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## Report of the Chief Planning Officer

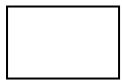
### General Purposes Committee

Date: 4 February 2011

Subject: Changes to the Constitution – Proposed Amendments to the Delegation to the Chief Planning Officer

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#### Electoral Wards Affected:



Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## Executive Summary

1. At its meeting in September 2010, the Joint Plans Panel requested a review of the current delegation to the Chief Planning Officer and resolved that the Joint Member Officer Working Group (an all party working group together with Senior Planning Officers), review the content of the Officer Delegation Scheme (Council (non-executive) functions) and propose amendments as appropriate.
2. Following that review, this report proposes a number of amendments to the Chief Planning Officer's delegation and asks the Committee to recommend these amendments to Council.

## **1.0 Purpose Of This Report**

- 1.1 To request the General Purposes Committee to make recommendations to Council about amendments to the constitution in respect of the delegation to the Chief Planning Officer, as set out at Appendix 1 of this report.

## **2.0 Background Information**

- 2.1 General Purposes Committee is authorised to consider proposals to amend the constitution, and make recommendations to Council.
- 2.2 This report proposes a number of amendments to the delegation to the Chief Planning Officer in respect of Council (non-executive functions) within the Council's constitution.
- 2.3 At its meeting on 23 September 2010, the Joint Plans Panel resolved that 'the Officer Delegation Scheme be sent to all Members of Council with guidance, particularly on the 21 day representations rule and that it also be referred to the Planning Member/Officer Working Group for review, and if any amendments were identified that the Scheme be revised as soon as possible'.
- 2.4 In response to this, a letter and a copy of the Delegation Scheme for the Chief Planning Officer was sent to all Council Members on 29 September 2010 seeking their views on any changes to be made to the delegation scheme.
- 2.5 Members were also specifically asked for their comments on the "21 day representations rule". This is a reference to Exception (a) to the delegation to the Chief Planning Officer whereby Members can request in writing that an application in their Ward be referred to the Plans Panel for determination, provided that the request is made within 21 days of the date of notification and must include a reason for referral based on material planning considerations, which give rise to concerns affecting more than neighbouring properties (as defined by the publicity requirements for householder applications in the Town and Country Planning (Development Management procedure) (England) Order 2010)<sup>1</sup>.
- 2.6 The Joint Member Officer Working Group met on 15 November 2010 to discuss the comments from Members. The Working Group identified a number of proposed amendments to the delegation to the Chief Planning Officer.
- 2.7 In addition, Head of Governance Services has proposed a further amendment to the delegation for the purposes of clarification.
- 2.8 The recommended amendments to the delegation to the Chief Planning Officer are set out in appendix 1 of this report.

## **3.0 Main Issues**

- 3.1 As part of the review of the current delegation to the Chief Planning Officer, comments were received from seven Members and one Officer on the "Exceptions" section of the Delegation Scheme, which lists functions which the Chief Planning Officer is not authorised to discharge (this section has now been renumbered

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<sup>1</sup> Schedule 13 The Town and Country Planning (Development Management Procedure) (England) Order 2010

section 3 at Appendix 1). Members were satisfied that the delegation Scheme was fit for purpose with the following amendments or clarifications:

- Exception (a): “the 21 day representations rule”. Clarification is proposed to make it clear that the 21 days commences from the date of validation of the planning application. Additional wording has also been added to reflect that the 21 days is for guidance rather than strict rule, but Members should be aware that the 21 day deadline is a statutory advertisement deadline for receipt of representations, after which time a decision could be legally made.
- Exception (a): amendment proposed to reflect that flexibility is needed to allow a Member from a neighbouring ward to request that an application is referred to Panel in circumstances where applications straddle Ward boundaries or may have an impact on adjacent boundaries or Wards.
- Exception (a): amendment proposed to delete the reference to the Chair of Area Committees being able to refer applications. Chairs of Area Committees have rarely referred applications to Panel and the Joint Member Officer Working Group felt the decision to refer applications to Panel should and would normally be taken by Ward Members for their own areas
- Exception (d): additional clarification proposed that applications for major development which the Chair considers to be sensitive, controversial or would have significant impact on local communities would go to Panel. This is to reflect the Chair’s wider understanding of locality issues and which applications are likely to be of public interest. A proposed footnote would state “in conjunction with the Chief Planning Officer”.
- Exception (d): amendments to footnote 6 proposed to clarify that major development includes minerals and waste development which “does require” rather than “may require” an Environmental Impact Assessment.
- Exception (f): amendment proposed to remove the word “technical” from the reference to statutory consultees.
- Exception (g) proposed change to “the Chair” and delete “Chief Planning Officer”, but with a footnote “in conjunction with the Chief Planning Officer”. This proposed change is to reflect the role of the Chair who has a wider understanding of community issues and what applications may be of significant public interest.
- Exception (h): amendment proposed to change wording from development “control” to development “management”. The Department for Communities and Local Government consulted on a new national Planning Policy Statement on Development Management<sup>2</sup> which states the need to move away from the traditional development control approach, which focuses on controlling land-use to prevent the worst developments, towards planners “managing” places to achieve the better quality developments. Nationally the term “development control” is increasingly being replaced by the title “development management”.

3.2 The Joint Member Officer Working Group also agreed that some guidance should be prepared for Members covering ways to be kept informed about forthcoming significant applications, tracking application progress and giving advice regarding minor applications and site visits. This will be produced separately.

3.3 In addition, the Head of Governance Services highlighted that there are two Council (non-executive) functions which are concurrently delegated to the Director of City Development and the Chief Planning Officer (namely (cc) and (dd) see Appendix 1), but this is not clear on the face of the delegation.

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<sup>2</sup> Communities and Local Government Development Management: Proactive Planning from Pre-Application to Delivery – Consultation, December 2009.

3.4 Therefore, an amendment is proposed to move these two functions into a separate section of the Delegation Scheme (section 1 in Appendix 1), and to clarify that these are made subject to the provision that the Director of City Development can direct that they are not exercised by the Chief Planning Officer.

3.5 Legal Advice has been taken on the proposed amendments from the Head of Development & Regulatory Legal, Licensing & Registration.

#### **4.0 Implications For Council Policy And Governance**

4.1 Under its Code of Corporate Governance, the Council is committed to ensuring that the necessary roles and responsibilities for governance are identified and allocated, so there is clear accountability for decisions.

#### **5.0 Legal And Resource Implications**

5.1 The Council is required to prepare and keep up to date a Constitution. The proposed amendments set out in this report will ensure that the Constitution accurately reflects the decision making accountability in the Council.

#### **6.0 Conclusions**

6.1 The Joint Plans Panel requested that the current delegation to the Chief Planning Officer be reviewed and referred to the Member Officer Working Group and if any amendments are identified, the Delegation Scheme to be revised as soon as possible. Following consultation with all Members and review by the Joint Member Officer Working Group a number of amendments have been proposed to the Scheme.

#### **7.0 Recommendations**

7.1 General Purposes Committee is requested to:

- i. Recommend to full Council amendments to the delegation to the Chief Planning Officer as set out at appendix 1 of this report.

#### **Background Documents Used**

Leeds City Council Joint Plans Panel Meeting Minutes 23 September 2010  
The Town and Country Planning (Development Management Procedure) (England) Order 2010