



MINUTES

CONSTITUTION AND ACCOUNTS COMMITTEE

MONDAY, 16 OCTOBER 2006

COMMITTEE MEMBERS PRESENT

Councillor Albert Victor Kerr
Councillor Reg Lovelock M.B.E. (Vice-Chairman)
Councillor Peter Martin-Mayhew

Councillor Mrs. Linda Neal (Chairman)
Councillor Robert Murray Shorrock

OFFICERS

Chief Executive
Service Manager, Legal
Service Manager, Democracy
Civic Officer
Democratic Officer

OTHER MEMBERS

Councillor Reg Howard
Councillor Alan Parkin
Councillor Stan Pease

Following the recent death of Councillor John Wilks who had been a member of the Committee, a minutes silence was held before the start of the meeting.

27. MEMBERSHIP

The Committee was notified that Councillor A V Kerr would be substituting for the recently deceased Councillor Wilks and Councillor Shorrock would be substituting for Councillor John Hurst both were for this meeting only.

28. APOLOGIES

None.

29. DECLARATIONS OF INTEREST

None.

30. MINUTES OF THE MEETING HELD ON 20TH SEPTEMBER 2006

The minutes of the meeting held on 20th September 2006 were confirmed as a correct record of the decisions taken.

31. CHANGES TO DELEGATIONS SCHEME AND TERMINATION OF THE PLANNING PANEL

Decision

The Constitution and Accounts Committee recommends that:

- (1) *The planning panel pilot be terminated.*
- (2) *That the scheme of delegation to the Development Control Services Manager as set-out in pages 81 - 83 of the constitution be amended, the existing paragraphs numbered 1 and 2 (a) to (j) of the Constitution shall be replaced with the following wording:*

All decisions, responses or determinations arising in relation to applications, approval of reserved matters, prior approvals, consents and consultations, submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto) shall be delegated to the Development Control Services Manager, except in the following situations:

1. *Any application for planning permission which, in the opinion of the Authorised Officer is a departure from the Development Plan or an emerging replacement plan, and where the intended officer decision is permission/consent.*
2. *Any application for planning permission, approval of reserved matters, conservation area consent or listed building consent where a Member of the Council has requested in writing to the Development Control Manager that the application be considered by Committee. All requests shall be on the appropriate pro-forma and shall be submitted within three weeks of the circulation of details of the application.*

The request shall include a statement outlining material planning reasons why the proposal needs to be considered by Committee, accompanied by a list of related Development Plan of National Planning Policies. The Development Control Manager shall have the power to decline the request if in their opinion the reasons do not constitute material planning reasons.

All requests will be acknowledged in writing, and the reasons for the application being referred will be included in the officer report to the Development Control Committee.

3. *Any application or consultation or like matter where the Authorised Officer considers a decision should be taken by Committee.*
4. *Any application submitted by or on behalf of a Councillor of the authority (or their spouse or partner) or by or on behalf of a member of the Council's staff or their spouse or partner).*

5. *Any application submitted by or on behalf of the Council for its own developments, except for the approval of routine minor developments to which no objection has been received.*
6. *In those cases where statutory time limits are involved for making decisions or taking action, for example in cases of agricultural buildings, demolitions, telecommunications determinations and notifications of works to trees in Conservation Areas, where non determination within a set period automatically gives consent; any objections received will be considered by the Authorised Officer and at their discretion efforts will be made to resolve the objection before the expiry period. However, the existence of the objection will not alter their authority in these instances to make a decision.*

(3) *The provisions of the constitution are clarified to ensure that no Committee established by the Council has the power to establish a panel for the purpose of advising officers on the exercise of authority delegated to them by Council.*

Report CEX355 had been circulated with the agenda and concerned the planning panel, which was established as a pilot panel in 2003. The report sought to regularise the position of the planning panel by either bringing it within the Constitution or terminating it. The Chief Executive then outlined to members the legislation by which planning applications can be lawfully determined, the Development Control Committee in accordance with the powers granted to the Committee by Council or by a designated officer of the Council in accordance with powers granted to that officer by the Council. It was important that any attempt to fetter the discretion of either the Development Control Committee, or the Officer in the exercise of their delegated authority could risk the Council being open to legal challenge and the Chief Executive recommended that the pilot be terminated. Councillor Howard as the longest serving member on the Development Control Committee was then permitted to speak by the Committee and he referred to the old Development Control Committee meetings when due to the number of applications on the agenda, the meetings had been excessively long. He felt that the previous officers in the planning department had done a good job and rather than disband the planning panel it should be fine tuned rather than reverting back to a Development Control Committee that went on until 7pm in the evening. Some of the members of the Committee agreed with Councillor Howard that old Development Control Committees had been lengthy and maybe the panel should be terminated and the Committee split into north and south of the district. Another member asked about the problems with the Planning Panel and the Chief Executive said that unfortunately there seemed to be a lack of clarity with regard to the remit of the planning panel and its intentions. He realised that previously a lack of resources within the planning department had made the officers case loads heavy but resources were now in place to speed up the planning process and applications should be delegated appropriately. A question was asked about the planning panel and its function to which the Chief Executive reiterated that there was no clear remit and in

practice this could influence or fetter a decision made.

The Chairman said it was her understanding that the planning panel had been established as the Development Control Committee were reluctant to delegate a percentage of the applications to officers and the introduction of a pilot planning panel was seen as happy medium. Another member of the Committee concurred with this assessment. The Chairman then referred to the Chief Executive's report which said that no member of the Development Control Committee had expressed any objections to the proposal to terminate the planning panel when this had been raised at a Development Control Committee.

It was suggested that the structure of the Development Control Committee needed to be looked at with the possibility of decisions being delegated to parish councils. Other members of the committee disagreed with this stating that parish councils did not have the financial resources to carry this out or have the necessary training to determine planning applications. The Chairman agreed that the work carried out by the Development Control Committee in determining planning applications was highly specialised. She said that perhaps a way forward was that in the short term the recommendations within the report be approved with the Development Control Committee being asked to look at the issue and to come up with some recommendations which this committee could examine in the future. Councillor Parkin, the current Chairman of the Development Control Committee was then permitted to speak. He informed the committee that only those applications which had objections to them were dealt with by the planning panel or the Development Control Committee. The Planning Panel which met every week dealt with between 15 and 20 applications. He then referred to the issues that Parish Councils often raised when planning applications were being dealt with; often these matters were not planning related. The object of the Planning Panel had always been to give full consideration to applications, often in more detail than that given at Development Control Committee as they looked at original plans rather than projected drawings.

A question was then asked about the delegated authority to which the Monitoring Officer replied. It was suggested that the issue of delegating authority to parish councils to determine applications should be looked at in the future and it was suggested that this be an item at the Stakeholders conference for parish/town council's conference in December. The Chief Executive confirmed that planning was an item on the preferred choices list for the conference.

The Committee voted on the recommendation as outlined in the report and the Chairman suggested that the Development Control Committee be asked to look at the issue and come back to the Constitution and Accounts Committee with some recommendations on a viable way forward. The recommendation was moved, seconded and agreed.

32. CIVIC UPDATE

Decision

Members noted the report.

In report CS3 the Civic Officer updated members on the civic issues and functions for the civic budget for 2006/07. As at 30th September the actual spend of the budget including known commitments amounted to £35,974.92 which would leave a balance of £6,485.08 for the remainder of the year and this was well within budget. The Chairman's civic service in June had totalled £1,084 which was below the £2,000 budget set, however the Civic ceremonies was currently overspent by £50 but this would be off set by the civic service budget. The contract for the civic transport continued to work well and had been extended for a further two years. To date 32 events had been attended using the chauffeur and the Chairman had attended 22 events in his own transport. The Chairman's charity event would be held on Friday 23rd February 2007 not 15th February as had been stated in the report. The Chairman was seeking to host a charity concert performed by the RAF Regiment Band at St Wulfram's church. As one of the Chairman's charities this would mean that the band would perform for free but the Chairman would have to fund the transport of the band members and their instruments to and from the concert venue. A local bus company has indicated its readiness to do this.

A short discussion followed on the actual cost of the budget to date to which the Civic Officer replied. The Committee noted the report.

33. AMENDMENTS TO CONSTITUTION

Decision

(1) The Constitution and Accounts committee recommends that the amendments set out in the appendix attached to report DLS084 are approved for inclusion in the Constitution subject to the following amendments:

- ***any reference to the Head of Environmental Health and Licensing to be changed to the Corporate Head of Healthy Environment;***
- ***Environmental Health Practitioners should read Environmental Health Officers;***
- ***that page 21 3. Should read The Corporate Head of Healthy Environment;***
- ***page 26 Member Services Manager should read Service Manager Democracy;***
- ***Page 25 under AUTHORISED OFFICERS it should read The Corporate Head of Sustainable Communities and the Corporate Head of Healthy Environment and officers designated in writing.....***
- ***The bottom paragraph on page 25 should read the Corporate Head of Sustainable Communities and the Corporate Head of Healthy Environment and officers designated in writing by them are.....***

(2) *That minor amendments required to update the officer designations throughout the Constitution, which follow from the amendments detailed in the appendix attached to report DLS084 are carried out forthwith.*

Members had been circulated with report DLS084 which dealt with amendments to part 3 of the Constitution following the restructure of the senior management structure. The Service Manager, Legal informed the Committee that although Corporate Heads had been appointed they were not yet in post but it was necessary to amend the delegation to officers. The majority of amendments related to the re-designation of posts following the restructure and to correct anomalies within the functions. The appendix to the report listed the changes in detail. She drew members' attention to slight changes within the appendix which dealt with name changes such as references to the Head of Environmental Health & Licensing which should be changed to the Corporate Head of Healthy Environment. The report also asked that the Committee allow appropriate changes to be made elsewhere in the Constitution with regard to the delegation of functions to officers. The Service Manager, Legal said that she was going to establish an officer working group to look at the Constitution in detail to see if any changes needed to be made and these would be referred to this committee for deliberation. It was suggested that maybe a member of the Constitution and Accounts Committee be invited to attend the working group, the Chairman indicated that work load permitting she would put herself forward as a representative of the Committee. A question was asked about the addition of two points concerning treasury management to which the Chief Executive replied that although the work had been carried out previously it had been implicit, by the addition of the paragraphs within the Constitution it now made it explicit and gave more clarity. Members agreed with the recommendations and they were moved, seconded and agreed.

34. ANY OTHER BUSINESS, WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT
None.

35. CLOSE OF MEETING
The meeting closed at 3.30pm.