

**TO: GOVERNANCE & AUDIT COMMITTEE - 21 September 2016
COUNCIL - 30 November 2016**

**REVIEW OF CONSTITUTION
Director of Corporate Services –Borough Solicitor**

1 PURPOSE OF REPORT

1.1 The report recommends changes to the Constitution for approval by Council.

2 It is **RECOMMENDED that** Council adopt the changes to:

2.1 The Delegations of Chief Officer: Planning, Transport and Countryside set out in the Appendix to this report.

2.2 The Protocol for Members in Dealing with Planning Matters set out in the Appendix to this report.

3 REASONS FOR RECOMMENDATIONS

3.1 Part 7 of the Constitution requires the Monitoring Officer to monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect. Any changes considered necessary are subject to approval by Council.

3.2 The changes are recommended following a review of scrutiny procedures for Planning and Enforcement

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 None. Section 37 of the Local Government Act requires the Council to keep its Constitution under review.

5 SUPPORTING INFORMATION

5.1 The report covers proposed changes that have been suggested pursuant to a review of procedures for Planning Applications and Enforcement undertaken by Environment, Communities & Culture Overview and Scrutiny Panel and as subsequently endorsed by the Executive.

5.2 The changes that are proposed to be made to the constitution are shown in the Appendix to this report.

5.3 The proposed changes recommended by the Overview and Scrutiny Panel and endorsed by Executive, seek to ensure that the planning committee determine applications which have a higher level of public interest; this will ensure the effective use of the committee's time. The other changes seek to ensure that the planning committee determines applications which are made by officers and councillors who

are involved in the planning process at Bracknell Forest. This will ensure that such applications are considered in public with an appropriate level of public scrutiny.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report

Borough Treasurer

6.2 There are no financial implications arising from this report

Equalities Impact Assessment

6.3 N/A

7 CONSULTATION

Principal Groups Consulted

7.1 Corporate Management Team,
Governance and Audit Committee

Background Papers

Executive response to the report of the Overview & Scrutiny Review of Procedures for Planning Applications and Enforcement (ECC O&S Panel : 5 July 2016)

Contact for further information

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1. Delegations to officers: Chief Officer: Planning , Transport and Countryside

Amendments

i. Paragraph J.2.b

Applications (including applications to vary planning obligations or for a building to be listed but not including applications for Certificate of Lawful Use) attracting valid planning objections before a delegated decision is made, where valid planning objections arise from more than ~~three~~ five households and/or organisations, may only be allowed by the Chief Officer: Planning ~~and~~ Transport and Countryside if he considers it appropriate to do so following reference to the Chairman of the Planning Committee and Ward Councillors. This exception does not apply to determination of Prior Approvals under paragraph A4 of Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995.

Source

<p>The Panel recommends that to minimise the number of minor and non-controversial Planning Applications referred to the Planning Committee, there should be an increase in the threshold for the numbers of objections resulting in referral to the Planning Committee, from 'more than 3' to 'more than 5', and the criteria for referral could usefully distinguish between major and minor developments. The current trigger point of three can be met very easily, and setting the bar higher should result in only those applications attracting substantial opposition (i.e. beyond the immediate neighbours of the applicant) being put before the PC.</p>	<p>Amend Constitution Chief Executive and Directors – general powers Section J2b,</p>	
<p>The Panel also recommends that any objections that do not refer to any Planning issues should be excluded from the calculation of the number of objections (though the existence of all objections should be recognised in the Case officer's report).</p>	<p>Amend Director's delegation, to refer to valid planning reasons (as referred to in Chief Executive and Directors – general powers Section J2b)</p>	

ii. **Additional paragraph J.2.0**

Determination of whether an application under 2 (a) or (b) above from a member of Council staff whose role involves working directly with the Planning division should be referred to the Planning Committee. (Refer to Protocol for Members dealing with Planning matters for consideration of Applications from any Council Chief Officer)

Source

(see below)

2. Protocol for Members dealing with Planning Matters

Add additional paragraph between existing paragraphs 4.1 and 4.2 as follows;

All planning applications submitted by a Councillor (or their partner/spouse or close family member) shall be determined by the Planning Committee.

All planning applications submitted by a Council Chief Officer (or their partner/spouse or close family member) shall be determined by the Planning Committee.

Source

Recommendation of O&S Panel	Action agreed by Executive
In the interests of high standards of governance, we recommend that the Council should explicitly require Committee approval for planning applications by any Borough Councillor, perhaps by amending the Planning Protocol.	Directors Delegations to be amended

Unrestricted

<p>The Chief Officer: Planning and Transport's delegated authority requires that any planning applications from members of staff in that division, also any staff involved in the decision making process, shall be determined by the Planning Committee (PC). To achieve and maintain high standards of governance, the Panel recommends that the Council should require Committee approval for planning applications by any Council employee.</p>	<p>Delegation to be amended to include all Chief Officers, Directors and the Chief Executive, and that the Chief Officer : Planning Transport and Countryside uses his discretion to bring applications to the planning committee where the applicant is a member of staff whose role involves working directly with the planning division -Directors Delegations and Planning Protocol to be amended</p>
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