

Report to: Governance Committee

Date of meeting: 28 April 2015

By: Director of Communities Economy and Transport

Title: Amendment to Constitution – Scheme of Delegation to Officers.

Purpose: To seek approval to change the scheme of delegation in relation to proposed changes to the Development Management Procedure Order.

RECOMMENDATIONS: The Governance Committee is recommended to recommend the County Council to agree to amend the scheme of delegation as set out in paragraph 2.4

1. Background

1.1 The Flood and Water Management Act 2010 (FWMA) was enacted following the report of Sir Michael Pitt examining the impact of the floods of the summer of 2007. This included recommendations covering the management of flood risk, the response to the event and the recovery phase. The FWMA designated upper tier authorities (e.g. County Councils) as Lead Local Flood Authorities (LLFAs) with a range of responsibilities, amongst these was to act as the Sustainable Drainage Systems (SUDS) Approving Body. Developers under these arrangements would have had to submit a separate application for drainage approval. The process was intended to be supported by application fees which could be partly used to provide the technical resource necessary to process applications. A major issue was identifying how to fund the ongoing monitoring and maintenance, because any system the Council approved, it would then be obliged to adopt and maintain in perpetuity. Agreeing a sustainable funding regime to maintain drainage systems has proved difficult for DEFRA to resolve.

1.2 Commencement of the Approving Body role has been anticipated for some time but has been delayed by Government on a number of occasions. The Government has now indicated it intends to take an alternative approach to the one envisaged in the FWMA. It now wishes to deliver SUDS through changes to the current planning regime.

2. Supporting Information

2.1 As a consequence of this significant change of direction, the Government announced a strengthening of the planning system to expect the installation of SUDS as the drainage solution for major development. The Government has laid before Parliament, the Town & Country Planning (Development Management Procedure) Order 2015 (DMPO) which has provisions for statutory consultees in relation to planning applications. The DMPO makes LLFAs statutory consultees on certain planning applications. The DMPO comes into force on 15 April 2015.

2.2 As a statutory consultee, the County Council will be obliged to comment upon all consultations on “major” planning applications from the Districts and Boroughs, the South Downs National Park Authority, and ESCC in relation to surface water drainage matters. The County Council is also required by the DMPO to report annually to Government on our performance in responding.

2.3 Current estimates indicate that we can expect to be consulted on some two hundred planning applications each year. These cases will range in scale and complexity, and will involve assessing the surface water drainage aspects of development proposals. It is intended that each application will have to be responded to, within a 21 days consultation period.

2.4 Given the technical nature of the subject matter, the large number of consultations expected, and the three weeks consultation period, it is proposed to delegate authority to the Director of Communities, Economy and Transport to respond as LLFA to all consultations on drainage

aspects the County Council will receive from the planning authorities in East Sussex and that the following delegation be added to the scheme of delegation for that post in the Constitution:

“To respond to the relevant planning authorities on behalf of the County Council as Lead Local Flood Authority in respect of any statutory or other consultation in relation to the drainage and local flood risk aspects of proposals in applications for planning permission.”

2.5 There are no specific financial implications arising from the recommendations in this report for delegation.

3. Conclusion and Reason for Recommendation

3.1 The new responsibilities require the County Council to carry out technical drainage assessments in response to consultations on planning applications. There is a need for the County Council to respond efficiently within the proposed 21 days consultation period. Therefore, it is recommended that the Director of Communities Economy and Transport be granted delegated authority to respond as LLFA under the new proposed statutory obligations arising from the Town & Country Planning (Development Management Procedure) Order 2015.

RUPERT CLUBB

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LOCAL MEMBERS:

All

BACKGROUND DOCUMENTS

None