

HARBOROUGH DISTRICT COUNCIL
MEETING OF THE CONSTITUTIONAL REVIEW COMMITTEE

Held in the Council Chamber, The Symington Building, Adam and Eve Street, Market Harborough

12th June 2018

commencing at 6.30 p.m.

Present:

Councillor King (Chairman)

Councillors (committee members): Beesley-Reynolds, Brodrick, Dunton,

Galton, Liquorish and Rickman

Other Councillors: Holyoak and Knowles

Officers: D. Atkinson, A. Eastwood, M. Patterson, V. Wenham and G. Keeping

ELECTION OF CHAIRMAN FOR THE YEAR 2018/19

Cllr King was elected as Chairman of the Committee for the Year 2018/19.

APPOINTMENT OF VICE-CHAIRMAN FOR THE YEAR 2018/19

Cllr Galton was appointed as Vice-Chairman of the Committee for the Year 2018/19.

APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES

An apology was received from Cllr Graves. Cllr Brodrick substituted for Cllr Graves.

MINUTES

RESOLVED that: the Minutes of the Meeting of the Constitutional Review Committee held on 14 November 2017 be approved and signed by the Chairman as a true record.

DECLARATIONS OF MEMBERS' INTERESTS

There were none.

PROPOSED AMENDMENTS TO THE COUNCIL'S SCHEME OF DELEGATION – PLANNING FUNCTIONS

The Committee considered a report setting out proposed amendments to the Council's Constitution in respect of the current Scheme of Delegation relating to planning functions.

The Council has to ensure that it has in place a robust Constitution. In order for this to be the case it should be reviewed regularly in order to ensure that all decisions are taken effectively and efficiently within the principles of open and accountable local government. The proposals put forward within the report are the result of an independent review of the existing provisions to ensure that the Constitution remains operationally effective.

As part of review of the Constitution, a revised Scheme of Delegation to the Development Planning Manager was approved by Council in September 2017. The main operational change was an increase in the number of counter representations required to remove the officer delegation to determine a planning application. However the increase from 5 to 7 had not made a tangible improvement to the numbers of applications being presented to Planning Committee. In addition

following the recent Local Government Association Peer Challenge, their report (“The Report”) has recommended that the Council’s Scheme of Delegation be amended to provide a more efficient and streamlined Committee process which is focussed on strategic issues across the District rather than the smaller, more “every day” applications.

The Report also concluded that the Council should finalise the ‘Constitutional Review’, and ensure that the Scheme of Delegation is fit for purpose providing members with the confidence to make timely decisions.” Furthermore, at Appendix 3 of The Report (Signposting), it was recommended that Mendip District Council’s (MDC) Constitution and Scheme of Delegation to Officers was a good example to follow in this process

In line with this recommendation, MDC’s Scheme of Delegation has been considered and Officers have developed a proposed revised new Scheme of Delegation for Planning based on this model. This is attached to this report at Appendix A. The proposed Scheme of Delegation removes the current triggers based on the number of counter representations or the size/scale of the application and introduces a greater reliance upon Member Call In’s based on sound Planning grounds. As set out above, the increase in the current call in trigger from 5 to 7 has not made a tangible difference to the numbers of applications being presented to Planning Committee. Furthermore, it is not considered that an additional increase in the call in trigger to a much greater threshold (i.e. 25 letters) would have any tangible impacts due to the influence of social media and easy access to the internet. The suggested Scheme of Delegation also removes certain types of application from the exceptions to delegated powers.

The proposed revised Scheme of Delegation would ensure that the decision making process is less cumbersome and that the Scheme of Delegation is fit for purpose and takes into account the recommendations from the LGA Peer Challenge report. The table set out in Appendix A sets out the current Scheme Delegation in the first column with the proposed amendments set out in the second column for ease of reference.

It is also proposed that a number of amendments are made to the existing Scheme of Delegation relating to the service of notices under the wider planning regime. Currently the Corporate Director has delegated authority to authorise the service of the majority of enforcement actions under the planning regime. It is suggested that the Planning Development Manager should be authorised to issue temporary stop notices, as opposed to the Corporate Director, for operational efficiency. Currently the powers to issue a notice to require the proper maintenance of land and the power to acquire a listed building in need of repair and serve a repairs notice are not delegated to an officer. It is suggested that these powers should be delegated to the Corporate Director (NP) in consultation with the relevant wards members. Obviously any budgetary requirement would need to be approved prior to the acquisition of any listed building. The amendments to the Scheme of Delegation to officers are set out in Appendix B.

After discussion, the Committee

AGREED that a draft version of the Constitution, including the agreed changes, would be circulated to members of the Committee and substitutes present at the meeting; and

RECOMMENDED to Council:

- (i) that proposed changes to Part 3, Section B, 1.3 of the Constitution, as set out in Appendix A to these minutes, be approved and adopted; and**
- (ii) that proposed amendments to the Scheme of Delegation to Officers, as set out in Appendix B to these minutes, be approved and adopted.**

Voting: in relation to the section in Appendix A dealing with Applications to which counter-representations had been received: For: 3, Against: 2, Abstained: 2 (Cllrs King and Rickman)

PROPOSED AMENDMENTS TO THE COUNCIL’S PROCEDURE FOR SPEAKING AT PLANNING COMMITTEE

The Committee considered a report setting out proposed amendments to the Council’s Constitution in respect of the current adopted policy on public speaking at Planning Committee (“Public Speaking Policy”). The Council has to ensure that it has in place a robust Constitution. In order for this to be the

case it should be reviewed regularly in order to ensure that all decisions are taken effectively and efficiently within the principles of open and accountable local government.

In 2013 a comprehensive review of the operation of the Development Management Service was carried out by an external consultant. One of the recommendations from that review was that consideration should be given to amending the current scheme of public speaking to create a more equitable position between proposers/supporters and objectors to a planning application which is reported to Planning Committee. The current scheme of a public speaking allows for an unlimited number of speakers and regularly results in an imbalance of representations being made to Planning Committee. At its meetings in July and November 2017, the Committee had considered a number of proposals to amend the current public speaking arrangements to take into account the consultant's recommendations. Members requested that further work be carried out on the proposals and that a further report be brought back to the Committee for consideration.

More recently, the Local Government Association has carried out a Peer Challenge at the Council which included a review of the Councils governance arrangements. In line with the 2013 recommendations, the Peer Challenge report stated that "...public engagement at Planning Committee is not currently equitable, and is weighted more towards objectors than applicants. This means that planning committee members, and the public who attend the committee, will not always have balanced views on applications.....". Furthermore, the Peer Challenge Report recommended that Sedgemoor District Council's, Hart District Council's and Spelthorne Borough Council's Public Speaking at Planning Committee procedures were good examples to follow – notes on these procedures were included as Appendix A to the report.

The Committee, in consideration of the report, discussed the following matters:

- whether the current arrangement of unlimited speakers should be retained, or if changed how many speakers there should be;
- whether, in the event that Council resolved to limit the number of public speakers, but became aware in advance of a high level of public interest in a particular application, the Planning Committee was empowered to resolve to suspend the Council's standing order in respect of Public Speaking for that application and revert to a system of unlimited speakers; and
- whether County Councillors and Members of Parliament should be allocated dedicated 'slots' for speaking as elected representatives, or be considered under the arrangements for public speaking

The Committee also took into account comments submitted by Cllr Mrs Page and , after discussion:

RECOMMENDED to Council that the proposed amendments to the Public Speaking Policy, as set out in Appendix C to these minutes, be approved and adopted.

Voting:

- (i) In relation to Appendix C "Proposed Public Speaking Arrangements": For: 4, Against: 2 (Chair abstained)
- (ii) In relation to Appendix C "Proposed Elected Representatives Speaking Arrangements": For: unanimous

URGENT MATTERS

There were none.

The Meeting ended at 8.27 p.m.

APPENDIX A:

PROPOSED CHANGES TO THE CONSTITUTION PART 3, SECTION B, 1.3:

Current (to be deleted)	Proposed (to be added)
<p>Any application is subject to Call In to Planning Cttee by a Cllr. The request has to be made within 28 days of the date of the publication of the weekly list on which that application appears. Requests should be made to the Development Planning Manager in writing (which includes email) and set out the planning reasons for the request.</p>	<p>Any application (other than Advertisement Consents; Prior Notifications and Prior Approvals; Hedgerow Removal Notices; Tree works applications; High hedge applications; County Matters applications; and Screening and Scoping requests) is subject to Call In to Planning Cttee by a Cllr. The request has to be made within 28 days of the date of the publication of the weekly list on which that application appears. Requests should be made to the Development Planning Manager in writing (which includes email) and set out the planning reasons for the request.</p>
<p>Applications where the intended decision would depart from currently adopted development plan policy and/or Supplementary Planning Guidance and/or applications where the Development Planning Manager considers that determination by the Planning Committee would be appropriate.</p>	<p>Applications where the intended decision would depart from currently adopted and up to date development plan policy.</p>
<p>Applications to which the following level of counter-representation has been received:</p> <ul style="list-style-type: none"> i. 7 letters representing different households, parish council, parish meetings or official community bodies, and, in the case of letters of objection, raising valid points relating to planning; ii. a petition of counter representation containing 25 or more signatures, <p>and the officer recommendation conflicts with the representations received.</p>	
<p>Applications submitted in which current Members or Officers of the Council, or members of their household and immediate past Officers and members of their household have a beneficial interest (delegation being removed when that interest is declared).</p>	<p>Where the application is made by a member of the Council or by a Council Officer or immediate members of their family, or it involves land owned by any of them.</p>
<p>Applications for above for 10 or more dwellings and for commercial floor space of 10,000 m/sq. or more.</p>	<p>Applications for 25 or more dwellings and for commercial floor space of 10,000 m/sq. or more.</p>

	Where the proposal involves the Council as applicant or land-owner except where applications are for works to protected trees.
	Matters which the Development Planning Manager, in consultation with the Briefing Group, considers should be considered by the Planning Committee due to their size, nature or impact, or for any other reason, including probity.
	The revocation of any planning or other permission, with or without the payment of compensation by the Council.
	The discontinuance of use or alteration or removal of buildings or works with or without the payment of compensation by the Council pursuant to Section 102 of the Town and Country Planning Act 1990.

DRAFT

APPENDIX B:

AMENDMENTS TO THE SCHEME OF DELEGATION TO OFFICERS - NUMBERING REFLECTS THE NUMBERING IN THE CURRENT SCHEME OF DELEGATION

4. Power to serve a temporary stop notice.	Development Planning Manager (in consultation with the relevant local Ward Members) including withdrawal and all enforcement within the Committee's powers.
---	--

9. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Corporate Director (NP) (in consultation with the relevant Ward Members).
10. Power to serve a notice requiring the proper maintenance of land.	Corporate Director (NP) (in consultation with the relevant local Ward Members) including withdrawal and all enforcement within the Committee's powers.

DRAFT

APPENDIX C:

PROPOSED CHANGES TO THE PUBLIC SPEAKING AT PLANNING COMMITTEE PROCEDURES

Current Public Speaking Arrangements	Proposed Public Speaking Arrangements	Current Elected Representative Speaking Arrangements	Proposed Elected Representatives Speaking Arrangements
<p>Unlimited number of speakers: 3 minutes each</p>	<p>3 x speakers in favour;</p> <p>3 x speakers opposed.</p> <p>Both limited to 3 minutes each (subject to an equivalent amount of time being allocated to supporters and objectors).</p> <p>MPs and County Councillors wishing to speak will be considered as part of these allocations.</p>	<p>Ward Member(s): 5 minutes each</p> <p>Representative of the Parish Council/Meeting: 3 minutes each</p>	<p>Ward Members: 5 minutes each;</p> <p>Parish / Town Council/Meeting: 3 minutes each;</p> <p>With respect to applications relating to Market Harborough, the official community body (The Civic Society): 3 minutes.</p>