



**REPORT of  
CHIEF EXECUTIVE**

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to  
**PLANNING AND LICENSING COMMITTEE**  
**13 JUNE 2017**

**COUNCIL CONSTITUTION – PLANNING APPLICATIONS FOR DEVELOPMENT  
OF STRATEGIC INTEREST AND VARIATIONS TO PLANNING OBLIGATIONS**

**1. PURPOSE OF THE REPORT**

- 1.1 To consider and recommend to the Council a revision to the terms of reference of the Area Planning Committees in relation to the above categories of development. Although principally for clarity, if agreed this will put beyond any doubt any issues of interpretation of the existing provisions. The Committee is also asked to consider and recommend the introduction of a provision within the Scheme of Delegation that deals with variations to Planning Obligations

**2. RECOMMENDATION**

- (i) That the Council is recommended to agree that the following wording is inserted at the end of Proviso 5 within the Terms of Reference of the Area Planning Committees:

*For the purposes of this proviso 5 “applications for development of strategic interest” shall include all applications establishing or varying the principle of development but shall not include variations to conditions or the approval of reserved matters unless in accordance with a decision of the Council or at the discretion of the Director of Planning and Regulatory Services. In all other respects, the existing provisions of the Scheme of Delegation will apply.*

- (ii) That the Council is recommended to agree that the following additional provision is included in the Scheme of Delegation to Officers:

*In consultation with a legal advisor, the determination of requests for the variation of a S106 Planning Obligation provided that the approved principle of development is unaffected and that the variation does not affect the securing of the payment of monies to the Council.*

**3. AREA FOR DECISION / ACTION**

- 3.1 The Provisos to the Terms of Reference of the Area Planning Committees include arrangements for the convening of extraordinary meetings of the Council to consider and determine planning applications for ‘Development of Strategic Interest’. The effect of this Proviso is to create a ‘by exception’ category of planning application

which in normal circumstances would be determined by an Area Committee.

- 3.2 The question has arisen whether, subsequent to the principle of the development having been dealt with, the consideration of reserved matters and applications for the variation of conditions should follow the same route and be referred to an extraordinary meeting of the Council. In the Scheme of Delegation, provision is made at paragraph 10 that where an application has been determined by a Committee, and unless otherwise required by the determining Committee, the approval of reserved matters and matters the subject of conditions to be dealt with by Officers. There is no qualification here in relation to type or scale, and the only constraint on the exercise of delegated powers would be the Ward Member Call-In or the 'Parish Trigger'.
- 3.3 Officers share the view that logic suggests that the same provisions would apply to the category of Development of Strategic Interest, and therefore for the avoidance of any doubt over interpretation it is proposed that the following wording be added to Proviso 5 to the Terms of Reference of the Area Planning Committees:
- For the purposes of this Proviso "applications for development of strategic interest" shall include all applications establishing or varying the principle of development but shall not include variations to conditions or the approval of reserved matters unless in accordance with a decision of the Council or at the discretion of the Director of Planning and Regulatory Services. In all other respects, the existing provisions of the Scheme of Delegation will apply.*
- 3.4 It must be noted that this inclusion is only for clarity and does not alter the existing level of delegation or requirements for an application to go before an extraordinary meetings of the Council.
- 3.5 It has come to the attention of Officers that there is no clear provision with the Constitutional arrangements for how to deal with variations to Planning Obligations (S106 Agreements and Unilateral Undertakings). The requirement for a Planning Obligation in the first place will normally be linked to the determination of a planning application and this will be dealt with at the level at which the relevant application is determined. The one exception to this is where proposals require a Planning Obligation, or a variation of a Planning Obligation, to secure the payment of monies to the Council. Such proposals will then be referred to an Area Planning Committee.
- 3.6 The Constitution is however silent on the determination of requests for the variation of Planning Obligations that are received independent of a planning application. In many respects the matters to be considered here are akin to variations to conditions, and have no direct bearing on the principle of development whether strategic, major or minor. It is therefore considered appropriate for these matters to be dealt with by Officers under delegated powers, subject to the usual constraints that exist. The existing exception where Planning Obligations require the securing of the payment of monies to the Council can be extended to variations of Planning Obligations received without a linked planning application to consider.

- 3.7 The current silence on this matter has resulted in a number of very minor amendments to existing legal agreements having to go before various planning committees recently. This has included, for example, the relocation of a one way sign required by the Highway Authority.

#### **4. IMPACT ON CORPORATE GOALS**

- 3.1 The updating of the corporate governance and associated arrangements underpins the decision making processes of the Council, is in part a matter of compliance with the law and is also linked to the Corporate Goal of aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way.

#### **5. IMPLICATIONS**

- (i) **Impact on Customers** – This helps demonstrate how the Council’s planning processes operate and how decisions are taken.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – None identified.
- (iv) **Impact on Resources (financial)** – None identified.
- (v) **Impact on Resources (human)** – None identified.
- (vi) **Impact on the Environment** – None identified.

Background Papers: None.

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