

BABERGH DISTRICT COUNCIL and MIDSUFFOLK DISTRICT COUNCIL

From: JMIB	Report Number: M189
To: Full Council	Date of meeting: 9 and 11 April 2013

PROTOCOL FOR USE OF PLANNING OFFICER DELEGATIONS

1. Purpose of Report

- 1.1 To recommend adoption of a protocol identifying the circumstances in which the Head of Economy will report planning applications to Committee for determination.
- 1.2 To recommend slight revision of the Scheme of Delegation to define what is meant by a decision complying with Council policy for development control purposes.

2. Recommendations to Full Council

- 2.1 That the Scheme of Delegation be amended to define a decision on a planning application as being in accordance with Council policy where it is made in accordance with the National Planning Policy Framework as determined by the Head of Economy in consultation with the Chairman and/or Vice-Chairman of the Development/Planning Committee.
- 2.2 That the Protocol at Appendix 1 be adopted with immediate effect.

3. Financial Implications

- 3.1 Clarifying the use of delegations through a Protocol should reduce the number of applications referred to Committee by approximately one-third securing efficiency savings of about £500 per application.

4. Risk Management

- 4.1 This report is most closely linked with the Council's Corporate / Significant Business Risk No. 6 - Performance and Cost Management. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Officers exceed their delegated authority	Low	Critical – decision voidable and risk of legal challenge	Clarify the Delegation Scheme
Delays in determining planning applications	Very high	Critical	Adopt Protocol to give clarity on when delegated authority will be used

5. Consultations

- 5.1 Members of the Planning Services Transformation Project (comprising members and officers) have worked together to develop this Protocol.

6. Equality Analysis

- 6.1 N/A

7. Shared Service / Partnership Implications

- 7.1 Adoption of the Protocol will deliver consistency in the types of application determined by Committee.

8. Key Information

- 8.1 At Full Council meetings on 25.10.11 and 27.10.11 Babergh and Mid Suffolk, respectively, adopted a revised Scheme of Delegation. The Scheme is the same across both Councils. It came into effect on 1st December 2011 when joint Heads of Service took up their posts.

- 8.2 This Scheme of Delegation authorises Heads of Service to undertake any function in their service area subject to certain caveats e.g. that the decision will be within existing budget and in accordance with the Council's policy framework. For development control, this has meant that the Head of Economy has general delegated authority to determine any planning application which would not be contrary to the Council's development plan. The exceptions to this rule are where the development is on Council owned land, the Council is the applicant or a Member or Officer has a personal interest in the application. These applications must be referred to Committee under separate constitutional arrangements. The Head of Economy has in turn authorised his Corporate Managers to make decisions under the delegation.

- 8.3 Clearly, there would not have been expectation that the Development/Planning Committees only consider applications which are contrary to policy. There has also been uncertainty in identifying what is meant by compliance with Council policy in the context of development control when the overriding policy required to be applied is the National Planning Policy Framework. In practice, both Corporate Managers have continued to refer the same matters to Committee as they did under the previous scheme. As a consequence a higher number of applications may have been referred to Committee than necessary.

- 8.4 This issue would be addressed by a protocol setting out those applications which are to be referred to Committee. It would provide consistency across the Councils, clarity for Members, Officers and members of the public.

- 8.5 Members of the Planning Steering Group and officers have developed the Protocol at Appendix 1 with the aim of (i) improving performance (ii) achieving consistency in approach (iii) reducing workload and costs in the number of referrals (iv) enabling Committee to concentrate on larger applications with a more strategic focus.

- 8.6 The Protocol is commended for adoption by the Planning Steering Group.

- 8.7 Adoption of the Protocol is anticipated to have significant impact upon the speed with which certain applications can be determined. It will reduce cost and improve planning performance.

Provisions on how and when Members can request an application is determined by Committee (along with provisions concerning applications in which the Council, its Members and Officers have an interest) will be set out within a revised Planning Code of Practice. This is a separate piece of work currently being undertaken by the Planning Steering Group and will be the subject of a further report.

9. Appendices

Title	Location
1. Protocol for Use of Planning Officer Delegations	Attached

10. Background Documents

- 10.1 BDC and MSDC Scheme of Delegation pre 1.12.11

Authorship:
Kathryn Seward
Head of Legal Services

01473 925729 / 01449 724679
kathryn.seward@babbergh.gov.uk



APPENDIX 1

Protocol for Use of Planning Officer Delegations

- (1) This Protocol is supplemental to the Scheme of Delegation adopted by Full Council. It sets out the circumstances in which the Head of Economy agrees to refer certain planning applications to Committee for determination.
- (2) Pursuant to the Scheme of Delegation, the Head of Economy has delegated authority to determine all applications within his/her area of responsibility subject to the decision being “in accordance with the overall policies and procedures approved by the Council”.
- (3) For the purposes of the Scheme of Delegation, a decision on a planning application is “in accordance with the overall policies and procedures approved by the Council” where the decision is made in accordance with the National Planning Policy Framework as determined by the Head of Economy acting in consultation with the Chairman and/or Vice-Chairman of the Development/Planning Committee.
- (4) The Head of Economy agrees not to exercise his/her delegated authority where:-
 - (a) a Member of the Council requests that the application is determined by the appropriate Committee and the request has been made in accordance with the Planning Code of Practice or such other protocol / procedure adopted by the Council
 - (b) it is a major application (as defined in law) for:-
 - development within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (or any amendment or statutory re-enactment thereof)
 - a residential development for 15 or more dwellings
 - the erection of any industrial building/s with a gross floor space exceeding 3,750 sqm
 - a retail development with floor space exceeding 2,500 sqm
 - a renewable energy development, as defined by Government guidance, (unless the application would be refused under delegated authority)
 - (c) the Head of Economy considers the application to be of a controversial nature