

Report to: Governance Committee

Date of meeting: 25 June 2024

By: Director of Communities, Economy and Transport

Title: Amendment to Constitution – Scheme of Delegation to Officers

Purpose: To seek approval to add to and amend the Scheme of Delegation in relation to functions delegated to the Director of Communities, Economy and Transport.

RECOMMENDATION

The Governance Committee is recommended to recommend the County Council to agree to amend the Scheme of Delegation to Officers as set out in Appendix 1 of this report.

1. Background Information

1.1 The County Council's Scheme of Delegation provides the Director of Communities, Economy and Transport (CET) with authority to perform a number of functions and make certain decisions across the range of services that make up the directorate. National policy, legislative changes and the need to more efficiently respond to specific scenarios can result in new and amended functions that need to be performed by the CET directorate. To ensure that decisions are taken at an appropriate level, and are capable of being taken within prescribed timeframes, certain changes and additions are proposed to the Scheme of Delegation to Officers.

1.2 The changes proposed in this report are as a result of the creation of the King Charles III England Coast Path National Trail, which is covered by the Countryside & Rights of Way (CROW) Act 2000 and the Marine & Coastal Access (MCA) Act 2009. Changes are also proposed in relation to the delegation of powers within Sections 15 and 16 of the Commons Act 2006. Respectively, these powers relate to the withdrawal of Town & Village Green applications by an applicant and the 'exchange' of Common Land, typically as a result of a development.

2. Proposed amendments to the Scheme of Delegation

King Charles III England Coast Path National Trail (KCIIECP)

2.1 The KCIIECP is a new 2,800-mile National Trail running around the coast of England. The Trail is currently being implemented on the ground by Natural England. However, once complete, the ongoing management of the Trail will fall to Access Authorities (typically County and City Councils or National Parks) to manage. The East Sussex section of the Trail is due to open in 2024/25.

2.2 Typically, the KCIIECP will run over existing public rights of way or highways. In these cases, the Highways Act powers to maintain and enforce the public's right of way are already delegated to the Director of Communities, Economy and Transport.

2.3 However, where public rights of way or highways do not exist along the coast, Natural England is required to create strips of 'Access Land', to ensure continuous public access. The public has access over this land on foot. The powers to manage and enforce public access under the CROW and MCA Acts are not currently delegated to officers.

2.4 Once the Trail is open, this duty will fall to East Sussex County Council (ESCC), and it is proposed that the powers detailed within Appendix 1 be delegated to the Director of Communities, Economy and Transport. This would also be in keeping with the equivalent Highways Act powers already delegated to the Director (see paragraph 2.2.).

Section 15, Commons Act 2006 – Town & Village Green application – withdrawal by applicant

2.5 A member of the public can make an application to ESCC to have an area of land registered as a Town & Village Green (TVG.) In line with legislative requirements, such

applications are subject to a range of legal tests and are, following a report and recommendation made by officers, ultimately confirmed or refused by ESCC's Commons and Village Green Panel.

2.6 Applying to register a TVG can be a lengthy and complex process for an applicant to take on. Due to the consultations required, and length of time an application may take to conclude, the situation on the ground in terms of access can also change before the application is concluded. Therefore, an applicant may, for their own reasons, wish to withdraw their TVG application.

2.7 Where an applicant wishes to withdraw their application, ESCC consults the various interested parties and also places notices on site to draw out local comments. If no objections are received, there is currently no delegation in place for a decision to be made at Officer level. A request to withdraw can therefore only be decided on by resolution of a Commons and Village Green Panel. It is proposed that if, following consultation, no objections are received, power should be delegated to the Director of Communities, Economy and Transport as set out in Appendix 1 to enable a TVG application to be formally withdrawn.

2.8 If, following consultation, objections are received to a proposed withdrawal of a TVG application, then the officer recommendation and ultimate decision would be referred to the Commons and Village Panel to consider.

Section 16, Commons Act 2006 – joining application for de-registration and replacement of Common Land

2.9 Section 16 of the Commons Act 2006 allows an applicant to de-register land that is registered as Common Land (CL). That Section also allows for land to be provided to 'replace' the CL that has been de-registered. The de-registration and replacement of CL is typically necessary to allow developments which have been granted planning permission to progress.

2.10 Such applications are usually a matter between the applicant and the Secretary of State for Environment, Food and Rural Affairs. However, where a public right of way runs across the CL to be de-registered, ESCC is required to become a joint applicant. (It should be noted that, if a diversion of the public right of way in question is also necessary, that would be dealt with by powers within the Town & Country Planning Act 1990 or Highways Act 1980, both of which are already delegated to officer level within CET.)

2.11 In these cases, the primary applicant (usually a developer) carries out all public consultation and liaison with the Secretary of State, meaning ESCC is a minor party to the application whose sole interest is the existence of the public right of way which runs across the CL. Therefore, where ESCC is required to join applications due to the existence of a public right of way, it is recommended that this power is delegated to the Director of Communities, Economy and Transport as set out in Appendix 1.

3. Conclusion and Reason for Recommendation

3.1 It is considered that the additions proposed to the Scheme of Delegation in Appendix 1 are necessary in order for the County Council to manage the England Coast Path and Section 15 and 16 applications. The proposed changes will ensure decisions can be taken in an efficient and timely manner at a level which is proportionate to their overall significance to the Council.

RUPERT CLUBB
Director of Communities, Economy and Transport

Contact Officer: Andy Le Gresley

Tel. No. 07786 171486

Email: andrew.legresley@eastsussex.gov.uk

LOCAL MEMBERS

ALL

BACKGROUND DOCUMENTS

None.