



GOVERNANCE COMMITTEE

26 June 2014

Subject Heading:

ADDITION TO THE DELEGATED POWERS
OF THE HEAD OF REGULATORY
SERVICES

Report Author and contact details:

IAN BURNS
Acting Assistant Chief Executive, Legal &
Democratic Services – 2442

Policy context:

Amendments to the Constitution

Financial summary:

These changes are purely procedural and
have no specific financial implications

The subject matter of this report deals with the following Council Objectives

- Clean, safe and green borough
- Excellence in education and learning
- Opportunities for all through economic, social and cultural activity
- Value and enhance the life of every individual
- High customer satisfaction and a stable council tax

SUMMARY

Following adverse judicial comments on the use of s.106 Town & Country Planning Act to restrict residents of new developments from having access rights to residents' parking schemes, an alternative legal provision has been identified and delegation of its use by the Head of Regulatory Services is recommended.

RECOMMENDATIONS

That the Committee recommend to the Council that the following paragraph be added to Section 3.6.6 in Part 3 of the Constitution relating to the Head of Regulatory Services:

(dd) To enter into agreements under s.16 Greater London Council (General Powers) Act 1974 to restrict the occupants of buildings from having access to residents parking permits.

REPORT DETAIL

1. The Council's basic policy provision for new developments is that any required parking provision should be provided on site. This is particularly so in town centres where often many existing buildings do not have any provision for on-site parking, so there is considerable pressure on existing on-street provision, particularly in controlled parking zones. On occasions developers are unable or unwilling to provide the required level of on-site parking provision.
2. In order to prevent occupants of the development subsequently also applying for a residents parking permit for the controlled parking zone within which the development is situated, legal agreements are entered into with developers to remove that possibility.
3. Previously restricting access to residents' parking permits was implemented under the provisions of s.106 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act), however following adverse judicial comment on the limitation of the application of planning obligations under the Section 106(1) of the 1990 Act to restricting access to residents parking permits, it is considered that the alternative statutory provision under s.16 of the Greater London Council (General Powers) Act 1974, should be the preferred statutory provision used to implement the policy.
4. While most applications requiring legal agreements are considered by Committee, decisions on some small scale residential developments are delegated for determination to the Head of Regulatory Services. So that he can determine applications where a restriction on future residents having access to residents parking permits is required, rather than refer the application to Committee, it is recommended that the additional power to utilise s. 16 is delegated to him.

IMPLICATIONS AND RISKS

Financial implications and risks:

The agreements and/or undertakings made under seal that effect land and bind successors in title under Section 16 of the Greater London Council (General Powers)

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Act 1974 will require legal input but any costs will be recouped through an appropriate legal fee.

Legal implications and risks:

These are covered in the report

Human Resources implications and risks: None

Equalities implications and risks: None

BACKGROUND PAPERS

None