



<b>REPORT OF:</b>	<b>DIRECTOR OF GROWTH &amp; PROSPERITY</b>
<b>TO:</b>	<b>COUNCIL FORUM</b>
<b>ON:</b>	<b>1<sup>st</sup> OCTOBER 2015</b>

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**SUBJECT: Streamlining The Planning Process -  
Scheme of Delegation**

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## **1. PURPOSE OF THE REPORT**

1. To brief Council on changes to the national performance regime set by Central Government for local authority planning services and the potential implications of these changes for the Council
2. To seek agreement to amend the Scheme of Delegation to officers in respect of planning applications
3. To seek agreement to a further minor amendment to the Scheme of Delegation in respect of Tree Preservation Orders to clarify the process.

## **2. OPTIONS**

1. To retain the Scheme of Delegation as currently set out. This option is not recommended for the reasons set out in the report.
2. To amend the Scheme of Delegation as set out in the report and detailed in Appendix 1. This is recommended as the appropriate response to the issues set out in the report.

## **3. RECOMMENDATIONS**

1. To note the changes recently made by Central Government to the nationally set performance regime for local authority planning services, and the potential implications of this for the Council
2. To note the anomaly that exists in the current Scheme of Delegation in respect of Tree Preservation Orders
3. To approve amendments to the Council's Constitution relating to the Scheme of Delegation in respect of planning applications and Tree Preservation Orders, as set out in Appendix 1

## 4. BACKGROUND & RATIONALE

### *Planning performance*

The Corporate Plan, the Local Plan and the Prosperity Plan establish an ambitious growth agenda whose delivery will be dependent on the Borough's success in drawing in private investment to develop major housing and employment sites. Realisation of this agenda is key to the economic prospects of the Borough and its citizens, and is also of central importance to the financial sustainability of the Council given the increasing emphasis on income from Council Tax and Business Rates. As such, the Council services that are encountered by these major developers and investors needs to be of a standard which makes us an easy choice to work with, together with providing a quality service to our existing residents and businesses.

In addition to these considerations, Central Government operates a performance regime against which local authority planning services are measured. The regime sets a floor target for the proportion of planning applications in defined categories which are to be determined by the authority within a statutory timescale.

Authorities failing to meet this floor target, measured over a backwards-looking two-year period, are placed in Special Measures by Government: this means that their planning powers in respect of major applications are taken away with applicants having the option for their applications to be determined by the Planning Inspectorate.

Until recently the floor target was 40% of "Major" applications to be determined within 13 weeks. Central Government's "productivity plan" – *Fixing The Foundations*, published in July, increases the floor target to 50%, and also proposes that in future the measure will be expanded to also take in "Minor" applications which are to be determined in 8 weeks. If this is done it is likely that a measure would be introduced that looked back over the previous two years: this means that performance occurring now is likely to begin to count towards a target at some point in the future.

The Council's level of performance in recent years has been only marginally above the 40% floor target for major planning applications. If the Council is to elevate its performance to a level which i) sustainably mitigates the risk of being placed in Special Measures, and ii) meets the expectations of users of the service including local residents, businesses and major investors, it is necessary to review the Council's processes for determining planning applications.

The current Scheme of Delegation results in a significant proportion of applications in the Minors category, together with non-controversial Majors, being required to be determined by the Planning & Highways Committee. The lead-in time for Committee means that any application for which the target is 8 weeks will automatically go over time if it goes to Committee.

The most common reason for Minor applications going to Committee is that the recommendation proposes to override objections – under the current Scheme of Delegation only one planning-related objection is required to being an application to Committee. The Scheme of Delegation was amended earlier in the year to exclude

objections made on non material planning grounds. This has improved the operation of the Committee; however the approach in the current Scheme of Delegation remains significantly out of step with delegation schemes in other authorities – Blackburn with Darwen is the only authority in Lancashire that operates a “one objection” trigger. The use of objection-based triggers therefore results in a significant impact on the Council’s level of performance.

In light of the above it is proposed to revise the Scheme of Delegation to reduce the volume of applications presented to Committee, while ensuring that a suitable degree of Member input and oversight is retained. The key points are:

- Removal of the “objections” trigger
- Retention of the current Member Referral Scheme which is considered to work well
- Implementation of an internal practice whereby the Committee Chair is informed on a weekly basis of applications which would ordinarily be delegated but which may require discussion at Committee – in these instances the Chair would exercise their discretion to require an application to be brought to Committee
- Retention of the same triggers as operated now, whereby large applications automatically come to Committee, other than commercial development in existing industrial areas
- Retention of the triggers relating to probity, concerning applications by the Council, by Members and by senior officers
- Inclusion of a “fall back” delegation arrangement in which the Director for Growth and Prosperity is able to intervene in order to ensure that the Council’s performance level remains above the floor target.

#### *Tree Preservation Orders*

The Scheme of Delegation allows officers to determine applications to undertake work to protected trees, including authorising the felling of protected trees and requiring replacement planting. When felling and / or replanting is undertaken, there is a technical requirement for the relevant Tree Preservation Order (TPO) to be amended to reflect the new situation, and reconfirmed. Under the current Scheme of Delegation this must be done by Committee, even though the works concerned were authorised by officers under delegated powers. This is an anomaly which creates an unnecessary administrative burden.

It is therefore proposed to amend the Scheme of Delegation as regards protected tree applications, to allow officers to make amendments to TPOs where the amendments arise solely from works authorised under delegated powers.

## **5. POLICY IMPLICATIONS**

Planning performance is one of the key elements that will assist the Council in furthering its ambitious growth agenda under the Council’s Corporate Plan, the Local Plan and the Prosperity Plan.

## **7. FINANCIAL IMPLICATIONS**

None

## **8. LEGAL IMPLICATIONS**

The statutory functions as a 'Local Planning Authority' are vested in the Council, which can be delegated by the Council under the Officer Scheme of Delegation and/or to a committee of the Council.

Changes to the Officer Scheme of Delegation will require amendments to the Council's Constitution as detailed in Appendix 1.

## **9. RESOURCE IMPLICATIONS**

For 2014/15: 43 Minor applications were determined at Committee – all of these applications were determined beyond the 8 week national target. Of these applications, 21 had 1 objection, 10 had 2 objections, 4 had 3 objections, 1 had 4 objections, 1 had 5 objections, 2 had petitions, 1 was a member referral and 2 were Council's own applications. Preparing an application for Committee requires significantly more officer time than if it was determined under delegated powers, which impacts on the performance levels. The number of Committee overturns is very low, which means the outcome is the same as if the application would have been determined under delegated powers, but significantly more time has been spent to reach that point.

## **10. EQUALITY IMPLICATIONS**

None

## **11. CONSULTATIONS**

Leadership Board

### **Chief Officer/Member**

Contact Officer: David Proctor, Head of Service (Planning & Transport)  
Date: 9<sup>th</sup> September 2015  
Background Papers: None

Appendix 1 – Constitution. Officer Scheme of Delegation. Director of Growth & Prosperity (revised)

*Form Reference Standard Committee Report Template May 2012 1.0*