

Item No. 7.2	Classification: Open	Date: 27 November 2013	Meeting Name: Council Assembly
Report title:		Constitutional Review 2013/14 – planning sub-committees and community councils	
Ward(s) or groups affected:		All	
From:		Constitutional Steering Panel	

RECOMMENDATIONS

PART 3F - PLANNING COMMITTEE AND PLANNING SUB-COMMITTEES

1. That the constitutional steering panel recommends that the following constitutional change be adopted by council assembly:

Part 3F - Matters Reserved for Decision by a Planning Sub-Committee

- Delete category (c) from the list of categories of major applications in paragraph 10 that may be referred to the planning sub-committee.
- Insert a new paragraph 14 as follows:

‘To consider applications requested by two councillors to be determined by elected members, subject to the request being agreed by the chair of the planning committee in consultation with the appropriate chief officer.’

PART 3H – COMMUNITY COUNCILS

2. That it be noted that the leader of the council has varied the executive scheme of delegation in respect of disabled parking bays and delegate part of the function to the strategic director of environment and leisure.

CONSEQUENTIAL CHANGES

3. As a result of the changes suggested within this report officers will be required to update the constitution. Therefore council assembly is requested to authorise officers to undertake any necessary consequential changes.

BACKGROUND INFORMATION

Part 3F - Matters Reserved for Decision by a Planning Sub-Committee

4. An issue relating to ambiguity in the council’s constitution has been identified following questions and complaints about decision making procedure.
5. All constitutional changes are considered by constitutional steering panel, which then recommends changes to council assembly. Changes to the constitution are generally agreed by council assembly, unless another body or individual is authorised to do so – see Article 1.15.

6. On 6 November 2013 the constitutional steering panel considered a report on Part 3F of the constitution in respect of the planning sub-committee decision making process and agreed the constitutional change outlined in paragraph 1.

Part 3H – Community Councils

7. Council assembly at its meeting on Wednesday 10 July 2013 agreed a motion on community councils' consideration of disabled parking bay installations and referred it to the constitutional steering panel for consideration.
8. On 4 September 2013 the constitutional steering panel considered the motion and advice from officers and agreed that further information be sought from the strategic director of environment and leisure on implementing a scheme whereby officers determined 'individual' disabled parking bays and 'destination' parking bay continued to be considered by community councils. The panel also requested information on how an officer model of determination of individual disabled parking bays would work and how ward councillors would be notified of the application and final decision.
9. On 6 November 2013 the constitutional steering panel considered officers advice and agreed to request the leader to vary the executive scheme of delegation so that the decision to approve progression to statutory consultation for origin disabled bays could be delegated to officers. The variation would allow for ward members to be notified as part of the statutory process and allows them the opportunity to comment or object. The decision to determine any statutory objections made to a proposed origin disabled bays would remain with the community council and the decision to progress to statutory consultation or determine any statutory objections for destination bays remain with the community council.
10. On 14 November 2013 the leader agreed to vary the executive scheme of delegation as requested by the constitutional steering panel. Therefore, in accordance with council assembly procedure rule 2.10 (6), this report sets out the outcome of the constitutional steering panel's consideration of the motion referred to it by 10 July 2013 council assembly. The following constitutional amendment will be made to Part 3H of the council's constitution (see deletion and new insertion in italics).

Part 3H: Community Councils

Traffic management functions (executive function)

Decision making

16. Determination of the following local non-strategic matters:
 - the introduction of single traffic signs
 - the introduction of short lengths of waiting and loading restrictions
 - the introduction of road markings
 - ~~the introduction of disabled parking bays~~
 - the setting of consultation boundaries for consultation on traffic schemes
 - *the introduction of destination disabled parking bays*
 - *statutory objections to origin disabled parking bays.*

KEY ISSUES FOR CONSIDERATION

Part 3F - Matters Reserved for Decision by a Planning Sub-Committee

11. The council receives approximately 4,000 planning applications each year. The vast majority of these are decided by officers under delegated powers. The planning committee and the two planning sub-committees consider a very small number of applications selected usually because of their major significance.
12. The planning sub-committees are intended to deal with applications which exceed the nationally recognised threshold of what constitutes a 'major' planning application which includes housing developments of 10 or more dwelling units. There is an upper limit of 49 dwelling units as developments of 50 or more dwelling units are considered generally to be of strategic importance and are referred to the planning committee. This is set out in paragraph 10 of section 3F of the Constitution.
13. The constitution does not require all such major applications to be referred to the planning sub-committee but refers to specific categories of major applications that will be referred as follows:
 - b) those which are significantly contrary to the provisions of the local development framework approved by the council for the purpose of development control, and which are recommended for approval
 - c) those which are controversial, i.e. subject to 5 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations) except:
 - i) where in the opinion of the appropriate chief officer the objection can be overcome by the imposition of an appropriate condition, or
 - ii) where the application clearly complies with the relevant planning policies, in which case the decision may be taken by officers, or
 - iii) where the application is a straightforward refusal.
 - d) those requested by two councillors to be determined by elected members, subject to the request being agreed by the chair of the planning committee in consultation with the appropriate chief officer.
 - e) applications for the council's own developments which are controversial, i.e. subject to 5 or more relevant objections (a "relevant objection" is defined as any objection except an objection which clearly does not raise any material planning considerations)
 - f) those involving legal agreements, other than those in accordance with policy requirements, e.g. affordable housing, highway improvements, environmental work and other works required as part of a development proposal.
14. It should also be possible for applications in category (c) to be considered by the planning sub-committee when they are not 'major' applications.

Proposed Changes to the Constitution

Part 3F - Matters reserved for Decision by a Planning Sub-Committee

15. Proposed substantive changes to section 3F of the constitution are set out below

- Delete category (c) from the list of categories of major applications in paragraph 10 that may be referred to the planning sub-committee
- Insert a new paragraph 14 page 46 of the constitution as follows:

‘To consider applications requested by two councillors to be determined by elected members, subject to the request being agreed by the chair of the planning committee in consultation with the appropriate chief officer.’

Community impact statement

16. There will be no direct impact on local people from adoption of these changes to the council’s constitution. The constitution will enable people, including the local community where relevant, to understand the role that they can play in the decision making of the council and how the council will safeguard high standards of conduct amongst members and officers. Any specific issues relevant to each constitutional change are set out in the relevant section below.

OTHER CONSIDERATIONS

Resource implications

17. There are no resource implications associated with the changes outlined above.

18. Any legal issues are outlined in the body of the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Constitution http://www.southwark.gov.uk/info/10058/about_southwark_council/375/councils_constitution	160 Tooley Street, London SE1 2QH	Constitutional Team constitutional.team@southwark.gov.uk 020 7525 7228

AUDIT TRAIL

Lead Officer	Ian Millichap, Constitutional Manager	
Report Author	Simon Bevan, Director of Planning Lesley John, Constitutional Officer	
Version	Final	
Dated	15 November 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Incorporated in the report
Strategic Director of Finance and Corporate Strategy	No	No
Strategic Director of Environment and Leisure	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	15 November 2013	