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Dear Councillor

## **WEST DEVON PLANNING & LICENSING COMMITTEE - TUESDAY, 29TH MARCH, 2016**

I refer to the agenda for the above meeting and attach papers in connection with the following item(s).

### **Agenda No    Item**

6.     **Planning Scheme of Delegation (Pages 1 - 8)**

Yours sincerely

Darryl White  
Senior Specialist – Democratic Services

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# Agenda Item 6

Report to: **Planning and Licensing Committee**  
Date: **29 March 2016**  
Title: **REVIEW OF PLANNING SCHEME OF DELEGATION**  
Portfolio Area: **Customer First - Cllr Moody**

Wards Affected: **All**

Relevant Scrutiny Committee: Overview and Scrutiny (Internal)  
Committee

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: The Committee recommendations will be presented to the Council meeting on 5 April 2016 for approval.

Author: **Pat Whymer** Role: COP Lead Specialist – Development Management

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## **RECOMMENDATION:**

**That the Planning and Licensing Committee RECOMMEND to Council that:-**

- 1. the revised Planning Scheme of Delegation as presented at Appendix A of the report be adopted; and**
- 2. authority to make any minor amendments prior to adoption be delegated to the Community of Practice Lead Specialist Development Management, in consultation with the Chairman of the P&L Committee.**

## **1. Executive summary**

- 1.1 The Council has adopted a Planning Scheme of Delegation which governs the way that decisions are made in respect of planning matters, and how and when applications can be referred to the Planning and Licensing Committee.
- 1.2 As a result of the Transformation Programme, officers now work across both West Devon Borough Council and South Hams District Council. As a consequence, this review has provided the opportunity for both councils to consider adopting a more aligned Planning Scheme of Delegation that will make working practices more efficient and robust.

## **2. Background**

- 2.1 A revised Planning Scheme of Delegation was initially presented to the Planning and Licensing Committee held on 8 December 2015. At that meeting, following a lengthy debate, Members raised a number of concerns with the presented document and recommended that 'two Members of the Committee be authorised to work with two Members of South Hams District Council as a joint group to be tasked with reviewing the Planning Scheme of Delegation'.
- 2.2 At the full Council meeting held later that day, and bearing in mind the level of Member concerns expressed, the following resolution was then made (Minute CM 41 refers):
  1. *That a Working Group be established that has the remit of reviewing the draft Development Management Scheme of Delegation and that this review be undertaken as soon as is practically possible;*
  2. *That the merits of this review being undertaken jointly with South Hams District Council (SHDC) be recognised and SHDC therefore be asked to consider this request;*
  3. *That the Group comprises of two Members, who are also Members of the Planning and Licensing Committee, and be supported by officers as necessary;*
  4. *That the two Group Member appointments be agreed by the two Group Leaders; and*
  5. *That the findings of the Working Group be presented back, in the first instance, to a meeting of the Planning and Licensing Committee.*
- 2.3 During these meetings, Members had clearly set out their wish to be involved in future discussions in relation to the revised Planning Scheme of Delegation.

### **3. Outcomes/outputs**

- 3.1 Following the resolution at Full Council on 8 December 2015, the Working Group was convened on 24 February 2016. The Group Leaders nominated Cllr Terry Pearce and Cllr Graham Parker to serve on the Working Group and both Members attended this meeting.
- 3.2 As a starting point, Members of the Group worked through the version of the Planning Scheme of Delegation that had been initially presented to the Planning and Licensing Committee and Council in December 2015 and raised their concerns where appropriate. Members also referred to the existing documents in use at both West Devon Borough Council and South Hams District Council. During discussion, a number of the concerns previously raised were addressed and amendments subsequently made.
- 3.3 As a result of the discussions held, a revised Planning Scheme of Delegation document was produced and supported by the Working Group. This revised version is now attached at Appendix A.

### **4. Options available and consideration of risk**

- 4.1 The Planning Scheme of Delegation sets out the parameters for decision making in respect of planning matters. Currently, the two Councils have quite different schemes.
- 4.2 Whilst one option would be to continue with the existing schemes, a more closely aligned scheme would result in more efficient working and greater continuity for the Development Management service. In addition, the proposed amendments to the scheme should enable decisions to be made more swiftly and therefore improve customer service. An aligned scheme would also reduce the risk of error.

### **5. Proposed Way Forward**

- 5.1 Following the support of the Working Group, a revised Planning Scheme of Delegation has now been produced. Members are requested to recommend that the Council approve the revised document.

### **6. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council is required to have a Delegation Scheme setting out the roles and responsibilities of Council, its Committees and its officers. These are set out in Part 3 of the Council's Constitution.

		<p>In addition to the Delegation Scheme set out in the Constitution, the Council has previously agreed further detail in relation to how the Council decides its Development Management and Planning Enforcement functions, and it is this delegation which Members are being requested to review.</p> <p>The full Council must make the final decision on the scheme to be adopted.</p>
Financial	Y	There are no direct financial implications but the revised scheme will deliver efficiencies in both officer and member time
Risk	Y	These are addressed in the body of the report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	These are considered within the application process
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	

### **Supporting Information**

#### **Appendices:**

1: Revised Scheme of Delegation

#### **Background Papers:**

Planning and Licensing Committee Report and Minutes – 8 December 2015

Council Report and Minutes – 8 December 2015

Scheme of Delegation

## **West Devon Borough Council - Planning Delegation Scheme**

### **Definitions:**

- **CoP Lead: Community of Practice Lead Specialist Development Management**
- **In writing: shall include email and be supported by planning reasons**
- **P&L Committee: Planning & Licensing Committee at West Devon Borough Council**
- **Working days: days which are not weekends or bank holidays**
- **Planning Application: full, outline and reserved matters only**
- **Representation: means representations from any source excluding internal consultees**
- **Immediate family: parent, spouse, child, sibling (including 'step' and 'adopted')**

### **General Planning Delegation to Officers**

1. Subject to paragraph 2 below, the CoP Lead has delegated authority for all functions assigned to the P & L Committee under the Town and Country Planning Acts, Orders, and Regulations (as set out in Part 3 of the Council's Constitution and as amended from time to time) except those:
  - Planning Applications
  - Listed Building Consents
  - Advertisement Consents
  - TPO final confirmations (excluding emergency TPOs), and
  - Works to TPO trees

#### **Which:**

- relate to the Council's own land
- is an application submitted by a Councillor (or an immediate family member), (including Councillor as agent or professional advisor) or an Officer (or an immediate family member)

#### **Or which in the opinion of the CoP Lead:**

- are of sub-regional or district-wide significance
- ought to be determined by the P&L Committee

2. In the case of planning, listed building, advertisement applications and TPO applications and confirmations, where any written representations are received, including those from a Parish or Town Council, which are contrary to the CoP Lead's recommendations and where the representations are considered material and relevant planning issues.

the CoP Lead shall have delegated authority to determine these only where:

- agreement to issuing a delegated decision has been sought in writing from the Ward Member(s) and,
- no written request (supported by material planning reasons) to call the application to Committee has been received from the Ward Member(s) within the notification period. The notification period is defined as three working days, unless a Ward Member requests an extension of time (of up to 48 hours, and giving good reason for doing so), which commences when the Ward Member has received the request that a delegated decision be made.

### **Ward Members**

- Ward Members can call to Committee, with material planning reasons,
  - any Planning Applications
  - Listed Building Consents
  - Advertisement Consents
  - TPO final confirmations (excluding emergency TPOs), and
  - Works to TPO trees

with no contrary comment, by notifying the CoP Lead prior to the expiry of the public consultation period

- For the avoidance of doubt all Members in a multi-Member ward shall be notified /consulted by the CoP Lead
- Unless a Ward Member requests an extension of time of up to 48 hours for a response, s/he must advise the CoP Lead of his/her views within three working days of receiving the notification.
- In the absence of a Ward Member consultation response within the permitted time frames, the CoP Lead shall determine the matter in accordance with the officer recommendation, without the Member's views.



- Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then s/he should nominate an alternative member to carry out this role and notify Member Services accordingly in writing

### **Action on decisions of the P&L Committee**

- Where the Committee **approves** an application, the CoP Lead will issue the Approval Notice including such conditions as are reasonably required to give effect to the Committee's decision
- Where the Committee **refuses** an application which the CoP Lead recommended should be approved, it shall give the reasons for the decision but the CoP Lead shall determine the precise wording of the reasons for refusal

### **Delegation in respect of Enforcement Action**

The CoP Lead has delegated authority to:

- decide that no breach has been found
- decide that it is not expedient to take enforcement action (in accordance with the Council's Enforcement Policy), unless notified by the Ward Member otherwise
- invite regularising Planning Applications where appropriate
- carry out all enforcement action (including but not limited to) issuing and serving Planning Contravention Notices, Untidy Site Notices, Stop Notices, Breach of Condition Notices and Building Preservation Notices, providing the relevant Ward Members are notified prior to such notices being issued or served
- issue Enforcement Notices in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the P&L Committee for decision and no such request has been received
- take Prosecutions and Injunctions in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the P&L Committee for decision and no such request has been received
  - SAVE that the Monitoring Officer has delegated authority to take a Prosecution or Injunction where the Council's position would be compromised if action is not taken urgently

The CoP Lead may refer complex matters to the Committee at his/her discretion, or where there are relevant budgetary implications.

### **Section 106 Agreements**

The CoP Lead may:

- authorise the execution of a section 106 agreement where required in advance of the grant of planning permission
- in consultation with the Ward Member(s), vary the terms of a section 106 agreement (or take such other action as necessary) to secure the objectives of the Committee which agreed the 106 agreement