

9 January 2020

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Amendment to Scheme of Delegation to Officers		☎ 282213
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report requests the Committee to agree to amend the Scheme of Delegation to Officers from the Planning Committee following a change of responsibility within the Senior Management team.

2. Decision Required

- 2.1 To approve the amended Scheme of Delegation to Officers from the Planning Committee to the Assistant Director – Place and Client Services attached at Appendix 1 of this report and for it to come into effect from 6 January 2020.

3. Reasons for Decision(s)

- 3.1 The Scheme of Delegation to Officers from the Committee requires amending to reflect a change in management for the planning service following a change of responsibility within the Senior Management team.

4. Alternative Options

- 4.1 No alternative options are presented.

5. Proposals

- 5.1 The Committee approved the present Scheme of Delegation to Officers a while ago. It is proposed that following a re-organisation within the Senior Management Team the current delegation from this Committee to the Assistant Director – Policy and Corporate be amended to the Assistant Director Place and Client Services, who will be responsible for the management of the planning service.
- 5.2 It is proposed that the change to the Scheme of Delegation take effect from 6 January 2020.

6. Strategic Plan References

- 6.1 The manner in which Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to lead our communities in delivering high quality accessible services.

7. Financial Considerations, Equality, Diversity and Human Rights Implications, Consultation Implications, Community Safety Implications, Health and Safety Implications, Risk Management Implications and Environmental and Sustainability Implications

7.1 None

8. Publicity Considerations

8.1 The changes will be publicised by way of an amendment to the Constitution which is published on the Council's web site.

SCHEME OF DELEGATION TO OFFICERS BY THE PLANNING COMMITTEE

Delegated to Assistant Director for Place and Client Services

1. The determination of all planning applications irrespective of scale and size (including changes of use and all applications for Listed Building Consent, Certificates of Lawfulness, applications for the determination as to whether prior approval is required, consent to display advertisements and other notifications) except any application:
 - (a) significantly contrary to adopted policies or a departure from the development plan, and which is recommended for approval;
 - (b) which any Ward Councillor requests in writing to the Assistant Director for Place and Client Services within 25 days of notification, should be subject of consideration by the Committee;
 - (c) which constitutes a major application on which a material planning objection(s) has been received in the stipulated time span and the officer recommendation is to approve;
 - (d) which constitutes a major application, that is recommended for approval and where a section 106 Agreement is required (excluding unilateral undertakings);
 - (e) submitted by or on behalf of a Colchester Borough Council Councillor, Honorary Aldermen (or their spouse/partner) or by any Council officer (or their spouse/partner); or
 - (f) submitted by or on behalf of Colchester Borough Council (for clarity, this does not include applications made by other parties on land owned by the Council where the development is not by or on behalf of the Council).
2. The determination of any application for a determination as to whether the prior approval of the authority will be required under The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended, or any Order replacing, re-enacting or modifying that Order).
3. The determination of applications for the approval of reserved matters or minor material amendments, unless the Planning Committee at the granting of the outline / original planning permission indicates that it requires to determine the aforementioned matter itself.
4. The determination of details required by a condition on a planning permission and applications for a non-material amendment, unless the Planning Committee at the granting of the outline / original planning permission indicates that it requires to determine the aforementioned matter itself.

Delegated to Assistant Director for Place and Client Services (continued)
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5. Authority to refuse planning applications where a proposed section 106 Agreement remains uncompleted for six months from the decision regarding its provision.
6. Authority to make observations on applications to be determined by another planning authority.
7. Authority to appoint consultants where the Council's case may be enhanced or when specialist information needs to be provided.
8. That, subject to written confirmation from the Chief Finance Officer and the Monitoring Officer, the Assistant Director for Place and Client Services be authorised to agree the release of funds secured by means of a legal agreement under the Planning Acts for expenditure, for purposes solely in accordance within the specified legal agreement. Such delegated powers would only operate where such expenditure is entirely in accordance with the legal agreement attached to the development.
9. Where an appeal has been lodged against a refusal of planning permission, the Assistant Director for Place and Client Services has authority to conclude a legal agreement which complies with the Council's current policies where we would expect to see the provision of such requirements a may include affordable housing, open space contribution, education contribution in circumstances where time does not permit a referral to the Planning Committee.
10. Where an application has already been considered by the Planning Committee who have given authorisation to enter into a legal agreement delegated authority is given to the Assistant Director for Place and Client Services to agree alterations whereby: -
 - (a) The mechanism for delivering the required outcomes for the agreement have changed, but the outcome remains the same (including changes to triggers, phasing and timing);
 - (b) There is a need to issue a delegated refusal where a legal agreement is not completed within the statutory time limit and it is considered by the Assistant Director for Place and Client Services reasonable to do so;
 - (c) There is a need to remove a legal agreement from a local land charge where all clauses have been compiled with;
 - (d) To enter into a new planning obligation relating to gain previously secured that needs to link back to a previous planning permission via a Deed of Variation.

Delegated to Assistant Director for Place and Client Services (continued)
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11. Authority to institute proceedings in respect of any offence against the advertisement regulations, including prosecution where it is considered appropriate. In the cases where repeated prosecution fails, this includes the authority to seek an injunction under Section 222 of the Local Government Act 1972.
12. Authority to institute proceedings in respect of any enforcement actions where a valid notice exists, no appeal decision thereon is pending, the prescribed time for compliance with the notice has expired, and where the breach of planning control continues to exist.
13. Authority to sign and serve "Planning Contravention Notices" under the Town and Country Planning Act 1990, Sections 171(C) and 171(D), and to arrange for the institution of proceedings where the requirements of such Notices are not complied with within statutory time limits.
14. Authority to sign and serve enforcement notices, stop notices, temporary stop notices, section 215 notices, section 224 discontinuance notices or breach of condition notices under the Town and Country Planning Act 1990 (Parts VII & VIII) and Listed Building Enforcement Notices under Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (Part IV).
15. Power to serve a notice under Section 330 of the Town and Country Planning Act 1990 (to require information as to interests in land).
16. Authority to give a screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended) as to whether an Environmental Impact Assessment is required and to determine the scope of the environmental issues to be covered in any such assessment.
17. Authority to defend the Council's decision in respect of any appeal proceedings, provided that where any additional or revised information is submitted which may overturn the Council's initial decision; the case shall be referred back to Planning Committee to determine the Council's case only in circumstances where the Committee itself made the initial decision. In the event that timescales do not allow the matter to be referred back to Planning Committee, then the Assistant Director for Place and Client Services shall consult the Planning Committee Chairman, and Group Spokespersons, before determining the Council's case. In the unlikely event that none of the foregoing is possible, then as an emergency procedure, a Strategic Director or the Chief Operating Officer can determine the action required, which will be reported to the Planning Committee as soon as is practical thereafter.

Delegated to Assistant Director for Place and Client Services (continued)
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18. Authority to institute legal proceedings (including the serving of injunctions and enforcement notices) under the Town and Country Planning Act 1990 (Part VII and Part VIII) and the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (Part IV) where it is considered the most appropriate remedy in relation to the circumstances of the case, and expedient to do so.
19. Authority to prosecute for the failure to comply with the statutory time limit imposed by any notices served in respect of Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and Sections 171C, 171D and 330 of the Town and Country Planning Act 1990, or for providing false/misleading information.
20. Power to make orders for the creation, diversion or extinguishment of public rights of way.
21. Authority to administer the Hedgerow Regulations 1997 and to issue notices in accordance with the Council's policy.
22. Determination of enforcement cases where:
 - (a) investigations conclude that no breach of planning has occurred and therefore no further action is required; or
 - (b) a breach of control has occurred, but it is not expedient in the public interest to take action; or
 - (c) investigations conclude that a breach has occurred in excess of four years or ten years (as appropriate) and is therefore, immune from further action.
23. Power to make and confirm tree preservation orders where there are no unresolved objections thereto and to determine applications to carry out works to preserved trees and trees in Conservation Areas.