

<b>Report to:</b>	Audit and Governance Committee  Council	<b>Date of Meeting:</b>	6 December 2017  25 January 2018
<b>Subject:</b>	Review of Constitution		
<b>Report of:</b>	Chief Planning Officer	<b>Wards Affected:</b>	All
<b>Portfolio:</b>	Cabinet Member Planning & Building Control		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

**Summary:** The scheme of delegation requires a number of planning (and other) applications to be reported to Planning Committee which are not significant and have no major implications.

It also contains a number of requirements relating to Neighbourhood Planning. However, amendments are needed to reflect changes to national legislation and the Council's governance arrangements, including the creation of the Cabinet Member: Planning and Building Control portfolio and consequential changes to other portfolio holders' responsibilities.

**Recommendation that:**

1. the Audit and Governance Committee recommends to Council that the Constitution is amended to reflect the proposals set out in paragraphs 2.3, 2.5, 2.8, 2.9, 3.4, 3.5 and 4.1 of this report; and
2. Council resolves to amend Constitution is amended to reflect the proposals set out in paragraphs 2.3, 2.5, 2.8, 2.9, 3.4, 3.5 and 4.1 of this report.

**Reasons for the Recommendation:**

To enable the Constitution to be amended to streamline consideration of certain types of planning applications and updated in relation to Neighbourhood Planning.

**Alternative Options Considered and Rejected:** (including any Risk Implications)  
Not make any changes. This would mean that some straightforward and uncontentious planning (and other) applications would continue to be reported to Planning Committee which could reasonably be delegated to the Chief Planning Officer. The opportunity to save time and improve efficiency would therefore be lost. In relation to Neighbourhood Planning, the scheme of delegation does not reflect current legal and constitutional requirements.

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

None

**(B) Capital Costs**

None

**Implications of the Proposals:**

<b>Resource Implications (Financial, IT, Staffing and Assets):</b> There are no resource implications.
<b>Legal Implications:</b>
<b>Equality Implications:</b> There are no equality implications.

**Contribution to the Council's Core Purpose:**

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Yes
Commission, broker and provide core services: Yes
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener Not applicable

**What consultations have taken place on the proposals and when?**

**(A) Internal Consultations**

The Head of Corporate Resources (FD FD4944/17) and Head of Regulation and Compliance (LD4229/17) have been consulted and any comments have been incorporated into the report.

**(B) External Consultations**

Not applicable

**Implementation Date for the Decision**

Immediately following the Council meeting.

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## **Appendices:**

There are no appendices to this report

## **Background Papers:**

There are no background papers available for inspection.

## **1. Background**

1.1 The Council's constitution defines those applications which should be determined by Planning Committee (chapter 7, sections 21 & 22). This includes 'major' applications which comprise proposals of 10 or more dwellings or new floor space of 1000 sq. metres or more.

1.2 A number of major applications have very little impact in the local area, generally have very little public and political interest and it is an inefficient use of resources to report them to Planning Committee. It also delays their determination and potentially holds up investment.

1.3 The constitution does not specifically refer to Neighbourhood Planning. However, a scheme of delegation was approved by Council in January 2013 (Minute 83). However a lot of the recommendations have been superseded by changes to legislation, our better understanding of the process, and the creation of the Cabinet Member: Planning and Building Control portfolio. Consequently, it is recommended that the Cabinet Member: Planning and Building Control is delegated authority to determine whether a submitted Neighbourhood Plan can proceed to examination.

## **2. Proposals currently reported to Planning Committee which could be delegated**

### Major applications and variation of conditions

2.1 Recent examples of 'major' applications which have very few implications and which, with hindsight, seem unnecessary to report to Planning Committee include:

- change of use to a training centre within an industrial building at Heysham Road
- change of use to a trampolining centre within an empty unit at Aintree Racecourse Park
- proposals for the recladding and variation of use of a retail unit on Tulketh Street.

Another example is the variation of conditions of all major applications.

2.2 If major proposals are contentious, this becomes obvious in a number of ways. They are likely to be 'called in', or they may be the subject of a petition, or they will attract quite a number of objections.

2.3 It is proposed that the following 'major' applications should be delegated to the

Chief Planning Officer:

- those which are not 'called in' to be determined by Planning Committee
- those which are not petitioned, and
- those which have fewer than 5 planning related objections.

It is also recommended that applications to vary conditions on major applications which are not contentious are not considered by Planning Committee.

#### Applications subject to a petition

2.4 Currently, applications which are 'called in' by a Council Member, and where it is proposed to determine the application in line with the view of the Member who made the request, are delegated to the Chief Planning Officer. However, if the application is the subject of a petition, the same approach does not apply – the petitioner would have to agree in writing to withdraw the petition before the decision could be made. This does not add any value to the process as it simply delays the decision.

2.5 It is proposed that any application which is petitioned but which is to be recommended for approval or refusal by officers in line with the wish of the petitioner will no longer be considered by Planning Committee. When such a situation arises the petitioner would simply be notified out of courtesy that the application will not be reported to Planning Committee.

#### Prior approval applications

2.6 Applications for 'prior approval' (e.g. for telecommunications masts) have stringent periods within which they are to be determined. If they are not determined within 56 days they are deemed to have been granted consent. If such an application is petitioned, and depending on when exactly the period ends within which neighbours are notified, the application may only be able to be reported to a meeting of Planning Committee which is beyond the last day for determination.

2.7 This leads to the anomaly that a controversial development could end up being granted 'deemed consent' by default, by virtue of a petition which requests that it be reported to a meeting of Planning Committee, thereby missing the statutory 56 day determination period.

2.8 When the Committee dates for determining the application fall outside the statutory determination period, the application should be reported to a Planning (Urgent Referrals) Committee. If an Urgent Referrals Committee cannot be arranged within the necessary timescale it is recommended that the decision will be taken by officers.

2.9 The constitution in chapter 7, sections 21 & 22, currently sets out which types of application will or will not be determined by Planning Committee. This could be interpreted to mean, for example, applications to discharge conditions which are no more than a technical assessment of details following the substantive decision. These are not planning applications. It is proposed to make clear that the reference to applications means 'planning applications'.

### **3. Development proposals submitted by Councillors and Officers and Council Development**

3.1 It is recognised that development proposals submitted by Councillors, Officers and their friends and relatives can give rise to suspicions of impropriety. The approach to considering such proposals is set out in chapter 12 of the constitution, paragraphs 165 & 166. It is not entirely clear from these paragraphs which applications should be considered by Committee and which could be delegated.

3.2 It could be interpreted that all applications of former members of staff and their close friends or relatives would have to be reported to Planning Committee. This could apply to a large number of people who no longer have a close connection with the authority and are in no position to influence the outcome of an application.

3.3 In addition, any applications made by (or on behalf of) junior members of staff across the Authority, who also are in no position to influence the outcome of an application, must be reported to Committee.

3.4 It is proposed to restrict those applications being reported to Planning Committee to those submitted by or on behalf of all Members and senior Officers, and any member of staff of Planning Services.

3.5 Para 166 says that "Proposals for a Council's own development should be treated in the same way as those by private developers, in accordance with Circular 19/92". It is proposed to delete this last phrase as this Circular is no longer valid in England.

#### **4. Neighbourhood Planning**

4.1 The Council's constitution does not specifically refer to Neighbourhood Planning. However, a scheme of delegation was approved by Council in January 2013 (Minute 83). However a lot of the recommendations have been superseded by changes to legislation, our better understanding of the process, and the creation of the Cabinet Member: Planning and Building Control portfolio. Consequently, it is recommended that the Cabinet Member: Planning and Building Control is delegated authority to determine whether a submitted Neighbourhood Plan can proceed to examination.

4.2 This is a matter of ensuring that the required the correct documentation has been submitted in accordance with Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. These are:

- (a) a map or statement which identifies the area to which the proposed neighbourhood development plan relates;
- (b) a consultation statement;
- (c) the proposed neighbourhood development plan; and
- (d) a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act.

#### **5. Conclusions**

The report sets out a number of proposals to streamline current procedures so that straightforward and uncontentious proposals can be determined under delegated powers. It also sets out the situation relating to whether a submitted Neighbourhood Plan can proceed to examination.

