

REPORT FOR DECISION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	
SUBJECT:	DEVELOPMENT MANAGEMENT – SCHEME OF DELEGATION
REPORT FROM:	DEVELOPMENT MANAGER
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	PLANNING CONTROL COMMITTEE/COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	The report outlines proposals in relation to updating the Council’s Constitution both to reflect the current staffing structure and amending the scope of the existing decision-making arrangements
OPTIONS & RECOMMENDED OPTION	<p>Options:</p> <ol style="list-style-type: none"> 1. Accept the proposals in their entirety and recommend them to full Council; 2. Reject the proposals; 3. Amend the proposals before recommending them to full Council <p>The Committee is recommended to accept option 1 and approve the report before referral to full Council.</p>
IMPLICATIONS:	
Corporate Aims/Policy Framework:	<p>Do the proposals accord with the Policy Framework?</p> <p>N/A The proposals if approved will result in amendments to the Council’s Constitution</p>
Statement by the S151 Officer: Financial Implications and Risk Considerations:	<p>Executive Director of Resources to advise regarding risk management</p> <p>N/A</p>
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	N/A

Considered by Monitoring Officer:	The legal implications are set out in the report and the recommendations, if approved, will result in amendments to the Constitution and will have to be agreed by full Council.
Wards Affected:	ALL
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 Background

- 1.1 The Council's Constitution is a critical document that sets out broad workings of the Council's responsibilities and those involved in the operation of the Council's functions. Part of the Council's constitution also provides guidance and governance on decision making and who has responsibility for issuing decisions.
- 1.2 Section 101 of the Local Government Act 1972 Act deals with delegation of local authority functions (other than those which are the responsibility of an authority's executive under section 13 of the Local Government Act 2000). Section 101(1) provides that (subject to any express statutory provision) a local authority may arrange for the discharge of any of its functions by a committee, sub-committee or one of its officers.
- 1.3 For the purposes of expediency and to maintain swift decision making processes, some decisions are delegated to Officers. This is a key part of the Council's day to day running thereby allowing every operational and less impacting decision to take place on normal everyday matters as the need arises.
- 1.4 For the purposes of Planning and Development Management, this is an essential process, whereby of the 1500 or so applications (all variants) that are received by the Council's Local Planning Authority function over on annual basis, 89% of decisions are made by the Assistant Director (Localities) (Year ending March 2017 <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics> (P134)). The tables below show the respective averages of delegated decision making both in terms of the Great Manchester district and also as a national picture.

Table 1 shows the respective percentages of delegated decision in AGMA Year ending March 2017

Wigan	98
Trafford	95
Manchester	94
Oldham	94
Rochdale	94
Stockport	93
Salford	92
Tameside	92
Bolton	90
Bury	89

Table 2 shows the respective average percentages of delegated decisions on a National Regional basis Year ending March 2017

England	94
Shire districts	93
London Boroughs	95
Metropolitan Districts	95
Unitary Authorities	94
National Parks	93

Based upon application numbers and percentage of delegated decisions, Bury currently sits in 287th place out of 339 decision making authorities nationally.

2.0 Regulation Requirements

2.1 Planning and the speed of decision making are seen as a critical parts to the economic picture of an area, providing assurance and certainty on how development can proceed. This invariably connects through to issues of environmental, social concern and wellbeing. This is re-enforced through numerous provisions that planning legislation and regulation imposes upon Local Planning Authorities to speed up the delivery of planning decisions including:

- Article 35 – The requirement for a Local Planning Authority to confirm that it has worked positively and pro-actively to assist an applicant in seeking solutions to problems arising in dealing with a planning application
- The Planning guarantee
- Quarterly monitoring returns to DCLG
- Special Measures Thresholds on application decision times and appeal decisions
- Need for agreement with an applicant/agent to extend decision timeframes
- Rights of appeal for non-determination
- Methodology for determining whether LPA’s can increase fees based upon performance

2.2 Bury is currently performing well as one of the best performing authorities in the country, but there are tensions in delivering this level of performance consistently. These tensions are clearly experienced in terms resilience when staff take annual leave, sickness or staff leaving making the co-ordination of applications being received to meet the earliest Planning Committee meeting difficult and often, case officers are having to negotiate additional time to meet determination dates all of which impact upon processing capabilities and manpower as a rule.

- 2.3 The restrictive nature of the scheme of Committee/delegated decisions means that negotiated extensions of time, which may well become a Government timing measure in the future to identify the need for 'special measures' may put the Local Planning Authority into difficulty. When measures are introduced, the statistics to determine are taken for time periods in the past, meaning that it is necessary to be prepared in advance of such measures being introduced; the Local Planning Authority has already operated under revised practices already thus ensuring that special measures are not applied.
- 2.4 Clearly the need to balance a fair, efficient and transparent decision making mechanism that does not exert undue pressure upon staff in processing, is paramount. Furthermore in considering the likelihood of increased planning application numbers, maintaining resilience and an efficient service is vital and reducing unnecessary processing burdens and costs so that efforts can be maintained on issuing decisions quickly and effectively.
- 2.5 The Planning Advisory Service and DCLG suggest that Local Planning Authority decision making planning processes remains under review to ensure that performance is maintained and that schemes of delegation remain relevant to today's practices in a modern planning world.
- 2.6 Assessment of other Local Planning Authority delegation schemes has revealed that Bury's scheme of delegation does need to be revisited as it is evidently not only behind all of its immediate AGMA neighbours, but also needs to be better placed in terms of national considerations and it has not been reviewed for some considerable time.
- 2.7 Bury's Planning Committee process was Peer Reviewed in October 2015. The report was complimentary in that the decisions were made following healthy debate, meetings were well ordered and decisions robustly made. However, the report did highlight the need to maintain it's optimal purpose in considering the more important planning issues, by spending time on those items that create 'place' rather than using briefing time on more minor matters. Doing this means that more complex items secure greater depths of discussion and complicated issues can be better discussed with the time that they deserve.

3.0 Bury's Scheme of Delegation

- 3.1 Bury last reviewed its scheme of delegation in 2004, when the last Supplementary Planning Document 6 – House Extensions and Alterations was introduced. This document effectively meant that all but in exceptional circumstances, all householder applications with objections could be delegated.
- 3.2 In consideration of a recent 12 months worth of items presented to the Planning Control Committee, it is clear that many items were presented where there had been a small number of objections, 3 or below, to minor developments such as changes of use or small extensions, advertisements and prior approvals. On many occasions, objectors do not attend the meeting.
- 3.3 The Government have revisited the permitted development rights for all manner of development proposals and their general approach is to widen the scope of permitted development and on a general level "The Red Tape Challenge" or 'One Regulation in/two out' approach has been adopted. Therefore the general ethos of planning decisions and Government is to remove bureaucracy rather than maintaining or increasing it.
- 3.4 Most planning applications are decided by officers under delegated authority with only the more complex, large or controversial applications being strictly necessary to become committee decisions. In most Councils, more than 90 per cent of applications received by the authority are straightforward and decided by officers. As set out in tables 1 and 2 above, this is clearly not the case in Bury and minor proposals are being committee matters creating an unnecessary burden.
- 3.5 The PAS report discussing 'Decision Making Arrangements', made the following point in relation to Bury's Delegated decision making:

“To engender a pro-growth approach in the authority the development management function has to demonstrate that it can provide a fast and effective service. Inevitably this has led to, rightly or wrongly, speedy decisions being paramount. If this is to be maintained a good delegation agreement is central to this.

It is noted from the latest DCLG Planning Statistics (Q2 2014) that the Planning Authority performs well and is above the Metropolitan average in majors and other applications. In terms of delegated decisions these statistics show that 90% of applications are delegated to officers in the authority. This is below the current 95% Metropolitan average.”(PAS January 2016).

- 3.6 The length of time since the last review, the significant changes Government has introduced in planning and an assessment of other LPA delegation schemes in the AGMA authorities has revealed that Bury’s scheme of delegation needs to be revisited. Leaving the scheme as it stands does not reflect the lifting the burden approach policy has adopted and Bury is evidently behind its immediate AGMA neighbours and nationally.
- 3.7 It has fallen behind many Local Authorities which is reflected in only 89% of decisions being delegated within the monitored period. The current constitution for delegated decisions in relation to planning applications could readily be less restrictive, whilst ensuring that the Planning Control Committee spend time on other more impacting proposals which often have complex issues associated with them. Manpower associated with agenda preparation for the respective Planning Control Committee reports introduces burdens and delay for items that are relatively minor in any event and not reflecting of the key important decisions that the Planning Control Committee realistically should be considering.

4.0 Proposals

- 4.1 In analysing the types of Committee decisions over the last three years, table 3 sets out the numbers of objections received in relation to applications considered by the Committee (March to March in each respective years).

Table 3 sets out the numbers of objections received in relation to applications considered by the Committee

Nos. of objections received	2014/15	2015/16	2016/17
1	19	34	40
2	8	14	17
3	11	13	10
<i>The following numbers would be committee items if the scheme was adopted</i>			
4	2	3	8
5	3	5	3
6 or more	14	26	15
Majors or novel issues or outside delegated scope	10	5	10
ALL	67	100	103

- 4.2 From the table, it is clear that there are an overwhelming number of applications being considered by the Committee with very limited levels of public interest. The proposals contained within Appendix A show how the scheme of delegation could be amended to take out of the committee cycle and sit within the scheme of delegation. The proposals suggest that where there are three or fewer objections, from different households, that these be delegated decisions.
- 4.3 It is important to note that the current scheme of delegation permits all householder applications to be delegated decision irrespective of the numbers of objections received. The process is that the Development Manager scrutinises the proposals and officer reports to ensure consistency and compliance or conflict against local and national planning policy before a decision to approve or refuse is issued.

- 4.4 The proposed scheme of delegation would operate in the same way. Furthermore, the proposed constitutional amendment would retain the appropriate mechanisms for any application 'to be called in' thus ensuring that the functionality of the Planning Control Committee can consider important applications and any others for that matter, as appropriate.
- 4.5 Apart from changing titles of posts that no longer currently exist (deletion of Chief Planning Officer and replaced by Assistant Director (Localities), in summary the proposals are contained within Appendix A.
- 4.6 **Brownfield Land Register**
This is a new introduction by the Government whereby local planning authorities are required to prepare and maintain a Brownfield Land Register of previously developed land in their area which meet the following four criteria:
- a) the land has an area of at least 0.25 hectares or is capable of supporting at least 5 dwellings;
 - b) the land is suitable for residential development;
 - c) the land is available for residential development; and
 - d) residential development of the land is achievable.
- 4.7 The Register has two parts. Part 1 includes all previously developed land which meets the four criteria above, and is effectively a subset of the sites included in the Strategic Housing Land Availability Assessment (SHLAA). Part 2 of the Register is a subset of Part 1, and will comprise only those sites that the LPA has considered and determined can be granted 'Permission in Principle' (PIP) under the PIP Order. Entering a site on Part 2 of the register effectively grants an outline permission in principle for development, in a bid to get development interest. The LPA would have to publicise proposals first and then decide whether to grant PIP or not.
- 4.8 It is proposed that authority for compiling, publishing and reviewing Part 1 of the Brownfield Register; proposing land for inclusion in Part 2 of the Register along with all necessary publication, notification and consultation procedures; and removing sites from Part 2 of the Register is delegated to the Assistant Director (Localities) / Resources and Regulation.
- 4.9 It would be prudent to consider the process of entering a site onto Part 2 of the Brownfield Land Register in a similar way to an outline planning application and how objections are handled. As such, it is proposed that the decision-making is the same as for planning applications - where sites are major ones, then these should be treated in the same way as major applications and be presented to Committee. Where an application is not major it will follow the same criteria for referral to committee as for planning applications as set out in Appendix A. .
- 4.10 Following grant of Permission in Principle it will be necessary for permission for Technical Details Consent to be granted prior to commencement of development, akin to an application for Reserved Matters. It is proposed that applications for Technical Details Consent be determined by the Assistant Director (Localities) / Resources and Regulation for minor proposals even where three or more objections are received as by definition these are not place making developments and also due to the significant short period required for determination (5 weeks). There would still be the requirement for these to be referred to committee if they relate to Council/Councillor owned sites, would constitute a substantial department or are called in etc. In relation to Technical Details Consent for major proposals, it is proposed that these follow the same criteria for referral to committee as a planning application (needing a decision still within 10 weeks).
- 5.0 Process**
- 5.1 Only Full Council can make changes to the Constitution. Therefore, Planning Control Committee are requested to consider the proposals and options being put to it in order for the next steps to be undertaken. The Planning Control Committee's decision would be reported to the Full Council accordingly and for that body to determine whether or not to amend the Council's constitution.

6.0 Conclusion

- 6.1 The above report sets out to show that Bury, as one of the Greater Manchester Planning authorities is a good performing authority in terms of the speed of decision making which the Government considers to be of great importance. However, overall, the authority has not properly reviewed its decision making processes for some time, which it is required to do and also as a result, it has fallen behind its AGMA neighbours, sits well down the table of decisions issued comparatively nationally.
- 6.2 As a leading authority with its forward thinking approach and aims to engender sustainable growth, planning decisions whilst maintaining transparency must balance timeliness against necessity.
- 6.3 Analysis shows that the Committee is agenda is heavily weighted with items that have little 'place making' impact and as such, those applications that do have greater impact deserve a greater stage of consideration. As such, the proposals being put forward in this report aim to give the Planning Committee the ability to consider revising the constitution in relation to the scheme of delegation that is both robust and meets with the Government's objectives of timeliness and quality whilst maintaining appropriate triggers for local intervention by the Planning control Committee.

List of Background Papers:-

PAS Peer Review of Bury Council Planning Control committee 2016
DCLG PS1/PS2 returns 2014-2017

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APPENDIX A

The following table sets out the current scheme of delegation and the suggested amendments for the Planning Control Committee (PCC) together with an explanation behind the proposals.

Current Constitution Wording	Proposed Amendment	Reasoning
<p>(A) Delegations to Planning Control Committee</p> <p>1. To deal with any applications for planning permission under the Town and Country Planning Act 1990 and related legislation or for listed building consent under the Planning (Listed Buildings and Conservation Areas) Act 1990, subject to the inclusion of adequate detailed information relating to the application which is to the satisfaction of the <i>Chief Planning and Economic Development Officer</i>, as follows:</p>	<p>(A) Delegations to Planning Control Committee</p> <p>1. To deal with any applications for planning permission under the Town and Country Planning Act 1990 and related legislation or for listed building consent under the Planning (Listed Buildings and Conservation Areas) Act 1990, and Permission in Principle subject to the inclusion of adequate detailed information relating to the application which is to the satisfaction of the <u>Assistant Director (Localities)/Resource and Regulation</u>, as follows:-</p>	<p>The post of Chief Planning and Economic Development Officer no longer exists and to be replaced by Assistant Director (Localities)/Resource and Regulation</p>
<p>(a) (i) Any application recommended for approval where there is a material planning objection, with the exception of any domestic householder planning application which falls within the approved supplementary planning guidance ; and (ii) Any application which has raised a novel planning issue.</p>	<p>(a) (i) Any <u>planning</u> application recommended for approval where there <u>are three or more objections received from third parties from different households</u>, with the exception of any domestic householder planning application which falls within the approved <u>supplementary planning guidance note 6 or otherwise would be accepted under Prior notification procedures in relation to enhanced permitted development rights</u>; and (ii) Any application which has raised a novel planning issue;</p>	<ol style="list-style-type: none"> 1. Introduction of three or more objections increases the scope of delegation to Officers 2. Greater clarity is provided that householder decisions are made in accordance with the adopted policy SPD6 3. The Government has introduced greater development rights that normally are beyond the scope of SPD6 but receive no objections and as such should also be duly delegated decisions 4. Novel planning issues should remain PCC matters
<p>(b) Any application in respect of which at least one Member of the Planning Control Committee has given prior written notice to the Director of Environment and Development Services or Chief Planning and Economic Development Officer that he/she wishes the application</p>	<p>(b) Any application in respect of which at least one Member of the Planning Control Committee has given prior written notice to the <u>Assistant Director (Localities)/Resource and Regulation</u>, that he/she wishes the application to be determined by the Planning Control Committee, <u>which</u></p>	<ol style="list-style-type: none"> 1. The department and job role no longer exists 2. There needs to be a planning reason for the call in 3. There was previously no mechanism of elected Member check to consider the request

<p>to be determined by the Planning Control Committee</p>	<p><u>must state clear planning reasons for the call in request and be authorised by the Chair of the Planning Control Committee.</u></p>	
<p>(c) Any application relating to a development which would constitute a substantial departure from the provisions of any approved plan or policies, in particular the Unitary Development Plan which is recommended for approval and/or is not a repeat or duplicate application of one previously refused.</p>	<p>(c) Any application relating to a development which would constitute a substantial departure from the provisions of any approved plan or policies, in particular the Unitary Development Plan <u>or subsequent adopted Local Plan</u>, which is recommended for approval and/or is not a repeat or duplicate application of one previously refused.</p>	<p>The Unitary Development Plan would be replaced at some point by another Local plan and therefore the constitution needs to accommodate this</p>
<p>(d) Any application submitted by or on behalf of a Member of the Council or his/her spouse or by an officer of the Council, which is recommended for approval.</p>		<p>No change proposed</p>
<p>(e) Any application over and above the levels defined in (i) and (ii) detailed below, subject to the application not being a repeat or duplicate of an application previously refused:- (i) 50 or more dwellings or, if it is known, where the site is 2.5 hectares or more; (ii) for all other uses, where the floor space to be created is 5,000 square metres or more or the site is 0.5 hectares or more.</p>		<p>No change proposed</p>
<p>(f) Any other application which, in the opinion of the Director of Environment and Development Services or Chief Planning and Economic Development Officer merits consideration by the Planning Control Committee.</p>	<p>(f) Any other application which, in the opinion of the <u>Assistant Director (Localities)/Resource and Regulation</u>, merits consideration by the Planning Control Committee.</p>	<p>1. The roles of the Director of Environment and Development Services or Chief Planning and Economic Development Officer no longer exist</p>
	<p>(g) the decision to enter land in Part 2 of the Council's Brownfield Land Register thereby triggering a grant of</p>	<p>1. This is new legislation which must be operating by 31 December 2017</p>

	Permission in Principle where the criteria referred to at (a) to (f) above are met and any application for Technical Details Consent where the criteria at (b) to (f) above are met	
	(h) Any application submitted on behalf of the Council where there is at least one objection received from third parties.	1. This is a newly introduced category that previously did not exist and maintains transparency.
2. To deal with the naming and re-naming of streets and the numbering and renumbering of properties, where objections have been received to proposals.		No change proposed
3. To deal with the making or confirmation of tree preservation orders, in accordance with Sections 197 to 214D of the Town and Country Planning Act 1990 (or as subsequently amended) and <i>the Tree Regulations 1999</i> (or as subsequently amended), where objections have been received to proposals.	3. To deal with the making or confirmation of tree preservation orders, in accordance with Sections 197 to 214D of the Town and Country Planning Act 1990 (or as subsequently amended) and the <i>Tree Regulations 2012</i> (or as subsequently amended), where objections have been received to proposals.	1. Updated regulations are reflected 2. To accommodate future amendments without the need to revisit the constitution
4. To determine applications for grants for repair/maintenance works in respect of listed buildings where the amount of grant requested exceeds £5,000.		No changes proposed
5. To designate a conservation area under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	5. To designate a conservation area under Section 69 of the <i>Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990</i>	Allows the process to continue in the event of legislative changes

	<u><i>(or as subsequently amended).</i></u>	
6. To give directions restricting permitted development under Article 4 of the <i>Permitted Development Order 1995.</i>	6. To give directions restricting permitted development under Article 4 of the <i>Town and Country Planning (Development Procedure)(England) Order 2015 (or as subsequently amended).</i>	Reflects a change in legislation
7. To deal with any functions relating to town and country planning and <i>development control</i> referred to in the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, where the appropriate officer does not wish to exercise his/her delegated powers	7. To deal with any functions relating to town and country planning and <i>development control (development management)</i> referred to in the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, where the appropriate officer does not wish to exercise his/her delegated powers	Change in the naming of the specific planning function
8. To deal with any functions relating to commons registration referred to in the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, where the appropriate officer does not wish to exercise his/her delegated powers		No changes proposed.
9. To deal with any functions relating to public rights of way referred to in the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, where the appropriate officer does not wish to exercise his/her delegated powers		No changes proposed.

The Constitution makes the following points in relation to Whipping and the basis of decision making for information. No changes are proposed.

Whipping

The Whip will not apply to any of the political groups or their respective Members on the Planning Control Committee, Licensing Committee/Panels and Standards Committee while they are taking part in Committee business

Basis of Decision Making

1. Decisions will be taken, and seen to be taken, in a non party political manner within the framework of the law, Council Policy and the Constitution.

2. No political meetings shall take place prior to the Planning Control, Licensing and Standards Committee meetings.
3. Each Member of these Committees will act in accord with procedures, protocols and guidance that the Council may determine.
4. The Committees mentioned in this Article:
P148 Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself permission under Regulation 3 of the Town and Country Planning General Regulations 1992.