

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING STRATEGY GROUP**

**DATE:** **THURSDAY, 21 MAY 2015**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **PROPOSED CHANGES TO CHIEF OFFICER  
(PLANNING & ENVIRONMENT) DELEGATED  
POWERS**

**1.00 PURPOSE OF REPORT**

1.01 To advise members of the intention to seek authority for the changes to the Chief Officer (Planning and Environment) delegated powers (pages 144 – 150 of the Council's constitution), in relation to the thresholds set in some of the criteria, the procedures for accepting money in lieu of community provisions under Section 106 obligations and other minor changes to update the scheme (The relevant extract from the constitution, being the existing scheme of delegation, is appended to the report).

**2.00 BACKGROUND**

2.02 Members will note from the attached delegated scheme ( Para.4 at the bottom of page 145) that the Chief Officer (Planning and Environment) has the authority to enter into "Agreements and receive Unilateral Undertakings on behalf of the Council under Section 106 of the Town and Country Planning Act 1990 in respect of a commuted sum by developers in lieu of on-site play/open space provision, where the residential development concerned provides a maximum of 10 no. dwelling units"

2.03 Members will also be aware that a number of planning applications have recently been reported to committee to seek Section 106 monies in lieu of Education provisions and affordable housing. Similarly, amendments to Section 106 Obligations relating to larger schemes have to be reported back to committee whenever minor changes such as substitution of house types are proposed, as this falls outside the delegated powers as they stand. Rarely will the issues be significant enough to warrant consideration by Members and the changes outlined below would allow these to be processed under delegated powers.

2.04 Other changes to the delegated scheme are required to bring it up to date with legislative and procedural changes and these along with the changes to some of the thresholds are set out below. The restrictions set out at the start of the delegation scheme, including "Where a

Member requests in writing during the consultation period that any application in his or her ward should be determined by the Planning and Development Control Committee” (and the following clause which refers to adjoining ward Members) will remain applicable to the amended delegation scheme as they do at present.

### **3.00 CONSIDERATIONS**

- 3.01 The most recent amendment to the planning delegated scheme increased the thresholds in relation to non-residential developments from 1,000 sq. m. to 2,000 sq. m. (5,000 sq. m. on established industrial estates /business parks or land allocated for such purposes in the UDP). The intention here was to facilitate employment generating development. However, one of the remaining restrictions on delegated decisions refers to the development not exceeding 15 metres in height. **(Page 144, 1. (b) and (c))** of the delegated scheme. Whereas this is a useful indicator of the bulk and massing of a building and therefore of its potential impact and significance, there are often elements of the building or free standing structures which will exceed this height but which in themselves have little impact. Examples might be silos, telecommunication masts, chimneys and stacks and, in some contexts wind turbines. What is suggested in this context is that the reference to height is amended to read :  
**“Where the height, in the case of a building would exceed 15 metres and in the case of any other structure, 25 m.**
- 3.02 The next suggested change is in relation to changes of use **(Page 145, 1. (i))**. This reads “changes of use to buildings and land where the floor area does not exceed 2000 sq. m. or the site area does not exceed 0.2 Ha.” It is proposed that this should also be subject to the clause that applies to (b) and (c) above, namely: **“the limits in (i) be increased to 5,000 sq. m. and 5 Ha. respectively on established industrial estates/business parks or land allocated for such purposes in the UDP”**.
- 3.03 Turning next to residential development **(Page 145, 1. (j))**. This presently reads “residential development which does not exceed 0.5 Ha, substitution of house types and variation of layout”. Previous versions of this clause referred to a maximum number of dwellings (10) and it is considered that for clarity a specific number should be re-introduced as a threshold. Based on the 0.5 Ha and the UDP’s standard of 30 dwellings to a hectare it is proposed that this should be changed to read: **“residential development which does not exceed 15 units or, where the number of dwellings is not known, 0.5 Ha., substitution of house types and variation of housing layouts”**
- 3.04 In relation to the construction of services **(Page 145, 1. (l))** which reads: “construction above and below ground of storage tanks with a volume no greater than 10,000 litres, pipes, sewers, drains and power lines of no more than 1Km. in length and associated pumping stations and substations”, it is suggested that the **of no more than 1 Km. in**

**length** is taken out on the basis that the impact of a proposed service is not proportional to its length (a 1 Km. overhead line might affect a significant number of properties in an urban area whereas a 10 Km. line might have no such impact in a rural area)

- 3.05 In relation to Section 106 Obligations (**Page 145, 4.**) the Chief Officer (Planning and Environment) has the authority to enter into “Agreements and receive Unilateral Undertakings on behalf of the Council under Section 106 of the Town and Country Planning Act 1990 in respect of a commuted sum by developers in lieu of on-site play/open space provision, where the residential development concerned provides a maximum of 10 no. dwelling units”.
- 3.06 Under the Community Infrastructure Levy (CIL) Regulations the way we can accept money for community benefits has changed and a report on the implications of the legislation will be brought to the next group meeting. However, the current wording of the delegated power in relation to Section 106 Obligations results in a number of applications being reported to committee when they do not raise any significant planning issues which need involve Members
- 3.07 It is therefore proposed that Clause 4. should be amended to read:  
**“(i) To enter into Agreements and receive Unilateral Undertakings on behalf of the Council under Section 106 of the Town and Country Planning Act 1990 in respect of the payment of a commuted sum by developers in lieu of on-site play/open space provision, educational provision and/or in lieu of affordable housing provision, where the residential development concerned provides a maximum of 15 no. dwellings.**  
**(ii) On behalf of the Council to receive the earlier payment of the monies referred to above where the applicant requests this as an alternative to the Section 106 Obligation.**  
**(iii) On behalf of the Council to amend existing Section 106 Obligations covering the above matters.**
- 3.08 Members will be aware that we will shortly be charging for pre-application advice and Welsh Government will be introducing a formal procedure in respect of this service. In light of these changes it is proposed to add another clause to the scheme of delegation to cover this:  
**5. To provide pre-application advice in relation to development proposals, informally and on the basis of formal applications**
- 3.09 Finally, it will be noted that the Executive Functions (**Page 146**) and Schedule 1. (**Pages 147 – 150**) need to be updated to take account of procedural changes (e.g. Forestry Commission is now NRW) and more recent legislation (e.g. **The T&CP (Development Management Procedure) (Wales) Order 2012**) and these are included in the attached amended Scheme of Delegation.

**4.00 RECOMMENDATIONS**

That the amendments to the Chief Officer (Planning and Environment) Scheme of Delegation be endorsed and that a report incorporating the proposed changes be taken to the next meeting of the Council's Constitution Committee

**5.00 FINANCIAL IMPLICATIONS**

None

**6.00 ANTI POVERTY IMPACT**

None

**7.00 ENVIRONMENTAL IMPACT**

None

**8.00 EQUALITIES IMPACT**

None

**9.00 PERSONNEL IMPLICATIONS**

None

**10.00 CONSULTATION REQUIRED**

None

**11.00 CONSULTATION UNDERTAKEN**

None

**12.00 APPENDICES**

Chief Officer (Planning and Environment) Scheme of Delegation

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985  
BACKGROUND DOCUMENTS**

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## Chief Officer, Planning & Environment

### 1. Subject to the following restrictions:-

(a) Where a Member requests in writing during the consultation period that any application in his or her ward should be determined by the Planning & Development Control Committee.

(b) Where an adjoining Ward Members whose Ward is likely to be significantly affected by the development in question requests in writing during the consultation period that the application be determined by the Planning & Development Control Committee.

(c) Where the application constitutes a departure from the Development Plan.

The Chief Officer, Planning & Environment shall have power to act and determine applications in accordance with the Council's Planning Policies in the following categories:-

(a) alterations and/or extensions to residential property, the construction of and alterations and/or extensions to domestic garages and structures;

(b) alterations and/or extensions to non-residential buildings or structures where the additional net floor space or ground area does not exceed 2000 sq.m. or 50% of the existing whichever is the greater, where the resultant building or structure would not exceed 15 metres in height above ground level and alterations to and the provision of new entrances and means of escape;

(c) new non-residential developments which do not create more than 2000 sq.m. net floor space or exceed 15 metres in height above ground level and/or where the site does not exceed 2 ha.;

Note: the limits in (b) and (c) above be increased to 5000 sq.m. and 5 ha. respectively on established industrial estates/business parks or land allocated for such purposes in the UDP.

(d) construction and/or alteration of vehicular and pedestrian accesses to highways;

(e) erection of satellite dishes, radio antennae and other telecommunications equipment;

(f) development on allotments;

(g) provision of means of enclosure;

(h) alterations to and/or provision of new shop and office fronts and the

provision of roller shutters and canopies;

(i) changes of use to buildings and land where the floor area does not exceed 2000 sq.m. or the site area does not exceed 2 ha.

(j) residential development which does not exceed 0.5 ha, substitution of house types and variation of housing layouts;

(k) development by the County Council, statutory undertakers (including privatised utilities) and Government departments and agencies falling within any other category (a) to (u) hereof;

(l) construction above and below ground of storage tanks with a volume no greater than 10,000 litres, pipes, sewers, drains and power lines of no more than 1 Km. in length and associated pumping stations and sub-stations;

(m) tipping of inert, non-toxic waste on sites not exceeding 1 ha. in area;

(n) demolition of buildings;

(o) conservation area consent;

(p) listed building consent;

(q) amendments to schemes with planning permission;

(r) renewal of temporary permission;

(s) reserved matters and any application or request for approval, agreement or consent pursuant to a condition imposed on a planning permission or approval and the subsequent discharge of the condition;

(t) renewal of time limited permissions which have not lapsed and where circumstances have not materially altered;

(u) variation or removal of planning conditions.

2. The Chief Officer, Planning & Environment shall also have delegated powers to act in relation to those matters set out in Schedule One hereto.

3. To determine the need for Environmental Assessments and the issue of screening and scoping opinions in respect of development proposals.

4. To enter into Agreements and receive Unilateral Undertakings on behalf of the Council under Section 106 of the Town and Country Planning Act 1990 in respect of the payment of a commuted sum by developers in lieu of on site play/open space provision, where the residential development concerned provides a maximum of 10 no. dwelling units.

**Executive Functions**

1. To respond to the Forestry Commission in relation to Notices regarding Felling Licence Applications under Section 15 of the Forestry Act 1967.
2. To prepare development briefs.
3. To take any urgent decision arising from the work of the Planning Division following consultation with the Chairman and Vice-Chairman.
4. To determine grant applications under the Flintshire Historic Building Repair Grant Scheme in consultation with the appropriate Cabinet Member.
5. To determine Landscape and Conservation Grant applications in consultation with the appropriate Cabinet Member.
6. To determine Holywell TH1 Grant applications in consultation with the appropriate Cabinet Member.

**Schedule 1**

**DELEGATED POWERS TO  
CHIEF OFFICER, PLANNING & ENVIRONMENT**

<b>LEGISLATION</b>	<b>DESCRIPTION</b>	<b>SECTION</b>	<b>POWER</b>
Town and Country Planning Act 1990 (as amended).	Tree Preservation Orders and Trees in Conservation Areas.	198, 201, 300	Making, service and confirmation of provisional TPO's where no objection is received
	Notices requiring replacement of trees.	207, 209	Revocation of TPO's Making and service and recovery of costs in default.
	Determination of requests for consent to fell, top or lop trees covered by TPO's and/or in Conservation Areas.	198	Granting or refusal.
	Dispensations with regard to replanting.	206, 213	Granting or refusal.
	Notices requiring proper maintenance of land.	215, 219	Making, service and withdrawal and recovery of costs in default.
	Breach of Condition Notices.	187A	Making, service and withdrawal.
	Planning Contravention Notices.	171C	Making, service, and determination of response to any offers and representations made at time and place meetings.



LEGISLATION	DESCRIPTION	SECTION	POWER
Town and Country Planning Act 1990 (as amended) (continued).	Stop Notices.	183	Making, service and withdrawal of Notice.
	Enforcement and Special Enforcement Notices.	172, 173A, 294	Making, service, variation and withdrawal.
	Information as to interest in land.	330	Making and service of notices.
	Repetitive Applications.	70A	To decline to determine such applications.
	Applications for Certificates of Lawfulness of existing or proposed use or development.	191, 192	Consideration and determination.
	Applications for Express Consent to Display Advertisements.	220	Consideration and determination.
Advertisements, Placards or Posters Displayed in Contravention of Advertisement Regulations.	224, 225	Removal and/or obliteration and making and service of discontinuance orders.	

LEGISLATION	DESCRIPTION	SECTION	POWER
Town and Country Planning Act 1990 (as amended) (continued).	Applications for Prior Approval under the Delyn Simplified Planning Zone Scheme.	84	Consideration and determination.
	Directions to restrict the exercise of permitted development rights in conservation areas.	60	Making and service.
	Applications for Prior Approval under Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.	60	Consideration and determination.
Planning (Listed Buildings and Conservation Areas) Act 1990.	Building Preservation Notices.	3	Making and service.
	Listed Building Enforcement Notices.	38	Making, service, variation and withdrawal.
	Listed Building Repairs Notices.	48	Making and service.
	Dangerous Structures Orders.	56	Making and service.
	Urgent works to preserve unoccupied listed buildings.	54, 55	Making and service of notices and recovery of expenses.

LEGISLATION	DESCRIPTION	SECTION	POWER
<p>Planning (Listed Buildings and Conservation Areas) Act 1990 (continued).</p> <p>Planning (Hazardous Substances) Act 1990.</p> <p>Land Compensation Act 1961 (as amended).</p> <p>Environment Act 1995.</p>	<p>Contribution to preservation of listed and unlisted buildings of architectural or historic interest.</p> <p>Hazardous Substances Contravention Notices.</p> <p>Applications for Certificates of Appropriate Alternative Development.</p> <p>Second list of sites or changes to first list of sites.</p> <p>Mineral Planning - Phase I and II Sites</p> <p>Mineral Planning - Phase I and II Sites</p> <p>The Hedgerow Regulations 1997 (S.I. 1160)</p>	<p>57</p> <p>24, 24A</p> <p>17</p> <p>96</p> <p>Schedule 13(9)</p>	<p>Processing and award of grants in accordance with the Council's agreed procedures and policies.</p> <p>Making, service, variation and withdrawal.</p> <p>Consideration and determination.</p> <p>Obtain relevant information for, or take any other action to publicise.</p> <p>Granting of extensions of time for submissions of applications for appeals of conditions under the Environment Act 1995 (26th November, 1996)</p> <p>Authority to opine that the Council is unable to determine applications without further specific details</p> <p>Authority to respond to Hedgerow Renewal Notes and to agree extensions of response for building and conduct appeals (24th June, 1997)</p>