



COUNCIL
17TH JANUARY 2005

**Agenda
Item:**

IMPROVING THE COUNCIL'S PERFORMANCE IN DEVELOPMENT CONTROL

Summary of Report:

This report proposes changes to the Development Control Committee and details amendments to the Council's Constitution which will maintain and enhance the development control service. These changes are proposed following the review of the Development Control Committee undertaken by a joint Member/Officer Working Group in late 2004.

This report also sets out detailed Constitutional changes which will implement changes to delegations available to the Head of Planning and Transportation, the Head of Environmental Regeneration and Head of Legal Services in order to improve the responsiveness of the planning service and enable the Development Control Committee to concentrate on issues of strategic importance.

This report outlines the findings of other matters considered by the working group including the size of the Development Control Committee, its venue and its public speaking arrangements. And these changes are to increase public and stakeholder confidence and involvement in Development Control.

Background Papers:

Report by Chief Executive to Council on 12 January 2004 – 'Establishment of Development Control Committee'.

Recommendations:

- (1) Council agrees the disestablishment of the existing Development Control Committee and the establishment of a new Development Control Committee of 12 Members, based on proportionality.
- (2) Nominations for membership of the Committee be submitted to the Chief Executive by 21 January 2005 as follows:

Conservative	7 Members
Labour	4 Members
Liberal Democrat	1 Member

- (3) Council agrees the Constitutional amendments in relation to the delegations to the Head of Planning and Transportation, the Head of Legal Services and the Head of Environmental Regeneration as set out in the report.
- (4) Council agrees that these Constitutional amendments be adopted from 1 February 2005.

Signed:

Chief Executive

Date:

BACKGROUND

The Development Control Service was rejuvenated following decisions taken by the Council in response to criticisms from the Corporate Governance Inspection about the process of deciding planning applications. As part of the new governance arrangements approved by the Council in January 2004, it was agreed that the new arrangements would be reviewed after 12 months with an interim review after six months. The first of these two reviews has now been undertaken by a joint Member and Officer Working Group.

The new arrangements proposed in this report are, in the main, fully supported by the Group as offering effective and transparent governance with a view to delivering significant improvements in performance which are supported by customers and citizens.

The Government has included Walsall on a list of authorities that are required to improve performance in the speed that it determines 'major' and 'minor' applications by April 2006. The Council has not been included on the list for 'other' application types as performance for this type of applications is considered acceptable. There are 77 Councils on the list for 'major' applications and 58 councils on the list for 'minor' applications. Government have based their proposal on performance levels in 2003/4 for applications of this type when levels of performance for applications determined in accordance with Government targets were at a disappointing 31% and 42% respectively. Under the provisions of section 4 of the Local Government Act 1999 mandatory targets of 57% for 'major' applications and 63% for 'minor' applications are to be imposed on the council. Failure to meet these targets could result in Government intervention but regardless of Government's intention, the Council's vision is for Walsall to become an excellent Council.

It is therefore vital that the planning service consolidates the recent improvements and strives to meet its own ambition and Government targets.

This report sets out the detailed Constitutional amendments necessary to implement the required changes to delegations available to the Head of Planning and Transportation, the Head of Environmental Regeneration and Head of Legal Services. These new delegations will achieve the following:-

1. Improve the speed of determining Major Applications by refusing those applications that do not comply with national and local planning policies as set out in Planning Policy Guidance Notes and the Council's UDP and where there is no significant community interest in support of the proposal.
2. Improve the speed of determining applications by refusing applications where there is an objection from a statutory consultee and where there is no significant community interest in support of the proposal.
3. Reduce Committee workload and speed up applications by delegating to Officers. Applications for works to trees, including the removal of trees protected by Tree Preservation Orders, where there is no significant community interest.
4. Improve the Planning Enforcement function by the sending out of Requisitions for Information to facilitate information gathering of ownership and interests of sites and buildings.

JOINT MEMBER OFFICER WORKING GROUP

Members of the group were:-

Elected Members:-

Councillor T Ansell, Councillor R Collins, Councillor S Madeley, Councillor J O'Hare, Councillor T Oliver, Councillor E Pitt, Councillor I Shires, Councillor H Withnall.

Officers:-

K Stone, B Gill, D Watton, M Yardley, D Elsworthy, N Hickson, R Scrivens.

The working group met twice to conduct its interim review and considered a range of relevant issues including the findings of customer exit surveys, questionnaires received from applicants' feedback from individuals who have spoken at the Committee and feedback from those organisations that have been consulted as part of the planning process. Having considered these matters in detail the working group recommended that, whilst it had not reached a collective agreement on the size of the Committee, two scenarios be put forward for consideration:

- a) That the Committee remain as twenty Members based on representation of one member from each ward.
- b) That the Committee be reduced in size to 12 Members based on proportionality of the political groups.

The Development Control Committee was originally set up based on 20 members (one from each ward) in order to bridge the transition from the former District Committees to a single committee and to ensure all Wards were represented.

However, the working group considered that, with the development of the Local Neighbourhood Partnerships, Members now have an appropriate forum for neighbourhood issues to be considered and representation on the Committee based on ensuring representation based on the geographical area of the borough should not be the driving influence. The Review concluded that each application needs to be considered on its own individual planning merits and there is no requirement for a Member from a particular location to be party to the decision making process. The Review Group considered that, any Councillor can call in an application to be considered by the Development Control Committee and address the Committee by the use of the speaking arrangements.

Being a member of the Development Control Committee is an important but time-consuming role which is best served by Members who wish to develop an interest in planning issues and are able to attend training briefings and develop their knowledge and abilities in this area. For these reasons it is considered that option b), based on the reduction to 12 Councillors, is preferable.

The Working Group also recommended:-

1. That subject to improved amplification for the Chairman and Lead Officers, the Council Chamber is currently the most appropriate venue for holding the meeting and should continue to be used for this purpose.

2. That the Chairman be assisted in the presentation of the meeting by the Clerk and Legal Officer by introducing the item, conducting the vote, and confirming the decision made on each item as may be agreed with the Chairman.
3. That the present arrangements for persons to speak at the Committee be continued.
4. That Members of the Committee continue to receive training on planning and procedural matters through at least two briefing sessions per year and one event for all Councillors be included in the Councils' Member Development Programme. The group also considered that the Committee members be sent briefing information on planning issues, by electronic means, on a 3 monthly basis.

The Review Group considered detailed proposals for an increase in delegations to Officers in order to allow, in particular, the refusal of Major applications that would otherwise need to be brought to the Committee. This recommendation was made subject to several criteria to ensure that only those applications that are not in accordance with planning policy and are clearly uncontroversial from the local community perspective are included within any extended delegations. The group also agreed that applications for works to protected trees should be dealt with by Officers with similar safeguards.

A small change to the administrative arrangements for collecting information about land ownership prior to commencing enforcement action was also agreed. This will enable officers to serve Requisition for Information Notices without recourse to the Committee.

The Working Group has not prepared a report signed by all of the Members who took part in this group. This report is based on verbal agreements reached during discussions with Members of the working party.

Changes to the Constitution that would be necessary to give effect to all of the Working Group's recommendations where these are required are set out in Appendix A.

APPENDIX A

Delegations of the Development Control Committee – Proposed Changes to this Constitution

1. Delete paragraph 2. (a)

Insert new paragraph 2. (a) “All major applications i.e. those applications for permission to develop 10 or more dwellings or a building(s) with 1000 sq metres or more floor space and over 0.5 ha, or new or extended mineral working or waste disposal except that authority shall be delegated to the Head of Planning and Transportation to determine applications which would not raise complex or delicate judgement and when the proposed development does not comply with national or local planning policy and there is no significant community interest which would be contrary to the officer’s recommendation .

Effect of amendment

This will enable major applications to be refused by the Head of Planning and Transportation in the interests of expediency where the proposal does not comply with national or local planning policy as set out in Government Planning Policy Guidance Notes and the Walsall UDP and where there is no significant community interest in support of the proposed development. This will improve the performance of the Council by determining more Major applications within the statutory 13 weeks allowed and avoid taking up the time of the Development Control Committee with applications that are clearly without a policy foundation or community support.

2. Delete Paragraph 2. b), c) and h)

Insert new paragraph 2. (b) Applications that would depart from the UDP (requiring publicity) where they don’t comply with national or local planning policy and there is no significant community interest which would be contrary to the officer recommendation.

Insert new paragraph 2. (c) Applications where an objection is received from a statutory consultee (as defined in the General Permitted Development (Procedures) Order 1995 (as amended) and there is no significant community interest which would be contrary to the officer recommendation.

Insert new paragraph 2. (h) Applications attracting significant community interest (i.e. as evidenced by a high number of individual representations or significant/large petition objecting to a development) which would be contrary to the officer recommendation.

Effect of amendment

These are minor changes to the existing delegation that will enable applications to be refused by the Head of Planning and Transportation in the interests of expediency where there is no significant community interest which would be contrary to the officer recommendation.

3. Delete Paragraph 39 (8) (a) to (d) inclusive

Create new Paragraph in Part 3 entitled paragraph “39A Head of Environmental Regeneration” and create a new paragraph 39A (1) (a) to (e) to read:-

39A Head of Environmental Regeneration

- (1) The Head of Environmental Regeneration has authority to determine the following applications and to take the following actions under Part VIII, Chapter 1 of the Town & Country Planning Act 1990 and Town & Country Planning (Trees) Regulations 1999:-
 - a) Authorise the making of Tree Preservation Orders where immediate action is necessary to protect a tree or trees under threat;
 - b) Determine applications to top, lop or prune protected trees;
 - c) Determine applications to fell and remove trees where there is no significant community interest;
 - d) Enforce conditions requiring replacement planting by the service of the appropriate notice;
 - e) Undertake appropriate action in response to issues under Section 211 of the Town and Country Planning Act concerning proposed works to trees in Conservation Areas.

Delete “4. Powers relating to the preservation of trees” in the Development Control Committee’s functions and insert new paragraph reading:

- (4) Powers relating to the preservation of trees Sections 197-200; 202-206, 210 and 214 of the Town & Country Planning Act 1990.

Effect of amendment

To enable the Head of Environmental Regeneration to determine planning applications for works to trees including the removal of trees where there is no significant community interest. This will help to speed up the determination of these applications in accordance with local performance indicators and reduce the number of applications that need to be reported to the Development Control Committee other than those requiring scrutiny as evidenced by a significant number of representations received in response to the application.

4. Insert new paragraph 39 (7)(g)

Insert new Paragraph 39 (7) (g) to read:

- (ii) (a) Authority to issue and serve notices under Section 330 Town and Country Planning Act 1990 and Section 16 Local Government (Miscellaneous Provisions) Act 1976 where it is required to facilitate the gathering of information in respect of the ownership and other relevant interests in land;

Effect of amendment

To enable information to be collected from persons with an interest in land and buildings. This will enable officers to determine the most appropriate approach to enforcement action and who to serve such notices.