

# CHESHIRE EAST COUNCIL

## EXPLANATORY NOTE

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**Date of Meeting:** 23<sup>rd</sup> July 2009  
**Note upon:** Substitute Members at Planning Meetings

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### 1.0 Background

1.1 On 17<sup>th</sup> June, the Strategic Planning Board considered the appended report. For the reasons set out at paragraph 11.4 of the report, the Board made the following recommendation to the Governance and Constitution Committee and to Council:

“That the scheme of substitution in the Constitution be amended as follows:

- a) No substitution shall be made to the North Area Planning Committee except with a Member from the South Area Planning Committee and vice versa. The substitute Member should wherever possible come from the same political group but may come from a different political group
- b) No substitutions shall be made to the Strategic Planning Board from the area committees or at all.”

1.2 On 25<sup>th</sup> June, the Governance and Constitution Committee considered the recommendations of the Strategic Planning Board and, whilst it supported recommendation (a) and recommends this to Council, the Committee did not support recommendation (b).

1.3 The Governance and Constitution Committee therefore recommends to Council only that:

- a) “No substitution shall be made to the North Area Planning Committee except with a Member from the South Area Planning Committee and vice versa. The substitute Member should wherever possible come from the same political group but may come from a different political group.”

1.4 Council must now decide whether it wishes the Constitution to be changed to reflect both recommendations (a) and (b), according to the wishes of the Strategic Planning Board, or just recommendation (a), in line with the wishes of the Governance and Constitution Committee.

1.5As indicated to the political groups, and explained at paragraph 9.0 of the appended report and paragraph 2 this report, if the recommendation at paragraphs 1.1(a) & 1.3 (a) above is to succeed, it must be accepted by Council without any vote being cast against the proposal.

1.6It is therefore suggested that recommendations (a) and (b) should be voted upon separately at the Council meeting.

### **Legal Implications**

- 2.1 In order for the Council's Constitution to be changed, the proposed changes must first have been considered by the Governance and Constitution Committee. Council must then determine what changes should be made.
- 2.2 The rules regarding political proportionality are fixed by the Local Government and Housing Act 1989 and subordinate legislation contained in the Local Authorities (Committees and Political Groups) Regulations. Departures from the normal rules are only possible on a "nem con" vote basis. These proposals are intended to reduce the scope for legal challenge to planning decisions.

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# Appendix

## STRATEGIC PLANNING BOARD

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<b>Date of Meeting:</b>	17 <sup>th</sup> June 2009
<b>Report of:</b>	Borough Solicitor
<b>Subject/Title:</b>	Attendance by Substitute Members

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### **1.0 Report Summary**

- 1.1 This report proposes alternative arrangements to restrict the appointment of substitute members for planning matters.

### **2.0 Recommendations**

- 2.1 That Members indicate whether they would wish the proposals contained in Paragraph 11.4 to be brought forward to Governance and Constitution Committee and Council.

### **3.0 Reasons for Recommendations**

- 3.1 To canvass a suggestion by the Chairman and the Portfolio Holder

### **4.0 Wards Affected**

- 4.1 All wards

### **5.0 Local Ward Members**

- 5.1 N/A

### **6.0 Policy Implications**

- 6.1 There are no corporate policy implications but the proposal is intended to ensure propriety and consistency in the application of planning policies.

### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 None

### **8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 None

## **9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 The rules regarding political proportionality are fixed by the Local Government and Housing Act 1989 and subordinate legislation contained in the Local Authorities (Committees and Political Groups) Regulations. Departures from the normal rules are only possible on a “nem con” vote basis. These proposals are intended to reduce the scope for legal challenge to planning decisions.

## **10.0 Risk Management**

10.1 Legal challenge and the related award of costs would have a significant impact on the Council’s development control function.

## **11.0 Background and Options**

11.1 The Local Government and Housing Act 1989 Sections 15 – 17 (“the Act”) prescribe a regime of proportional representation for political groups on Committees. The Local Government (Committees and Political Groups) Regulations 1990 (“the Regulations”) provide more detailed working rules – in particular that seats allocated to political groups can only be filled by the nominations of the Group Leaders (not by Council or a Committee) and that seat allocations must be revisited at least annually and at or as soon as possible after the first meeting of the authority each year.

11.2 The responsibility for constitutional change and for the allocation of seats to groups rests with full Council on the advice of Governance and Constitution Committee. Council has given Strategic Planning Board special powers regarding the makeup of planning committees.

11.3 A local protocol contained in the Constitution provides that no member can sit or be a substitute on a planning committee without planning training. Following previous discussion by the members of the Strategic Planning Board support for further restrictions were recommended. It is intended that such proposals if supported by this Board would be considered by Governance and Constitution Committee and Council. This report is written to articulate a proposal from those Members. It should be noted that any such scheme is an exception to the strict rules on proportionality and can only be effected if passed at Council with no member voting against it.

11.4 The proposals are that: -

a) No substitution shall be made to the North Area Planning Committee except with a Member from the South Area Planning Committee and vice versa. The substitute Member may come from a different political group.

### **Reasons:**

- Planning decisions should not be political in any event
- The potential for inconsistency is an inherent weakness of an area planning committee approach to development control. Although cases are sometimes moved north or south when workload or special circumstances dictate, this proposal would provide further assurance.
- The proposal mitigates the effect on small groups by giving them a wider scope for substitution.

b) No substitutions shall be made to the Strategic Planning Board.

**Reasons:**

- The Board may have to decide an application on which an area planning committee have made a resolution contrary to policy. It would be inappropriate for a member of that area planning committee to participate at the Board.

The Board has a monitoring role over the Area Committees and this should not involve area committee members.

## **12.0 Overview of Year One and Term One Issues**

12.1 None relevant

## **13.0 Access to Information**

No background papers

***For further information:***

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