



# AGENDA

For a meeting of the
<b>CONSTITUTION AND ACCOUNTS COMMITTEE</b>
to be held on
<b>WEDNESDAY, 13 DECEMBER 2006</b>
at
<b>2.30 PM</b>
in the
<b>COUNCIL CHAMBER, COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM</b>
<b>Duncan Kerr, Chief Executive</b>

Panel Members:	Councillor John Hurst, Councillor Reg Lovelock M.B.E. (Vice-Chairman), Councillor Peter Martin-Mayhew and Councillor Mrs. Linda Neal (Chairman) + Vacancy
Committee Support Officer:	Lucy Bonshor 01476 40 61 20 <a href="mailto:l.bonshor@southkesteven.gov.uk">l.bonshor@southkesteven.gov.uk</a>

**Members of the Committee are invited to attend the above meeting to consider the items of business listed below.**

**1. MEMBERSHIP**

The Chief Executive to notify the Committee of any substitute members.

**2. APOLOGIES**

**3. DECLARATIONS OF INTEREST**

Members are asked to declare any interests in matters for consideration at the meeting.

**4. MINUTES OF MEETING HELD ON 16TH OCTOBER 2006**

(Enclosure)

**5. CHANGES TO THE DELEGATION SCHEME AND TERMINATION OF THE PLANNING PANEL**

Report DLS086 from the Service Manager Democracy.

(Enclosure)

**6. DEVELOPMENT CONTROL ADMINISTRATIVE ARRANGEMENTS**

Report DLS087 from the Service Manager, Democracy.

**(Enclosure)**

**7. ANY OTHER BUSINESS, WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT**



## **MINUTES**

### **CONSTITUTION AND ACCOUNTS COMMITTEE**

**MONDAY, 16 OCTOBER 2006**

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#### **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 Shorrocks

#### **OFFICERS**

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

#### **OTHER MEMBERS**

Councillor Reg Howard  
Councillor Alan Parkin  
Councillor Stan Pease

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*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 Shorrocks 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 or 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 if 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.

## REPORT TO CONSTITUTION AND ACCOUNTS COMMITTEE

REPORT OF: SERVICE MANAGER - DEMOCRACY

REPORT NO.: DLS086

DATE: 13th December 2006

<b>TITLE:</b>	<b>CHANGES TO THE DELEGATION SCHEME AND TERMINATION OF THE PLANNING PANEL</b>	
<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	N/A	
<b>CORPORATE PRIORITY:</b>	N/A	
<b>CRIME AND DISORDER IMPLICATIONS:</b>	N/A	
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	This report is publicly available on the Council's website <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a> via the Local Democracy link	
<b>INITIAL EQUALITY IMPACT ASSESSMENT</b>	Carried out and appended to report?  <b>Yes/No/Not Applicable</b>	Full impact assessment required?  <b>Yes/No</b>
<b>BACKGROUND PAPERS:</b>	Report CEX355	

### 1. INTRODUCTION

At its meeting on 16<sup>th</sup> October, the Committee agreed to disband the Planning Panel and amend the scheme of delegation to officers. The Committee also asked the Development Control Committee to consider alternatives, if any, to the Planning Panel system.

The Development Control Committee, on 14<sup>th</sup> November, had a long discussion on various alternatives but eventually agreed to a scheme to put before this Committee.

**Attached to this report is an appendix including the relevant minute from the Development Control Committee and a copy of the scheme agreed.**

**2. RECOMMENDATIONS**

**That the Constitution and Accounts Committee consider the scheme as attached as an alternative to the Planning Panel.**

**3. COMMENTS OF SECTION 151 OFFICER**

**No financial comments.**

**4. COMMENTS OF MONITORING OFFICER**

**Comments will be available at the meeting.**

**5. CONTACT OFFICER**

Malcolm Hall  
Electoral Services Assistant  
Tel: 01476 406118  
Email: [m.hall@southkesteven.gov.uk](mailto:m.hall@southkesteven.gov.uk)

**EXTRACT FROM DEVELOPMENT CONTROL COMMITTEE - MINUTE 752**  
**TUESDAY 14TH NOVEMBER 2006**

**752. CHANGES TO THE DELEGATION SCHEME AND TERMINATION OF THE PLANNING PANEL**

*Decision:-*

*That the proposals submitted from the Chairman of Committee (and as attached to these minutes as an appendix) be agreed for transmission to the Constitution and Accounts Committee.*

The Chairman reminded Members that the Constitution and Accounts Committee, as part of its discussions on the Planning Panel situation had asked the Committee to look at the issue and report to that Committee with recommendations on a viable way forward. He asked Members for their views.

A Member commented that in the past when the then Planning Committee had been faced with a long agenda, it was clear that earlier applications on the agenda had been given more time than those towards the end of the agenda. Meetings frequently finished at 7.00pm, or later, with the result that Members were tired and frequently Councillors had left for other commitments. As a result, consideration had been given, some three years ago, to the commencement of the Planning Panels.

He suggested that maybe the time was now right to give further consideration to alternatives, possibly more frequent cycles of meetings for the Development Control Committee. It was accepted that a two weekly cycle of meetings would result in difficulties with dispatch of agendas and he put forward a suggestion for consideration which, briefly, was that an agenda would be sent in on a particular date but in two parts, Part 1 for consideration at a meeting to be held at a suitable distance from the dispatch date and Part 2 be held at a later date. The distance between these two meetings called by one agenda could be the subject of discussion.

Another Councillor suggested that all 58 Members should play a part and he put forward a suggestion that the district be divided into five areas on a roughly regional basis so that all Councillors could play a part in the decision making process to enable the workload to be spread.

*(4.52pm – Councillor Turner left the meeting)*

A Member commented that Members of the Development Control Committee frequently had other commitments, which would inevitably clash with the end of a long Committee meeting and that this would be therefore be a reason to try to keep meetings shorter, to enable Members to be present for the whole meeting. She accepted that the Planning Panel had been cancelled because of the lack of transparency issue, but queried whether suggested extended delegation was any different. It was suggested that a method of overcoming this would be to allow the public to

be present at the Panel's Meetings. In response, the Chairman suggested that the reason for the Planning Panel being terminated was the view that it fettered the decision of the Officers in recommending the method of determining particular applications.

*(4.56pm – Councillor Mrs Gaffigan left the meeting)*

*(4.58pm – Councillor Mrs Gaffigan returned to the meeting)*

A Member commented that it seemed unlikely the number of applications received would slow down and he suggested that consideration be given to either an earlier start, or Members should accept that there would be a later finish. The Officers could have a meeting to indicate their decision on particular applications and the Chairman and Vice-Chairman could sit in and observe.

*(5.00pm – Councillor Mrs Hurst left the meeting)*

*(5.02pm – Councillor Mrs Hurst returned to the meeting)*

A lengthy discussion ensued on the suggestions made, during which the Chief Executive and Committee Support Officer commented on the workability of the suggestions made, particularly the suggestion of a two weekly cycle of meetings. The suggestion in relation to area meetings was difficult to quantify but the difficulty of consistency of policies would apply. Earlier starts were possible and arrangements had been made for the Committee Support Officer to consult the Chairman if it seemed likely that an earlier start was necessary depending on the length of the agenda.

Various further comments were made by Members and the Committee Support Officer briefly explained the history behind the former Northern and Southern Area Planning Sub-committees, and why they had been terminated in favour of one district wide committee.

The Chairman of the Committee then read his suggested new scheme in full, following which the Chief Executive commented that it seemed indistinguishable from the Planning Panel Scheme. However, if the Committee agreed to support it then there would be a need to report back to the Constitution and Accounts Committee. A brief general discussion took place before the Chairman's suggestion was proposed, seconded, put to the vote and agreed for transmission to the Constitution and Accounts Committee.

On a request from a Member, the Committee Support Officer agreed to report further on the Northern/Southern Area Planning Committee idea discussed earlier in the meeting with the reasons why it had been discontinued.

*(In accordance with Council procedure rule 9, and as the meeting had lasted for three hours, it was agreed that the meeting continue)*

## **DEVELOPMENT CONTROL COMMITTEE**

**14<sup>TH</sup> NOVEMBER 2006**

### **DEVELOPMENT CONTROL CONSULTATION GROUP**

A group of Members consisting of the Chairman, Vice-Chairman and four other Members from the Development Control Committee selected on a three monthly rotational basis. Should a member be unable to attend they may be substituted by any other member from the Development Control Committee or a member who has had the necessary training.

This group shall meet once a week to consult with Officers on whether an application with planning objections should be satisfactory for Officer approval or should be considered by the full committee.

The group should only consider applications where there are written planning objections from members of the public, Parish/Town Councils, and statutory consultees that have been received within the stipulated time span. Items received out of the stipulated time span will be ignored.

The group will consider within the framework of the objections only whether the recommendation of the officers either to Approve/Refuse under delegated powers is the correct one. Should the group disagree with the Officer's recommendation the application is automatically referred to the full Development Control Committee for Consideration.

### **Alterations to Constitution**

To encompass the Development Control Consultation Group it will be necessary to amend the Constitution as follows:-

After item 1 on page 81 insert the above

After item 6 of the items approved at Council on Thursday 26<sup>th</sup> October 2006 insert item 7

- 7 An application on which material planning objections (include those from **Parish**/Town Councils and statutory Consultees) have been received within the stipulated time span, shall be referred to the Development Control Group who will take all written objections into consideration before either being content with the officers proposed recommendation or Not content with the officers recommendation in which case the application will go to the full Committee

On page 58/9 of the constitution add paragraph:-

The Development Control Committee is empowered to form a Consultation Group of six Members including the Chairman and Vice-Chairman to advise Officers on applications which have several objections on planning matters. The members of this group will rotate every three months.

The Planning Panel was dissolved because it was considered that it did not have transparency. The passing of all application to the Officers means that there will be less transparency where the officers approve all applications as agreed at the last Council meeting, this way Members who may received complaints about applications will have some input into the process.

## REPORT TO CONSTITUTION AND ACCOUNTS COMMITTEE

REPORT OF: SERVICE MANAGER - DEMOCRACY

REPORT NO.: DLS087

DATE: 13<sup>TH</sup> DECEMBER 2006

<b>TITLE:</b>	<b>DEVELOPMENT CONTROL COMMITTEE ADMINISTRATION</b>
<b>FORWARD PLAN ITEM:</b>	N/A
<b>DATE WHEN FIRST APPEARED IN FORWARD PLAN:</b>	N/A
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	N/A

<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	N/A				
<b>CORPORATE PRIORITY:</b>	N/A				
<b>CRIME AND DISORDER IMPLICATIONS:</b>	N/A				
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	N/A				
<b>INITIAL EQUALITY IMPACT ASSESSMENT</b>	<table> <tr> <td>Carried out and appended to report?</td><td>Full impact assessment required?</td></tr> <tr> <td><b>Not Applicable</b></td><td><b>No</b></td></tr> </table>	Carried out and appended to report?	Full impact assessment required?	<b>Not Applicable</b>	<b>No</b>
Carried out and appended to report?	Full impact assessment required?				
<b>Not Applicable</b>	<b>No</b>				
<b>BACKGROUND PAPERS:</b>					

## **1. INTRODUCTION**

Planning consultants, and others, have recently observed a series of Development Committee meetings. Some concern has been voiced at methods of operation in relation to site inspections, member expression of material planning considerations when speaking, and procedures at meetings of the committee.

The purpose of this report is to suggest methods by which the administration of and public confidence in the committee's decisions could be improved.

## **2. RECOMMENDATIONS**

1. That site visits be allowed on request by any member for a particular ward in which an application is situated subject to:

- The criteria set out in the Code of Guidance for Probity in Planning being met;
- Requests being made by no later than 12 noon on the Friday prior to a meeting;
- Urgent requests at committee only being allowed on a unanimous vote by the Committee.

2. Members should be required to make it clear, when addressing the Committee, whether the points they are making are material planning considerations or not.

3. That committee members be required to sit in the first two rows of the Council Chamber when attending meetings of the Development Control Committee.

## **3. DETAILS OF REPORT**

There is clear guidance in the Probity in Planning booklet about the procedure surrounding site visits. Concern has however been expressed by Planning Consultants and applicants that proper reasons are not always given. It is important that requests are made for sound planning reasons, and even more importantly for reasons which cannot be evidenced by reading the circulated report and closely scrutinising the photographs of the site shown at the meeting.

Ideally, all comments made at meetings should address material planning considerations. However, it is often the case that members make points which, whilst they may be relevant to some aspect surrounding the application are not strictly material planning considerations. All that would be required to make this clear to other members, officers and members of the public is for the member speaking to clarify whether he/she is making material or non-material points.

Finally, it has been suggested that all members, when meeting in the Chamber, sit in the first two rows. There are two reasons for this – firstly to give the increasingly large numbers of visitors the opportunity to be seated by using the rear row of the room. In addition, it would make it easier for the Chairman and officers to control the meeting, as members would be grouped together rather than spread, as now, over the entire room. Lastly, public speaking will in future be carried out from one of the side desks to allow the speaker to face the meeting rather than speak from behind, as is the case now.

**4. COMMENTS OF SECTION 151 OFFICER**

No financial comments.

**5. COMMENTS OF MONITORING OFFICER**

Comments will be available at the meeting.

**6. CONTACT OFFICER**

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