

Gloucester City Council

Meeting:	Council	Date:	1 December 2016
Subject:	Amendments to the Constitution		
Report Of:	Chair of General Purposes Committee		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1. Briefing Note: Local Development Orders		
	2. Revised scheme of delegation for Planning Committee		
	3. Revised Council Procedure Rules		
	4. Revised Audit and Governance Committee Terms of Reference		
	5. Current Audit and Governance Committee Terms of Reference		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 The purpose of this report is to seek approval for amendments to the Constitution in relation to the following:

1. Local Development Orders (LDOs) and the scheme of delegation relating to planning applications.
2. Council Procedure Rules regarding Member Questions at Cabinet.
3. Audit and Governance Committee Terms of Reference.

1.2 All proposed changes have been endorsed by the Constitution Working Group.

2.0 Recommendations

2.1 Council is asked to **RESOLVE** that

- (1) Authority 'To determine all future matters regarding the making of Local Development Orders' be inserted in to the functions of the Planning Committee (Part 3C Table 2 of the Constitution).
- (2) The amendments to the functions of the Planning Committee (Part 3C Table 2 of the Constitution), including Option A in respect of Class A2(c) changes of use, be amended as set out in Appendix 2.
- (3) The Council Procedure Rules be amended, as set out in Appendix 3, to permit Members to ask questions at Cabinet meetings.

- (4) The revised Audit and Governance Committee Terms of Reference as set out in Appendix 4 be approved.

3.0 Background and Key Issues

Local Development Orders

- 3.1 Section 61A of the Town and Country Planning Act 1990 (as amended) allows a Local Planning Authority to make a Local Development Order ("LDO") that grants planning permission for:
- a) Any development specified in the order; and/or
 - b) Development of any class so specified.
- 3.2 LDOs are already in use in a number of local authority areas, frequently where planning authorities have created orders that grant permission for a range of often routine development proposals. The inclusion of such proposals within an LDO brings the advantage that applicants have certainty in relation to proposals for such uses. From the Council's viewpoint, the 'creation' of a planning permission for specific proposals removes the need for such proposals to be considered individually by officers which can provide additional capacity to deal with other more complex planning decisions and improve overall performance. From a negative viewpoint, an LDO would remove a degree of fee income from the Council; however, the costs of dealing with such applications often exceed the fee received.
- 3.3 Part 3C of the Council's Constitution sets out the powers available to the Planning Committee. Section 1 gives the Committee authority to 'To determine planning applications, the terms of planning agreements and such other matters as are considered appropriate from time to time, excluding matters relating to policy.' (emphasis added).
- 3.4 Moreover, section 4 entrusts the Committee with the power 'To determine matters relating to planning as a District Planning Authority excluding strategic planning matters...'.
- 3.5 Arguably under sections 1 and 4 described above, the Planning Committee has the ability to grant an LDO. However, it is considered that there would be benefit in making this power more explicit and precise. It is therefore recommended that the Council's Constitution is amended to make it explicit that the Planning Committee may consider and grant an LDO.
- 3.6 The proposed change was endorsed by the Planning Committee on 6 September 2016 and General Purposes Committee on 18 October 2016.

Scheme of Delegation relating to Planning Applications

- 3.7 Planning Committee has the responsibility for taking decisions on various types of applications, which are set out in Table 2 of Part 3C of the Constitution. These categories of application cannot therefore be determined by officers under delegated powers. Other types of application not listed in that table can be handled

under delegated powers (although are also subject to a Member call-in procedure and officer referral process).

- 3.8 It is suggested that there are a small number of anomalies and uncertainties in the wording contained in that table which would benefit from being amended. In addition, some of the thresholds or scales of development which trigger applications being reported to Committee could perhaps be considered to be a little low and could potentially be slightly increased to reduce the number of such relatively small-scale and uncontroversial applications being reported to Committee. This would enable Committee resources to be focused on the more significant proposals.
- 3.9 It is recognised that there is a balance to be struck between enabling the minor and non-controversial applications to be dealt with under delegated powers, and also ensuring that Planning Committee is able to deal with the types of application which it is best placed to do. The suggested changes are brought forward with the intention that they will remove a small number of items from Committee agendas, which is likely to assist the Council in reaching decisions in a timely manner and raising its performance levels which are measured by Government. Equally the changes recognise that there are still a range of types of application that are best placed to be determined by Planning Committee, and this would be enhanced by Committee being able to focus more on such significant proposals. It should be noted that no changes are being suggested to the existing arrangements that enable Members to call-in applications to Committee, and also enable officers to refer applications to Committee if they think it is necessary.
- 3.10 The proposed changes were endorsed by Planning Committee on 6 September 2016 and General Purposes Committee on 18 October 2016 and the General Purposes Committee recommended that Option A in respect of Class A2(c) changes of use be approved.

Member Questions at Cabinet

- 3.11 Following a suggestion by the Constitution Working Group, at the meeting on 18 October 2016 the General Purposes Committee agreed to recommend that Members be afforded the opportunity to question the Leader and Cabinet Members at Cabinet meetings. It is proposed that a period of 15 minutes be set aside for this at each Cabinet meeting.
- 3.12 To affect the change, it is proposed that Rule 27 (Application to Committees and Sub-Committees) of the Council Procedure Rules be amended as detailed in Appendix 3; this would have the effect of making Rule 12 (Questions by Members) applicable to Cabinet meetings, subject to the stipulation that the period of time set aside for Member Questions at Cabinet be 15 minutes rather than 30 minutes.

Revised Audit and Governance Terms of Reference

- 3.13 All local authorities must make proper provision for internal audit in line with the 1972 Local Government Act (S151) and the Accounts and Audit Regulations 2015. The latter requires *a relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards.*

- 3.14 These standards define the way in which the Internal Audit Service should be established and undertakes its functions, including the functional reporting requirements to the governance group charged with providing independent assurance on the adequacy of the control environment, comprising risk management, control and governance.
- 3.15 To ensure conformance with the CIPFA Audit Committees good practice guidance and the PSIAS, the Audit and Governance Committee's Terms of Reference have been revised for consideration and approval. The revised ToR are detailed in Appendix 4 and the current ToR are contained in Appendix 5.
- 3.16 The revised Terms of Reference were endorsed by the Audit and Governance Committee on 19 September 2016 and by the General Purposes Committee on 18 October 2016.

4.0 Asset Based Community Development (ABCD) Considerations

- 4.1 There are no ABCD implications as a result of this report.

5.0 Alternative Options Considered

- 5.1 In respect of each amendment, the alternative option is to not change the Constitution. The reasons for making the amendments are explained under each heading.

6.0 Reasons for Recommendations

- 6.1 These are detailed in the body of the report.

7.0 Future Work and Conclusions

- 7.1 If approved, the amendments will come into effect immediately and the Constitution will be amended and re-published.

8.0 Financial Implications

- 8.1 In respect of LDOs, if developments are brought forward through the LDO process rather than by means of a planning application, then the usual planning fee income required for such planning applications would not be received. However, the Council has the ability to set charges for approval of details relating to LDO developments. It would be within the Council's remit to set such charges at a level which would match the loss of planning application fee income. If such charges were introduced there would be no net financial impact.

- 8.2 There are no other financial implications.

(Financial Services have been consulted in the preparation this report.)

9.0 Legal Implications

9.1 Where relevant these are contained in the body of the report.

(One Legal have been consulted in the preparation this report.)

10.0 Risk & Opportunity Management Implications

10.1 There are no risks associated with the recommendations in this report.

11.0 People Impact Assessment (PIA):

11.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

Community Safety

12.1 There are no community Safety implications arising out of the recommendation in this report.

Sustainability

12.2 There are no sustainability implications arising out of the recommendation in this report.

Staffing & Trade Union

12.3 There are no Staffing and Trade Union implications arising out of the recommendation in this report.

Background Documents: None