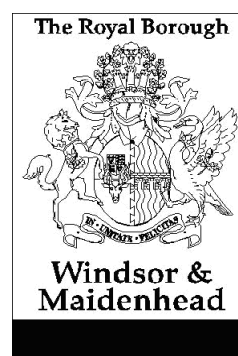


Report for: ACTION
Item Number: 4



Contains Confidential or Exempt Information	NO – Part I
Title	CONSTITUTION AMENDMENTS – Delegated Powers
Responsible Officer(s)	Chris Hilton – Director of Regeneration and Development
Contact officer, job title and phone number	Suki Coe – Development Control Manager (01628) 796042
Member reporting	Councillor Derek Wilson, Lead Member for Planning
For Consideration By	Constitution Sub-Committee
Date to be Considered	January 2015
Implementation Date if not Called In	
Affected Wards	All
Keywords/Index	Scheme of Delegation, Constitution, Development Control Panels

Report Summary

To make amendments to the Council's Constitution to ensure that the delegated authority in the Constitution reflects the current Council structure.

If recommendations are adopted, how will residents benefit?

The Council can continue to assess and determine all work under the Town and Country Planning Act in line with the Constitution without delay.	Immediately
Decision making will be clearly accountable.	Immediately

1. Details of Recommendations

RECOMMENDATION: That the amendments to the Council's Constitution as set out in Appendix A to the report are 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 carried out in December 2012 and various changes have been made as required..

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

The Council has merged the planning function with the regeneration and property functions with the deletion of the post of Head of Planning. The Constitution therefore needs to be amended to give the Director of Regeneration and Development the same authorities as those previously delegated to the Head of Planning. As the “Head of Planning” is mentioned in several places in the Constitution, it is proposed that the “Director of Regeneration and Development” be substituted for this.

Option	Comments
1. Amend the Constitution as requested RECOMMENDED OPTION	This is necessary to ensure that the Council can continue to make decisions under the terms of the Town and Country Planning Act.
2. Do not approve changes	The Constitution will not be up to date.

3. Key Implications

Defined Outcomes	Unmet	Met	Exceed	Significantly Exceeded	Date they should be delivered by
Amend the Constitution with immediate effect	Do not amend the Constitution by 31 st January 2015	Amend the Constitution immediately	n/a	n/a	Date of Constitution Subcommittee

4. Financial Details

Financial impact on the budget (mandatory)

There are no financial implications.

5. Legal Implications

The Constitution must be in compliance with the Local Government Act 2000, Town and Country Planning Act 2004, Local Government and Public Involvement in Health Act 2007 and Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2011 and any other relevant statutory acts or guidance.

6. Value for Money

The Council has a statutory requirement to maintain lawful decision making. An updated Constitution will ensure the Council is less likely to be challenged on it's 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 delegated	HIGH	Amendment of the constitution as proposed.	LOW

authority is unclear			
An inability to make decisions under the Town and Country Planning Act 2004.	HIGH	Amendment of the constitution as proposed.	LOW

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 EQIA. No negative impacts were identified.

11. Staffing/Workforce and Accommodation implications:

None

12. Property and Assets

None.

13. Any other implications:

None.

14. Consultation

None.

15. Timetable for Implementation

Immediately after the Subcommittee meeting or by 31st January 2015 at latest..

16. Appendices

None

17. Background Information

None

18. Consultation (Mandatory)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Burbage	Leader of the Council	13/01/2015		

Christabel Shawcross	Acting Managing Director	13/01/2015		
Chris Hilton	Director of Regeneration and Development	13/01/2015		
Cllr D Wilson	Lead Member for Planning	13/01/2015		
Cllr P Comber	Deputy Lead Member for Planning	13/01/2015		
Maria Lucas	Head of Legal Services	12/01/2015	12/01/15	Throughout
Andrew Brooker	Acting Corporate Services Director	13/01/2015		
Anna Stamper	Finance Partner	13/01/2015		

Report History

Decision type:	Urgency item?
Non Key decision	Yes

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

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 or over 1000sqm of non-residential floor space, except where the application seeks a renewal, or a minor change or a 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) unless the decision is delegated to the Head of Planning and Property Services is delegated to Director of Development and Regeneration by 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 an application seeks a renewal of a planning permission, or a variation of a planning permission or a variation of a planning condition for a previously approved planning application the decision is made ~~the planning application proposes more than 1000 square metres of non-residential floor space, except where the application seeks a renewal, or a minor change or a 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) unless the decision is delegated to the Head of Planning and Property Services Director of Development and Regeneration by, ~~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~~Director of Development and Regeneration, 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 Planning and Environment Overview and Scrutiny Panel on the preparation, updating and monitoring of the Local Plan and policies relating to development control guidance.

D3.7 Joint Development Control Panels

Planning applications which are likely to have a significant impact, going beyond the area of the relevant Area Development Control Panel will be considered and determined at a joint meeting of the two Development Control Panels.

The initial decision as to whether an application falls into this category will be taken by the ~~Head of Planning~~Director of Development and Regeneration and the Head of Legal Services, in agreement with the Lead Member for Planning and the Development Control Panel Chairmen. In the event of a lack of unanimity, the two Development Control Panel Chairmen and the Lead Member for Planning will meet and reach a majority decision to recommend to the ~~Head of Planning~~Director of Development and Regeneration and the Head of Legal Services.

Where at least 5 Members of an Area Development Control Panel, or the Chairman of that Panel, believes that an application due to be determined by the other Development Control Panel is likely to have a significant impact on their area and should be determined by Joint Panel, they shall notify the Head of Legal Services in writing as soon as possible and, in any event, prior to the time fixed for the Development Control Panel due to determine the application. The matter will then be considered by the ~~Head of Planning~~Director of Development and Regeneration and the Head of Legal Services, in consultation with the two Development Control Panel Chairmen and the Lead Member for Planning, who will decide how the application is to be determined. If this decision cannot be made prior to the Development Control Panel at which the application was due to be considered, the application will be deferred.