

11. Constitutional Report to Council on 29th March 2017.

REPORT OF: Tom Clark, Solicitor & Head of Regulatory Services
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Wards Affected: all
Key Decision No

1. Purpose of the Report

- 1.1 To report the deliberations of the Constitutional Review Group and agree some minor changes to Planning arrangements. The Group met on two occasions in February and March 2017.

2. Summary

- 2.1. The Constitutional Review Group looked at the structure of the Council's three Scrutiny Committees and considered the idea of having only two Scrutiny Committees. It was noted that the present configuration of Scrutiny Committees had only been in place for 6 months therefore after discussion, it was agreed that the Scrutiny Committees should be left in their current structure for the Council year 2017/18.
- 2.2 The size of Planning Committees and the question of substitutes was also discussed. It is proposed the size of all Planning Committees be reduced to ten members with substitutes from either Planning Committee A to Planning Committee B or vice versa and substitutes to the District Planning Committee being allowed from planning members only save that Cabinet Members shall continue to not serve on the District Planning Committee.
- 2.3 Arrangements for Members to reconsider reasons for refusal prior to appeals, where circumstances may have changed, were also discussed.
- 2.4 It was further confirmed that where there were large scale commercial applications that would normally go to the District Planning Committee, it was within the delegation to officers to decide these applications. However this arrangement would only take place where there were no objections to the applications and when, the Cabinet member had been consulted who in turn would consult with Committee Chairman and the ward members..

3. Recommendations

- a. **The membership of the Council's Planning Committees shall be reduced to ten members.**
- b. **That substitutes be allowed within the planning membership to either Planning Committee A, Planning Committee B or the District Planning Committee save that no cabinet member shall serve on the District Planning Committee.**
- c. **If officers advise the withdrawal of some reasons or all reasons for refusal ahead of a planning appeal because circumstances have changed, the matter shall be referred back to the relevant**

planning committee for members to consider this course of action. A supporting report should be produced and published at the same time as the other reports for, that Committee save in a case of urgency.

4. Background

- 4.1 The Council's Constitutional Review Group comprised Cllr. Gary Marsh (Chairman), Cllr. Jonathan Ash-Edwards, Cllr. Andrew MacNaughton, Cllr. John Wilkinson, Cllr. Bruce Forbes and Cllr. Ruth de Mierre. In addition there are two named substitutes, Cllr. Margaret Hersey and Cllr. Colin Holden who were both invited to attend the meetings held.
- 4.2 The Group considered a number of areas of the Council's governance arrangements. A proposal was considered to reduce the number of Scrutiny Committees to two with each Committee comprising three Cabinet Portfolios instead of two. Options to split portfolio responsibilities for scrutiny were also discussed. Following deliberations it was agreed as the existing structure for Scrutiny had only been since May 2016, it was too soon to contemplate any further changes and that Council should be recommended to retain the existing structure for the Council year 2017/18. The Group would meet again in 2018 and this may be a topic Members wish to return to.
- 4.3 The size of the Planning Committees was considered. It was accepted that Planning Committees need to be composed of people with strong planning experience. Given the relatively limited pool of Members with these skills, it was agreed that slightly smaller committees may be helpful. It was therefore recommended that the committees be reduced to ten Members with substitutes being allowed between Committee A and Committee B and substitutes of those committees being allowed onto the District Planning Committee.
- 4.4 In the light of public scrutiny, Cabinet Members should continue not serve on the District Planning Committee. Frequently larger applications have a wider context in which the Cabinet may previously have been involved.
- 4.5 During 2016/17 there have been a few occasions when decisions have been taken by Planning Committees that in the light of subsequent decisions of the Courts or the Secretary of State appear unsafe. In those circumstances the Council's officers are obliged to review the decision in the light of any forthcoming appeal. When it is felt that reasons for refusal should be reconsidered ahead an appeal, the Constitutional Review Group recommends that a report will be written to the appropriate Planning Committee requesting Members to reconsider the change in circumstances. It was also agreed that the report will normally be published at the same time as other reports to the Committee, save in a case of urgency when the normal urgency procedure will apply.
- 4.6 There have been a few occasions in 2016/17 where a large development that would normally go to the District Planning Committee has received no objections from the public or any statutory body. In those circumstances the Constitutional Review Group recommended that the Constitution should make clear that planning officers could decide these applications under delegated powers. However, in such circumstances the Cabinet Member for

Planning would be consulted and would, in turn, discuss the matter both with the relevant planning chairman and with the relevant Ward members before any decision was taken by a planning officer.

- 4.7 At page 57 of the Constitution the Chief Executive and I have delegated power to update the Constitution in accordance with changes in the law etc and this will be done. In particular there are new provisions now in force from the Anti-social Behaviour, Crime and Policing Act 2014 relating to the prevention of anti-social behaviour.

5. Other Options Considered

- 5.1 As the report advises the Constitutional Review Group particularly concentrated on the future of Scrutiny Committees and the Planning Committees.

6. Financial Implications

- 6.1 No material financial considerations.

7. Risk Management Implications

- 7.1. The changes to the size of the Planning Committees should not affect the Risk Profile adversely.

8. Equality and customer service implications

- 8.1 The Planning Committees should continue to function and fulfil the role of the Local Planning Authority.

9. Other Material Implications

- 9.1. The Constitution as a whole delivers governance arrangements suitable for a District Council and provides opportunities for all 54 Members to become involved in Council business.