

Report to	<b>Planning Committee</b>
Date	<b>15 March 2012</b>
By	<b>Director of Planning</b>
Title of Report	<b>Determination of Planning and Related Applications: Delegation to Director of Planning by Planning Committee</b>
Purpose of Report	<b>To set out a revised process for identifying whether representations by 3<sup>rd</sup> parties are material and significant and to take a revised process for South Downs National Park Authority (SDNPA) Member referral to the Planning Committee to take effect from 1 April 2012</b>

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**Recommendation: The Committee is recommended to approve that:**

- A). from 1 April 2012;**
- (i). all applications within the recovered service areas or called in by the SDNPA for determination with more than 5 letters of representation are referred to the SDNPA planning committee for determination; and**
  - (ii). all applications which the Director of Planning is minded to refuse and there is a letter of support from the parish or town council are referred to the SDNPA planning committee for determination; and**
  - (iii). all applications which the Director of Planning is minded to permit and there is a letter of objection from the parish or town council are referred to the SDNPA planning committee for determination; and**
  - (iv). where a request from a Member has been received within 28 days of notification to that effect an application is referred to the SDNPA planning committee for determination.**
- B). That the process set out in A is reviewed at the end of 6 months**

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**1. Introduction and Summary**

- 1.1 On the 1 April 2012 the SDNPA will recover the planning service from Brighton & Hove, Eastbourne, Wealden and Arun because those local authorities have given notice that they no longer wish to determine applications on our behalf. It is understood that the reason for this relates to the operational issues of operating two separate administrative systems when the SDNPA implements Idox for processing all applications submitted to the SDNPA. This is because those authorities currently use an alternative processing system and the limited number of applications within the South Downs National Park (SDNP) in those local authority administrative areas would not justify the resource implications of operating two separate systems.
- 1.2 The current system of delegation reflects the character of the current case load of applications determined by the SDNPA Development Management Service which comprises major applications and other applications which are considered likely to be significant from a National Park perspective.
- 1.3 From the 1 April 2012 the case load will include all planning and related applications in the four authorities listed in paragraph 1.1 above and the revised Scheme of Delegation is proposed to reflect this change in the nature of the case load.

**2. Background**

- 2.1 At the South Downs National Park Authority meeting on 21 June a scheme of delegation to The Director of Planning was approved. This scheme authorised the Director of Planning to make all decisions required and take all actions necessary in the discharge of the functions

of the Authority falling within the terms of reference of the Planning Committee with certain exceptions. The Scheme of Delegation took account of the agreements made with the 15 local authorities which in effect delegated the majority of applications to them for determination (the 'Section 101' Agreements).

2.2 The exceptions are:

- planning applications which are contrary to the approved or draft development plan or
- other planning policies but which are recommended for approval;
- applications which are requested for referral to the Planning Committee by any Member of the South Downs National Park Authority, in writing or email to the Director of Planning and with specified reasons;
- applications which, in the opinion of the Director of Planning, have generated significant and material third party representations which are contrary to the officer recommendation;
- applications from South Downs National Park Authority Members or employees;
- applications submitted by or on behalf of the South Downs National Park Authority for its own developments, except for the approval of minor developments;
- applications which, at the discretion of the Director of Planning, have potential significant impact or could set an important precedent.

2.3 At the meeting on 8 August 2011 the planning committee agreed the criteria to be used by the Director of Planning to identify those planning applications which have significant and material third party representations and a process for SDNPA Members to refer applications to the Planning Committee. These criteria and the 'proposed to be delegated' process are set out at **appendix 2** of this report.

### **3. Analysis of existing schemes of delegation within the SDNP**

3.1 A analysis of the criteria used within the existing schemes of delegation of the 15 local authorities within the SDNP has been undertaken and the results are listed in **Appendix 1**. Some criteria are broadly similar to those set out in paragraph 2.2 of this report. However determination of the following applications is not delegated to officers in some local planning authorities:

- (i) those requiring referral to Secretary of State other than listed building consents
- (ii) EIA development
- (iii) major development
- (iv) those materially affecting Scheduled Monuments, Sites of Importance for Nature Conservation and Sites of Special Scientific Interest
- (v) those made by other Local Authorities and, Parish Councils,
- (vi) where there is an objection by statutory consultee
- (vii) where there is comment from Town Council or Parish Council contrary to recommendation
- (viii) where there are representations contrary to recommendation and/or deputation request ranging between 1 and 6 in number
- (ix) where there is a request from a disabled access advisory group within public consultation period stating desired outcome – if officer recommendation is in accordance then the request is deemed withdrawn
- (x) where there is a financial compensation claim risk
- (xi) for more than 3 houses recommended for permission
- (xii) for major variations to S106s
- (xiii) for non urgent article 4 directions
- (xiv) for significant proposals recommended for permission

3.2 As can be seen there is great variation in schemes of delegation operating in the Park. The scheme proposed for the SDNPA is considered to be proportionate and reflect the nature

of the applications, with extensive delegation covering the more minor applications and clear guidelines as to how more significant applications will be treated. In addition there is the fail safe of Members being able to call any application in. It should also be noted that where any recommendation is contrary to the Parish view, the matter will also be referred to Committee.

#### **4 Conclusion and Recommendation**

- 4.1 The existing SDNPA Scheme of Delegation is considered, in principle, appropriate for all applications considered by the SDNPA Development Management service including the service recovered from the local authorities listed in paragraph 1.1 of this report.
- 4.2 However, the approved criteria for identifying significant and material third party representations for the case load currently dealt with by the SDNPA Development Management service, such as the need for 10 letters before an application is automatically referred to Committee) and the approved 'proposed to be delegated process', would not be appropriate for all applications which will be dealt with after the service is recovered from the four local authorities listed in paragraph 1.1 of this report. This is because:
- controversial householder and minor applications would not necessarily attract the same number of representations as applications with strategic significance; and
  - the circulation of detailed reports on householder and applications of less strategic importance to all Members of the SDNPA would be an ineffective and inefficient use of officer and Member resources.
- 4.3 It is proposed that from 1 April 2012 all Members of the SDNPA will be sent a weekly list of applications within the recovered service areas and notified of applications called in by the SDNPA for determination. If any Member wishes an application on the weekly list to be considered by the SDNPA committee they would notify the Director of Planning by e mail attachment setting out their reasons and an indication of the basis for the application to be considered by committee eg if the officer recommendation is to refuse and there are letters of support and vice versa. A form will be made available for this purpose and circulated with the weekly list. (**Appendix 3**). This is common practice in local planning authorities.
- 4.4 In addition it is proposed to reduce the number of representations which would trigger an application being considered by the SDNPA planning committee to 5 and include any applications where there was an objection by a parish or town council where the officer recommendation is to refuse and vice versa.

#### **5 Resources**

- 5.1 The revised Scheme of Delegation will have a neutral impact on resources.

#### **6 Risk management**

- 6.1 The identified risk in the proposed changes to process is of Members not being involved or informed. The proposed mitigation is circulation of a weekly list of applications submitted in the local authority areas where the service has been recovered and a form which they can use to request referral to committee.

#### **7 Crime and Disorder Implication**

- 7.1 It is considered that the proposal does not raise any crime and disorder implications.

#### **8 Human Rights Implications**

- 8.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

#### **9 Equalities Act 2010**

- 9.1 Due regard, where relevant, has been taken to the South Downs National Park Authority's equality duty as contained within the Equalities Act 2010.

#### **10 External Consultees**

- 10.1 None.

**TIM SLANEY**

**Director of Planning**

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Appendices	1. approved criteria and process 2. Summary of existing schemes of delegation in SDNP 3. Example of a referral form
SDNPA Consultees	Monitoring Officer & Senior Solicitor.
Background Documents	Agenda Item 9 Report PC 18/11 14 March 2011 Agenda Item 7 report PC 45/11 8 August 2011

**A. Adur and Worthing**

**B. Arun all except**

- Where 5 representations received
- Member request
- Comment from TC or PC contrary to recommendation

**C. Brighton and Hove all except:**

- 5 reps contrary to officer rec
- Request from CAG or DAAG (Disabled access advisory group within public consultation period stating desired outcome – if officer rec in accordance then deemed withdrawn
- Ward councillor stating desired outcome – if officer rec in accordance then deemed withdrawn if a member of the planning committee must them declare prejudicial interest and not vote

**D. Chichester all except**

- Member requests except prior notifications that would expire
- Objections by statutory consultee or PC except where LDCE or tree works to TPO or in CA except prior notifications that would expire
- Member or staff and spouses and partners except prior notifications that would expire
- Significantly contrary to development plan except prior notifications that would expire
- Other local authority application with recommendation to refuse or object

**E. Eastbourne all except**

- Major (GPDO definition)
- Conflict materially with development plan
- Materially affection SAMs or SSSIs
- Member/Staff or spouses in CMT or planning
- Departures
- Discretion
- Request by member within 28 days
- Chair or ward councillor at any time up to determination
- 6 letters of objection
- Deputation request by objector in consultation period

**F. East Hants all except**

- Contrary to development plan and recommended for approval
- Where 5 letters of objection received and permission recommended and district councillor or chair/vice chair calls it in
- Staff and member apps and spouses
- Where head of Planning thinks controversial, significant impact on environment or in public interest

**G. East Sussex all except**

- objections from neighbours or stat consultees

- not in accordance with development plan
- Prior approval decisions (whether needed and if acceptable) if more than 3 objections

**H. Hampshire all except**

- Member request
- Decision by director
- Council owns land and scheme not minor/temporary
- Members and staff
- Deputation request
- Financial compensation claim risk

**I. Horsham all except**

- Departure applications within meaning of T&C (Development Plans and Consultations) (Departures) Directions 1999
- Applications requiring referral to SoS other than lbc
- EIA development
- Major development
- Development not in accordance with development plan
- Materially affection SAM, SINC or SSIs
- Applications made by Counciln PCs, CC or other lpcas
- Members and officer applications
- Planning committee direction otherwise
- Member request
- Representation contrary to recommendation and deputation request

**J. Lewes all except**

- Where they are not in accordance with development plan
- Where there are significant objections which could be sustained as reason for refusal
- Request form member within 14 days
- Objection from PC within consultation period

**K. Mid Sussex all except**

- CX, Heads of service and staff involved in planning applications and members, and spouses of all such
- Member requests supported by another member
- Where council landowner or applicant and Reg 3s does not accord with development plan
- Contrary to policy where permission recommended
- More than 3 houses recommended for permission
- Major variations to S106s
- Non urgent article 4 directions

**L. Wealden**

- Ward councillor stating desired outcome – if officer rec in accordance then deemed withdrawn
- ***Remaining delegation?***

**M. West Sussex all except**

- There is substantial adverse comment and the application is contrary to the development plan and there are no material considerations which outweigh this

**N. WCC all except:**

- Cllr requests -std form completed by cllr and attached to committee report
- Pc requests where contrary to officer rec
- Significant proposals permission
- Council applications rec permission with 1 or more objections
- 6 reps contrary to officer rec
- Member or staff

CLDs to Head of legal service

Stop notices Cx

**Approved Criteria for Identifying whether representations by 3<sup>rd</sup> parties are material and significant**

all applications (whether recommended for permission or refusal) with a contrary written response of a statutory consultee (including Parish Councils).

- a refusal of a 'major application' (10 or more dwellings or more than 1000 metres of floor space) that has generated more than a total of 10 letters/written representations of representation regardless of whether they are supporting or objecting to the proposal;
- a refusal of any application (other than a major application) that has generated more than 10 letters in support;
- Permission for any application other than a major application for a proposal which is in accordance with the Development Plan and National Policy which has generated more than 10 letters of objection.

**Process for SDNPA Member referral to the Planning Committee**

Where an application is proposed to be delegated to the Director of Planning for determination a report will be prepared by the case officer and approved by the Director of Planning setting out:

- The site description and proposal;
- Consultation responses;
- The number of representations received and a summary of the responses received;
- The relevant planning history;
- The planning policy context;
- A planning assessment;
- A conclusion and reasons for the recommendation; and
- The recommendation with reasons for permission of refusal and appropriate conditions.

A schedule of reports (or, if no applications are proposed to be delegated, a notice that this is the case) will be circulated each week (Thursday) to all Members of the South Downs National Park Authority. Members will have 5 working days from the date the Schedule is circulated to request the Director of Planning to refer the application to the Planning Committee. Such request must be made with reasons. If no such request has been received by 5.00 pm on the fifth working day following the date the schedule was circulated the delegation report will be signed off by the Director of Planning and the Decision Notice issued. A valid request will be a veto to the delegation to the Director of Planning and the matter must be considered by the Planning Committee.





Example of a referral form

**SDNPA Member request for an application under the Planning Acts to be referred to a Planning Committee for decision**

I wish to refer application [*insert application number*] at [*insert address*] to a Planning Committee for decision in the following circumstances:

- Irrespective of the recommendation of the Director of Planning
- Only if the recommendation of the Director of Planning is to grant the application
- Only if the recommendation of the Director of Planning is to refuse the application

**Member Name:** ..... **Date**.....

Member's reason(s) for making this request:

Please submit this request within 28 days of the date of the weekly list/call in notification by e mail to [dcplanning@southdowns.gov.uk](mailto:dcplanning@southdowns.gov.uk)

If Members have any questions about the application please contact the case officer identified on the weekly list call in notification

NB. In calling an application to Panel the Councillor is not pre-determining the application. Rather the Councillor is expressing a legitimate concern about an application and will reach a final conclusion, having considered all the matters presented at the meeting and being genuinely open to persuasion on the merits of the application, when a decision comes to be made by the Panel.