

## REPORT OF HEAD OF DEVELOPMENT MANAGEMENT

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### **SUBJECT: DELEGATION OF MATTERS RELATING TO THE DISCHARGE OF PLANNING (AND OTHER) CONDITIONS IN RELATION TO OFFICER/MEMBER/AUTHORITY APPLICATIONS**

#### Purpose of the Report

The purpose of this report is to recommend changes to the Authority's Scheme of Delegation in respect of the discharge of conditions in relation to:

- (a) planning applications and similar applications submitted by Members or officers or their immediate family;
- (b) where officers or Members are declared as the owners on the ownership certificates;
- (c) where officers have an interest in the application;
- (d) by Members who have been Members of the Authority less than 12 months prior to the application, or
- (e) when the application is made on behalf of the Authority.

#### Background

The Authority has an adopted Scheme of Delegation in relation to planning matters which sets out those planning matters that are delegated to the Chief Executive and/or Director of Park Direction and Planning and/or the Head of Development Management. This was last updated in July 2013. In most cases, the discharging of conditions is delegated to officers under this Scheme of Delegation.

#### Current Situation

Members will be aware that recent changes in practice now formally log the discharging of conditions and this has highlighted that for those applications where an officer or Member has an interest, there is no express delegation to officers to discharge related conditions. As such, discharge of condition applications should be reported to Members for a resolution.

It is considered that this is unduly onerous as applications can involve a number of conditions requiring discharging and if each one needs to be reported to Committee this will lead to delay and significant resources on the planning team. Delegation will enable these matters to be considered in a timely and efficient manner without holding up projects in their development stages.

#### Proposals

In view of the above it is proposed that the Scheme of Delegation be amended to enable the discharge of conditions in relation to applications including planning, listed building applications and advertisement applications:

- (a) submitted by Members or officers or their immediate family;
- (b) where officers or Members are declared as the owners on the ownership certificates;
- (c) where officers have an interest in the application
- (d) submitted by Members who have been Members of the Authority less than 12 months prior to the application, or
- (e) the application is made on behalf of the Authority

to be delegated to the Chief Executive and/or Director of Park Direction and Planning and/or Head of Development Management.

#### Legal and Financial Implications

As these measures are intended to alter the existing Scheme of Delegation rather than introduce any new requirements it is not considered that there will be any legal or financial implications arising from these proposals.

#### Risk considerations

There is an element of risk in that there could be a perception that as these matters are being submitted by Members or officers of the Authority or their families, that there could be an element of favouritism and a lack of transparency and openness in discharging conditions.

However, it is considered that this is a low risk, and as the applications will already have been considered by the Development Management Committee and authorisation been given to impose conditions there will already have been scrutiny in respect of the applications concerned. Furthermore, conditions by their nature are generally matters of detail and not dealing with the heart of the consideration of the application and it is not considered that the risks outweigh the benefits of amending the scheme of delegation to enable these matters to be dealt with quickly and efficiently with minimal amounts of resource implications.

#### Conclusions

It is considered that the alterations to the Authority's Scheme of Delegation be brought into effect to enable the Chief Executive and/or Director of Park Direction and Planning and/or Head of Development Management to discharge conditions in relation to applications submitted under the conditions referred to previously in the report. It is recommended that the new procedures be brought in with immediate effect.

#### **RECOMMENDATION:**

**That Members endorse the following:**

- 1. Approval of the amendments to the Scheme of Delegation as set out in Appendix 1 to this report.**
- 2. That the changes take immediate effect.**

Background Documents

Pembrokeshire Coast National Park Authority Planning Delegations to Officers

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## D) PLANNING APPLICATIONS AND RELATED MATTERS

- 1) The following matters are delegated to the [Chief Executive / \(National Park Officer\)](#), in the absence of the Director of [Park Direction Conservation](#) and Planning and/or the Head of Development Management (*exceptions to this are listed under 2 (Exceptions) below*): (NPA 15/03/06)

Where applicants requested that applications be considered by Committee to give them the opportunity to speak at Committee, these requests be refused if that is the only reason given. (NPA 14/10/09)

### a) The consideration and determination of all submissions made under current planning legislation. These include:

- Planning applications;
- The imposition of conditions and reasons for decisions on planning permissions;
- Detailed information required by conditions of planning permissions;
- The discharge of conditions in relation to applications submitted by Members or officers or their immediate family, where officers or Members are declared as the owners on the ownership certificates, where officers have an interest in the application, by Members who have been Members of the Authority less than 12 months prior to the application, or the application is made on behalf of the Authority. (NPA 5/2/14);
  - The formulation of reasons for the refusal of planning applications;
  - Applications to develop land without compliance with conditions previously imposed;
  - Retrospective applications;
  - Listed Building and Conservation Area applications;
  - Service of Listed Building Preservation Notice;
  - Advertisement applications;
  - Applications for Hazardous Substances Consent;
  - Minerals and Waste applications;
  - Proposals affecting trees covered by a Tree Preservation Order;
  - Proposals required to be notified to the L.P.A. under Planning regulations (General Permitted Development Order, etc);
  - Applications for Certificate of Lawful Use and Development (CLEUD), and Certificated of Proposed Use and Development -(CLOPUD);
  - Applications to vary or discharge Section 106 agreements;
  - The revocation or modification of a planning permission;
  - Appeals against the refusal of planning permission, conditions of consent, etc;
  - Applications for Certificates of Appropriate Alternative Development.

**b) The consideration and determination of issues under the Environmental Impact Assessment regime:**

- The need for a Scoping Opinion
- The need for a Screening Opinion
- The need for the submission of an Environmental Impact Assessment.
- Engaging public consultation in respect of an Environmental Impact Assessment.
- Consideration of the adequacy of the Environmental Statement

**c) The consideration of “Working amendments”** (*Policy Committee 18/07/2001*)

- the working programme within a quarry where the changes were contained within the excavated area of the quarry;
- minor amendments that had become essential because of practical or constructional difficulties which could not have been foreseen (e.g. escape window to meet Building Regulations);
- relocation of openings within an elevation that already had openings where that opening was in close proximity to, and at the same floor level as, that originally approved;
- minor re-siting (within a metre) of a dwelling in a single plot, provided that the change resulted in no greater overlooking of neighbours’ properties;
- changes to landscaping details;
- reduction in the size of a proposed extension to which there was no objection, and
- minor alterations in site levels which resulted in an increase of ridge height of 300mm or less.

**d) Other Functions:**

- Tree preservation orders and applications to fell/lop within such areas
- Purchase Notices
- Designation of Conservation Areas
- Completion Notices

The Authority is also required to comment on applications being considered by other authorities.

**2) EXCEPTIONS**

The following matters have to be the subject of a report to the Development Management Committee:

- Any application subject to Environmental Impact Assessment.
- Any “major” application as defined by the need to advertise the proposal under article 8 of the General Development Procedure Order, 1995.

- Any application that is contrary to the provisions of the Development Plan but which is to be recommended for approval.
- Any application where there is conflict between the Development Plan policies and policies proposed in an emerging plan.
- Any application [\(except discharge of condition – see above\)](#) submitted by a Member of the Authority, or a member of his immediate family, or a member who has left the Authority less than twelve months prior to the submission of the application.
- Any application [\(except discharge of condition – see above\)](#) submitted by, or in which an officer employed by the Authority has an interest.
- Any application [\(except discharge of condition – see above\)](#) where the owner of the land is a Member or an officer of the Authority as declared on the ownership certificate accompanying the application.
- Any application that is to be determined contrary to the view expressed by the Community Council, where that view is a material planning consideration. The only reason for bringing an item to Committee in these circumstances should be based on a material planning consideration. The comment 'support' or 'object as it is retrospective' would not be judged a sufficient reason to bring an item to Committee if the officer recommendation was contrary. (Caveat amended by NPA 14/10/09)
- Any application that is to be recommended for approval contrary to the advice of a Statutory Consultee.
- Any application which the Chief Executive, Director of [Park Direction](#) and Planning and/or the Head of Development Management decides should be referred to Committee because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial. Justification for this approach to be recorded on the file.
- Any application made by or on behalf of the Authority or an application in which the Authority has a financial interest as landowner
- The designation of a Conservation Area.
- Any application that a Member requests be brought before the full Committee. Members wishing to take advantage of this provision are to advise the officer in writing using the appropriate form within 21 days from the receipt of a valid application, giving the reasons why they would like the matter considered by the Committee. (Criterion added NPA 14/10/09 and amended NPA 07/12/11)

3) The Chief Executive (National Park Officer), Director of [Park Direction](#) and Planning, [Head of Legal Services](#) and the Head of

Development Management be authorised to approve provisional Tree Preservation Orders – the signatures of any two officers being required on such an Order. (NPA 20/09/04)

#### 4) ENFORCEMENT

a) Consideration of the need to serve the following are delegated to the [Chief Executive](#) / [\(National Park Officer\)](#), in the absence of the Director of [Park Direction](#) ~~Conservation~~ and Planning and/or the Head of Development Management:

- Planning Contravention Notices (Principal Planning Officers also authorised to sign, subject to no officer signing PCNs which relate to cases on which they are the case officer) (NPA 01/02/12)
- Breach of Condition Notices
- Enforcement Notices
- Listed Building Enforcement notices
- Stop Notices
- Injunctions
- Institute Prosecutions or other legal proceedings

b) Every enforcement case is delegated unless (NPA 01/02/12):

- i. There is a breach of planning control and the case is contrary to the provisions of the Development Plan but it is recommended that enforcement action should not be taken (this would not include cases that are lawful by virtue of the passage of time or are of such a minor nature that it is not expedient to take action).
- ii. There is a breach of planning control and the case complies with the provisions of the Development Plan but it is recommended that enforcement action should be taken.
- iii. The case relates to a Member of the Authority, or a Member of his /her immediate family or a Member who has left the Authority less than twelve months prior to the commencement of the investigation.
- iv. The case relates to a site in which an officer employed by the Authority has an interest.
- v. The case is one which the Chief Executive, Director of Park Direction and Planning, the Head of Development Management or the Authority's Solicitor/Legal advisor decides should be referred to [Ceommittee](#) because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial or which could have financial implications for the Authority. Justification for this approach is to be recorded on the file.
- vi. The case relates to land in which the Authority has an interest or has a financial interest as landowner.

- vii. Any Member may ask for a particular case to be brought before the Committee by writing to the Head of Development Management and giving full reasons which should be based on planning grounds.
- viii. Prosecution action is required - unless in relation to a breach of the advertisement regulations or in relation to works to a listed building which are criminal offences and often require immediate action as a result.

*This scheme of delegation relates to the taking or not of enforcement action, breach of condition action, action under Section 215 of the Town and Country Planning Act, action in respect of unauthorised advertisements etc*

*The delegation for taking action is given to the Chief Executive, Director of Park Direction and Planning, the Head of Development Management and the two Principal Planning Officers. The Authority's Solicitor will also be required to check all enforcement notices.*

*The delegation for serving a Stop Notice is given to the Chief Executive or Director of Park Direction and Planning in consultation with the Chair or Vice Deputy Chair of the Development Management Ccommittee.*

**5. The following matters under the Nationally Significant Infrastructure Projects regime:**

- All procedural matters including responses to the Statement of Community Consultation and adequacy of consultation request
- Response to Pre-application enquiries
- Preparation and Presentation of Evidence at Examinations
- The consideration and determination of information required by conditions of development consent orders

(NPA 26/06/13)