

COUNCIL - 25 OCTOBER 2011

REPORT OF CHIEF OFFICER CORPORATE AND CUSTOMER RESOURCES, SCRUTINY AND ETHICAL STANDARDS

RE: CONSTITUTION

1. PURPOSE OF REPORT

To seek approval to proposed changes to the Constitution as detailed in the report below.

2. RECOMMENDATION

That Council agree the changes to the Constitution as set out below.

3 BACKGROUND TO THE REPORT

3.1 Council is requested to consider and agree a number of suggested amendments to the current version of its Constitution.

3.2 The provisions in the current version which Council is asked to consider are summarised as follows;

- The LDF process and responsibilities for that function; (Para 3.3)
- Paragraph 13 on Page 50 of the Constitution; (Agricultural Buildings, Para 3.4)
- Paragraph 6 on Page 50 of the Constitution; (Dwellings in rural areas, Para 3.5)
- Paragraphs 8&9 on Page 50 of the Constitution; (Classes D and C2 of Use Classes Order, Para 3.6)
- Delegations to Head of Planning through Deputy Chief Executive (Community Direction); (Para 3.7)
- Delegation of decision to Group Leaders, in consultation with their relevant ward members, to enable change of polling places at short notice (para 3.8).

3.3 LDF Process

3.3.1 The current position is set out on Page 43 of the Constitution. Under the heading `Responsibility for Council Functions` at item 4, the Constitution provides that there shall be no delegation at all of the function of adopting the Borough Local Plan or various deposit drafts and the `emergency` [should read `emerging`] local development framework.

3.3.2 It is a legal requirement that plans and alterations which together comprise the Development Plan are not to be the sole responsibility of a Councils executive.

3.3.3 It is important to prevent delay that the adoption process of the LDF is as streamlined as it can be. This seeks to refine the process whilst ensuring that the Council remains the decision making body. Legislation still requires

adoption of policy documents to be by full Council therefore this will remain. It is necessary for the plans and strategies of the LDF to be approved by Full Council prior to consultation, prior to submission and at final submission. Scrutiny would maintain the ability to call matters before it at the appropriate time.

It is proposed that the process be as follows:

- New policy documents within the LDF are first presented to Executive and Senior Members Group and then for adoption to Full Council
- Amendments to the application of LDF policy documents will be considered by Planning Committee with the power to move consideration up to Full Council if considered necessary.
- Responses to consultation documents will be produced in liaison with a cross-party working group for approval by that group and the Senior Members Group.
- Evidence bases for LDF policy documents are be approved by Executive and the Senior Members Group. These groups will have the ability to move approval of these documents up to Full Council if considered necessary.

3.4 Agricultural Buildings

3.4.1 There are two processes for getting consent for agricultural buildings. The first is through the determination process under Part 6 of the General Permitted Development Order 1995 and the second is through a full planning application of the proposed building does not meet the criteria for the determination process. All determinations for agricultural buildings, which have to be determined within 28 days, are currently dealt with under delegated powers.

3.4.2 The constitution provides at Para 13 on Page 50 that committee will determine applications for agricultural buildings on holdings of 10 hectares or less.

3.4.3 It is not clear why this area has been stipulated as it seems to have no link to the Permitted Development (PD) provisions of Part 6 of the General Permitted Development Order 1995 which refer to two types of holding (i.e. ones with more than 5 hectares and ones with less than 5 hectares.)

3.4.4 Para 17 on page 53 of the Constitution delegates to officers the determination of matters which fall within the PD provisions in Part 6 of the Order.

It is suggested that the wording of Para 13 be removed as it is `out of synch` with the statutory provisions relating to agricultural buildings. Any applications would still be covered by the catch-all of more than 5 letters of representation being received or being called in by a Member.

3.5 Dwellings in Rural Areas

3.5.1 Applications for the conversion of dwellings are matters that are delegated to officers to determine. The exception is found at Para 6 on Page 50 of the Constitution which reserves to Planning Committee the determination of any

application for new dwellings in rural areas resulting from the conversion of redundant buildings `on architectural merit`.

- 3.5.2 It is recommended that the provision be deleted as definition of this is vague and open to interpretation. Any applications would still be covered by the catch-all of more than 5 letters of representation being received or being called in by a Member.

3.6 Classes D and C2 of Use Classes Order – Institutional buildings

- 3.6.1 Paragraphs 8&9 of Page 50 of the Constitution currently require all applications for uses within Classes D and C2 (institutional, recreation and leisure use) of the Use Classes Order to be determined by Committee. This is inconsistent with other general provisions which allow delegation up to a certain level subject to the normal referral caveats. It is considered that only where the proposed use has a floor area of more than 500 m² or the proposed area is 0.5ha or more should it then go to planning committee. It is proposed to amend the paragraphs to reflect that in line with the requirements elsewhere.

3.7 Delegation to Head of Planning, Development Control Manager and Principal Planning Officers

It is necessary to bring together the operational arrangements which currently exist whereby the Deputy Chief Executive (Community Direction) has authorised delegation to the Head of Planning, the Development Control Manager and the Principal Planning Officers (Development Control). This needs to be placed within the Constitution to update the arrangements currently found at pages 49-60.

3.8 Delegation to Group Leaders of polling place changes required at short notice

- 3.8.1 When a polling place becomes unavailable at short notice prior to an election, under current conditions there is a requirement to convene a meeting of the full Council to agree a suitable alternative provision. As there may be occasions where there is insufficient time to convene Council, it is recommended that the Constitution be amended to enable such decisions to be delegated to the Group Leaders in consultation with the relevant ward members

4. **FINANCIAL IMPLICATIONS [CB]**

None arising directly from the report

5. **LEGAL IMPLICATIONS (AB)**

In order to amend the constitution this report will require approval of two thirds of those members in attendance of a meeting of the Council

6. **CORPORATE PLAN IMPLICATIONS**

None

7. **CONSULTATION**

None

8. **RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Continued limitations on ability of officers to concentrate on their function efficiently	Amend Constitution to allow proper delegation of appropriate functions	Louisa Horton
Continued limitations on ability to convene Council at short notice to agree polling place changes, thus causing potential logistical problems for the election process	Amend Constitution to allow proper delegation of agreement of polling place changes at short notice	Louisa Horton

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

Identify the possible implications that the decision will have on our community, for example:

Any polling place change will take into account equal access.

10. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
 - Environmental implications
 - ICT implications
 - Asset Management implications
 - Human Resources implications
 - Planning Implications
 - Voluntary Sector
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Background papers: Constitution

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Executive Member: Councillor Stuart Bray / Councillor Bron Witherford