

Report of	Meeting	Date
Head of Governance	Full Council	25 September 2012

PROPOSED CHANGES TO THE CONSTITUTION & SCHEME OF DELEGATION – PLANNING APPLICATIONS

PURPOSE OF REPORT

- To seek appropriate changes to the Council’s constitution and scheme of delegation in relation to planning applications – specifically the determination of section 73 applications.

RECOMMENDATION(S)

- That the constitution & scheme of delegation be modified in accordance with paragraph XX of this report.

EXECUTIVE SUMMARY OF REPORT

- On 4 September 2012, the Development Control Committee considered suggested changes to the scheme of delegation in regard to s73 applications, and resolved to authorise the Council’s Head of Governance to prepare a report to Full Council, detailing appropriate changes to the Council’s constitution in regard to section 73 applications which involve relatively minor amendments to existing permissions.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			/

BACKGROUND

- Section 73 applications are commonly referred to as “variations to conditions” and generally seek to change the original development in some way that is considered minor in nature. In many cases, such applications are for relatively minor matters e.g. a change of materials, variations to boundary treatments, landscaping schemes, etc, but they can also address changes to layout, changes to finished floor levels (FFLs), changes of house types, re-positioning of access roads, and changes to opening hours for example. If granted, a section 73 application will modify conditions attached to an existing planning permission where the principle of the development has already been determined.

6. CURRENT POSITION

7. Under the terms of the current constitution and scheme of delegation, the power to determine section 73 applications lies with the Development Control Committee. Applications for major commercial, industrial and residential applications with certain size thresholds are expressly excluded from the scheme of delegation to officers if the officer recommendation is contrary to comments from either a local resident, a town or parish council or any other outside body or organisation that has been consulted; and for certain categories, applications may only be determined after consultation with the Chair & Vice Chair. (Responsibility for Functions Appendix 2, pages 2 & 23-24).
8. Given this position, when a section 73 application is submitted for a “major” scheme, they are routinely reported to the Committee as they meet the size thresholds. Since the power was introduced in 2009, approximately 34 applications under section 73 (including minor material amendments) have been received, and approximately 23 were pursuant to major schemes, representing 68%.

PROPOSED CHANGES

9. The Development Control Committee considered that section 73 applications could be more efficiently determined after consultation with the Chair & Vice Chair of the committee. Members should note that under the current constitution, this would generally occur anyway *if* the officer is minded to make a decision that is *contrary* to a written comment received from a local resident, a town or parish council, or any other outside body or organisation that has been consulted.
10. By amending the scheme of delegation to ensure *all* section 73 applications are only determined after consultation with the Chair & Vice Chair, then a more efficient determination could be made. Should the Chair & Vice Chair agree with the officer recommendation, the section 73 application could be determined under officer delegated powers
11. At the committee, members noted that the existing constitution allows any ward member to request an application be considered by the Committee, and that this was an appropriate safeguard. The Executive Member for Planning is also mindful that officers are seeking to ensure that an agenda for Chair’s Brief is published in advance, and this would allow further transparency and allow members to peruse that list and contact officers or the Chair accordingly if they have any concerns.
12. It is proposed to add the following provision to the scheme of delegation within Appendix 2 to the Constitution “Responsibility for Functions”. At the end of the delegation titled “Applications which may only be determined after consultation with the Chair and Vice” within paragraph 3.7 the following words will be added:-

“Applications for amendment and alteration of permissions made under section 73 of the Town and Country Planning Act 1990, may be determined under delegated powers when the Chair and Vice Chair of the Development Control Committee have been consulted and are in agreement with the recommendation of the officer.”
13. In addition, the wording at paragraph 3.7 (c) will be amended (words in italics being added)

“Major commercial, industrial and residential applications (*excluding applications for amendment and alteration of permissions under section 73 of the Town and Country Planning Act 1990*) where the officer is minded.....”

IMPLICATIONS OF REPORT

14. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	/	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

15. The proposed changes will result in a more efficient determination of planning applications by the Council and should be welcomed.

COMMENTS OF THE MONITORING OFFICER

16. Such a delegation is desirable as this will allow for improved processing of minor, non-controversial requests. In the event that the Chair &/or Vice Chair are unhappy with any proposed change to conditions, they can decline to exercise the delegation and the matter can be referred to the Development Control Committee for their consideration.

LESLEY-ANN FENTON
DIRECTOR OF PLANNING, PARTNERSHIPS AND POLICY

Report Author	Ext	Date	Doc ID
Chris Moister – Head of Governance	5160	14 September 2012	
Jennifer Moore - Head of Planning	5571		