



Development Management Process Review **Briefing Note: 1st February 2011**

Context:

As a consequence of the funding pressures in Local Government all services within Shropshire Council have been requested to deliver a balanced budget from 2011 and to identify opportunities to maximize efficiency in line with the Councils operating model.

The Development Management Service includes three teams where the cost of delivering the service is offset by fee income, these being planning and building control land charges. Fee income targets were not revised over the last two years to reflect the economic downturn in the construction and property sectors which directly impact on all income streams. Land Charges income has also been affected by the abolition of Home Information Packs. The under recovery of fees for building control, land charges and planning is likely to be £550,000 at year end (March 31st 2011). All services have been asked to deliver a balanced budget from April 2011. This is not to say that the service will make up the under-recovery of fees or be cost neutral. It is being in a position where the expenditure less income costs are as set out in the budget book.

The under recovery of fees has previously been met by savings achieved through unfilled vacancies, support from Housing and Planning Delivery Grant, or surpluses achieved elsewhere. This year these options are not available as all vacancies and savings have been offered in year.

Development Management currently has 99 staff in 9 teams operating from 5 area offices. The service has no significant capital budgets and expenditure costs are largely staff costs. Achieving savings of £550,000 would represent a cost reduction of 20% of predicted 2010/11 staff costs. Given the significance of this figure it has been necessary to bring forward proposals for service redesign with a new structure to ensure service continuity. In addition to a reduced establishment the redesign is supported by a business process review to include regulatory processes.

This briefing note identifies the changes to regulatory processes to support the redesign and also recognizes the importance of local Member and community influence over planning decisions. The tension is in ensuring that there is the right balance between delivering the service efficiently and delivering locally.

The process review includes changes to the scheme of delegation and the role and functions of planning committees.

Proposals for Delegations and Area Planning Committees

The council's procedures for regulatory planning processes are set out in Part 8 of the constitution (H24). The administration of these processes is set out in more detail in the

Charter for Development Management and consultation arrangements are set out in the emerging Statement of Community Involvement.

The principle of dealing with planning applications is one of delegation and referral to committee by exception. In March 2002 the Government introduced a target that planning authorities should delegate 90% of decisions to officers (DTLR Press Notice 85: *New best value performance indicators Help Deliver Planning Reform*). Over the last year (December 2009 to December 2010) Shropshire Council has delegated on average 90.4% of decisions and is therefore achieving this target.

However, the context now is one of delivering the service with 20% fewer resources and this is achieved by raising the performance and flexibility of planning teams. Driving delegation rates up would support this. Delegation rates of 95%+ are not unusual for a comparable unitary planning authority.

Between December 2009 and December 2010 Committees dealt with 317 applications. Of these 78 were in the central area (7.4% of the total in that area), 106 in the northern area (10.1% of the total in that area) and 133 in the southern area (11.3% of the total in that area). These represent approximately 10% of all applications (major/minor/others). It excludes work to protected trees, prior notifications, discharge of conditions, minor material amendments and pre-application discussion/consideration requests, all of which are recorded in the IT system.

To increase delegation to 95% would mean reducing those referred to committee by half (on average) to approximately 160 applications per year. Planning committees would continue to deal with the important issues leaving less contentious applications to be delegated to officers. Feedback from committee members confirms that there have been a number of occasions where applications have been considered by committee that should have been delegated to officers and this has also been taken into consideration when reviewing the scheme of delegation.

Increasing delegation provides a compelling argument to reduce the number of times that committees meet. The present arrangements are that 3 area planning committees meet five times a month. Agenda lengths range between 3 and 15 items with between 5 and 10 being typical. North and south area committees meet twice a month and the overall number of committee referrals is about 30% higher. This considerably increases the officer/member resource required to service these committees. Based on the same proportional split by area 95 % delegation would mean that the numbers referred to committee annually would be:-

Central:- 40 (3-4 item agenda meeting once a month)
North:- 54 (4-5 item agendas meeting once a month)
South:- 66 (5-6 item agendas meeting once a month)

This therefore provides a framework which retains the three area committee model but each meeting only once a month. Further proposals for strategic planning committee are set out below.

North and South could be convened to meet wherever the main business is that month.

It is proposed that the revisions be reviewed in 12 months time.

Proposed changes to the Scheme of Delegation

To increase delegation will necessitate changes to the scheme of delegation as set out in the constitution under Part 8. The existing triggers for referral to committee have been amended as set out below – changes explained in comments below).

General Triggers

- applications made , by or on behalf of , or relating to the property of members or officers of the council with politically restricted posts or who either directly or indirectly report to the Assistant Director, Strategy & Development (Group Manager, Environment?)
- Applications made by the Council or in relation to land owned by the Council which are not in line with statutory functions
- Applications accompanied by a Schedule 1 Environmental Statement
- Complex or major applications which, in the opinion of the Development Management Manager in consultation with the committee chairman or vice chairman should be determined by the relevant regulatory (planning) committee.

Comment: It is not proposed to make any significant changes other than to introduce a member role where the service manager is minded bring an application to committee for consideration.

Member Call In

- Applications requested to be referred, by the Local Member, to the relevant planning committee within 21 days of electronic notification of the application and agreed by the Head of Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reasons. A practice note is available in relation to material planning considerations.

It is proposed that the member call in procedure also be subject to consultation with the committee chairman/vice chairman as with other triggers. Changes in blue indicate proposed changes to the constitution wording.

Parish & Town Councils.

- Applications where the parish council submit a view contrary to officers (approval or refusal) based on material planning reasons the following tests need to be met:-
 - (I) the officer recommendation is to likely to be to approve; and

- (II) these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and
- (III) the Area Manager or Principal Planning Officer in consultation with the Committee chairman agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee.

A key change is proposed here to refine the trigger. There are 154 parish and Town Councils throughout Shropshire Council. Each can currently trigger a committee referral. Training and development has been offered to all parish and town councils and analysis reveals that half of all applications considered by planning committees are triggered by a parish or town council referral. Feedback received from some planning committee Members is that this trigger is exercised in some cases with insufficient discretion and that items of no real significance are being subject to the committee process thereby adding bureaucracy and cost to service delivery.

Feedback from some Parish Councils received during training events suggests that in some cases the Parish & Town Councils consider that their views are not influential to the final decision. This is not the case. As it stands, over 90% of applications are delegated which means that in over 90% of cases the officer view and the parish/town council view coincides. Of the remainder the committee report sets out in each case with reasons where a view expressed by a parish/town council is not subsequently supported by the planning officer.

The revision to the trigger set out above provides an additional filter whereby the Committee Chairman/Vice Chairman would also need to agree that an application be considered by committee in consultation with a senior officer. This retains the role and importance of the Parish Council in supporting the local influence on decision taking whilst providing an additional officer/member check.

Public Objections— RECOMMEND DELETING THIS TRIGGER

- Applications where 6 or more individual representations (separate premises) expressing a contrary view to the officer recommendation have been received relating to material planning considerations
- A petition expressing a contrary view on planning grounds signed by a minimum of 30 persons.

In practice this has proved to be an indiscriminate trigger and it is recommended that this be deleted. In many cases there are fewer than 6 properties affected by a proposal. Whilst this trigger could be reduced there is still the opportunity for local residents to persuade their Local Member or parish council to trigger a referral to committee where these are based on material planning considerations. These proposals also provide the discretion of the service manager in consultation with the committee chairman/vice chairman in complex, major or controversial applications to refer these to committee in any event.

Proposals for Strategic Committee

The role of Strategic Planning committee has been considered against the functions set out in the Constitution and in particular to local decision taking.

Essentially Strategic has three roles as presently constituted:

- to deal with large and or cross border applications:
- a referral role where an area committee is minded to take a decision that would be a significant departure from the development plan and/or result in costs being awarded against the Council; and
- a monitoring/review role.

The question is whether these functions should now be dealt with by the existing area planning committees.

Large or Cross Border Applications

In respect of the first function, it is likely that in most cases large or cross border applications could be determined by an area planning committee. Where an application has impacts for another regulatory area (within Shropshire) the local member for the adjoining or affected area could be invited to take part in the consideration of the application under para 6.1 of part 4 of the constitution.

In cases where there are County wide issues the local area committee as this is still the committee most familiar with the issues in that area and would be supported with training as is currently the case for strategic, where the issues are complex or technical in nature. Again Members from other parts of the County could request a right of audience where the issues extend beyond area committee boundaries. Where an area committee is minded to take a decision that could be challenged there is the deferral role set out below.

The Referral Role

In respect of the referral function, this causes some Member concern in potentially undermining their role as decision takers. Whilst there are a number of examples across the country of a committee with this referral role, there are also alternatives such as deferring the item for referral back to the area committee with additional information to address points raised by Members where there is a risk of an indefensible decision otherwise being taken. This would keep the decision taking at area committee level and would include cases where a “minded to approve” resolution contrary to officer advice could lead to legal challenge or a “minded to refuse” resolution could lead to an award of costs at appeal.

There would need to be clear practice guidance for the committee chairman dealing with an item referred back to committee to ensure that the debate is focussed on the issues set out in the officer report which would identify issues and appraise the risks of the

“minded to” resolution. It is proposed therefore that a deferral function be introduced to the constitution to deal with situations as set out above.

Monitoring/Review Role

In respect of the third function monitoring Development Management performance could be reported to the Area Committees. There needs to be a discussion about which Development Management performance measures be reported but could include performance, income, appeals and outcomes such as costs awards. (The Government is currently reviewing performance indicators)

To conclude there is a case enhance the role of the Area Committees to take on all the responsibilities of the Strategic Committee but this will require more officer/member input to confirm the detail.