

CHESHIRE EAST COUNCIL

Special Constitution Committee

Date of Meeting: 11th May 2012
Report of: Borough Solicitor
Subject/Title: Delegated Powers Relating to Development Management

1.0 Report Summary

- 1.1 The report provides the background to the existing delegations relating to the Development Management Service to the Strategic Planning Board, and sets out the additional delegation now recommended.

2.0 Recommendations

- 2.1 That Council be recommended to approve that the function of dealing with applications for Certificates of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961 be added to the functions delegated to the Strategic Planning Board, and the Board's terms of reference within the Constitution be amended accordingly.

3.0 Reasons for Recommendations

- 3.1 The Strategic Planning Board is the most appropriate decision making body of the Council to deal with these applications but currently the determination of this type of application is not contained within the delegations to SPB so it would rest with full Council, which is inappropriate.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications (including Carbon reduction and Health)

- 6.1 None

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 None

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 The Land Compensation Act 1961 provides that certain assumptions as to what planning permission might be granted are to be taken into account in determining market value. Section 17 of the Act provides a mechanism for indicating the kind of development, if any, for which planning permission could be assumed in relation to a piece of land. The permissions indicated in a positive certificate of alternative appropriate development are those with which the owner might reasonably have been expected to sell his land if it were not for the compulsory purchase.

8.2 The Local Planning Authority is required to consider any application received and respond in the form of a certificate as required by the Land compensation Act 1961.

9.0 Risk Management

9.1 No risks would appear to arise from the proposals contained within the report.

10.0 Background and Options

10.1 The Land Compensation Act 1961 provides that compensation for the compulsory purchase of land is valued on a market value basis. This is usually assessed in terms of existing planning permissions for the land, but where there are none section 17 of the Land Compensation Act 1961 provides a mechanism for the types of development that would have been acceptable to the Local Planning Authority to be identified in a formal way.

10.2 The Local Planning Authority is required to respond to an application for a certificate of appropriate alternative development by setting out what planning permission would have been granted if the land had not been compulsorily acquired.

10.3 This application is a different process to the normal method of applying for planning permission set out in the Town and Country Planning Act 1990 (as amended), as it requires the Local Planning Authority to assess the land the subject of the application and determine what, if any, planning permission it would be prepared to grant for the land. This is in contrast to the usual application procedure whereby an applicant will consider the land, the policies that would apply to it, and then formulate a proposal for development to submit to the Local Planning Authority for it to consider and then either approve or refuse. The process in s17 of the Land Compensation Act 1961 puts the onus on the Local Planning Authority to consider all types of development that would be acceptable, accord with relevant planning policy and to identify if there would be any conditions that would have been attached to that permission.

10.4 Currently the Terms of Reference of the Strategic Planning Board are set out in the Constitution and cover a variety of town and country planning and development control functions, but do not include reference to the determination of applications made under section 17 of the Land Compensation Act 1961.

However, the Strategic Planning Board is the most appropriate decision maker within the Council structure to deal with this particular function. The Constitution Committee is therefore invited to recommend to Council that the Constitution be amended to allow the Strategic Planning Board to determine applications under section 17 of the Land Compensation Act 1961.

Access to Information

There are no background papers relating to this report.

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