

**General Purposes Committee**

**29 September 2016**

**Working paper on proposed amendments to the constitution – Head of Planning delegations regarding S.106 Agreements**

1. As it stands all planning applications which require a S.106 Planning Obligations agreement are required to be presented to Planning Committee for approval.
2. In some instances, these planning applications are not controversial and have the general support of the local community and ward members.
3. It is therefore proposed that delegation should be given to the Head of Planning to determine those planning applications which require S.106 's in accordance with the existing delegation regarding member call-in' but with the added proviso that the ward councillors and the Planning Committee chair are consulted on the S.106 heads of terms and can request that the item is referred to the Planning Committee where their views are contrary to that of the Head of Planning.
4. Additionally, Planning Inspectors are increasingly requiring planning officers to present draft S.106 heads of terms and draft conditions at planning appeals to be taken into account should the planning inspector allow the appeal. This requirement does not provide an opportunity to officers to confer with the Planning Committee and therefore, delegation is required to enable planning officers to present draft heads of terms on S.106 agreements and draft conditions in accordance with Council Local Plan policies.
5. It is therefore **RECOMMENDED** that the constitution be amended in accordance with the proposals set out in paragraphs three and four and that delegation be given to the Director of Corporate Services to include detailed wording to that effect.

James Freeman

Head of Planning

September 2016

**Final proposal (the additional wording is highlighted in bold)**

6. Having considered the matter at its meeting on 29 September GPC did not agree the original recommendation set out in 5 above but proposed the following revised **RECOMMENDATION** to full Council:
  1. That the Constitution be amended to revise delegation 1 of the Head Planning's delegation to include the wording to negotiate and enter into s 106 Agreements.

2. That the Constitution be amended to include a new delegation to the Head of Planning's delegation that during the appeal process to negotiate and enter into s106 Agreements and conditions in accordance with Council Local Plan Policies and any pre appeal discussions with relevant members.

Revised wording in full:

## DELEGATIONS TO THE HEAD OF PLANNING

### Development Control

1. To determine applications, **negotiate and enter into s.106 Agreements**, to agree minor variations to planning obligations, to respond to prior notifications and to make observations on behalf of the Borough Council in accordance with the provisions of the appropriate Development Plan or other adopted Borough Council Planning Policy Guidance.

2. The delegated powers in paragraph 1 above shall not be exercised in the following circumstances:

(a) applications where the decision of the Head of Planning would conflict with any written representation received within the specified representation period from:

(i) any Member of the Borough Council;

(ii) a statutory consultee; or

(iii) a Parish or Town Council; provided that any such representations from (ii) or (iii) above are, in the opinion of the Head of Planning, based upon relevant planning considerations. .

(b) applications where the decision of the Head of Planning would conflict with letters of representations, or petitions, from at least three separate addresses received within the specified representation period from persons or bodies (other than those set out in (a) above) provided that any such representations are, in the opinion of the Head of Planning, based upon relevant planning considerations and a relevant Ward Member requests that the application should be reported to the Planning Committee (see 2 (i) above)(c) applications submitted by Members of the Council and Members of Staff; and

(c) applications which the Head of Planning considers are sufficiently major or raise difficult questions of policy interpretation or any unusual or difficult issues which warrant Member determination.

**3. During the appeal process to negotiate and enter into s106 Agreements and conditions in accordance with Council Local Plan Policies and any pre-appeal discussions with relevant members.**