

## Appendix 1

### Part 1

#### SCHEME OF DELEGATION

(additions are in red type and deletions are struck through)

#### **STRATEGIC PLANNING BOARD**

##### **Terms of Reference**

1. To oversee the division of the Council's Development Management functions and workload in order to ensure timely and consistent decision-making at the most appropriate level, and to that end

(a) to monitor the volume and type of applications determined; assessing the performance of the Development Management service, and, if appropriate

(b) ~~to vary the number, size and working arrangements of the Planning Committees, to appoint their membership,~~ to vary the division of functions and delegations between the Board, the Planning Committees and the **Director of Planning and Sustainable Development**.

(c) to adopt working protocols and procedures: eg: protocols governing the direction of applications between the Planning Committees, public speaking rights, call-in procedure and others.

2. To exercise the Council's functions relating to town & country planning & development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges set out in the Local Authorities (Functions & Responsibilities)(England) Regulations 2000. Most of these functions are delegated to the Planning Committees and then onwards to the **Director of Planning and Sustainable Development**, but the following are reserved to the Board

(a) applications for Large Scale Major Development: ~~defined from time to time by DCLG. Currently this includes~~

- residential developments of 200 dwellings or more, or 4 ha or more;
- 10,000 square metres or more, or **24ha.** or more of retail, commercial or industrial or other floor space.

**This does not include re-applications for extant schemes or detailed applications where an outline consent has been given or removal/variation of conditions.**

**Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.**

**However, there will be a presumption that a call in request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant unimplemented permissions.**

(b) applications for major minerals or waste development **other than small scale works which are ancillary to an existing mineral working or waste disposal facility.**

(c) applications involving a significant departure from **policy** which a Planning Committee **are recommended** to approve.

~~(c) applications requiring Environmental Impact Assessments~~

(d) any other matters which have strategic implications by reason of their scale, nature or location.

(f) any other matters referred up to it at the discretion of the **Director of Planning and Sustainable Development, including major development of less than the thresholds set out in (a) above which have wider strategic implications.**

3. To exercise a consultation and advisory role, commenting upon the content of proposed planning policy and upon the effectiveness of existing policies employed in development control decisions.

4. To exercise on behalf of the Council the function of final approval of the Area Action Plans, and any other document including a Site Allocation Policy, which form part of the Local Plan.

## **NORTHERN AND SOUTHERN PLANNING COMMITTEES**

### **Terms of Reference**

1. To exercise the Council's functions relating to town & country planning & development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges, set out in the Local Authorities (Functions & Responsibilities)(England) Regulations 2000. Some applications have been reserved to the Strategic Planning Board: others are delegated on to the **Director of Planning and Sustainable Development**: the following are retained for the Planning Committees:

(a) Applications for Small Scale Major Development **for:** ~~defined from time to time by DCLG. Currently this includes~~

- residential developments of ~~10-20~~ -199 dwellings or between 0.5 **1** and 4ha

- retail or commercial/industrial or other floorspace of **between 5,000 – 9,999 square metres, or 2 - 4ha** ~~between 1,000 – 9,999 square metres. or between 1ha – 2 ha.~~

This does not include re-applications for extant schemes or detailed applications where an outline consent has been given or removal/variation of conditions.

Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.

However, there will be a presumption that a call in request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.

## 2. To determine any other planning & development control matters

(a) advertised as a departure from policy, which the **Director of Planning and Sustainable Development** is minded to approve.

(b) submitted by a Councillor, senior Council officer (tier 2 or above) or a member of staff employed within the Development Management and Policy service area; or by an immediate family member or partner of these **where representations objecting to the application have been received. Where objections have been received, applications recommended for refusal can be dealt with by officers under delegated powers.**

(c) **significant applications by** involving the Council either as applicant or land owner. ~~Unless the Head of Planning & Policy identifies some significant factor, this~~ **This** category will not normally include minor developments which accord with planning policy and to which no objection has been made.

(d) referred up to them by a councillor in accordance with the Committees' call-in procedure. **However: -**

- i. **Any request must be received within 15 working days of the issue of the electronic notification of the application, and set out the material planning consideration(s) which warrant the application going before committee.**
- ii. **Applications for householder development, listed building consents to alter/extend and conservation area consents will normally be dealt with under delegated powers.**
- iii. **Applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notifications will not be eligible for call-in and will be dealt with under delegated powers.**
- iv. **There will be a presumption that a call in request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.**

(e) any other matters referred up to them at the discretion of the **Director of Planning and Sustainable Development.**

The Committees will refer up to the Strategic Planning Board matters involving a significant departure from policy which they are minded to approve **contrary to recommendation by the Director of Planning and Sustainable Development**.

## **PLANNING FUNCTIONS – DELEGATION TO OFFICERS**

1. Apart from matters reserved to the Strategic Planning Board and Planning Committees, all those Council functions set out in the Local Authorities (Functions & Responsibilities)(England) Regulations 2000 which relate to town & country planning & development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges are delegated to the **Director of Planning and Sustainable Development**.

Development control functions include decisions regarding planning applications, permitted development, certificates of lawful use & development, enforcement, listed buildings and conservation areas. The planning functions are to be construed purposively and broadly, to include anything which facilitates or is incidental to them. For example, the power to determine planning applications under s70 Town & Country Planning Act 1990 will include powers governing environmental impact assessments under the various TCP (Environmental Impact Assessment) Regulations. It will also include power to impose conditions, limitations or other restrictions or to determine terms to which approvals are subject, and to modify, vary or revoke approvals.

Where legislation is amended or replaced by new provisions or where new development control provisions are enacted, then the relevant authority delegated in this Scheme applies to those new provisions.

2. The **Director of Planning and Sustainable Development** will refer up to a Planning Committee or to the Strategic Planning Board any particular matter which they consider suitable for determination at that level.

## Part 2

(additions are in red type and deletions are struck through)

(Constitution, page 57)

### LOCAL CHOICE FUNCTIONS

Local Choice Functions <sup>1</sup>	Decision Making Body	Delegation of functions to Committees or officers (to the extent set out below or Section 2C for Council (non-executive) functions and section 3D for executive functions)
Any function relating to contaminated land <sup>11</sup>	Cabinet	Head of Communities
The control of pollution or the management of air quality <sup>12</sup>	Cabinet	Head of Communities
To serve an abatement notice in respect of a statutory nuisance <sup>13</sup>	Cabinet	Head of Communities
To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area <sup>14</sup>	Full Council	
To inspect the authority's area to detect any statutory nuisance <sup>15</sup>	Full Council	Head of Communities
To investigate any complaint about the existence of a statutory nuisance <sup>16</sup>	Full Council	Head of Communities
To obtain information about interests in land <sup>17</sup>	Full Council	Planning Committee <b>Executive</b> Director of Economic Growth and Prosperity <b>Director of Planning and Sustainable Development</b>
To obtain particulars of persons interested in land <sup>18</sup>	Full Council	Executive Director of Economic Growth and Prosperity

(Constitution, page 87)

## **PLANNING AND DEVELOPMENT CONTROL COMMITTEE STRUCTURE AND DELEGATIONS**

Development control functions will be discharged by a Strategic Planning Board, supported by two

Planning Committees and a scheme of delegation as detailed below:

Strategic Planning Board (12)

~~\*including the two Portfolio Holders responsible for Development Management and the Local Development Framework~~

- with the Terms of Reference set out at Appendix A
- with a quorum of 5 ~~3~~ (as an exception to in accordance with Standing Order 27)

Northern Planning Committee (12)

Southern Planning Committee (12)

- with the Terms of Reference set out at Appendix B
- with a quorum of 5 ~~3~~ (as an exception to in accordance with Standing Order 27)
- comprising councillors to be nominated at the first meeting of the Strategic Planning Board
- meeting on a ~~3~~ 4 -weekly cycle
- ~~there are to be no substitutes at Planning Committee save for named substitutes who have received planning training and are members of another planning committee.~~

The scheme of delegation is set out in that section of the Constitution.

(Constitution, page 88)

## **STRATEGIC PLANNING BOARD Terms of Reference**

1. To oversee the division of the Council's Development Management functions and workload in order to ensure timely and consistent decision-making at the most appropriate level, and to that end

(a) to monitor the volume and type of applications determined; assessing the performance of the Development Management service, and, if appropriate

~~(b) to vary the number, size and working arrangements of the Planning Committees, to appoint their membership,~~ to vary the division of functions and delegations between the Board, the Planning Committees and the **Director of Planning and Sustainable Development**.

(c) to adopt working protocols and procedures: eg: protocols governing the direction of applications between the Planning Committees, public speaking rights, call-in procedure and others.

2. To exercise the Council's functions relating to town & country planning & development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges set out in the Local Authorities (Functions & Responsibilities)(England) Regulations 2000. Most of these functions are delegated to the Planning Committees and then onwards to the **Director of Planning and Sustainable Development** & Policy but the following are reserved to the Board

(a) applications for Large Scale Major Development: ~~defined from time to time by DCLG.~~ Currently this includes

- residential developments of 200 dwellings or more, or 4 ha or more;
- 10,000 square metres or more, or **24ha.** or more of retail, commercial or industrial or other floor space.

**This does not include re-applications for extant schemes or detailed applications where an outline consent has been given or removal/variation of conditions.**

**However, there will be a presumption that a call in request by a local member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.**

**Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.**

(b) applications for major minerals or waste development **other than small scale works which are ancillary to an existing mineral working or waste disposal facility**

~~(c) applications requiring Environmental Impact Assessments~~

(c) applications involving a significant departure from **policy** which a Planning Committee **are recommended** to approve.

(d) any other matters which have strategic implications by reason of their scale, nature or location.

(e) any other matters referred to it at the discretion of the **Director of Planning and Sustainable Development.**

3. To exercise a consultation and advisory role, commenting upon the content of proposed planning policy and upon the effectiveness of existing policies employed in development control decisions.

4. To exercise on behalf of the Council the function of final approval of the Area Action Plans, and any other document including a Site Allocation Policy, which form part of the Local Plan.

## NORTHERN AND SOUTHERN PLANNING COMMITTEES

### Terms of Reference

1. To exercise the Council's functions relating to town and country planning and development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges, set out in the Local Authorities (Functions and Responsibilities)(England) Regulations 2000. Some applications have been reserved to the Strategic Planning Board: others are delegated on to the **Director of Planning and Sustainable Development**: the following are retained for the Planning Committees:

applications for Small Scale Major Development **for:** ~~defined from time to time by DCLG. Currently this includes~~

- residential developments of ~~10~~ **20** -199 dwellings or between ~~0.5~~ **1** and 4ha

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**This does not include re-applications for extant schemes or detailed applications where an outline consent has been given or removal/variation of conditions.**

**However, there will be a presumption that a call in request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.**

**Where the application is to vary or remove a conditions that was imposed by the Planning Committee it will not be delegated.**

2. To determine any other planning & development control matters:

(a) advertised as a departure from policy, which the **Director of Planning and Sustainable Development** is minded to approve.

(b) submitted by a councillor, senior Council officer (**Grade 12** or above) or a member of staff employed within the Development Management and Policy service area; or by an immediate family member or partner of these **where representations objecting to the application have been received. Where objections have been received, applications recommended for refusal can be dealt with by officers under delegated powers.**

(c) **significant applications** by the Council either as applicant or land owner. ~~Unless the Head of Planning & Policy identifies some significant factor, this~~ **This** category will not normally include minor developments which accord with planning policy and to which no objection has been made.

(d) referred up to them by a councillor in accordance with the Committees' call-in procedure.

**However: -**



- i. Any request must be received within 15 working days of the issue of the electronic notification of the application, and set out the material planning consideration(s) which warrant the application going before committee.
- ii. Applications for householder development, listed building consents to alter/extend and conservation area demolitions will normally be dealt with under delegated powers.
- iii. Applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notifications will not be eligible for call-in and will be dealt with under delegated powers.
- iv. There will be a presumption that a call in request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.

(e) referred up to them at the discretion of the **Director of Planning and Sustainable Development**.

The Committees will refer up to the Strategic Planning Board matters involving a significant departure from policy which they are minded to approve **contrary to recommendation by the Director of Planning and Sustainable Development**.

(Constitution, page 127)

## **SCHEME OF DELEGATION TO OFFICERS**

### **1.0 INTRODUCTION**

1.1 Elected Members set policy, priorities and strategies to reflect local interests and needs and are responsible for allocating funding between individual priority areas and for approval of the methodology of implementation of policies and strategies.

1.2 Officers of the Authority are responsible for implementing these strategies and policies by delivering services and major initiatives. It is Officers who have responsibility for managing the Authority's day to day operations, within a policy and budgetary framework laid down by Members.

1.3 The Authority's Chief Officers (statutory and non-statutory) are listed under Part 2, Chapter 12 . The following Chief Officers comprise the Authority's Corporate Leadership Board (CLB). The Chief Executive, Executive Director of Strategic Commissioning, Chief Operating Officer, **Executive** Director of Economic Growth and Prosperity, Director of Public Health, Director of Adult Services, Director of Children's Services, **Director of Planning and Sustainable Development**, Head of Legal Services and Monitoring Officer and Head of HR and Organisational Development. Other Officers will attend CLB as necessary.

(Constitution, page 133)

1.32 The Chief Executive, Executive Director of Strategic Commissioning, Chief Operating Officer, **Executive** Director of Economic Growth and Prosperity, Director of Adult Social Care and Independent Living, Director of Children's Services, **Director of Planning and Sustainable Development** and Director of Public Health are authorised to exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000.

(Constitution, page 142)

#### **4.0 EXECUTIVE DIRECTOR OF ECONOMIC GROWTH AND PROSPERITY**

**4.1 To have overall management responsibility for Director of Planning and Sustainable Development.** The Director of Economic Growth and Prosperity has overall responsibility for the operational management and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the Service is responsible. It comprises the following main functions:-

- Economic Intelligence and investment planning
- Skills for Work
- 14+Education, Apprenticeships and NEETS
- Adult Education and Lifelong Learning
- Learner Information, Advice and Guidance Services
- Tourism, Visitor Economy, Culture, Arts and Heritage (including Tatton Vision)
- Business Engagement and Support
- Land and Property Acquisition, Disposal and Management
- Strategic infrastructure projects
- Employment Sites
- Housing Strategy and Development
- Strategic/Spatial planning
- Rural Economy/Access
- Sustainable Towns
- Inward Investment and Funding
- Local Enterprise Partnership
- Enterprise
- Development Control (major applications)
- Corporate landlord
- Development Management and Building Control
- Commons

~~4.2 Within the following areas, the Director of Economic Growth and Prosperity is empowered to operate the Service and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including, but not limited to the following:~~

**Director of Planning and Sustainable Development:**

The Director of Planning and Sustainable Development will provide a professional focus and lead for Strategic/Spatial Planning, Development Management, Building Control, Land Charges, Street Naming & Numbering and Neighbourhood Planning.

:

- To be professionally accountable for the effectiveness, availability and value for money of the service;
- To perform a leadership role
- Manage cultural change
- Act as relationship manager with Civicance
  - To improve working practices and customer services; and
- To build and lead effective partnerships.

4.3 To act as Proper Officer in respect of the Ordnance Survey under Section 191 of the Local Government Act 1972

4.4 To act as Proper Officer under Section 1 of the Countryside and Rights of Way Act 2000 relating to the Access

#### **Development Management and Building Control**

4.5 Apart from matters reserved to the Strategic Planning Board and Planning Committees, to exercise and make decisions in respect of all those Council functions set out in the Local Authorities (Functions & Responsibilities (England) Regulations 2000 which relate to town & country planning and development control under the Town and Country Planning Act 1990, including planning applications, permitted development, the protection of important hedgerows, the preservation of trees and the regulation of high hedges.

Note: Development control functions include decisions regarding planning applications, permitted development, certificates of lawful use and development, enforcement, listed buildings and conservation areas. These planning functions are to be construed purposively and broadly, to include anything which facilitates or is incidental to them and will also include power to impose conditions, limitations or other restrictions or to determine terms to which approvals are subject, and to modify, vary or revoke approvals

4.6 To exercise all the powers and duties in relation to Building Control under the Building Act 1984 and related legislation and under Building Regulations, including but not limited to the determination of plans and applications, dealing with dangerous structures and all enforcement under the Act and Regulations

4.7 To vary the Standard Fee Scales of the Local Government Association Model Scheme by up to plus or minus 10%

4.8 To exercise all powers and duties relating to Local Land Charges

4.9 To take all action to ensure dangerous trees are removed or made safe or to ensure that they are made safe or removed and to reclaim the costs under the Local Government (Miscellaneous Provisions) Act 1976

## **Part 3**

### **NEIGHBOURHOOD PLANNING – DELEGATION TO OFFICERS**

There are key stages at which the Council must issues decisions or respond to the Neighborhood Plan proposals. These are:

1. Neighbourhood area application
2. Regulation 14 consultation (Council response to draft Neighbourhood Plan)
3. Proceed to regulation 16 consultation
4. Proceed to examination
5. Cheshire East Council adopt plan

These matters are all delegated by the Cabinet to the Cabinet Member for Jobs and Houses. Stages 1 and 2 are during plan preparation by the community and predominantly involve technical assessments and are delegated to the Director of Planning and Sustainable Development.