

GOVERNANCE COMMITTEE

14 JANUARY 2015

Subject Heading:

CMT Lead:

Report Author and contact details:

Policy context:

Financial summary:

**Changes to delegated powers –
Regulatory Services**

Andrew Blake-Herbert – Group Director
Communities and Resources

Patrick Keyes – Head of Regulatory
Services x2721

Monitoring Officer Amendments to the
Constitution

The described changes to delegated powers would have no material financial implications. The reduction in reports needing to be taken to Committee and the cessation of activity for 7 day list production would produce some minor financial benefits.

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

Ensuring a clean, safe and green borough	x
Championing education and learning for all	[]
Providing economic, social and cultural activity in thriving towns and villages	[]
Valuing and enhancing the lives of our residents	[]
Delivering high customer satisfaction and a stable council tax	x

SUMMARY

Following a review the Head of Regulatory Services has identified two areas of operational activity-- 7 day list of objections received and enforcement - which would benefit materially from changes to delegated powers to enable more effective and efficient service delivery.

RECOMMENDATIONS

That the Committee recommend to Council that the following changes be incorporated into Section 3.6.6 of the Constitution relating to the Head of Regulatory Services.

- 1) Section 3.6.6(e) be deleted and Section 3.6.6 (d) be altered to:

"Members may request that an application be referred to the Regulatory Services Committee for determination. Such request must be made in writing to either the Head of Regulatory Services or the Planning Manager personally. If no such request is received by the deadline of that period the Head of Regulatory Services may approve the application.

- 2) Section 3.6.6(p) be altered to:

"To issue Enforcement Notices, Stop Notices and Listed Building Enforcement Notices".

REPORT DETAIL

As part of on-going reviews of operational efficiency the Head of Regulatory Services has identified two activities which would materially benefit from changes to delegated powers. The intended outcome is more efficient and effective service delivery as explained in the rationale beneath each of the proposed changes described below.

1. **7 Day List within the Call-in Procedure for Planning Applications**

- 1a) ***Existing Position***

Sections 3.6.6(d) and (e) of the Constitution cover planning applications which are intended for an officer approval under delegated powers but which have attracted objection(s) by the public. In such cases the application is included within what is known as the "7 day list". This is included within the weekly Calendar Brief. The specific purpose of this list is to notify Members about planning applications which have attracted at least one objection and which they may wish to consider calling in to be decided by Regulatory Services Committee rather than under staff delegated powers.

- 1b) ***Proposed Change***

It is proposed to retain the call-in process itself but to dispense with creation of the '7 day list' and its weekly publication within Calendar Brief.

1c) ***Rationale for Changes***

About 15 years ago, when the Council didn't have the current electronic and other systems available to communicate with Members, the Planning Service needed to increase levels of delegated decision-making to improve its performance on planning decisions. The performance regime at that time was less critical than it is now, especially the current considerations of impact on income and possible loss of control of decision-making of categories of application should certain performance standards not be met.

In return for increasing staff levels of delegation, the safeguard for Members at that time was that they would be able to request call-in of an application to Committee if they felt there were relevant circumstances.

The call in facility – which is embedded in the Council's Constitution and is not proposed for removal – is a valuable way for Members to ensure that the Committee decides appropriate applications. But whereas Members once used Calendar Brief's "7 day list of objections received" as the primary way of identifying applications which they may wish to call to Committee, the Service judged that most Members now instead rely on the main list of planning applications. That is issued weekly to Members and is arranged by ward so they can instantly see those applications which may, in principle, be of interest to them.

The other main way in which Members now generally decide whether to request call-in is when the level of contact from their constituents draws attention to a planning application that appears sensitive.

Despite refinements to the 7 Day List over time, this doesn't appear to have increased Members reliance on Calendar Brief as the main way of identifying applications which they wish to call-in.

The arrangements for Members to attend and explain their call-ins to the Committee are not proposed for change. However the Planning Service has to devote resources weekly in order to compile, check and issue the 7 Day List into Calendar Brief. With that in mind the suggestion came forward that the relevance of the 7 Day List itself has significantly decreased since its inception and that, given the other information routes now available to Members, any value in maintaining the 7 Day list is no longer proportionate to the efforts across the Council to identify efficiencies.

Prior to making any formal submission to this Governance Committee necessary to vary the Constitution, the Service felt it would be helpful to dip test Members to see if that perception was correct.

All Members were emailed on 31 October 2014 asking which of the following applied to them. Members were advised that all replies received within 14 days would be reflected in the content of any report to Governance Committee. Responses (received from 31 out of 54 members) are shown in italics alongside:

1. ***You rely significantly on the 7 Day List within Calendar Brief as the main way of identifying planning applications which you may wish to seek to call-in to Committee. 1 Member out of 31 total replies received (3%).***
2. ***You rely only very occasionally on the 7 Day List and usually instead rely on the main planning applications list and/or feedback from constituents when considering which applications you may wish to seek to call-in. 22 Members out of 31 total replies received (71%).***
3. ***You never rely on the 7 Day List when considering potential call-ins. 6 Members out of 31 total replies received (19%).***
4. ***You rarely call applications into Committee under any circumstances. 1 Member out of 31 total replies received (3%).***

Also, one Member reply didn't specify any particular category but welcome the staff initiative. 1 Member out of 31 total replies received (3%).

Members' responses bear out staff conclusions that there is no material benefit in retaining the 7 day list within the Call-in procedure.

It is therefore requested that Section 3.6.6(e) be deleted and Section 3.6.6 (d) be altered to:

"Members may request that an application be referred to the Regulatory Services Committee for determination. Such request must be made in writing to either the Head of Regulatory Services or the Planning Manager personally."

2. **Planning Enforcement Notices**

This is about the service of notices against breaches of planning control.

2a) ***Existing Provisions***

Section 3.6.6(p) covers Enforcement Notices and states:

"After consultation with the Director of Legal & Governance, to issue Enforcement Notices, Stop Notices and Listed Building Enforcement Notices and to take any action necessary to achieve compliance with a notice, including commencing proceedings for injunctions and demolishing buildings in the following cases.

- i) *In case of urgency.*
- ii) *Where planning permission for the unauthorised development has already been refused by the Council, or*
- iii) *Where the unauthorised development consists of:*
 - *Deposit of waste materials.*
 - *Extraction of minerals.*
 - *Erection of fixed plant and machinery."*

2b) ***Proposed Change***

It is proposed that delegated powers are extended to allow the Head of Regulatory Services to serve all forms of planning related Enforcement Notices including Stop Notices.

2c) ***Rationale for Changes***

The limited range of prevailing delegated powers for enforcement mean that many straightforward cases, where a planning permission has not already been refused for that development, need Regulatory Services Committee's authority.

A review of enforcement authority reports presented to Regulatory Services over the period January 2013 to date shows that in no instances did the Committee decline to authorise staff to initiate enforcement action.

Decisions to seek enforcement authority are made having regard to the Council's Planning Enforcement Policy and material considerations, notably the development plan framework. Any decisions to enforce under delegated powers employ the same approach and would continue.

Extending delegated powers to cover all types of enforcement case would speed up the timeframe within which notices may be created and served and the reduction in reports to Committee would create process efficiencies.

It is therefore requested that Section 3.6.6(p) be altered to:

"To issue Enforcement Notices, Stop Notices and Listed Building Enforcement Notices".

IMPLICATIONS AND RISKS

Financial implications and risks:

The described changes to delegated powers would have no material financial implications. The reduction in reports needing to be taken to Committee and the cessation of activity for 7 day list production would produce some minor financial benefits.

Legal implications and risks:

There are no material legal implications. The Planning Service would continue to seek and incorporate Legal Advice where necessary.

Human Resources implications and risks:

There are no material implications.

Equalities implications and risks:

There are no material implications as the decision does not directly impact on residents or staff.

BACKGROUND PAPERS

There are none