

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**REGULATORY - PLANNING COMMITTEE**

**10 January 2022**

**Report of the Director of Legal & Democratic Services**

**Delegations of non-executive functions to Head of Planning Services**

**1. Purpose**

- 1.1 To enable the Committee to resolve to delegate to the Head of Planning Services certain functions for which the Committee is responsible.

**2. Information and Analysis**

2.1 The exercise of the main enforcement powers under the Town and Country Planning Act 1990, amongst other statutory functions, has been specifically delegated to the Head of Planning Services. These powers include power to serve enforcement notices, breach of condition notices, and temporary stop notices, and to apply for injunctions. The Act also contains the following associated and complementary powers, which are also within the Committee responsibilities (being non-executive functions) but which have not previously been delegated specifically to the Head of Planning Services:

- Power under section 171C to issue planning contravention notices
- Power under Section 102 to make orders for discontinuance of a use of land, for imposition of conditions on continuance of use of land, or for alteration of buildings or works (to which provisions at schedule 9 apply in relation to use of land for minerals or waste development)
- Power under Section 196A to authorise entry on to land

- 2.2 These statutory powers are each of a kind that may need to be exercised quickly for acting effectively to prevent or remediate harm to amenity from breaches of planning control. This is incompatible with seeking prior committee approval.
- 2.2 The current scheme of delegations does not necessarily require Committee authorisations for exercise of such powers. This is because it makes general allowance for a relevant function to be exercised by officers directly, both for day-to-day administration and operational management of services and functions, and for situations of particular urgency (after discussion, if practicable, with the leader of the Council or the relevant Cabinet Member or Chairman). However, bringing these functions into the suite of functions delegated specifically to Head of Planning Services will mean that the constitutional position for the officers involved in planning enforcement will be firmer and more transparent to the public.
- 2.4 Delegation by a resolution of the Committee as recommended below can be effective immediately but Appendix 1 to the Constitution will then need to be amended accordingly. Appendix 1 to the Constitution is the part of the Constitution in which all specific delegations to officers should be recorded.
- 2.5 There are some other functions under the Town and Country Planning Act for which additional specific delegations to the Head of Planning Services are also considered desirable, but which are not designated by the regulations as non-executive functions. Because this Committee has no role in relation to such functions, it is envisaged that those potential delegations will be addressed in a report to the Cabinet.

### **3. Alternative Option Considered**

Doing nothing now. This is considered to be undesirable, because the delegation being recommended is simple and would promote greater transparency and more efficient planning service delivery.

### **4. Implications**

- 4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **5. Consultation**

5.1 Not applicable.

## **6. Background Papers**

6.1

DCC Constitution including Scheme of Delegation in Appendix 1 (available from DCC website, in “The Council” section, at “How the Council works”: <https://www.derbyshire.gov.uk/council/council-works/how-the-council-works.aspx> )

## **7. Appendices**

7.1 Appendix 1 – Implications.

## **8. Recommendation(s)**

That the Committee resolves to delegate to the Head of Planning Services the exercise of the following functions under the Town and County Planning Act 1990:

- The power to issue planning contravention notices under s171C
- The power to make orders under Section 102
- The power to authorise entry on to land under Section 196A of the Town and Country Planning Act 1990

## **9. Reasons for Recommendation(s)**

9.1 To enable the non-executive functions delegated to HoPS to include and to be seen to include those covered by this report.

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**Implications**

**Financial**

1.1 None

**Legal**

2.1 Most functions of the Council can be delegated to officers employed by the Council, as provided by the Local Government Act 1972. The functions recommended for delegation by this report are functions that regulations made under the Local Government Act 2000 specify as functions that cannot be exercised by a Council's executive side (i.e. cabinet). These functions are therefore within the functions that have been allocated to the Committee.

**Human Resources**

3.1 None

**Information Technology**

4.1 None

**Equalities Impact**

5.1 Not applicable

**Corporate objectives and priorities for change**

6.1 This report links to the Council Priority of High Performing Value for Money and Resident Focused Services. The changes proposed will enable efficient and up to date functioning of the Council as a corporate body.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None