

Key Decision Required:	No	In the Forward Plan:	No
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9 MARCH 2011

## REPORT OF THE INTERIM HEAD OF PLANNING SERVICES

### **A.6 PROPOSED CHANGE TO THE CONSTITUTION**

(Report prepared by Clare David)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

To seek Cabinet's approval to submit a report to Council to recommend a proposed amendment to the Council's Constitution.

##### **EXECUTIVE SUMMARY**

The proposed amendment relates to the setting of planning fees.

Cabinet are requested to consider and comment on the proposed amendment with a view to endorsing the proposal and approving its referral to the Council on 29 March 2011 in accordance with Article 15 of the Constitution.

##### **RECOMMENDATION(S)**

**That the proposed amendment to the Council's Constitution as contained in this report is submitted to the Council for approval in accordance with Article 15 of the Constitution.**

#### **PART 2 – IMPLICATIONS OF THE DECISION**

##### **DELIVERING PRIORITIES**

The proposed amendment to the Constitution will allow the Council to provide an efficient Planning Service with a full recovery of the costs associated with the handling, consideration and/or determination of formal applications within the planning system.

##### **FINANCE, OTHER RESOURCES AND RISK**

###### **Finance and other resources**

The minor costs arising from the proposed amendment (including for consultation and publication of the proposed scale of charges etc) can be met from within the existing budget. It should be noted that the cost to the Council would be fundamentally the same whether fee setting remains to be agreed by Council or is delegated to Officers in consultation with the Portfolio Holder for Planning (as the current amendment proposes).

###### **Risk**

A key step in the timely delivery of the project is a change to the Council's Constitution to allow delegation to Officers (the Assistant Chief Executive) in consultation with the Portfolio Holder for Planning. If this change is not achieved, and the fees remain to be determined as part of the overall budget setting exercise by Council, then the October deadline date is unlikely to be met and no local planning charge will be in place when the nationally set fees are withdrawn. The Council may be in a position where a planning fee cannot be charged until such time as the Council agrees the scale of charges.

##### **LEGAL**

The action proposed is within the discretionary power of the Council.

##### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.  
Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

In November 2010 the Government published a consultation document entitled 'Proposals for changes to planning application fees'.

Nationally set planning fees have been in place since 1980 and it is generally accepted that they do not represent an accurate cost to Local Planning Authorities (the Government estimates that the average shortfall is between 10-15%). The consultation document proposes a radical change that will introduce locally set planning fees and reflect the private benefit implicit in the grant of a planning permission rather than relying on tax payer subsidy of the planning system. These locally set fees are to reflect the true cost of handling, administering and determining planning applications (including related overheads) but must be non-profit making.

At its meeting on 8 February 2011 the Council considered the annual review of the Constitution. The review of the delegated powers in the Planning Portfolio included the setting of fees and charges for :

- the preparation; management and monitoring of section 106 legal agreements;
- the preparation and associated work, necessary to cover the cost of footpath diversions;
- providing specialist heritage, conservation, and tree and landscape advice; and,
- providing pre application advice.

Prior to this the proposed changes of the annual review had been considered by Cabinet in September 2010 and were scrutinised and commented on by the Corporate Management Committee on 25 October 2010 before Cabinet on 10 November 2010 referred the final revisions to Council on 8 February 2011. Unfortunately the timing of the Government's consultation on 15 November 2010 did not facilitate the inclusion of the setting of local planning fees in the annual review.

## CURRENT POSITION

The consultation period for the draft proposals expired on 7 January and it is anticipated that the outcome of the consultation together with a draft set of regulations will be available in the near future. If accepted and approved by Parliament the changes will be implemented from 4 April 2011, with a six month transition period to October 2011 (during which time the nationally set fees can still be charged). After this date, the nationally set planning fees will become defunct. It is imperative therefore that the Council is prepared to launch its own set of local planning fee charges by 1 October 2011.

In order to meet this target date and to allow locally set planning fees to be monitored, reviewed and changed on an annual basis it is necessary to amend the Constitution to delegate this function to Officers (the Assistant Chief Executive), in consultation with the Portfolio Holder for Planning.

The following amendment is therefore recommended:

Constitution Ref.	Existing Wording	Proposed New Wording	Reason for Change
Part 3.67	None – new delegated power 31 to be added	“The annual setting, monitoring, review and change of local planning fees charged and to be charged by the Council for handling, considering and/or determining all categories of formal application under TCPA 1990, LBA 1990, the Planning (Hazardous Substances) Act 1990, and the Control of Advertisements Regulations 2007 and/or under any other legislation or procedure associated with the town and country planning system”.	To enable the local authority to provide a cost effective planning service whilst ensuring the full recovery of costs to the Council in the handling and determination of planning applications.

TCPA = The Town and Country Planning Act 1990

LBA = Listed Buildings and Conservation Area Act 1990

## BACKGROUND PAPERS FOR THE DECISION

Department of Communities and Local Government: Proposals for changes to planning application fees in England: Consultation (Published 15 November 2010).

<b>APPENDICES</b>
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None
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