

**GOVERNANCE AND AUDIT COMMITTEE  
28 JUNE 2011**

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**TOWN CENTRE LAND DISPOSAL  
Director of Corporate Services – Legal**

**1. PURPOSE OF DECISION**

- 1.1 This report proposes amendments to the Council's Constitution in order to:-
- permit the Bracknell Town Centre Regeneration Committee to approve the disposal or acquisition of land required in connection with the re-development of Bracknell Town Centre, and
  - to grant delegated authority to the Chief Officer: Property to authorise land disposals which the Council is contractually committed to make under agreements authorised by the Executive, an Executive Committee or a single Executive Member.

**2 RECOMMENDATION**

**2.1 That the Constitution be amended to provide that:-**

- (a) the Town Centre Regeneration Committee be delegated authority to approve the acquisition or disposal of all land required in connection with the re-development of Bracknell Town Centre, and**
- (b) the Chief Officer: Property be delegated authority to authorise all land disposals which the Council is contractually required to make.**

**3 REASONS FOR RECOMMENDATION**

- 3.1 To allow a more expeditious process for securing land disposals or acquisitions required to facilitate Town Centre re-development, without undermining either transparency of decision making or the capacity for such decisions to be "called in" for consideration by the Overview and Scrutiny Commission.
- 3.2 To avoid duplication of decision making.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 To retain the status quo, but that would entail adherence to an unnecessarily bureaucratic process.

**5 SUPPORTING INFORMATION**

- 5.1 Section 5.5 of Part 2 of the Council's Constitution (which sets out the parameters for delegation of Executive functions) requires that the disposal of

land over 0.5 hectares or above £500,000 be authorised at a meeting of the Executive (unless certified to be a matter of overriding urgency by both the Leader and the Chief Executive in which case authorisation may be granted by an Executive Member). Similarly, land acquisitions in excess of £500,000 require the approval of the Executive. A decision to acquire or dispose of land at a value of £400,000 or more is a key decision and requires publication on the Forward Plan, no matter who the decision is to be made by.

5.2 The last meeting of the Committee on 22<sup>nd</sup> March 2011 considered a report proposing an amendment in respect of the authorisation of disposals of land required in connection with Town Centre re-development. The report proposed that the Constitution be amended to provide that land disposals in excess of 0.5 hectares required in connection with Bracknell Town Centre re-development could be approved by the Town Centre Regeneration Committee (“the Regeneration Committee”). At the (Governance and Audit) Committee concern was expressed regarding the transparency and openness of the decision making process and further information on the process of publication of decisions made by the Regeneration Committee was requested.

5.3 The Regeneration Committee is a Committee of the Executive. The terms of reference of the Committee include the following:-

“Formulation of the Council’s property strategy within Bracknell Town Centre including dealings with existing landowners.....”

However, given the current restrictions on delegation of Executive Functions the Committee cannot authorise proposed land disposals in excess of 0.5 hectares – they have to be formally approved by the full Executive. In practice this means that proposed disposals are considered both by the Committee and the Executive, a process which would seem to be quite unnecessarily bureaucratic.

5.4 As a Committee of the Executive the Regeneration Committee is subject to exactly the same rules relating to public rights of access to the meeting and the agenda as the full Executive is subject to. This means that if either at a meeting of the Executive or the Regeneration Committee “exempt information”, as defined by schedule 12A of the Local Governance Act 1972 is likely to be disclosed then the public may be excluded from the meeting and the agenda withheld from public inspection. The principles (and process) are exactly the same as for non-Executive Committees. “Exempt information” includes “information relating to the financial or business affairs of any particular person”. Almost invariably reports to the Regeneration Committee do include such information and therefore the public are excluded from the meeting and reports are not publically available. However, if and when land disposals for Town Centre regeneration do go to the full Executive the same rules apply and the reports are considered in confidential session. Decisions of the Regeneration Committee are published in exactly the same way as decisions of the full Executive.

5.5 Concern was expressed at the last meeting of the Committee as to whether delegating to the Regeneration Committee the power to authorise land disposals would impact upon the ability of Members to “call-in” a decision for consideration by the Overview and Scrutiny Commission prior to its implementation. Again, the rules relating to “call-in” are exactly the same for

a decision by the Regeneration Committee as for the full Executive. In both cases “call-in” may be triggered at the request of the Chairman and any two Members of the Overview and Scrutiny Commission or any five Members of the Council (though there is an exception for urgent decisions).

- 5.6 Given that the rules relating to public access and call-in are exactly the same for the Regeneration Committee as for the whole Executive there would seem to be no logical reason for the Committee not to endorse the recommendation in 2.1(a). The only likely consequence of not accepting that recommendation would be for the public to be denied access to two meetings rather than one.
- 5.7 The Council has entered into a Development Agreement with Bracknell Regeneration Partnership for the re-development of Bracknell Town Centre. That agreement, as amended, provides for the transfer of property from the Council to BRP (e.g. in respect of properties compulsorily acquired). The terms of the Development Agreement have been approved by the Executive and any amendments require the sanction of the Regeneration Committee. If the Council has a contractual obligation (as distinct from merely an option to do so) under an agreement already having Member sanction there would seem to be no point in seeking approval (for what the Council is already required to do). The recommendation in 2.1(b) seeks to address that anomaly.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 6.1 The Borough Solicitor is the author of this report.

### Borough Treasurer

- 6.2 There are no financial implications directly arising.

### Equalities Impact Assessments

- 6.3 Not relevant.

### Strategic Risk Management Issues

- 6.4 Not relevant.

## **7 CONSULTATION**

### Principal Groups Consulted

- 7.1 None

### Method of Consultation

- 7.2 Not applicable

### Representations Received

- 7.3 Not applicable

Background Papers

None

Contract For Further Information

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