

Minutes

Constitution Committee
Monday, 25 April 2022
10:40



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Ray Wootten (Chairman)
Councillor Breda-Rae Griffin (Vice-Chairman)
Councillor Ashley Baxter
Councillor David Bellamy
Councillor Paul Fellows
Councillor Susan Sandall

Other Members present

Councillor Kelham Cooke, The Leader of the Council
Councillor Mark Whittington, Cabinet Member for Waste Services
Councillor Linda Wootten, Cabinet Member for Governance and Licensing
Councillor Helen Crawford, Chairman of Planning Committee
Councillor Phil Dilks

Officers

Graham Watts, Assistant Director of Governance and Deputy Monitoring Officer
Emma Whittaker, Assistant Director of Planning
Lucy Bonshor, Democratic Officer

43. Apologies for absence

There were none however, due to traffic congestion Councillors Baxter and Fellows were late attending the meeting which started late at 10:40.

44. Disclosure of interests

None disclosed.

45. Minutes of the meeting held on 7 March 2022

The minutes of the meeting held on 7 March 2022 were proposed, seconded and **AGREED** as a correct record subject to the following amendments:

Page 4, second paragraph at minute 38, last line should read, "Any points made during the meetings had not been reflected within the report which had led to the report being deferred".

Page 6, fourth paragraph down, fifth line, fourth letter “contained” to be removed.

46. Updates on Actions from the previous meeting

Updates on actions would be discussed during the meeting.

47. Planning Services Review - Amendments to the Council's Constitution relating to planning decision making

The Assistant Director of Planning presented the report which concerned proposed changes to the Council’s Constitution, and recommended amendments to clarify and streamline the planning process. A review of the planning process had been undertaken during the last 12-18 months in respect of both the Planning Service and the Planning Committee. The review had looked at the Planning Committee’s protocols and functions especially looking at delegations to Officers versus the Planning Committee. Work had been undertaken with Members and Officers, and two informal Workshops had been held with the Planning Committee and Officers. The outputs from these meetings were the basis for the series of amendments proposed for the Constitution.

Appendix A listed the delegations, what needed to come before the Planning Committee, and Appendix B was a protocol document which gave guidance to Members around how the Constitution should work, how site visits should be carried out, and the procedure for running a Planning Committee. It was felt that the documents before Members gave a good balance between what the Planning Committee needed to determine an application and what was needed to be delegated to Officers.

(10:43 Councillor Fellows arrived)

The Chairman of the Planning Committee stated that a frank, fair and open discussion had taken place at the informal meetings of the Planning Committee with Members and Officers raising concerns that had been addressed within the changes made to the documents. The previous Chairman to the Constitution Committee had attended the last informal workshop meeting and was very happy with how it had been run. She felt that the changes made an excellent Constitution in respect of the Planning Committee. The Chairman of Planning stated that if all Members attended the Planning training, they would have a better understanding of the planning process. She concluded by placing on record her thanks to the Planning Committee Members for their input.

The previous Chairman of the Constitution Committee, echoed the comments made by the Chairman of the Planning Committee and stated it was a model example of how a consultation between Officers and Members should take place.

(10:44 Councillors Baxter and Dilks arrived)

One Member commented on the document before the Committee and highlighted various points within the document which covered typographical errors, capitalisation and inconsistencies within the documents. He asked for a legal definition in respect of what was meant by immediate family as it was inconsistent with the documents. The Assistant Director of Planning stated that

common sense needed to be applied to ensure transparency within the decision making process. Immediate family was taken to include who you were co-habiting with. However, if any Member was unsure about whether or not they had a prejudicial interest, they should raise it with the Monitoring or Deputy Monitoring Officer. The Assistant Director of Governance and Deputy Monitoring Officer stated that capitalisation within the whole Constitution was something that would be addressed during the review.

Further issues were highlighted and included:

- 2.6 (page 20) it was felt that this should be split in the same way as 2.7 and 2.8 were.
- What was meant by adjoining property, it was not clear.
- Did members of staff include those who worked within the Council owned companies such as EnvironmentSK Ltd or LeisureSK Ltd.
- Dealing with Lincolnshire County Council applications

The Assistant Director of Planning responded to the issues raised together with the Assistant Director of Governance and Deputy Monitoring Officer. It was stressed that if Members were at all conflicted, they should speak to the Monitoring Officer or the Assistant Director of Planning.

The main area highlighted by the Member concerned paragraph 2.2 (page 19) which no longer allowed any Member within the District to call an application in, only those within their Ward or an application in an adjoining Ward. The Member felt that this was restrictive and a needless change to the delegation. A Member of the Committee who also sat on the Planning Committee stated that the changes proposed were a comprise from the original proposal.

The Assistant Director stated that there was a discretion between herself and the Chairman of Planning if it was felt that an application needed to go before the Committee that was outside the Ward Members area.

The Chairman of Planning stated that she hoped that if a Member had a concern with an application that they would speak to the relevant Ward Member about their concerns.

Further discussion followed with comments being made about the Committee notification (all Members had been notified of the Committee), about the proposed changes in respect of the call-in of a planning application reiterating what the previous Member had stated, the protocol guidance and site visits. The Member felt that the changes proposed were not the best way forward.

Further typographical errors were highlighted and comments made in respect of the proposed deletion of 9c within the Constitution, and the process for refusing an application. It was stated that the review undertaken had found that this was very irregular and not good practice. It was therefore proposed to take this paragraph out of the Constitution; however, it did not stop Members refusing an application. This would be detailed within the Procedure Rules section of the Constitution.

Further discussion followed on the content of paragraph 9c, when it had been used and why, and the need for any planning application refusal to be on material planning grounds only. It was noted that in reference to site visits this had been improved for Members.

Once again reference was made to the informal workshop meetings that had been held with Officers, Members of the Planning Committee and non-Planning Committee Members and the points raised at the meeting today had been discussed thoroughly at the workshops.

The recommendations contained within the report were proposed and seconded.

However, an amendment was put forward to remove some of the wording at 2.2 (1) on Appendix A, words to be removed shown in bold and bracketed.

“In respect of any particular ward: any application for planning permission, approval of reserved matters, conservation area consent, tree works approval or listed building consent where a Councillor **(from that ward or the adjoining ward)** has requested, in writing within 21 days of being notified.....”

The amendment received a seconder but on being put to the vote the amendment was **LOST**.

The original recommendation was voted on and on being put to the vote **AGREED**.

Recommendation

The Constitution Committee supports the following recommendations to Council:

- 1. The proposed amendments to the Planning Protocols at Appendices A and B.**
- 2. The deletion of Article 9c in the Constitution.**
- 3. As part of the overall review of the Constitution, that recommendations 1 and 2 are presented to Council for further consideration in May 2022.**

48. Constitution Review

The Assistant Director of Governance and Deputy Monitoring Officer presented the report which provided the Committee with an update on the Constitution review and asked for Parts 1 and 2 to be recommended to Council for approval.

Following the last meeting of the Committee further Member workshops had been held in respect of Part 1 and Part 2 of the Constitution. No substantial changes had been made to the documents following the workshops other than typographical errors. Clean copies of the documents had been appended to the report.

The Assistant Director of Governance and Deputy Monitoring Officer highlighted two small amendments to the documents before Members. A question was asked in relation to Council meetings on page 39 of the pack and the word “normally” in respect of meetings being held in the public domain. It was stated that a Council meeting may need to be held in private as it may contain exempt information to which the press and public would not be party to.

The Chairman stated that a further meeting of the Committee would need to be held to discuss Part 4 of the Constitution which dealt with Procedure Rules. Monday 9 May 2022 at 2pm was proposed for the extra meeting. (This date was moved to Tuesday 10 May 2022 at 2pm due to clashes with Member Training).

Before the next meeting, Member workshops would be held in respect of the proposed changes to Part 4 of the Constitution to which all Members would be invited to attend. Mapping documents would be undertaken showing the proposed changes to Part 4 as submitted with the other parts of the Constitution. The Contract Procedure Rules and the Financial Regulations would also be discussed at the next meeting of the Committee following recommendations made at the Governance and Audit Committee on Wednesday 26 April 2022.

Part 5 of the Constitution would contain codes and protocols, including the Members Code of Conduct which had already been approved. It was not intended to hold any workshops in relation to this part of the Constitution.

Part 6 of the Constitution would cover the Members Allowance Scheme which was currently being reviewed by the Remuneration Panel whose findings would be submitted to Full Council in May.

Part 7 would contain a Management Structure which was a factual document.

A question was asked in respect of Councillors having to sit on Committees. The Assistant Director of Governance and Deputy Monitoring Officer stated that there was no legislation that required a Councillor to sit on a committee. The only legislation in respect of Councillors being able to sit on committees was that Cabinet Members were not allowed to sit on Overview and Scrutiny Committees. There was nothing to prevent Cabinet Members sitting on regulatory committees or any other committee as long as it was not a scrutiny committee.

The recommendations before the Committee were discussed. Some Members felt that they were unable to support the recommendation in respect of Parts 1 and 2 until they had seen the proposal for Part 4.

It was therefore proposed, seconded and **AGREED** to defer a decision until the next meeting of the Constitution Committee.

Decision

That the recommendations in respect of Part 1 and Part 2 of the Constitution be deferred to the next meeting of the Constitution Committee.

49. Any other business which the Chairman, by reasons of special circumstances, decides is urgent

None.

50. Close of meeting

The meeting closed at 11:55.