

EAST HERTS COUNCIL

COUNCIL – 29 SEPTEMBER 2004

REPORT BY MONITORING OFFICER

9 AMENDMENTS TO THE CONSTITUTION - FINANCIAL REGULATIONS AND RURAL PLOT SALES

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WARD(S) AFFECTED : None specifically

RECOMMENDATION - that (A) Financial Regulation A.30 be amended to the effect that the Executive Director (Head of Paid Service), in consultation with the Capital Strategy Group, be authorised to approve requests for additional capital expenditure arising from overspends or new schemes, and

(B) the Constitution be amended by the addition of the following officer delegations:

- (1) the Executive Director (Head of Paid Service), in consultation with the Capital Strategy Group, be authorised to approve requests for additional capital expenditure arising from overspends or new schemes; and
- (2) the Assistant Director (Regulatory Services) and the Assistant Director (Law and Control) be authorised to give a direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995.

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1.0 Purpose of Report

1.1 This report proposes an amendment to the Constitution relating to the authority for approving additional capital expenditure. The report also considers amendments to the Constitution relating to action to be taken for rural plot sales. The Council is required to monitor and evaluate the operation of the Constitution and the Monitoring Officer monitors and reviews the Constitution.

2.0 Contribution to the Council's Corporate Objectives

2.1 The proposals contribute to the Council's corporate priority to improve the health and sustainability of the organisation by advancing the target of ensuring the highest standards of corporate governance.

### 3.0 Capital Expenditure

3.1 Paragraph A.30 of the Council's Financial Regulations (page 170 of the Constitution), reads:

'Any requests for additional capital expenditure arising from overspends or new schemes shall be referred to the Capital Strategy Group for approval from within the Corporate Capital Contingency Provision.'

3.2 Delegated powers can only be exercised by Council, the Executive, a committee or sub-committee of the Authority or an Officer. The Capital Strategy Group is a body, comprising the Executive Member for Finance and Officers, charged with the purpose of overseeing the Council's capital programme and examining proposals for capital expenditure prior to their consideration and approval by the Executive and Council. As such, it is an advisory body that does not operate formally within the Council's decision-making structure.

3.3 The recent review of the Council's Constitution picked up on a number of anomalies. However, this particular point was overlooked. Therefore, it is suggested that the power to approve additional expenditure arising from overspends or new schemes be delegated to the Executive Director (Head of Paid Service), in consultation with the Capital Strategy Group, as the officer who chairs the Capital Strategy Group.

3.4 In practice, all capital expenditure is reported to the Executive on a quarterly basis as part of the regular monitoring reports.

3.5 It is proposed that paragraph A.30 of the Council's Financial Regulations be amended to read as follows:

'Any requests for additional capital expenditure arising from overspends or new schemes shall be referred to the Executive Director (Head of Paid Service), in consultation with the Capital Strategy Group, for approval from within the Corporate Capital Contingency Provision.'

### 4.0 Rural Plot Sales

- 4.1 The sub-division of agricultural land into small plots creates problems for local communities and planning control. The sale of sub-divided plots has been a cause for widespread public concern. The Office of the Deputy Prime Minister has been considering the scope for taking action. There have been several meetings with government officials and local government representatives to discuss possible options. Your officers have contributed to these meetings. The Government is now considering what new measures may be appropriate to control this problem.
- 4.2 A direction under article 4 of the Town and Country Planning (General Permitted Development) Order 1995 removes whichever permitted development rights are cited in the direction, necessitating a planning application for works that normally would not need one. In most cases, an article 4(1) direction does not take effect until the Secretary of State has confirmed it. Article 4(1) directions can be made to remove permitted development rights which allow fences and other means of enclosure to be erected, and to prevent the stationing of caravans. These directions are relevant to rural plot sales where such development causes loss of amenity and detriment to the area.
- 4.3 A direction made under article 5(4) can be imposed with immediate effect without needing the prior consent of the Secretary of State, though it needs confirmation by him within six months if it is to remain valid. Although article 5(4) directions cannot control the stationing of caravans, they can be used to remove the permitted development rights which allow fences and other means of enclosure to be erected.
- 4.4 Some local authorities including East Herts have had success with timely 5(4) directions to stop the physical subdivision of fields before fences or posts go in, and with 4(1) directions to pre-empt the arrival of caravans. Government Offices are being encouraged to deal swiftly with requests to confirm directions.
- 4.5 In order to expedite this process for cases in the future, it is proposed that the decision to make a direction should be delegated to officers to speed up the process.
- 5.0 Consultation
- 5.1 Consultation has taken place amongst Members and relevant Officers.
- 6.0 Legal Implications

6.1 The legal implications have been taken into account in amending the Constitution.

7.0 Financial Implications

7.1 There are no financial implications.

8.0 Human Resource Implications

8.1 There are no implications.

9.0 Risk Management Implications

9.1 None.

10.0 Conclusion

10.1 Council is invited to adopt the recommendations at the head of this report.

Background Papers

The Constitution, relevant Regulations and Guidance.

Contact Officer: Simon Drinkwater - Assistant Director (Law and Control) - Ext 2003