

## **BABERGH DISTRICT COUNCIL**

**FROM: The Chief Executive**

**REPORT NUMBER F192**

**TO: COUNCIL**

**DATE OF MEETING 26 February 2007**

### **SCHEME OF DELEGATION**

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

- 1.1 Following adoption of the new management structure and corresponding revisions to the Scheme of Delegation approved by Council on 1 August 2006, updated provisions to the Scheme of Delegation are proposed as shown in the attached appendices to address outstanding issues.

#### **2. RECOMMENDATIONS**

- 2.1 **That the updated Scheme of Delegation and Proper Officer Provisions as set out in Appendices 1 and 2 to this report be adopted and the Head of Corporate Services be authorised to amend the Constitution accordingly (inclusive of any consequential amendments).**

#### **3. FINANCIAL IMPLICATIONS**

None.

#### **4. KEY INFORMATION**

- 4.1 At its meeting on 20 June 2006, Council delegated authority to the Chief Executive to determine the distribution of functions under the Scheme of Delegation and Proper Officer Provisions for the purposes of implementing the structural review of the management structure. Thereafter, Council approved amendments to the relevant parts of Part 3 of the Constitution on 1 August 2006 subject to a further report following the resolution of outstanding issues. This report seeks to address those issues.
- 4.2 It is now proposed that the Chief Planning Control Officer be delegated the specific functions set out in Appendix 1. with the Head of Natural and Built Environment also being able to exercise those functions pursuant to the general delegation provisions (as shown in Appendix 2.). The Proper Officer provisions will consequently require amendment to allow the Head of Natural and Built Environment to exercise statutory functions previously expressed to be those of the Head of Planning (Control).
- 4.3 It is further proposed that the general delegation to the Head of Corporate Services be extended to incorporate functions previously exercised by the Head of Organisational Development (see Appendix 2.).
- 4.4 Following adoption of the revised Scheme of Delegation in August 2006, some minor omissions and anomalies have become apparent which necessitate correction and these are also listed in Appendix 2.

4.5 The exercise of all delegations remain subject to the proviso that Council, Strategy Committee or any other Committee may take decisions on any matter falling within the delegations where it is within the Committee's terms of reference.

5. **RISK MANAGEMENT**

5.1 As stated above, the Chief Executive has delegated authority to authorise officers to undertake relevant functions and this report seeks approval to formalise arrangements that are already in place. Risk is therefore low.

6. **APPENDICES**

Appendix 1. – Scheme of Delegation to the Chief Planning Control Officer.

Appendix 2. – Additions to the Scheme of Delegation and Proper Officer Provisions.

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**THE CHIEF PLANNING CONTROL OFFICER**

The Chief Planning Control Officer shall have delegated authority:

1. GENERAL

- (a) To act, where urgent action is required following consultation with the Chairman or in his/her absence the Vice-Chairman of the Development Committee;
- (b) To appoint consultants in connection with any matters falling within his/her area of responsibility;
- (c) To authorise other officers within his/her area of responsibility to carry out any of the functions delegated to him/her.

2. BUILDING REGULATIONS

- (a) To determine all applications for Buildings Regulations approval purposes;
- (b) To take action to deal with dangerous and/or derelict buildings and structures including the bricking up of vacant buildings;
- (c) To serve any document requisite for the enforcement of the Building Regulations;
- (d) To waive plan charges as defined in the Building (Local Authority Charges) Regulations 1998 or any statutory amendment thereof, and to operate the Babergh District Council Building Regulation Charges Scheme 1999 as set out in Paper X369;
- (e) To receive and serve notices under Sections 80-83 of the Building Act 1984 relating to the control of the demolition of buildings;
- (f) To serve Notices under Sections 78 and 79 of the Building Act 1984;
- (g) In the event of non-compliance with a Notice(s) served in accordance with Sections 78 or 79 of the Building Act 1984, to carry out such works as may be described in the Notice(s) and recover all costs from the person(s) upon whom the Notice(s) was/were served.

3. DEVELOPMENT ORDERS

- (a) To determine whether details of the method of demolition and/or the restoration of the site notified to the Council under Part 30 of Schedule 2 the Town and Country Planning (General Permitted Development) Order 1995 should be submitted to the Council for its prior approval;
- (b) To determine whether any building or road or other development notified to the Council under Class A of Parts 6 and 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 should be the subject of further detailed submissions and to determine relevant submissions;
- (c) To determine whether any telecommunication development under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 should be the subject of further detailed submissions and to determine such detailed submissions;
- (d) To make Directions under the provisions of Article 5 of the Town and Country Planning (General Development Procedure Order) 1995 in respect of all applications for planning permission.

#### 4. PLANNING APPLICATIONS

- (a) To determine applications for planning permission approval or consent (including submissions of minor amendments) under the relevant provisions of the Town and Country Planning Acts and Regulations, the Planning (Listed Building and Conservation Areas) Act 1990 and Planning (Hazardous Substances) Act 1990 except those where:
  - (i) the application does not concern an existing householder development or the erection of a single dwelling or other development of the same scale and observations substantially at variance with the decision he/she proposes to take have been made which he/she considers contain material planning considerations which should be overruled;
  - (ii) the decision he/she proposes to make would be prejudicial to the Council's policies or contrary to the Development Plan;
  - (iii) a Member of the Council requests that an application is determined by the Development Committee;
  - (iv) the application is for the Council's own development in accordance with the Town and Country Planning General Regulations 1992;
  - (v) the application is for the erection of a telecommunication mast.
- (b) To determine applications for consent to display advertisements under the relevant provisions of the Town and Country Planning Acts and Regulations;
- (c) To determine applications for Certificates of Appropriate Alternative Development;
- (d) To determine applications for certificates of lawfulness of proposed or existing development pursuant to Section 191 and 192 Town and Country Planning Act 1990;
- (e) To make observations on planning applications referred to the Council by neighbouring planning authorities;
- (f) To make representations to the Suffolk County Council on applications for the grant of planning permission submitted by the County Council or to be determined by that authority;
- (g) To approve the siting of equipment and appliances by Statutory Undertakers;
- (h) To make observations on consultations by Statutory Undertakers under Section 90 of the Town and Country Planning Act 1990 and by Government Departments under Circular 18/84;
- (i) To issue screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 1999.

#### 5. PLANNING CONTROL CONDITIONS AND OBLIGATIONS

- (a) To determine the conditions to be imposed upon any grant of planning permission, listed building consent, conservation area consent or advertisement consent and the reasons for those conditions or the reasons to be imposed on any refusal in addition to any conditions and/or reasons specifically resolved by the Development Committee;
- (b) To determine whether an obligation (including a deed of variation or release) pursuant to Section 106 of the Town and Country Planning Act 1990 is required in respect of any planning application and to authorise the Solicitor to the Council to secure such obligation;

#### 6. PLANNING CONTROL ENFORCEMENT

- (a) To enter land and premises and authorise named employees to enter land and premises for purposes under the following legislation (including the seeking of warrants):-
  - (i) Town and Country Planning Act 1990
  - (ii) Planning (Listed Buildings and Conservation Areas) Act 1990
  - (iii) Planning (Hazardous Substances) Act 1990
  - (iv) Building Act 1984

## 7. PUBLICITY / CONSULTATION ON PLANNING APPLICATIONS

- (a) To undertake at his/her discretion neighbour notification in respect of applications for planning permission, having due regard to Governmental advice;
- (b) To determine at his/her discretion the extent to which publicity or notification should be given to amendments to submitted applications for planning permission;
- (c) To consult persons and bodies in respect of planning applications as follows:-
  - (i) Suffolk County Council (in respect of applications which materially conflict with or prejudice the implementation of the policies set out in the Suffolk County Structure Plan)
  - (ii) Parish Councils entitled to be notified of applications
  - (iii) Neighbouring planning authorities in the appropriate cases
  - (iv) Other bodies in accordance with the Council's practice in particular classes of application
  - (v) Consultees in accordance with a statute or statutory instrument.

## 8. TREE AND HEDGEROW PRESERVATION

- (a) To make emergency and provisional Tree Preservation Orders and be authorised to confirm such;
- (b) To determine applications to top, lop, cut down or destroy trees;
- (c) To dispense with conditions relating to replanting of dead, dying and dangerous trees the subject of Tree Preservation Orders;
- (d) To make observations on applications for licences to fell growing trees under the Forestry Act 1967 unless they are of a significant nature or contain controversial elements in which case details shall be submitted to the Development Committee;
- (e) To serve a Hedgerow Retention Notice where he/she is satisfied that the hedge is 'important' under the criteria specified in Hedgerows Regulations 1997.
- (f) To issue High Hedge Remedial Notices under the Anti-social Behaviour Act 2003

## 9. MISCELLANEOUS

- (a) To act as 'Appointing Officer' for the purpose of Section 10(8) of the Party Wall Act 1996 and to appoint surveyors in accordance with Section 10 of the Act;
- (b) To serve Building Preservation Notices;
- (c) In consultation with the Head of Finance to determine the rate of contribution and the financing of commuted payments, in the light of the particular circumstances of individual cases, and after applying the approved guidelines;
- (d) To keep the Planning Register under Section 69 of the Town and Country Planning Act 1990;
- (e) To lodge objections on applications for goods vehicle operators' licences and operating centres to the Eastern Traffic Area of the Licensing Authority where he/she considers such objections are warranted in any particular case;
- (f) To determine claims under regulation 14 of the Planning (Hazardous Substances) Regulations 1992

**ADDITIONS TO PART 3 (shown in italics) OF THE SCHEME OF DELEGATION AND PROPER OFFICER PROVISIONS ADOPTED BY COUNCIL ON 1 AUGUST 2006**

**GENERAL PROVISIONS**

*“ All Heads of Service with the exception of the Head of Natural and Built Environment have delegation to seek planning permission under the Town and Country Planning General Regulations 1992 and to give to the Local Planning Authority any written notice required by the Regulations”*

*“References to any statutory provision shall include any amendment or statutory re-enactment thereof”*

**THE GENERAL DELEGATION SCHEDULE**

**Post: Head of Natural and Built Environment**

**Function and areas of responsibility:**

*Development Control (including planning applications, appeals, enforcement, tree protection)*

*Building Control (including applications, enforcement, dangerous structures)*

*Planning Policy*

*Conservation*

*Graphic Design*

**Post: Head of Corporate Services**

**Function and areas of responsibility:**

*Organisational Development and Training*

*Human Resources*

*Occupational Health and Safety*

*ICT Services*

*Public Consultation Exercises*

**SPECIFIC DELEGATION**

**Post: Chief Executive**

*“To appoint staff to posts on Performance Grades 3 and 4 in consultation with the Corporate Director of the relevant Division and the Head of Corporate Services”*

**Post: Solicitor to the Council**

Paragraph 9., provision of indemnities to include the provision of solicitors' undertakings

*“In consultation with the Head of Natural and Built Environment or the Chief Planning Control Officer to enter into agreements pursuant to Section 106 of the Town and Country Planning Act 1990 on such terms as he/she deems appropriate”*

*“To ensure compliance with the Freedom of Information Act 2000”*

## **PROPER OFFICER PROVISIONS**

<u>Section</u>	<u>Description</u>	<u>Proper Officer</u>
<b>Local Government Act 1972</b>		
<i>Sch 16 Para 28</i>	<i>Receipt on deposit of List of Protected Buildings</i>	<i>Head of Natural and Built Environment</i>
<b>National Assistance Act 1948 (as amended) and section 51 of the National Assistance Act 1951</b>		
Section 47	Removal to suitable premises of persons in need of care and attention	Head of Natural and Built Environment to appoint consultant(s) as necessary to act as the Medical Officer of Health

### **Public Health (Control of Diseases) Act 1984**

*The Head of Natural and Built Environment is appointed to act on behalf of the 'local authority' for all other sections of the Public Health (Control of Diseases) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988 where the local authority is referenced.*

#### ***Powers of Entry and Authorisation of Officers***

*The Head of Natural and Built Environment is appointed to authorise officers to exercise powers of entry given under section 61 of the Public Health (Control of Diseases) Act 1984 and section 55 of the National Assistance Act 1948*

## **“DEPUTY PROPER OFFICER” PROVISIONS**

Where the designated Proper Officer is unable to act, the following is designated Deputy Proper Officer:-

*For the Consultant in Communicable Diseases (CCDC), the deputies or alternates as appointed by the Health Protection Agency.*