



GOVERNANCE COMMITTEE

REPORT

31 MAY 2012

Subject Heading:	AMENDMENTS TO THE CONSTITUTION
Report Author and contact details:	Ian Burns Acting Assistant Chief Executive, Legal & Democratic Services – 2442
Policy context:	Constitutional amendments
Financial summary:	There are no relevant financial implications

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

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

1. While the Monitoring Officer has the power to make amendments to the Constitution in certain limited circumstances other amendments are dealt with under Part 1 Article 4.02 paragraph (a) of the Constitution, which provides that only the Council will exercise the function of adopting and changing the Constitution.
2. Part 3 Section 1 paragraph 1.2 of the Constitution provides that this Committee will:
 - a. monitor and review the operation of the Constitution to ensure that the views and principles of the Constitution are given full effect
 - b. make recommendations to the Council about amending the Constitution

3. Recent applications of the Constitution have identified a number of areas where small amendments or additions to various delegated powers would assist the delivery of the Council's work.

RECOMMENDATIONS

To **RECOMMEND** to Council the proposed amendments as set out in this report.

REPORT DETAIL

3.7.6 Head of Development & Building Control

1. Proposed change to text of delegated powers 3.7.6 (vi)

Erect residential development where the number of dwellings does not exceed two, including proposals which require prior completion of a Unilateral Undertaking committing the applicant to paying the Council's Infrastructure Tariffs, the latter involving liaison during the process between Head of Development and Building Control and Head of Law.

Reason for proposed delegation

Planning applications for up to two residential units can currently be approved by Head of Development and Building Control under delegated powers. The Council has introduced a requirement for all developers creating one or more net residential units to pay a tariff to contribute to the costs of community infrastructure.

To bind the applicant to paying the tariff requires prior completion of a Unilateral Undertaking which is a form of planning obligation. Currently any planning application involving a planning obligation such as Section 106 or Unilateral Undertaking comes to Regulatory Services Committee for determination. The only reason a Unilateral Undertaking would be required for applications described in the title above is to bind the applicant to pay the tariff. Applications of this type and scale would not otherwise usually come to Committee. Delegation power to enable Head of Development and Building Control to accept the Unilateral Undertaking and approve such applications would better streamline the process, for the Council and the applicant. It would also avoid applications unnecessarily filling up the Committee agenda. It's proposed that in delegating the power to Head of Development and Building Control there must be liaison during the process with Head of Legal which would be needed operationally in any event and would be similar to the liaison already done for example on Enforcement Notices.

2. Proposed New Delegated Power: 3.7.6 (cc)

To determine applications under Schedule 7 of the Crossrail Act 2008.

Reason for proposed delegation:

The Crossrail Act 2008 (the Act) has conferred the right to construct and maintain Crossrail and in effect is similar to a grant of Outline Planning Permission. Schedule 7 of the Act sets out items that require further detailed approval for both permanent works and construction arrangements, if a local authority chooses to become a “qualifying authority”. Havering are a qualifying authority and has entered into a Memorandum to:

- Use best endeavours to determine applications within eight weeks
- To have dedicated staff to deal with submissions
- To use delegated authority where appropriate.

If a local planning authority repeatedly fails to expedite requests for approval, or seriously fails to expedite a request in line with the appropriate timescales, or repeatedly or seriously fails to act in accordance with all the requirements of the Memorandum, the Secretary of State is authorised to cease the authority’s status as a qualifying authority.

If an authority doesn't have Qualifying Status it has no power to impose conditions or negotiate/refuse on Crossrail related development.

Therefore, in order to ensure that applications are dealt with within 8 weeks, it would be appropriate for Schedule 7 Applications to be determined at delegated level, unless it is considered that the proposal raises significant issues (for instance large number of objections or significant judgement issues over impact).

3. Proposed additional text in 3.7.6 (xiii)

Extensions less than 1,000sqm, outbuildings, and freestanding shelters and awnings and boundary treatment including walls and fencing proposals in respect of school related applications unless objections have been received or the school is in the Green Belt.

Reason for proposed delegation.

Proposals for school outbuildings and awnings are usually found acceptable and generally attract little public interest. Currently these sit outside the scope of delegated powers so need to come to Committee unnecessarily. Incorporation into this delegated power will streamline the planning process for school and the Council and reduce the number of applications requiring Committee determination.

4. Proposed additional text in 3.7.6 (xiv)

To decide all proposals under the advertisement regulations and applications for external building alterations including shop-fronts and canopies in respect

of LBH applications which, were they not Havering properties, would be determined under staff delegation powers.

Reason for proposed delegation

It addresses a small type of development which is usually approved and generates little public interest. Incorporating this in the existing delegated power will streamline the process for the Council and the applicant and will prevent applications unnecessarily lengthening the Committee agenda.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no specific financial implications

Legal implications and risks:

There are no relevant legal implications

Human Resources Implications and risks:

There are no relevant HR implications

Equalities implications and risks:

There are no relevant equality implications

BACKGROUND PAPERS

There are none