

Report To/ Decision Making Body:- Witham Area Committee	Date of Meeting:- 31 January 2006	Agenda Item:- 8
To be presented by Cabinet Member:- Cllr Scattergood (Planning and Rural Affairs)		
Title of Report:- Scheme of Delegation		
Wards Affected:- All	Background Papers:- Meeting of Braintree Area Committee 26 July 2005	
Financial Implications:- Planning Delivery Grant	Policy Implications:- Implications for the Council's medium term and long term financial strategy	
Sustainability Implications:-	Equalities Implications:- N/A	

NON-KEY DECISION REQUIRED. This decision cannot be called in.

1. PURPOSE OF REPORT

To seek support on the principle of extending the scheme of delegation

2. CONSULTATION

All Area Committees and service users. Reviews of the Development Control Service by the Planning Advisory Service/consultants.

3. OPTIONS AVAILABLE

To comment and provide support on the attached issues

4. RISKS

Significant risk of not achieving recovery plan targets for the delivery of the Development Control Service. Consequent risk of reduced Planning Delivery Grant

5. RECOMMENDATION(S) FOR DECISION

That Members support the principle of extending the scheme of delegation as set out in this report and advise the District Development Committee accordingly

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BACKGROUND

At Braintree Area Committee on 26 July 2005, issues were raised relating to the Council's scheme of delegation. Concern was expressed about the amount of time taken by the Committee to consider the minor planning applications in Part B of the agenda.

It was agreed that the matter would need to be considered in full consultation with all Members, Area Committee Chairmen and the Cabinet Member for Planning and Rural Affairs.

Members requested that the outcome on this issue be reported back to this Committee as soon as possible.

The purpose of this report, therefore, which will be considered by each of the three Area Committees, is to gain Members' views and comments on proposed changes to delegation arrangements on planning applications. Members' comments will be incorporated into a further report to the District Development Committee on 21 March 2006 seeking agreement to change the delegation arrangements in some way. Any agreed changes to the delegation arrangements would then need to be ratified by Full Council on 19 April 2006.

2. DC PERFORMANCE

Development Control (DC) is a statutory function and involves the determination of planning applications. The service is the subject of national Best Value Performance Indicators (BVPIs).

There are four BVPIs relevant to Development Control. These are as follows:

- BVPI 109 (a, b and c). Sets targets for dealing with planning applications. 60% of major applications to be determined within 13 weeks (a), 65% of minor applications to be determined within 8 weeks (b) and 80% of other applications to be determined within 8 weeks (c).
- BVPI 157. A corporate target relating to customer contact and e-government that DC contributes towards. This went from 30% in 2003/04 to 54.52% in 2004/05.
- BVPI 204. Sets a target to lose no more than 30% of appeals made against refusals of planning permission. This is a new indicator and in 2004/05, Braintree's success rate was 24.53%.
- BVPI 205. Quality of service checklist. This is also new and in 2004/05, we scored 88%.

Performance in dealing with planning applications is one element of the overall service and it is clear from the above figures that there are areas of the DC service that are functioning well. In previous years, Braintree has been rewarded for its good performance with awards of the Government's Planning Delivery Grant.

Targets for dealing with applications have existed for a long time. Previously, it was necessary for Councils to deal with 80% of all applications within 8 weeks. BVPI 109 was introduced in 1998/9. In 2002/03, the Government introduced the refined BVPI 109 a, b and c performance indicator that allows performance data to be disseminated into the following three categories. The reason for the different targets was in recognition of the complexities involved in dealing with the various types of planning application:

- Major applications relating to developments of 10 or more houses, 1000m² of industrial floorspace, etc.
- Minor applications relating to developments of 1 to 9 houses, less than 1000m² of commercial or industrial floorspace, etc.
- Other applications relating to householder applications, changes of use, listed building consent, etc.

Our performance since the introduction of BVPI109 has been as follows:

- 2002/03 BVPI109a – 35%
 BVPI109b – 58%
 BVPI109c – 75%
- 2003/04 BVPI109a – 59%
 BVPI109b – 60%
 BVPI109c – 78%
- 2004/05 BVPI109a – 45%
 BVPI109b – 59%
 BVPI109c – 77%
- 1st quarter 2005/06 BVPI109a – 63%
 BVPI109b – 49%
 BVPI109c – 74%
- 2nd quarter 2005/06 BVPI109a – 36%
 BVPI109b – 65%
 BVPI109c – 72%

Whilst past performance has not been dreadful by any means, it is clear that it needs to be improved to meet the targets set down in BVPI109. These are very challenging and ambitious targets that cannot be realised or achieved without changes to existing working practices and procedures.

Contributory factors to the current levels of performance can be summarised as follows:

- Existing procedures and working practices
- Constraints of the existing delegation scheme
- Constraints of the existing Area Committee structure
- Retention of key staff and staff turnover
- Time constraints associated with progressing Section 106 Agreements
- Poor response times of consultees

3. GOVERNMENT PERSPECTIVE

As mentioned above, Braintree has been rewarded in the past for its good performance. However, as many Members are aware, provisional figures for the allocation of the Planning Delivery Grant in 2006/07 for DC performance showed Braintree to receive nil grant. We anticipate receiving a good settlement for the other elements of the service where we have been performing well such as housing delivery, plan making and e-government. However, this does not off-set the negative impact of such disappointing news.

The Government has stated that these targets must be met by March 2007. At our current rate of performance improvement, this will not be the case. Essentially, the figures show a fairly static rate of performance.

The Government is taking speed in decision making very seriously. It reduces uncertainty for the development industry, the Council and the local community. It allows investment decisions to be made quickly and is an aid to economic stability. The Government is particularly concerned, therefore, about any delays in the process and it is for this reason that the time taken to process applications is under close scrutiny.

Meetings have taken place with The Government Office for the Eastern Region (GoEast) about performance. The Council will be designated a Standards Authority for the coming year 2006/07 year for major and minor applications. The standard that we will be set is to deal with 60% of majors and 65% of minors, i.e. the national targets. In addition, the Planning Advisory Service (PAS) has met with officers of the Council and the Cabinet Member for Planning and Rural Affairs to offer support. Its report and recommendations are expected shortly. PAS is the planning component of the Improvement and Development Agency (I&DeA), a vehicle set up by the Government to help deliver public sector reform.

4. WORK UNDERTAKEN TO DATE

There are many ways that shortfalls in performance are being addressed as part of an overall improvement strategy as follows:

- Improvements in working practices and procedures
- Consultants commissioned to review process management in Development Control. Report and recommendations for better process management expected February 2006.
- Continued use of temporary contracts, staff secondments and consultants to cover workload
- Increased benchmarking including visits to other authorities where poor performance has been turned around
- Continued development of the corporate 'Working Smarter' initiative to free up back office staff time and resources.
- New e-government systems such as electronic document management.
- Increased communication with staff and local agents.
- Organisational and staff development, including staff retention measures.
- Service Level Agreements with consultees to be devised and reviewed.

These initiatives will help undoubtedly help improve DC performance. However, a further element that needs to be considered is the scheme of delegation, particularly in the light of the Government's guidance on the matter (see below).

A copy of the existing arrangements is attached as an appendix to this report.

5. IMPROVED SCHEME OF DELEGATION

In March 2004, the Office of the Deputy Prime Minister (ODPM) in association with the Local Government Association (LGA) published a document called 'Delivering Delegation'. This sets out best practice for local council planning delegation schemes.

The guidance states that good delegation falls in line with this Country's plan-led system to planning but stresses that delegation is not about transferring power from Members to officers nor should it undermine open and transparent decision-making.

The guidance puts forward a number of advantages to officer delegation as follows:

- simplification and speeding up of processes
- minimisation of costs and improvements in service delivery
- easing of lengthy unmanageable committees and removal from committees of applications that illicit no member discussion or evaluation
- overall improvement of performance.

The guidance also states that if targets of delegation and speed of processing are to be met, the percentage of applications reported to committees because of objections received needs to be continually challenged and reduced. There is guarded support for Member referrals but rules for Members should be strictly defined and adhered to.

In terms of accountability and transparency, the most should be made of replies to objectors giving reasons for decisions and there should also be a monitoring and review process that considers delegated decisions at random. The guidance also advocates reports on delegated applications setting out material considerations, representations and reasoning.

As an appendix, the guidance sets out a best practice 'by exception' model. This specifies that all applications start out as delegated decisions unless certain exceptions apply.

This is essentially the broad approach that Braintree already takes. However, there are possible ways forward where increased officer delegation in a strictly controlled manner would further enhance the credentials of the current system and bring it more in line with the government's best practice model. The proposals outlined below would also be consistent with the practice of better performing local authorities.

In statistical terms, the Government recommends that 90% of all applications are determined under delegated authority. Braintree is presently running at about 83%.

6. PROPOSAL

Experience suggests that Part B applications on Area Committees are often taken on block, rarely generate much discussion (apart from those cases where the public address Members in Public Question Time) and are almost always agreed in line with officer recommendations. Contrary resolutions are rare.

In taking account of the ODPM's guidance, therefore, and the need to increase the overall percentage of delegated decisions, it is considered reasonable to suggest that applications that presently constitute Part B items on Area Committee agendas should be included within the Council's approved scheme of officer delegation. Such applications are defined below.

It is recommended that the following elements be incorporate into a revised scheme of delegation:

- The receipt of a representation contrary to the recommendation on such Part B applications, however many and from whomever (including Parish/Town Councils) would not in itself generate a requirement to report an application to an Area Committee unless the Head of Planning Control in consultation with the Chairman considered that an application was sufficiently controversial to warrant a report and recommendation to committee.
- In order to ensure transparency in the process, formal delegated reports should be produced to cover the material considerations pertaining to all applications, any representations made and the reasoning behind the recommendation. This would form part of the information available to objectors, Parish Councils and others so that people could see how their comments had been taken into account in making the decision.
- Members would reserve the right to call an application to an Area Committee. This should be in writing, however, and on planning grounds with reasons given. Only the local Member for a particular application would be able to refer an application to committee in this way.
- Furthermore, if an application is contrary to the Development Plan and would result in a recommendation for refusal, the receipt of contrary representations of support from third parties including Parish and Town Councils should not necessitate the application having to be reported to one of the Area Committees. This particular change should also apply to Part A items.
- There should be a review mechanism set up, such as a Member panel, to monitor at random delegated decisions that have been made to ensure that the new system is working properly. The new system could also be subject to review at the Area Committees following either 6 or 12 months.
- To support the proposed changes, it is recognised that the levels of information available to Members needs to be improved. With the Council's new document management system, it will be possible to view letters of representation on line and this is seen as a necessary complementary element to the proposed changes.

7. DEFINITIONS

Part A applications

- All Major applications
- Residential development (not extensions)
- Telecommunications development

Part B applications

- All other applications

8. PROCESS

- Reports to all Area Committees seeking comments on proposed improvements to Scheme of Delegation.
- Report to District Development Committee on 21 March 2006 seeking resolution to change Scheme of Delegation.
- Report and recommendation to Full Council on 19 April 2006.