

10. CONSTITUTION REVIEW

REPORT OF: Solicitor & Head of Regulatory Services
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Wards Affected: All
Key Decision N/A
Report to: Council
28th March 2018

Purpose of Report

1. To report the deliberations of the Constitutional Review Group. The Group met on two occasions in January and February 2018 and recommend to Council some minor changes to the Constitution.

Summary

2. The Constitutional Review Group looked at possible changes to the Planning delegations following the adoption of the District Plan and the introduction of Planning Permissions in Principle. The desirability for further delegations to officers to accommodate these changes were discussed but given the District Plan has not been adopted and the final regulations regarding Permission in Principle are still awaited it was felt that these changes should be considered in the next few months.
 3. The Group also considered the structure of the Council's 3 Scrutiny Committees. They felt that the Scrutiny Committees were working well and noted there was some overlap but this was inevitable when one Committee dealt with performance and the formulation of the Council's budget. No changes are recommended.
 4. The Group noted that the Census partnership was coming to an end on the 31st March 2018 and recommended the dissolution of the Census Joint Committee.
 5. The Group looked at the delegation to Cabinet Members for expenditure of Section 106 monies and noted that the £25,000 limit had been in place since 2008. They recommended the increase of that limit to £50,000 given that where facilities are replaced with enhanced facilities the costs are invariably above £25,000.
 6. The Property delegations were discussed. It was felt these should not be amended but it was agreed that the relevant Cabinet member would be consulted on any commercial lettings at the Orchards Shopping Centre, Haywards Heath. There would also be reference in the Constitution to the Council's property investment fund.
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Recommendations

- (i) **The Council's Census Joint Committee shall be dissolved from 31st March 2018.**
- (ii) **The delegation to individual Cabinet members currently limited to £25,000 shall be raised to £50,000.**
- (iii) **All future commercial lettings at the Orchards shall be made in consultation with the relevant Cabinet member.**
- (iv) **The Council's investment fund shall be noted in the Council's Constitution.**

Background

7. The Council's Constitutional Review Group comprises Cllr. Gary Marsh (Chairman), Cllr. Jonathan Ash-Edwards, Cllr. Andrew MacNaughton, Cllr. John Wilkinson, Cllr. Bruce Forbes, and Cllr. Ruth de Mierre and met on two occasions in 2018. There were two named substitutes, Cllr. Margaret Hersey and Cllr. Colin Holden who were both invited to attend the meetings held.
8. The Group spent time considering the proposals for Planning Permissions in Principle with advice from the Development Management Business Unit Leader. It was noted that the changes were due to come in on the 1st June 2018 and required the Council to deal with such applications within 5 weeks. This made it unlikely that matters could be put before a Planning Committee. However, the final regulations were not yet available and the extent of when Permissions in Principle were available also needed further clarification. On this basis the Group decided not to recommend any changes to Council at this time.
9. They similarly considered the situation of applications that comply with DP6 in the Council's draft District Plan. It was noted that the letter from the inspector is still awaited but that if DP6 is part of the adopted District Plan it will be sensible for applications that comply with that policy, being applications for less than 10 homes adjacent to an existing settlements, be delegated to officers subject to Members' ability to call in such applications on planning grounds. It was noted that this would affect about 10 applications per year if the delegation had been in place in the past two years.
10. The workings of the 3 Scrutiny Committees were considered. It was felt that all 3 committees now had a suitable workload. It was also noted that there was some overlap between the workings of the Leader Resources and Economic Growth Scrutiny Committee and the other 2 scrutiny committees but this was an inevitability of one committee dealing with the budget and with performance. In order to ensure that Members were fully involved in the Scrutiny process it was agreed that the 3 committees should remain as currently formulated. Members were of course free to attend any scrutiny committee and would be able to speak with the consent of the Chairman even if they were not on the committee or were there as a substitute.
11. The Property delegations were discussed. It was felt that these should remain as they are save that all commercial lettings at the Orchard Shopping Centre should be in consultation with the Cabinet Member. In addition the Constitution should refer to the acquisition fund the Council has established for investment in Property.
12. It was noted that the restriction on Cabinet member approval for the expenditure of Section 106 monies had been at £25,000 for the past 10 years. Given that most new schemes are now in excess of £25000 it was felt that this delegation should increase to £50,000 with matters above that figure normally going to Cabinet Grants Panel. Section 106 monies should be used for new facilities and therefore if there was a proposal to use Section 106 monies to pay for an existing facility that report would need to be considered by full Cabinet. It was further noted that in the case of expenditure of affordable housing money and road transport money the Cabinet member delegation is unlimited. This has been the position since 2008 on the basis that some schemes do need a very quick decision.

Other Matters Discussed

13. It was noted that the Licensing Committee had not met as a whole in 2017/18. This meant that some newer members had not been included in the Licensing Panels and that the Committee A dealing with taxi matters had a fixed membership. It was agreed that the Licensing Committee should meet and consider both types of application so that all Members are more fully involved going forward. The Licensing Committee met on the 14th February 2018 with such reports to consider on the agenda and it is planned to include Members from across the Licensing Committee in future Licensing Panels. It was also noted that attending such Panels and Sub-Committee A acts as a good training exercise.
14. It was agreed that in making applications for expenses members need to ensure that they are able to evidence the expenditure. Frequently this is best done by taking a picture of any receipt on a mobile phone and sending that to the Committee Admin team.
15. With the advent of social media it was felt that the job descriptions in the Constitution that have been in place for over 10 years should be reviewed in 2018 on the basis that new job descriptions were in the Constitution ahead of the new Council in May 2019.

Other Options Considered

16. It is important that the Constitutional Review Group meet each year to review the Constitution. This report summarises their deliberations and makes recommendations for changes.

Financial Implications

17. There are not expected to be any financial changes as a result of these proposals.

Risk Management Implications

18. There are not expected to be additional risks from these proposals.

Equality and Customer Service Implications

19. Decisions at the Council will continue to be made in a transparent way.

Other Material Implications

20. The Constitution continues to provide a basis for all 54 members of the Council to be involved in Council business.