determine those applications is already delegated to the Development Control Manager for determination subject to there being in compliance with adopted policies of the council in the development plan, the local development framework or supplementary planning guidance and documents.
- b) variations to planning obligations originally entered into under the power delegated to the Development Control Manager, in consultation with local ward members 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 and documents
- c) planning obligations as part of the planning appeal process subject to there being in compliance with adopted policies of the council in the development plan, the local development framework and supplementary planning guidance and documents

(iii) diversion and extinguishment of footpaths and bridleways in connection with proposed development.

The Scheme of Delegations will need to reflect these provisions.

Additionally the report asked the committee to consider the following suggested changes to the scheme of delegated powers.

1. When a planning application is submitted the Parish or Town Council for the area where the site is located is informed and consulted on the merits of the application, it is suggested :-

- a. that only the Parish or Town Council for the area where the site is located (and the adjoining Parish or Town Council whose area is affected by the application) should be able to request that the Planning Committee determine the application.
- b. such requests must be made within 21 days of receipt of the consultation notification from the Planning Service.
- c. requests should be limited to situations where the planning officer is minded to approve the application under delegated powers but the Parish or Town Council want it to be refused.

2. Currently District Councillors receive a weekly list of applications that have been submitted. It is suggested that, although a Councillor may request any application to be determined by the Planning Committee, requests for reference to the Planning Committee must be made within 21 days of the date of the weekly list which gives notice of the receipt of the application by the Council.

3. All Planning Applications made by the District Council for its own development or the development of land owned by the Council should be determined by the Planning Committee.

#### Planning Committee Decision

The committee debated these points and resolved to support the following changes to current delegated powers. (the variations made by the committee to changes they were asked to consider in the report are highlighted in bold print);

1. Currently when a planning application is submitted the Parish or Town Council for the area where the site is located is informed and consulted on the merits of the application.

**(section 1a omit from proposed changes set out above be omitted)**

**a. A town or parish council should be able to request that the planning committee determine a planning application and** such requests must be made within **28** days of **dispatch or receipt** of the consultation notification from the Planning Service. **The Development Control Manager in consultation with the Planning Committee Chairman may exercise discretion in considering such requests made outside the 28 day period**

**b. planning applications will be referred to planning committee only** where the planning officer is minded to approve the application under delegated powers but the Parish or Town Council **object**.

2. Currently District Councillors receive a weekly list of applications that have been submitted. It is suggested that, although a Councillor may request any application to be determined by the Planning Committee, requests for reference to the Planning Committee must be made within **28** days of the date of the weekly list which gives notice of the receipt of the application by the Council. **All such requests should be accompanied by a planning reason for its referral of a planning application to planning committee. The Development Control Manager in consultation with the Planning Committee Chairman may exercise discretion in considering such requests made outside the 28 day period.**

3. All Planning Applications made by the District Council for its own development or the development of land owned by the Council should be determined by the Planning Committee.

The Committee also resolved to confirm that the requirement that planning applications will be referred to planning committee only where the planning officer is minded to approve the application under delegated powers but the Parish or Town Council object should come into effect immediately

Additionally the committee requested:

- 1 a report to this committee for them to consider further
  - the start date of the 28 day period by the end of which a town or parish council comments must be submitted which could result in a planning application being referred to Planning Committee
  - how amended plans would be handled in the context of limiting the period for members and town and parish councils to make comments which could result in a planning application being referred to Planning Committee
- 2 that the development control manager prepare a code of practice for members in respect of the planning committee scheme of delegation

## **Key issues**

### **Start date of the 28 day period for Parish and Town Councils**

Members posed the question arose over whether this period should commence on the date when the planning application consultation is received by the parish or town council or the date when it is dispatched by the development control section to the parish or town council.

It is considered that the start date should be the date of dispatch. This will ensure certainty about the date of the start of the 28day period. It is acknowledged that there can be a delay of a few days in papers reaching some parish or town councils. The committee previously considered that there should be discretion for the Development Control Manager in consultation with the Chairman of Planning Committee to consider comments received from parish and town councils after the end of the 28 day period. This provides a way in which late comments amounting to a request that a planning application be referred to Planning Committee can be considered.

### **Amended Plans**

Members expressed concern that the earlier report made no reference to amended plans. The felt that a time period after the receipt or dispatch of amended plans should be included in the scheme of delegation

Current practice gives members and all consultees including parish and town councils 14 days to comment on amended plans. This period than for commenting on amended plans is shorter than for new planning applications as members and consultees will be aware of the proposals already.

The need to improve planning application determination performance has considerably reduced the scope for negotiating amendments after the planning application has been submitted. A greater emphasis is now placed on pre

application discussions to resolve issues that would previously have been the subject of negotiations during the application process.

For the most part any amendments at the application stage will be minor amendments not affecting the appearance of the proposal on its impact on its surroundings and will not require further consultations. Mostly significant amendments will result in the need for a further planning application to be submitted. Nevertheless there will be occasions where more significant amendments are made to planning applications and it is suggested that the current time period of 14 days for comments and call ins to Planning Committee beginning on the date of dispatch of the amended plans continues

Reference to Planning Committee only when the planning officer is minded to approve the application under delegated powers but the Parish or Town Council object

The committee agreed at the last meeting that planning applications will be referred to planning committee only where the planning officer is minded to approve the application under delegated powers but the Parish or Town Council object

The Committee was wrongly advised that it could introduce this change to the constitution immediately. The power to make such a change does not rest with this committee as it seeks to amend powers delegated to the Planning Committee by full council. The circumstances are different to the changes introduced recently in respect of planning obligations when the committee was delegating some of its powers to the Development Control Manager in consultation with ward members.

This restriction on referring applications to Planning Committee where there was a difference of opinion between parish or town councils and planning officers was omitted from the final version of the current constitution. A similar restriction operated previously. The committee accepted this restriction acknowledging that where an application is to be refused under delegated powers, an applicant has a right of appeal and there is a fall back position of a member call in to committee. Also, the Committee recognised the implications for the length of planning committee agendas.

It is recommended that Full Council be requested to bring into effect this change to the constitution immediately after changes to the constitution are agreed

Code of practice for members in respect of the planning committee scheme of delegation

A code of practice will be prepared after the changes to planning committee scheme of delegation are finalised as part of West Wiltshire District Council Constitution Review.

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

These proposals, together with changes to the planning scheme of delegation supported by the committee at the meeting of 4<sup>th</sup> January are part of a number of measures being

undertaken to achieve further improvement in the council's performance in handling planning applications.

### **Finance and performance implications**

There are no cost implications for these proposals

These proposals, together with changes to the planning scheme of delegation supported by the committee at the meeting of 4 January are part of a number of measures being undertaken to achieve further improvement in the council's performance in handling planning applications(BVPI 109a, b and c).

Improved planning application performance may be rewarded by increased although at the future of planning delivery grant or a replacement regime remains unclear at the present time.

Reference to the impact on any key performance indicators including best value performance indicators (BVPI's).

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

None

### **Recommendation**

1. The Planning Committee advises the Standards Committee that it supports the following changes and additions to the Planning Committee scheme of delegation:
  - The start date of the 28 day period for Parish and Town Councils will be the date when the planning application consultation is dispatched by the development control section to the parish or town council.
  - A 14 day beginning on the date of dispatch of the amended plans from the planning office to members and parish and town councils be set for members and parish and town councils to comment on amended plans or request planning applications which have been amended be referred to Planning Committee be set at 14 days
  - Full Council be requested to bring into effect the change to the constitution whereby planning applications will be referred to planning committee only where the planning officer is minded to approve the application under delegated powers but the Parish or Town Council object immediately after changes to the constitution are agreed.
2. The Development Control Manager be requested to prepare a code of practice which will be prepared after the changes to planning committee scheme of delegation are finalised as part of West Wiltshire District Council Constitution Review.

### **Background papers**

Report and draft minute in respect of agenda item no 6 of the Planning Committee of 4<sup>th</sup> January 2007.