



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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**to  
COUNCIL  
14 DECEMBER 2023**

**AMENDMENT TO THE SCHEME OF DELEGATION**

**1. PURPOSE OF THE REPORT**

- 1.1 To amend the Scheme of Delegation in relation to applications or action under the Planning Act 2008.

**2. RECOMMENDATION**

That the Scheme of Delegation is amended to give to the Director of Service Delivery, in consultation with the Chairperson of the District Planning Committee, the following delegated power:

*“Following the grant of a Development Consent Order by the Secretary of State or anyone appointed by him, the ability to make any post grant decisions required of the Council, including planning enforcement, in relation to the development”*

**3. SUMMARY OF KEY ISSUES**

**3.1 Nationally Significant Infrastructure Projects (NSIPs)**

- 3.1.1 Large infrastructure projects that have regional or national significance are granted planning permission (called Development Consent Orders (DCO)) by Secretaries of State and not a Local Planning Authority (LPA) under the Planning Act 2008. Councils are consulted in the development of these proposals and participate in the Examination process that must be undertaken prior to a decision on a DCO application.
- 3.1.2 When conditions are subsequently discharged on planning applications determined by the LPA, this would normally be by the LPA, as would be any Planning Enforcement arising as well. With the DCOs being determined by the Secretary of State however, or by his appointed person or panel, there are some post-grant powers given to local councils instead.

**3.2 A12 Chelmsford to A120 Widening scheme**

- 3.2.1 The Council has been involved in the A12 Chelmsford to A120 Widening Scheme project since 2017, when the applicant's predecessor organisation Highways England commenced work on exploring options for widening the A12 between Junctions 19 to 25. There have been rounds of public consultation and the Council has engaged and responded since this time when necessary to ensure District matters are considered and take into account.

- 3.2.2 The Council will be aware following the report considered on 8 September 2022 (Minute 248 refers), that National Highways Ltd submitted a draft DCO to the Secretary of State for his consideration and determination. At that meeting, the Council agreed an “Engagement Mandate” and enabled officers and external witnesses to be appointed on its behalf to represent it at the Examination in Public, held between January and July 2023 by the Planning Inspectorate. Delegation was given to the then Director of Strategy, Performance and Governance to approve any formal response or statement as was required in consultation with an A12 DCO Member Consultation Group. This delegation ends, however should the DCO be approved or rejected, by 12 January 2024.
- 3.2.3 Officers fully participated in the Examination in accordance with the Engagement Mandate approved by the Council and have kept the A12 DCO Member Consultation Group briefed. This led to a number of changes to National Highway’s draft DCO and its supporting control documents, which condition how the scheme is proposed to be built, including the diversion of a Cadent gas main through part of the Maldon District.
- 3.2.4 The additional measures that have been secured include the recognition of the intrinsic wildlife value of the Blue Mills Nature Reserve and its associated established woodland, as well as the use of tunnelling bore techniques to install the diverted gas main not only under the upper reach of the River Blackwater, but also under the neighbouring Blue Mills Nature Reserve; safeguarding protected trees and habitats from being uprooted including two rare examples of Black Poplar. Further safeguards have also been secured in the District at Little Braxted to address concerns of inappropriate traffic associated with construction and maintenance using Little Braxted Lane, which will also help avoid harm to be caused to historic assets in the area.

### 3.3 **Scheme of Delegation**

- 3.3.1 The need to consider specific changes to the Scheme of Delegation has now arisen because it is possible that if the DCO in relation to the A12 Chelmsford to A120 Widening Scheme is granted by the Secretary of State for Transport the Council will become involved in the process that follows to implement the consent, monitor its delivery and planning enforcement.
- 3.3.2 Discharge of land use based conditions especially pre-implementation conditions will need to be determined by Maldon District Council (alongside Braintree District Council, Chelmsford City Council and Colchester City Council) as will any planning enforcement issues. The DCO has short time-limits built into it to engage LPAs, some as little as 28 days. Failure to engage in this time could result in the Council missing the opportunity to influence or control development.
- 3.3.3 As these matters are normally determined by the Director of Service Delivery when the Council grants permission under the regular Town & Country Planning Act legislation, this amendment to the Scheme of Delegation will give the same power to the Director for the equivalent matters for the implementation of DCOs granted by the Secretary of State under the Planning Act 2008.

## 4. **CONCLUSION**

- 4.1 The proposed amendment to the Scheme of Delegation enables the Council to act swiftly on decisions that relate to Planning Act 2008 matters, rather than bringing the matter to Council or a committee, with the built-in safeguard of requiring the view of the Chairperson of the District Planning, prior to any officer decision.

## **5. IMPACT ON PRIORITIES AS SET OUT IN THE CORPORATE PLAN 2023 - 2027**

### **5.1 Supporting our communities**

- 5.1.1 Residents and businesses will receive the benefit of the timely construction of the A12 widening project, whilst their interests agreed in conditions are upheld as much as possible by officers engaging in post-grant stages of the project.
- 5.1.2 During the preparation of the A12 NSIP DCO, communities and individuals from around the district have been encouraged to participate in the pre-application and Examination stages of the project. This report's recommendations do not improve that but the engagement of the Council during the post-grant stages can help to support this community messaging.

### **5.2 Enhancing and connecting our place**

- 5.2.1 Residents and businesses will receive the benefit of the timely construction of the A12 widening scheme which provides local and regional connections.

### **5.3 Helping the economy to thrive**

- 5.3.1 Businesses will receive the benefit of the timely construction of the A12 widening scheme which provides local and regional connections.

### **5.4 A greener future**

- 5.4.1 The additional protections secured by the Council for habitats and historic assets at the Blue Mills Nature Reserve and Little Braxted will be monitored and controlled through the Council's engagement given by the delegation.

### **5.5 Provide good quality services.**

- 5.5.1 The decision will speed up the process of decision making and ensure that the council maximises its chances to influence the time-limited post-granting processes of the A12 scheme's delivery.

## **6. IMPLICATIONS**

- (i) **Impact on Customers** – Medium - This report recommends that the Scheme of Delegation is amended to ensure the council can effectively respond to the demands of the A12 Nationally Significant Infrastructure Project (NSIP) DCO, ensuring that the safeguards secured to further protect the residents and businesses in the District can be monitored and controlled the LPA within the strict time-limited set by the DCO.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – Medium – The primary risks are Reputation and Environmental given that without the approvals this report is seeking, the ability of the Council to engage swiftly and effectively in an NSIP post-grant procedure will otherwise impact on the District's residents and businesses, will be reduced.
- (iv) **Impact on Resources (financial)** – Medium – A Planning Performance Agreement (PPA) with National Highways will be used to assist the Council in

meeting some of the additional cost burden created by the post-granting works. For this to be effective, it needs to empower officers to work effectively and swiftly on the Council's behalf.

- (v) **Impact on Resources (human)** – Low – Officers working on the project for the Council need to be empowered to work as proactively as possible for the benefit of the District whilst the scheme is delivered by National Highways and other parties.

Background Papers: None.

Enquiries to:

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