

MINUTES

CONSTITUTION COMMITTEE
MONDAY, 13 NOVEMBER 2017



COMMITTEE MEMBERS PRESENT

Councillor Lynda Coutts
Councillor Helen Powell
Councillor Mrs Brenda Sumner (Chairman)
Councillor Hannah Westropp (Vice-Chairman)
Councillor Martin Wilkins

OFFICERS

Assistant Director Legal & Democratic Services (Lucy Youles)
Assistant Director Finance (Richard Wyles)
Assistant Director Transformation and Change (Judith Davids)
Democratic Officer (Lucy Bonshor)

OTHER MEMBERS

Councillor Phil Dilks
Councillor Charmaine Morgan

27. MEMBERSHIP

The Committee were notified that Councillor Wilkins was substituting for Councillor Ian Stokes and Councillor Powell was substituting for Councillor Sampson.

28. DISCLOSURE OF INTERESTS

None disclosed.

29. MINUTES OF THE MEETING HELD ON 12TH JUNE 2017

The decisions from the meeting held on 12th June 2017 had been ratified at Council on 15th June 2017.

30. AMENDMENTS TO THE CONSTITUTION

As the Cabinet Member for Finance had a prior engagement the Chairman agreed to change the order of the agenda and dealt with report CFM440 first.

Budget and Policy Framework – report CFM440

The Cabinet Member for Finance proposed an amendment to Article 4.21.2 of the Constitution relating to the budget and policy framework. Currently consultation in developing the budget was for six weeks and it was proposed to change this to a period of not less than two weeks which was in line with other authorities in the area. Context for the decision was given by the Assistant Director Finance. Responses to consultation happened in a timely fashion usually within the first few days. The proposal allowed more flexibility especially if the Government made a late announcement and it enabled the framework to be more responsive.

The proposal was moved, seconded and agreed.

Decision:

That the Constitution be amended at Article 4.12.2 as shown below in bold

4.21.2 Process for developing the Budget

(a) The Cabinet will publish in its Schedule of Decisions a timetable for making proposals to the Council for the adoption of an annual budget, including those decisions which are required by detailed at Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001(as amended) which are required to be made before the 8th February in any financial year and its arrangements for consultation after publication of those initial proposals. The Chairmen of the Overview and Scrutiny Committees will also be notified. The consultation period shall **be a period of not less than two weeks**.

Development Management Committee – report LDS249

The Chairman of the Development Management Committee presented report LDS249 which proposed changes to the arrangements for questioning members of the public speaking at meetings of the Development Management Committee (DMC) (Article 9.1.9 (a) viii). The Chairman of the DMC outlined for those Members present who were not Members of the DMC the procedure for speaking at the Committee and the times allowed and the proposal set out in report LDS249. He explained that speaking at committee could be very intimidating for members of the public. There was no proposal to stop the public speaking and the time allowed to speak would remain the same.

Agents, applicants and those with technical knowledge would still be allowed to be questioned by the Committee whether they were for or against an application. He felt that members of the public should not be “cross examined” as speaking in such a forum as the committee meeting was daunting to most people.

The Committee were informed that if the proposal was agreed then this would

also require an amendment to be made to 9.1.9 (a) (v) of the Constitution to clarify that questioning would be in accordance with Article 9.1.9 (a) (viii).

The proposal was then discussed by Members of the Constitution Committee. Two other Members of the Council who had sat on the Development Management Committee or who substituted on the Committee were also given the opportunity to speak.

Comments made and responses given included:

- Concern over why the questioning of the public was being taken away – Members of the Committee should be able to ask questions of someone local to the area especially if something was raised which had been overlooked by the Case Officer.
- The Committee may not be party to all information submitted in respect of applications such as letters and e-mails. When the public were questioned they tended to be more relaxed as they were no longer “against the clock”.
- The ability to recognise who had technical knowledge was questioned. It was acknowledged that generally the applicant and/or agent had the technical knowledge in relation to an application. It was clarified that members of the public had three minutes to speak with questions being put by Members for up to ten minutes.
- Members of the public tended to “open up” during questions which could result in leading questions being asked.
- Each application could be seen as controversial in some way to someone.
- Sometimes groups against an application would retain their own specialist with technical knowledge.
- Proposal had come from the Chairman of the Committee
- Only 10% of applications came before the committee (the Chairman of DMC confirmed figure was 5%).
- The DMC met as a quasi-judicial Committee and therefore all decisions had to be based on material planning considerations
- Comments were made in connection with political gain and it was stressed that this had not been the implication and the Member had misspoke.
- Planning was an emotive issue – there were strong views on both sides of an application.
- People needed to feel that they had been listened to.
- Some Members felt better informed by asking questions of the public speakers and felt it was more open and transparent, it was felt the wrong signal would be sent if this did not happen and could be seen as a barrier.
- Public speakers were asked questions which could be seen as personal to them and not relevant to any material planning considerations.
- Identifying all relevant material planning matters for each application was important. This could be done by questioning speakers.
- Personal interests in an application could be misleading on occasion.
- It was felt by some Members that public speakers gave valuable local

knowledge which enabled Members to make the best decision possible.

- It was often difficult to stop duplication when a number of speakers request to speak.
- No intent to limit the number of speakers.

One Member ask for clarity about the procedure with regard to public speaking at the DMC as she had never attended a meeting to which the Chairman of DMC responded. She suggested that perhaps a trial period should be undertaken to see how the proposal faired at the Committee rather than change the Constitution at the present time. The Chairman of the Development Management Committee was happy to accept the amendment. The proposal and amendments were proposed, seconded and agreed.

Decision:

That the Constitution Committee recommends to Council that there is no amendment to Article 9.1.9 a) (viii) in the Constitution and that the proposed change be undertaken on a trial basis by the Development Management Committee for six months with regard to public speaking as follows:

2.1 At Article 9.1.9 a) (viii)

Questions may only be put by Committee members to the applicant, an agent and/or a specialist advisor/consultant whether speaking on behalf of the applicant, for the grant of an application or against the grant of an application. Questions must be relevant to the application being considered and limited to the following matters:

- ***Anything that they have specifically referenced in their speech***
- ***Anything that is contained in the application***
- ***Anything that has been made in a representation by the speaker in respect of the application***

Questions may be asked of public speakers by the Chairman and/or Vice-Chairman but only to establish the source of any material facts stated by a public speaker.

2.2 Article 9.1.9 a) (v) be amended to read:

Each person is allowed to speak for a maximum of three minutes and may be required to answer questions in accordance with Article 9.1.9 (a) (viii).

Employment Committee – report TC0005

Members had been circulated with report TC0005 which concerned the Terms of Reference for the Employment Committee particularly in respect of

recruitment of Strategic Directors, and post failing within the definition of Deputy Chief Officer in Section 2(1) of the Local Government & Housing Act. The Employment Committee proposed that the Terms of Reference be amended to align them with the Constitution and remove the need for Council approval for these specific posts. The Employment Committee would also oversee the recruitment of posts for the Monitoring Officer and Section 151 Officer and make recommendation to Council.

The Employment Committee had also proposed a further amendment to Article 13.4.1(v) of the Constitution to read that they would review the appointment of, rather than directly appoint, an external investigator where necessary.

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Members were happy with the proposed recommendations and they were proposed, seconded and unanimously agreed.

Recommendation:

That the Constitution Committee recommends to Council that Article 13 within the Constitution is amended as follows:–

1. Article 13.4.1 (ii) to be amended to read:

“To oversee the recruitment and selection process of the Monitoring Officer and Section 151 Officer and make recommendations to Council in this respect”

2. Article 13.4.1 (v) to be amended to read:

“To review the appointment of an external investigator to carry out an investigation on behalf of the Committee where necessary.”

3. A new paragraph to be inserted at 13.4.1 (iii) as follows:

“To appoint Strategic Directors, and posts falling within the level of Assistant Director”

4. Existing paragraphs 13.4.1 (iii) to (ix) to be renumbered (iv) to (x) to accommodate the insertion of the new paragraph (iii) above.

31. CLOSE OF MEETING

The meeting closed at 6:30pm.