



Report for: ACTION
Item Number: 4

<b>Contains Confidential or Exempt Information</b>	NO
<b>Title</b>	CONSTITUTION AMENDMENTS – Scheme of Delegation for Planning
<b>Responsible Officer(s)</b>	Simon Hurrell – Head of Planning and Property Services
<b>Contact officer, job title and phone number</b>	Suki Coe – Development Control Manager
<b>Member reporting</b>	Councillor Bateson, Lead Member for Planning
<b>For Consideration By</b>	Constitution Sub-Committee
<b>Date to be Considered</b>	30 October 2012
<b>Implementation Date if not Called In</b>	1 <sup>st</sup> November 2012
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Constitution

### Report Summary

1. This report seeks to amend the scheme of delegation to allow for minor changes to approved major development schemes to be decided quickly and efficiently by allowing decision making powers to be delegated to the Chairman, or Vice Chairman in his/her absence, of the relevant Area Development Control Panel, to decide whether the amendment should be determined at the Panel, or delegated to the Head of Planning and Property Services for decision.
2. It recommends that the Sub-Committee considers the proposed revisions and approves these.
3. These recommendations are being made as the Constitution needs to be amended under Part 6 D3 to allow for minor changes or variation of a planning condition for a previously approved application over 2 dwellings or 1000 sqm of non-residential floor space
4. If adopted, there are no key financial implications for the Council

### If recommendations are adopted, how will residents benefit?

Major development proposals with planning permission but where minor changes are required will be able to be implemented flexibly and effectively without unnecessary delay, supporting economic development including building new homes in the Borough	November 2012
Enabling Development Control Panels to focus decision making on new issues, avoiding unnecessary bureaucratic processes.	November 2012
An updated Constitution will help the democratic process	November 2012

to run efficiently and effectively, and ensure residents and others in the community are informed of the correct constitutional processes.	
--	--

## 1. Details of Recommendations

### RECOMMENDATION:

**That the amendments to the Council's Constitution as set out in Appendix A to the report be approved.**

## 2. Reason for Recommendation and Options Considered

**2.1** The Constitution of the Royal Borough of Windsor and Maidenhead is a single point of reference which contains the principal operating structures and procedures of the Authority. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. A full review of the Constitution was agreed by Council on 25<sup>th</sup> October 2011.

### What amendments are requested to be made to the Constitution?

**2.2** The Constitution needs to reflect the current economic difficulties in the construction industry and to allow for a flexible, efficient and effective decision making process while retaining democratic accountability.

**2.3** The current scheme of delegation for planning decisions does not permit any delegation of decision making for proposals of more than 2 dwellings or non-residential floorspace of more than 1000sqm. However, the service is receiving increasing numbers of planning applications for minor changes or variations to a planning condition for a previously approved planning application. These applications all have to be determined by the relevant area Development Control Panel under the current Constitution.

**2.4** The proposed change in the scheme of delegation would allow these applications to be decided under delegated powers with the agreement of the Chairman, or Vice Chairman in his/her absence, of the relevant Development Control Panel. Ward Councillors would still be able call the application to the Panel as currently. This amendment would potentially allow these minor applications to be decided within 4-6 weeks rather than the current 8-13 weeks. It would also reduce the workload of the Development Control panels.

Option	Comments
1. Approve the changes to the Constitution <b>Recommended Option</b>	This will ensure that the Constitution is legally compliant and up to date.
2. Do not approve changes	Improved and more efficient planning decision-making will not be possible

## 3. Key Implications

Defined	Unmet	Met	Exceed	Significantly	Date they should
---------	-------	-----	--------	---------------	------------------

Outcomes				Exceeded	be delivered by
Amend the Constitution by November 2012.	Do not amend the Constitution by November 2012.	Amend by November 2012.	n/a	n/a	

#### 4. Financial Details

##### a) Financial impact on the budget (mandatory)

There are no financial implications.

#### 5. Legal Implications

The Constitution must be in compliance with the terms of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2011 and any statutory guidance issued in relation to those and other Acts.

#### 6. Value for Money

An updated Constitution will ensure the Council is less likely to be challenged on its procedures and processes.

#### 7. Sustainability Impact Appraisal

There is no impact on sustainability objectives.

#### 8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
There is a risk of challenge if the Constitution is not legally updated.	Constitution is not updated.	Constitution is regularly reviewed and updated.	Revised Constitution available on website.

#### 9. Links to Strategic Objectives

The main links are to:

##### Residents First

- Improve the environment, economy and transport

##### Value for Money

- Deliver economic services
- Invest in the future

##### Delivering Together

- Enhanced Customer Services
- Deliver Effective Services

##### Equipping Ourselves for the Future

- Changing our culture

#### 10. Equalities, Human Rights and Community Cohesion

It has been considered that the proposed amendments to the Constitution do not require a full Equalities Impact Assessment. No negative impacts were identified.

#### 11. Staffing/Workforce and Accommodation implications:

None.

**12. Property and Assets**

None.

**13. Any other implications:**

None.

**14. Consultation**

Consultation with the Chairman of each area Development Control Panel, who would be asked to confirm the delegation in writing. Ward members will also be informed.

**15. Timetable for Implementation**

By November 2012

**16. Appendices**A: Amended text for the Scheme of Delegation highlighted in **bold text**.**17. Background Information**

None

**18. Consultation (Mandatory)**

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
<b>Internal</b>				
Cllr Burbage	Leader of the Council	22.10.12	24.10.12	
Christabel Shawcross	Interim Head of Paid Service	22.10.12		
Simon Hurrell	Head of Planning and Property Services	19.10.12	22.10.12	Throughout
Cllr Bateson	Lead Member Planning	22.10.12	23.10.12	
Maria Lucas	Head of Legal Services	22.10.12	22.10.12	Throughout

**Report History**

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Suki Coe	Development Control Manager	01628 79 6042

Proposed text for Part 6 D3 of the Constitution

**D3 Area and Joint Development Control Panels**

***D3.1 Purpose***

**(i) Within the operating guidelines and budget approved by the Council to consider all matters relating to the following:**

a. Where a Councillor has requested within 28 days of the publication of the weekly list featuring an application, using the adopted pro-forma for Calling in applications, that an application should be the subject of a decision by the Development Control Panel (other than applications for 'Certificate of Lawfulness for proposed uses of developments')

b. Where a planning application proposes more than two dwellings, **except where the application seeks a minor change or variation of a planning condition for a previously approved planning application. In this special circumstance, the decision as to (a) determination by the Area Development Control Panel or (b) delegation to the Head of Planning and Property Services is delegated to the Chairman of the relevant Development Control Panel.**

c. Where the Officer's decision would reverse a previous decision of a Development Control Panel for the same development or would have the effect of preventing the proper implementation of any previous decision of the Council.

d. Where an Officer's decision would be contrary to a previous decision that had occurred as a result of a discussion with a Councillor, where amendments took place such that the decision was taken under delegated authority.

e. Where an approved Local Plan or other Policy Statement is in existence for a particular area or development topic and the Officers decision upon the application would significantly prejudice the implementation of the development plan policies or proposals.

f. Where the planning application proposes more than 1000 square metres of non-residential floor space, **except where the application seeks a minor changes or variation of a planning condition for a previously approved planning application. In this special circumstance, the decision as to (a) determination by the Area Development Control Panel or (b) delegation to the Head of Planning and Property Services, is delegated to the Chairman of the relevant Development Control Panel.**

g. Where an application is made by a Councillor or a member of their family and there are one or more objections or it is contrary to adopted planning policies.

h. Where an application is made by the Council or the Council has land ownership interest in the application site and there are one or more objections or it is contrary to adopted planning policies.

i. Where an application is made by officers in politically restricted posts or by an officer employed in the Planning Unit and there are one or more objections or it is contrary to adopted planning policies.

j. Where in the opinion of the Head of Planning, and the Lead Member of Planning and Development, that it would not be appropriate to use delegated authority.

k. Any tree of significance that is to be felled whether covered by a TPO or on Highways land may come to an area panel if the head of planning and the lead member agree if it is appropriate in the public interest. i.e. a contribution to the street scene.

l. All other functions regarding town and country planning and development control listed in Section A of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 are to be delegated to Officers.

(ii) To advise the Council, the Cabinet, the Housing and Planning Overview and Scrutiny Panel on the preparation, updating and monitoring of the Local Plan and policies relating to development control guidance.