

EVIDENCE FOR CONSIDERATION BY SCRUTINY SUB-COMMITTEE C PLANNING ENFORCEMENT

SCHEMES OF DELEGATION

Good Practice Guide from the LGA

Source: LGA/ODPM GUIDE TO DELEGATION 2004

Taken together the guidelines set out here are intended to help authorities wishing to improve their performance in this area and to deliver an effective and transparent processing of their applications.

Elected Members determine the basis on which a delegated agreement operates, the level of member involvement and the circumstances in which an officer's delegated power to make a decision may not be exercised.

Delegation has benefits for all stakeholders in terms of simplifying procedures, minimising costs and freeing up Committee members to concentrate on major or controversial cases. Where there is no need to await a committee decision, up to four weeks can be saved in dealing with a planning application. Delegation is a positive process that gives benefits not just in terms of streamlining internal procedures but also in terms of improved responsiveness for applicants.

Delegation agreements necessarily vary between local planning authorities. Two broad models exist. The first includes the prescription **that all applications may be deemed as determined under delegated powers – unless they fall into defined exceptional categories**. The second broad approach **lists all those areas where the delegated powers apply**.

All schemes will fall between these extremes and even within these models there are variations as to what determines an exemption to delegation. Some councils may use the value of the fee involved as a proxy of the importance of the application, the site area, or a variety or combination of other factors – objections, local sensitivity or origin of the application.

Yet, elected members remain in complete control of the delegation process – they decide the council's development plan policies within which all applications are judged. They determine other council policies, standards and guidance within which context applications may be considered. They also determine the terms upon which a delegation agreement operates, the level of member involvement and the circumstances in which an officer's designated power to make a decision may not be exercised.

To meet members concerns about applications 'slipping through the net' where decisions made by officers might not accord with the views of members, some authorities have set up a Planning Scrutiny Committee. This is seen as an effective way to review the working of a delegation scheme by periodically monitoring a sample of delegated decisions retrospectively.

Regular monitoring of schemes is important in giving members the opportunity to include new responsibilities and extend or modify the working of the scheme.

LGA would encourage councils to introduce measures to ensure that the public understand the working of the delegation system and the reasoning behind it. Leaflets on delegation, explaining processes and rights of appeal are helpfully produced by some councils. LGA considers in the interests of promoting delegation and Human Rights and as a matter of general good practice, the file on delegated applications should be just as available for public inspection as a file on an application going to committee. Consultation replies and other background material would be open to all.

Birmingham City Council

Source, telephone conversation with member of staff in Planning Enforcement team

In Birmingham all Planning Enforcement decisions are delegated to officers with the exception of Stop Notices and Injunctions (temporary stop notices **are** delegated)

The Planning Committee do not get involved in the routine management of Planning Enforcement issues.

Priorities for Enforcement are set out in a Manual and this is endorsed by the Planning Committee.

Key point of Advice/practice

One of the most effective activities is ensuring “open lines of communication with other Council departments with regulatory functions as they may have greater power to act than planning enforcement officers do.

Pendle Borough Council

Source: Centre for Public Scrutiny Website

All Planning Enforcement Decisions are delegated to officers

Poole Borough Council

Source : CLG Good Practice Guide

All planning applications are considered to fall within the delegation scheme and will be determined by officers unless;

1. A councillor makes a written request for the application to be considered by the planning committee.
2. The planning officer considers that the application should be considered by committee.

3. The application would represent a departure from the policies of the statutory development plan.
4. The proposal involves the Borough or County Council either as applicant or land owner and the scheme is not of a minor nature.
5. The applicant is a councillor.
6. The applicant is a member of the council's management team, a service unit head, a member of Planning design and control/management services or any member of staff within the authority who could be seen as having a direct input to, and therefore influence on, application decisions.
7. Any other application from employees of the borough of Poole may be delegated subject to prior consultation with the chairman and vice chairman of the planning committee.
8. Any application where a council employee is involved in any capacity – eg agent or consultant.
9. Any planning application involving a Housing Association which will result in the creation of additional residential units.
10. Application for telecommunications developments which involve the erection or installation of new masts. Proposals for additional antennae or dishes or existing telecommunications structures fall within the scheme of delegation.

Westminster Council

Source: CfPS Website

The effectiveness of Planning Enforcement lies very much in the ability to do joined up working.

“The Westminster system has involved dividing the Borough into five segments. For each area there is a group who hold fortnightly meetings and include a broader range of representatives from different agencies. The joint-tasking meetings focus on issues and a chance for officers to discuss new solutions to problems using legislation from different service areas. They have found it important that these meetings have been chaired by the Leader of the Council. This has been crucial in maintaining attendance and holding agencies to account for services delivery that was agreed at previous meetings”.