

**GOVERNANCE AND AUDIT COMMITTEE
21 SEPTEMBER 2010**

**PROPERTY MANAGEMENT DELEGATIONS
(Director of Corporate Services – Legal/Property Services)**

1 PURPOSE OF DECISION

- 1.1 This report seeks to clarify those provisions in the Council's Constitution relating to powers exercisable in relation to property management.

2 RECOMMENDATION

- 2.1 That the Committee recommend to Council that the Council's Constitution be amended such that:-

- (a) the delegations to the Chief Officer: Property be as shown in Annexe A to this report
- (b) Section 5 Part 2 of the Constitution (Responsibility for Executive Functions) be amended to provide that:-
 - (i) acquisition of land and buildings between £100,000 and £500,000 may be delegated to a single Executive Member
 - (ii) acquisition of land and buildings over £500,000 require the approval of the full Executive, save that in the event of the Leader and the Chief Executive certifying the matter to be one of overriding urgency it may be delegated by the Leader to a single Executive Member
 - (iii) the provision that disposal of land and buildings less than 0.5 hectares and not exceeding £500,000 require the approval of the Executive be deleted
 - (iv) the disposal of land and buildings over 0.5 hectares or above £500,000 may be delegated by the Leader to a single Executive Member in the event that the Leader and the Chief Executive certify the matter to be one of overriding urgency.
- (c) that the Chief Executive and all Directors be delegated power to submit or authorise the submission of planning applications to the Council

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 The Borough Solicitor is the co-author of this report.

Borough Treasurer

- 3.2 There are no financial implications directly arising.

Equalities Impact Assessment

- 3.3 None relevant.

Strategic Risk Management Issues

- 3.4 None relevant.

4 SUPPORTING INFORMATION

- 4.1 The wording of the delegations to the Chief Officer: Property is, shown as Annexe B to this report, currently, in some respects, less than entirely clear or comprehensive. For example, the authority to grant leases is apparently untrammelled save for a requirement to report leases granted for a rental of more than £50,000 per annum, whereas the authority to grant a licence or easement is restricted to those instances where the duration does not exceed five years and no security of tenure is conferred. The requirement that the Executive should approve in principle the taking of any lease/licence/easement is proposed to be deleted but delegated authority will not extend to any transaction in which there is a premium of £50,000 or the rental exceeds £10,000 or the duration of the interest will exceed five years. That will allow the acquisition of minor interests to be dealt with under delegated authority, subject to there being budgetary provision. Currently, delegated authority is conferred to acquire freeholds (subject to agreement in principle by the Executive) up to £500,000; it is proposed to reduce the figure to £100,000.
- 4.2 A proposed clarified delegation is set out at Annexe A. The annexe also deletes authority to submit planning applications on behalf of the Council. In practice, such applications are submitted by or on behalf of the sponsoring department. It is therefore proposed that Directors and the Chief Executive be delegated power to submit applications for planning permission.
- 4.3 Section 5 Part 2 of the Council Constitution, which sets out the parameters within which the Leader may delegate functions to an officer or to a single Executive Member, is also less than entirely clear. There appear to be conflicting provisions, one set of which provides that those land transactions (not dealt with by the Chief Officer: Property under delegated powers) involving less than 0.5 hectares and less than £500,000 should be reserved for the full Executive; the other provides for transactions in excess of such limits to also be dealt with by the full Executive. It is proposed that the Section be amended such that transactions not involving more than 0.5 hectares nor more than £500,000 can be determined by a single Executive Member if the Leader so chooses. In order to allow for those unforeseen cases where a matter is required to be dealt with urgently, it is proposed that the Leader should be authorised to delegate to a single Executive Member a decision relating to the acquisition or disposal of land or buildings of more than 0.5 hectares or more than £500,000 if both he and the Chief Executive certify the matter as one of overriding urgency.

Background Papers

None.

Contact For Further Information

Alex Jack, Borough Solicitor (01344) 355679

Alex.jack@bracknell-forest.gov.uk

Barry Francis, Chief Officer: Property (01344) 352474

Barry.francis@bracknell-forest.gov.uk

Doc Ref:

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21st September – Property Delegations

ANNEXE A

1. CHIEF OFFICER: PROPERTY

- 1.1 Subject to the exceptions and limitations in Paragraph 2 below, the Chief Officer: Property is authorised to:-
- 1.1 Grant, dispose, create or acquire land or interest in land (including wayleaves and easements).
- 1.2 Grant or secure licences relating to the occupation and use of land.
- 1.3 Determine rent reviews grant consents and/or take any other action under the terms of a transfer of land to, or by the Council, lease or licence relating to the use, ownership, and/or occupation of land.
- 1.4 Agree all payments in connection with the acquisition of land under Compulsory Purchase Powers, including home loss and disturbance payments.
- 1.5 Authorise the service of Notices under Landlord and Tenant legislation and other Agreements in respect of land.

2 Exceptions and Limitations

- 2.1 The authority to grant any lease, licence, wayleave or easement does not apply if:-
- (a) the consideration includes a premium of £50,000 or more, or
 - (b) the consideration includes a rental or other consideration of more than £50,000 per annum

Rent reviews providing for a rental of £50,000 or more shall be reported to the relevant Executive Member.

- 2.2 The authority to take any lease, tenancy, licence, wayleave or easement by the Council does not apply to those cases where:-
- (a) the consideration includes a premium of £50,000 or more, or
 - (b) the consideration includes a rental or other consideration of more than £10,000 per annum, or
 - (c) the duration of the interest will exceed five years.

- 2.3 The acquisition of any freehold interest in the land is subject to the acquisition having been previously agreed, in principle, by, or on behalf of, the Executive and the consideration not exceeding £100,000.

- 2.4 Authority to dispose of amenity land is limited to land not exceeding 0.1 hectares.

- 2.5 Authority to dispose of the Council's interest in surplus land is limited to land not exceeding 0.2 hectares and to the disposal having been previously agreed, in principle, by, or on behalf of, the Executive.