

Meeting of the Constitution Committee

Monday, 18 July 2022, 10.30 am



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee Members present

Councillor Mark Whittington (Chairman)
Councillor Ashley Baxter
Councillor Susan Sandall
Councillor Ian Stokes
Councillor Adam Stokes

Officers

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

1. Apologies for absence

Apologies for absence were received from Councillors Bellamy, Fellows and Griffin.

Councillor Griffin was substituted by Councillor Adam Stokes.

2. Disclosure of interests

None disclosed.

3. Minutes of the meeting held on 16 May 2022

The minutes of the meeting held on 16 May 2022 were proposed, seconded and **AGREED**.

4. Updates on Actions from the previous meeting

Actions from the previous meeting had been completed.

5. Amendments to the Council's Constitution

The report before Members considered proposed amendments to the Constitution following the adoption of the revised Constitution at the Annual Council meeting held on 26 May 2022.

Councillors Baxter and Cleaver had proposed amendments to the Constitution at the Full Council meeting. The Chairman of the Constitution Committee offered to

give due consideration to the amendments at the next meeting of the Constitution Committee and the amendments were withdrawn at the Council meeting.

During a development session for Chairmen and Vice-Chairmen of Committees, the terminology associated with the person presiding the meeting was highlighted and how this was reflected in the Constitution, on agendas and minutes. It was agreed that consideration should be given to whether this was still appropriate, from a gender-neutral perspective. Also, the recent variation of an Overview and Scrutiny Committee date had drawn attention to the fact that the wording associated with the Chairman's powers in relation to rescheduling a meeting needed more clarity.

The Committee discussed the use of the word Chairman. The Chairman of the Committee felt that this was an issue that could be brought before an informal session of the Chairmen and Vice-Chairmen of Committees which met quarterly for informal discussions. It was questioned whether this was a public meeting to which other Members could attend, to which the Chairman replied that it was not. The sessions considered best practice arrangements and the Chairman of the Constitution Committee indicated that the terminology within the Constitution could be an issue for this group of Members to consider.

It was suggested that the Councillor presiding each meeting should indicate how they were to be addressed, Mr Chairman, Madam Chairman, Chair etc. and Members of that Committee should respect that decision. A discussion followed on the topic and examples given of instances where changes had been made to titles such as "refuse operatives", rather than "bin men". Some Members felt that the use of the word Chairman should remain and that whoever presided at a meeting should be given the opportunity to state how they wished to be addressed.

A proposal was made that the person presiding the meeting should be referred to as Chair as this was gender inclusive, however the proposal failed to receive a seconder.

A further proposal was made that the "Chairman" should be referred to as the "person presiding" the meeting. This proposal received a seconder and on being put to the vote there was an equality of votes for and against the proposal, the Chairman used his casting vote in favour of the proposal. A short discussion followed on whether this also referred to the section in the Constitution relating to the Chairman of the Council but it was confirmed that this was only in respect of Committee meetings.

Recommendation to Council

That the word Chairman be replaced within the Constitution with Person Presiding in respect of Committee meetings.

The Committee then discussed the wording around the variation of dates for Committees and the suggested amendments to Paragraph 7 of the Council Procedure Rules. Reference was made to the next meeting of the Companies Committee that had been postponed, even though the Member felt that there was business that could be discussed.

The proposed amendments to the Council Procedure Rules as contained within the report in respect of cancellation, postponement or rescheduling of meetings was proposed, seconded and **AGREED**.

Recommendation to Council

That Paragraph 7 of the Council Procedure Rules are amended as follows:

- **The title of paragraph 7 be renamed ‘Notice and Summons to Meetings and Cancellation, Postponement or Rescheduling of Meetings’**
- **The inclusion of the words ‘cancel or reschedule’ with the word ‘postpone’ in paragraph 7.4 of the Council Procedure Rules**
- **The inclusion of the words ‘cancelled or rescheduled’ with the word ‘postponed’ in paragraph 7.5 of the Council Procedure Rules.**

(10:55 – 10:58 a short adjournment took place)

The Committee then discussed the proposed amendments put forward by Councillor Cleaver which were in respect of the Planning Procedure Rules and the Planning Scheme of Delegation. Each amendment was taken individually.

The Assistant Director of Governance and Deputy Monitoring Officer informed the Committee that the paragraph numbering used by Councillor Cleaver was out slightly and the paragraphs were 6.2 and 6.3 not 6.3 and 6.4 as shown in Appendix A and he briefly outlined the proposed amendments put forward by Councillor Cleaver.

Amendment 1: Planning Procedure Rules

Paragraph 6.2 - The order of speaking at Planning Committee when considering applications.

The amendment proposed by Councillor Cleaver was to change the order of speakers at a Planning Committee particularly in respect of when a District Ward Councillor spoke on a planning application. Currently they spoke first and Councillor Cleaver proposed that they were the second to last to speak. The proposed change would mean that Parish and Town Council representatives would speak third. The Assistant Director of Planning stated that the applicant and agent were the last to speak as they had the right to reply to what had been said previously.

Members discussed the proposed amendment. Some Members felt strongly that the District Ward Councillor should be allowed to speak first whilst others felt that it depended upon the planning application being discussed. It was suggested that the Chairman could exercise discretion as to the speaker’s order, but it was felt that clarity of the speaker’s order was needed especially as the Planning Committee was the most public facing of all Committees.

Amendment 1 was proposed but did not receive a seconder.

It was proposed, seconded and **AGREED** to keep the running order as it was currently shown in the Constitution.

Recommendation to Council

That the running order of speakers for the Planning Committee remain as currently shown at 6.2 in the Constitution.

Amendment 2: Planning Procedure Rules

Insert a new paragraph to define the relevant ward Councillor as 'those wards which fall inside or adjacent to the boundary of the planning application in question'

The Assistant Director of Planning stated that the proposed amendment did not define the meaning of adjacent and queried, for example, where this meant within two metres, five metres, the whole ward. She referred to paragraph 5.1 and the Chairman's discretion to allow Members to speak at Committee.

One Member felt that the request had been made due to circumstances with a planning application in Stamford. A discussion followed with Members giving examples of wards and their boundaries in respect of planning applications. It was noted that there was nothing to stop a Councillor attending a meeting of the Planning Committee as a member of the public rather than a Councillor. Members did not object to the proposed amendment but felt that the wording was too 'woolly' and needed to be tightened up. It was therefore proposed to amend the wording as follows:

To define the relevant ward Councillor as 'those wards which fall inside or adjacent to the planning application in question'. The proposal was seconded and on being put to the vote **AGREED**.

Recommendation to Council

Insert a new paragraph within the Planning Procedure Rules to define the relevant ward Councillor as 'those wards which fall inside or adjacent to the planning application'.

Amendment 3: Planning Procedure Rules

Paragraph 6.3 - That the three minutes speaking be changed to four minutes

The proposed amendment was to allow all speakers to have four minutes speaking time. Previously Councillors had five minutes and the public three minutes, however this was amended when meetings were carried out remotely so that everyone had three minutes. One Member stated that although Members were allowed five minutes previously, it had not been written down.

A discussion followed and the Assistant Director of Planning confirmed that three minutes was typical for most Local Authorities. The time should be used to highlight the salient points in respect of a planning application only and longer Committee meetings were tiring for everyone involved.

Members felt that three minutes was sufficient time and it was proposed, seconded and **AGREED** to keep all speakers to three minutes.

Recommendation to Council

That Paragraph 6.3 in relation to speaking at Planning Committee meetings be kept to three minutes.

Councillor Baxter asked for his vote against the proposal to be recorded.

Amendment 4: Planning Scheme of Delegation

Paragraph 1 - delete the first sentence and replace with "Any application for planning permission, approval of Reserved Matters, Conservation Area Consent, tree works approval or Listed Building Consent where a Councillor from the relevant or an adjoining ward, or a minimum of any three councillors, or any member of the Planning Committee has requested, in writing within 21 days of being notified of the application, that the application be considered by Committee.

The proposed amendment was discussed with Members putting their views forward. One Member felt that the amendment made it more accessible to Members to call a decision in and he was happy to propose the amendment and felt that the changes that had been made during the Constitution review in respect of the call-in of planning applications had not been necessary.

Further discussion followed on the sizes of the different wards within the district and where their boundaries were situated with some abutting completely different authorities. It was felt that there were sufficient mechanisms in place to allow the call-in of planning applications and conversations should be encouraged between Ward Councillors and Planning Officers if it was felt that an application should go to Committee.

The proposal for the amendment did not receive a seconder. Further discussion on Councillors not on the Committee being able to speak at a Planning Committee, it was noted that speaking was at the Chairman's discretion as at paragraph 5.1 of the Planning Procedure Rules.

The Assistant Director of Planning stated that for an application to go before a Planning Committee there had to be a material planning reason and it was down to the language used. There were clear procedures in place to call-in an application and the Assistant Director of Planning also had discretion in respect of applications.

Members felt that no change was necessary to the current Planning Scheme of Delegation and it was proposed, seconded and **AGREED** that the current process remained.

Recommendation to Council

That no change was required to paragraph 1 in the Planning Scheme of Delegation.

Councillor Baxter asked for his vote against the recommendation to be recorded.

Amendment 5: Planning Scheme of Delegation

Insert a new paragraph 2 and renumber beneath accordingly:

“Any application for Major Development as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2010”

The Assistant Director of Planning gave a definition of a major development; a development of 10 or more dwellings or a commercial development where the floor space to be created was 1,000 square metres or more.

Applications under this definition would go to Committee by default and as the Constitution was drafted any that had financial obligations. The Assistant Director of Planning stated that in her professional opinion there was no need to amend the Constitution in respect of major developments.

Examples of the type of major developments that would not go were given by the Assistant Director of Planning.

Councillor Cleaver's amendment was proposed but did not receive a seconder.

It was proposed, seconded and **AGREED** that no new paragraph was necessary.

Recommendation to Council

No new paragraph was required to be inserted in the Planning Scheme of Delegation.

Councillor Baxter asked for his vote against the recommendation to be recorded.

(A short adjournment took place between 11:52 – 11:57)

The Committee then went through individually the amendments proposed by Councillor Baxter.

Amendment 1: Public Open Forum

Insert after paragraph 11.9 reinstatement of the paragraph from the previous Constitution titled “Supplementary question”.

Before Members considered the amendments, the Chairman read out a statement he had received from Mr Phil Gadd in respect of public speaking at Full Council meetings and supplementary questions making reference to the issues that had happened at the Riverside Flats and the reasons why questions had been asked at

Full Council. The Chairman stated that he would forward the letter to the Assistant Director of Governance and Deputy Monitoring Officer and that the Chairman would respond to Mr Gadd.

The Member who had submitted the amendments stated that the Council need to be more transparent and open to questions, and able to hold Councillors to account rather than less able to do so. Questions at Council in the past had been on items on the agenda and reference was made to a recent meeting of Council and the questions that had been asked that did not have any relevance to an agenda item, although the Councillor who had been asked the question had responded to it. It was felt that an answer to a question could be incomplete and the Member felt that it was fair for the member of the public to ask the person answering the question to clarify their answer.

Discussion then followed. Although notice of questions had to be given prior to a meeting, supplementary questions did not and often these had nothing to do with the original question. Members felt that a supplementary question could be asked but only in respect of the original question, that did not mean asking the same question again, but to seek clarity in respect of the answer given. Members agreed that a supplementary question could be asked, but wording around this needed to be tight and it had to be relevant to the answer received to the original question.

It was agreed that the wording in the previous version of the Constitution would be sufficient.

It was proposed, seconded and **AGREED**.

Recommendation to Council

That supplementary questions in respect of the Public Open Forum at Council be allowed, but the supplementary question had to be relevant to the answer received to the original question asked.

Amendment 2: Points of Information

Delete paragraph 14.5 (f) "On a point of information" and delete paragraph 14.26 "Point of information".

The Member proposing the amendment stated that this was a new rule and had not been part of the previous Constitution. It was felt that the rule gave Members the opportunity to interrupt the flow of another speaker and it was difficult for a chairman to adjudicate, could be seen as subjective. The Chairman of the Committee stated that points of information should be facts not opinions.

It was stated that the wording "points of information" was standard wording and taken from the Local Government Act 2000's Model Constitution.

Councillor Baxter proposed his amendment which did not receive a seconder.

It was proposed, seconded and **AGREED** to leave the wording as currently shown in the Constitution.

Recommendation to Council

That no change is made in respect of Points of information paragraph 14.5 (f) or paragraph 14.26 in the Council Procedure Rules.

Councillor Baxter asked for his vote against the recommendation to be recorded.

The Chairman of the Committee indicated that this issue was something that could perhaps be looked at by the Chairmen and Vice-Chairmen group when they met.

Amendment 3: Cabinet Procedure Rules

Delete paragraph 22.2 and re-Insert at 22.2 "Members attending as observers may speak and ask the relevant Cabinet Member questions on any item on the agenda". (Fragment from the previous Constitution at paragraph 8.5.7). Delete paragraph 7.2 "...at the discretion of the Leader, or person presiding the meeting, but the same provision must be available for all Councillors in attendance for the respective item." and replace with "and ask the relevant Cabinet Member questions on any item(s) on the agenda".

Councillor Baxter who had proposed the amendment stated that this was a new rule which restricted non-Cabinet Members from asking questions at Cabinet.

The Assistant Director of Governance and Deputy Monitoring Officer stated that the changes had been made to provide Chairmen of all Committees with the ability to better manage their meetings. Previously each Committee had dealt with non-Committee Members speaking at meetings differently and the changes had given uniformity across every Committee including Cabinet.

The Chairman of the Committee felt that this was another issue that could potentially be discussed by the informal Chairmen and Vice-Chairmen group.

The amendment was proposed but did not receive a seconder.

It was proposed, seconded and **AGREED** that no change was made to the current wording within the Constitution in relation to paragraph 22.2 of the Cabinet Procedure Rules.

Recommendation to Council

That no change is made to the current wording within the Constitution in relation to paragraph 22.2 of the Cabinet Procedure Rules.

Councillor Baxter asked for his vote against the recommendation to be recorded.

Amendment 4: Overview and Scrutiny Procedure Rules

Delete paragraph 4.4

It was stated that this was a new rule which allowed Overview and Scrutiny Committee Chairman to defer a request for an agenda item to the subsequent meeting. It was felt that a decision to defer should not be made without reference to the Member(s) who requested the agenda item. Reference was then made to the recently postponed Companies Committee which the Member felt had plenty of business to discuss. It was noted that the amendment before the Committee was in respect of Overview and Scrutiny Committees only.

A discussion followed with examples of items being taken off or cancelled at short notice. It was stated that the rule was to enable Chairman to manage the work programmes of their Overview and Scrutiny Committees. If Members needed an urgent item raising, they should contact the Chairman of the relevant Committee. A request for an item even a deferred item should appear on the Committee's work programme.

The amendment was proposed but did not receive a seconder.

It was proposed, seconded and **AGREED** that the wording remain as currently shown in the Constitution.

Recommendation to Council

That no change be made to the wording at paragraph 4.4 of the Overview and Scrutiny Procedure Rules.

Amendment 5: Overview and Scrutiny Procedure Rules

Insert into paragraph 4.5 "Between meetings, changes to..." The proposed amendment clarified a potential contradiction with paragraph 4.1 (j).

Members were happy with the proposed amendment which was seconded and on being put to the vote **AGREED**.

Recommendation to Council

That the following wording be inserted into paragraph 4.5 "Between meetings, changes to....." of the Overview and Scrutiny Procedure Rules so that it now reads:

Between meetings, changes to the work programme for the Overview and Scrutiny Committees will be determined by the Chairman of each Overview and Scrutiny Committee.

Amendment 6: Overview and Scrutiny Procedure Rules

Delete paragraph 5.3 and replace with “and ask questions on any item(s) on the agenda”.

The new rule required members of the public to register to speak and submit their questions in advance of an Overview and Scrutiny Committee.

The Assistant Director of Governance and Deputy Monitoring Officer stated that the rule had been added to give unity across Committees. If a member of the public wished to speak at planning or licensing, they had to give notice therefore the same provision should also be applied to the Overview and Scrutiny Committees.

The amendment was proposed by Councillor Baxter but did not receive a seconder.

It was proposed, seconded and **AGREED** that no amendment was made to paragraph 5.3 of the Overview and Scrutiny Procedure Rules.

Recommendation to Council

That no amendment is made to paragraph 5.3 of the Overview and Scrutiny Procedure Rules.

Amendment 7: Overview and Scrutiny Procedure Rules

Paragraph 6.4, delete “...at the discretion of the Chairman, or person presiding the meeting, but the same provision must be available for all Councillors in attendance for the respective item.”

The proposed amendment would allow for non-Cabinet Members and non-Committee Members to ask questions at Overview and Scrutiny Committees.

Paragraph 6.4 allowed the Chairmen of the Overview and Scrutiny Committees to manage the meeting more effectively, sometimes it was not clear who Members of the Committee were and it allowed for a more structured meeting to deal with the items of business on the agenda. The rule provided Chairmen with a clear ability to manage meetings.

The Member proposing the amendment felt that the chairing of a meeting was down to the skills of the Chairman. The proposal did not receive a seconder.

The Assistant Director of Governance and Deputy Monitoring Officer stated that training of Chairmen and Vice-Chairmen had recently taken place. Procedure Rules provided uniformity across the board so that meetings could be effectively chaired.

It was proposed that no amendment was required to Paragraph 6.4 of the Overview and Scrutiny Procedure Rules, this was seconded and on being put to the vote **AGREED**.

Recommendation to Council

That no amendment was required to Paragraph 6.4 of the Overview and Scrutiny Procedure Rules.

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

A question was asked about the Scrutiny Review and the Chairman stated that it would be coming to the next meeting of the Committee.

7. Close of meeting

The meeting closed at 1:05pm.