

# Public Document Pack

Head of Governance: Karen Shepherd: (01628) 796529

**TO: EVERY MEMBER OF THE COUNCIL FOR THE ROYAL BOROUGH OF WINDSOR & MAIDENHEAD**

YOU ARE HEREBY SUMMONED TO ATTEND the Extraordinary Meeting of the Council of the Royal Borough of Windsor & Maidenhead to be held as a **Virtual Meeting (Online access)** on **Tuesday, 26 May 2020 at 6.15 pm** for the purpose of transacting the business specified in the Agenda set out hereunder.

Dated this Friday, 15 May 2020



Duncan Sharkey  
Managing Director

## **A G E N D A**

### **PART I**

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence

2. DECLARATIONS OF INTEREST

To receive any declarations of interest  
(Pages 5 - 6)

3. CONSTITUTIONAL AMENDMENTS - DEVELOPMENT MANAGEMENT PANELS

To consider the above report  
(Pages 7 - 24)

## **COUNCIL MOTIONS – PROCEDURE**

- Motion proposed (mover of Motion to speak on Motion)
- Motion seconded (Seconded has right to reserve their speech until **later** in the debate)
- Begin debate

Should An Amendment Be Proposed: (only one amendment may be moved and discussed at any one time)

NB – Any proposed amendment to a Motion to be passed to the Mayor for consideration before it is proposed and seconded.

- Amendment to Motion proposed
- Amendment must be seconded BEFORE any debate can take place on it  
  
(At this point, the mover and seconder of original Motion can indicate their acceptance of the amendment if they are happy with it)
- Amendment debated (if required). Members who have spoken on the original motion are able to speak again in relation to the amendment only
- Vote taken on Amendment
- If Agreed, the amended Motion becomes the substantive Motion and is then debated (any further amendments follow same procedure as above).
- If Amendment not agreed, original Motion is debated (any other amendments follow same procedure as above).

- The mover of the Motion has a right to reply at the end of the debate on the Motion, immediately before it is put to the vote.
- At the conclusion of the debate on the Motion, the Mayor shall call for a vote. Unless a named vote is requested, the Mayor will take the vote by a show of hands or if there is no dissent, by the affirmation of the meeting.
- If requested by any **5** Members the mode of voting shall be via a named vote. The clerk will record the names and votes of those Members present and voting or abstaining and include them in the Minutes of the meeting.
- Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting

*(All speeches maximum of 5 minutes, except for the Budget Meeting where the Member proposing the adoption of the budget and the Opposition Spokesperson shall each be allowed to speak for 10 minutes to respectively propose the budget and respond to it. The Member proposing the budget may speak for a further 5 minutes when exercising his/her right of reply.)*

## **Closure Motions**

a) A Member who has not previously spoken in the debate may move, without comment, any of the following Motions at the end of a speech of another Member:

- i) to proceed to the next business;
- ii) that the question be now put to the vote;
- iii) to adjourn a debate; or
- iv) to adjourn a meeting.

b) If a Motion to proceed to next business is seconded, the Mayor will give the mover of the original Motion a right of reply and then put the procedural Motion to the vote.

c) If a Motion that the question be now put to vote is seconded, the Mayor will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

d) If a Motion to adjourn the debate or to adjourn the meeting is seconded, the Mayor will put the procedural Motion to the vote without giving the mover of the original Motion the right of reply

## **Point of order**

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of the Council Rules of Procedure or the law. The Member must indicate the procedure rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

## **Personal explanation**

A Member may make a personal explanation at any time with the permission of the Mayor. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the requirement of a personal explanation will be final.

This page is intentionally left blank

## MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

### Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in the discussion or vote at a meeting.** The speaking time allocated for Members to make representations is at the discretion of the Chairman of the meeting. In order to avoid any accusations of taking part in the discussion or vote, after speaking, Members should move away from the panel table to a public area or, if they wish, leave the room. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

### Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any licence to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where:
  - a) that body has a piece of business or land in the area of the relevant authority, and
  - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations on the item: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

### Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations in the item: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

### Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

This page is intentionally left blank

Report Title:	<b>Constitutional Amendments – Development Management Panels</b>
Contains Confidential or Exempt Information?	No - Part I
Lead Member:	Councillor Coppinger, Lead Member for Planning
Meeting and Date:	Extraordinary full Council 26 May 2020
Responsible Officer(s):	Adrien Waite, Head of Planning/ Mary Severin, Monitoring Officer
Wards affected:	All

www.rbwm.gov.uk



## REPORT SUMMARY

The last full review of the constitution was undertaken during 2018, with a revised version in place from May 2019. It is now considered necessary to make further amendments to the constitution in relation to Development Management Panels to allow the effective running of virtual panel meetings as part of the Council's response to the coronavirus crisis.

## 1. DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That full Council notes the report and:

- i) Approves amendments to the constitution detailed in Appendices C and D with the provisions to be reviewed and a further report presented to full Council in December 2020.
- ii) Delegates authority to the Monitoring Officer to update as appropriate and publish the council constitution.
- iii) Appoints Councillor Phil Haseler be appointed as Chairman of the Royal Borough Development Management Panel.
- iv) Requires Group Leaders be required to inform the Head of Governance by 5 June 2020 of those Members and substitutes from their respective Groups to be appointed as the remaining Members and substitutes of the newly created Royal Borough Development Management Panel.

## 2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

### Options

**Table 1: Options arising from this report**

Option	Comments
Approve the changes detailed in Appendices C and D.	The updated constitution will allow robust and efficient virtual panel meetings to commence and therefore ensure the Council is able to promote economic recovery through the planning process. The
<b>This is the recommended option</b>	

Option	Comments
	changes would promote best practice and confidence in decision making.
Modify the changes proposed in Appendices C and D and approve modified changes.	Members may wish to propose and consider amendments to the recommended changes in line with the aims set out in this report. In particular Members should be mindful of the need for virtual panels to run effectively.
Do not approve the changes detailed in Appendices C and D	The constitution will not be compatible with running robust and efficient virtual meetings and will not promote best practice.

### **Development Management Panel Amendments**

- 2.1 The Council's constitution sets out which planning applications may be determined under delegated authority by the Head of Planning and those which must be determined by the relevant Development Management Panel. It also sets out the number of panels, what items go to which panel and procedures for speaking at these meetings. The council currently has two Area Panels that meet on a monthly basis as well as a Borough-wide Panel that meets infrequently.
- 2.2 Full Council determined on 18 March 2020, in response to the Coronavirus crisis, to fully delegate Planning decisions and cancel Development Management Panels. The intention was to introduce virtual planning panels subject to relevant legislative changes. The Council's priorities at this time were focussing on protecting lives, providing community leadership, ensuring business continuity and preparing for recovery (both within the organisation and the Borough) and this remains the case.
- 2.3 On the 4<sup>th</sup> April 2020 new regulations came into force which made provision such that Local Authority meetings can be held virtually. While the legal prohibition on such meetings has been removed, the Authority must still ensure it has the relevant technology and procedures in place to operate such meeting virtually. This is particularly important for the Development Management Panel which is quasi-judicial in nature and therefore must be a robust and legally sound proceeding.
- 2.4 The Planning Advisory Service has provided guidance on preparing for virtual committees which generally highlights the need to consider the role of the committee, the number of committees, delegations (number and types of cases to be heard), the size of the committee (membership) and speaking rights. Generally, the objective is to ensure simple, robust processes which ensure committees will run smoothly in a virtual format without causing undue delay or impediment to the planning process.



2.5 Officers have been pro-actively working to ensure such meetings can take place and have run trials and observed proceedings elsewhere. Authorities which have run the most successful virtual meetings have tended to have a small panel of members, considered on a small number of items (generally major applications) and have limited public speaking or forgone it completely in favour of written submissions. It is, apparent that the challenges of running a virtual meeting are different to an in-person meeting. To run a virtual panel within the provisions of the current constitution would present significant risks with regard to the delivery of an appropriate planning service and robust decision making.

2.6 To ensure continued service delivery and robust outcomes it is essential that any virtual development management panel is designed to cater for the unique challenges posed by the virtual meeting environment and is conducive to proper decision making. In effect, this means that the smaller and simpler the panel in terms of items, participants and procedures the more likely it is to secure robust outcomes and maintain the provision of a good quality planning service.

2.7 There is a need to provide speedy and consistent decisions on planning matters at this time and any panel will need to operate alongside wider changes to ways of working. It is also important to be mindful that businesses will need to adapt, and that fast and consistent decisions may be required to ensure swift economic recovery within the Borough. Officers and Members alike will have to consistently make such decisions considering new and changing factors. In order to achieve these objectives this report recommends making the following constitutional changes:

1. Create a single Royal Borough Development Management Panel with 6 Members
2. Revise the scheme of delegation to focus Panel time on major applications and called-in applications
3. Simplify speaking arrangements to help Panels run smoothly, particularly in the current virtual capacity

The proposed changes have several advantages which will assist in the running of virtual panels and supporting economic recovery within the Borough.

2.8 The current Development Management Panel arrangements result in at least 2 meetings a month (a meeting every two weeks). A significant proportion of items currently on Panel agendas are for relatively small, simple and uncontroversial items that are caught by the scheme of delegation but have had little representation or interest from the public and have not been “called in” to the Panel by elected Members.

2.9 In order to ensure virtual panels can run efficiently, agendas will need to be shorter and should be focused on items that are more complex or contentious, as well as items that have been called in by elected Members because of the particular planning circumstances of the case. This will also allow the Panel to focus on the overarching primary objective of place shaping for the Borough. This is considered particularly important in light of the current economic situation and future recovery. The Planning department aims to provide a speedy and consistent decision making

process, especially where residents or businesses have been adversely impacted by lockdown. Allowing a greater number of uncontentious minor applications to be dealt with by delegated powers will help give certainty of process and quicker decisions for applicants, enabling businesses in particular to recover and plan for the future.

- 2.10 Members would retain the ability to call-in applications within their own ward where there is a valid planning reason to do so. In order to speed up the decision making process, the timeframe for call-ins has been aligned with the time given to consultees and the public to respond on an application. Generally, this timeframe is based on the statutory deadline of 21 days given to consultees and so reflects practice across the country. These provisions align with the procedure which have been in place to ensure enhanced consultation on delegated items without issue since the 18th March 2020.
- 2.11 It is recommended that changes are also made to the speaking arrangements at the Panel. Limiting the number of speakers will ensure more focussed contributions and streamline the running of the meetings. Speakers would be limited to one public representative against, one representative in support and a single representative from one Parish/Town Council on each item. Borough Councillors will continue to be able to address the Panel on items. This is of importance for the smooth operation of virtual panels. All speakers will be required to have commented on the relevant application and provided written submissions in advance to ensure the panel can proceed in the event of any technical difficulties experienced by public speakers.
- 2.12 It is also proposed to alter the current arrangements for enforcement and allow officers delegated powers to issue relevant notices. Returning full delegated powers to officers would remove the potential need for confidential Part II agenda items which would present additional procedural issues for a virtual meeting.
- 2.13 The proposed amendments contained in Appendix C recommend creation of a single Development Management Panel of 6 elected Members. The panel would normally meet on a monthly basis on the third Wednesday of the month. The currently scheduled meetings for the Maidenhead Development Management Panel in 2019/20 would be utilised for the new Royal Borough Development Management Panel.
- 2.14 A Panel of 6 Members is considered to be large enough to have representation from across the Borough but small enough to efficiently undertake business and have focused debate, particularly in a virtual meeting. Under the current political balance a Panel of 6 members would comprise:
- 4 Conservative Members
  - 1 Liberal Democrat Members
  - 1 Local Independent Members

### **3. KEY IMPLICATIONS**

- 3.1 The proposed changes require Full Council approval as they are changes to the Council constitution.

**Table 2: Key Implications**

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
Updated Constitution	Amendments not approved	Amendments approved and updated constitution published	n/a	n/a	29 May 2020
Royal Borough Development Management Panel operating	Current Development Management Panel arrangements still in place	Royal Borough Development Management Panel operating	n/a	n/a	First meeting scheduled for 17 June 2020

#### **4. FINANCIAL DETAILS / VALUE FOR MONEY**

4.1 There are currently three Development Management Panel Chairmen who each receive a special responsibility allowance of £6,107 per annum. The proposal would result in there only being a single Panel Chairman for the relevant period. This would represent a saving of £6,107.

4.2 Time-savings arising from moving to a single panel would generate from items including report, agenda and minute production, officer time from planning services, legal and democratic services and technical consultees who attend Panels from time to time. However, these are not anticipated to result in cost savings over the period and would simply make the process manageable under the current circumstances.

#### **5. LEGAL IMPLICATIONS**

5.1 To facilitate proper decision making under powers given to the Planning Authority under s70 Town and Country Planning Act 1990.

#### **6. RISK MANAGEMENT**

6.1 The potential risks are set out below:

**Table 4: Impact of risk and mitigation**

<b>Risks</b>	<b>Uncontrolled risk</b>	<b>Controls</b>	<b>Controlled risk</b>
Difficulties in managing Panel meetings in the virtual environment	High	Reduced panel size, amendments to speaking rights, items taken to Panel	Low

<b>Risks</b>	<b>Uncontrolled risk</b>	<b>Controls</b>	<b>Controlled risk</b>
Slowed economic recovery due to planning delays	Medium	Reduced panel size, amendments to speaking rights, items taken to Panel	Low

## **7. POTENTIAL IMPACTS**

7.1 Equalities. None identified.

7.2 Climate change/sustainability. The changes will reduce the number of meetings and number of required attendees. They will also enable the operation of a virtual panel. The changes are likely to reduce the need to travel which will be beneficial in terms of sustainability, although the benefit is difficult to quantify

7.3 Data Protection/GDPR. None identified.

## **8. CONSULTATION**

8.1 The Lead Member for Planning and the Chairmen of the Windsor and Maidenhead Development Management Panels have been consulted on the proposals.

## **9. TIMETABLE FOR IMPLEMENTATION**

9.1 The full implementation stages are set out in table 5.

**Table 5: Implementation timetable**

<b>Date</b>	<b>Details</b>
26 May 2020	Full Council consider proposed amendments
29 May 2020	Updated constitution published to the council website
17 June 2020	First meeting of the new Royal Borough Development Management Panel held

## **10. APPENDICES**

10.1 This report is supported by 4 appendices:

- Appendix A – Current constitution part 6
- Appendix B – Current constitution part 7f
- Appendix C – Proposed constitution part 6
- Appendix D – Proposed constitution part 7f

## 11. BACKGROUND DOCUMENTS

11.1 This report is supported by four background documents:

- The [current council constitution](#) (v. 20.2)
- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020
- Planning Advisory Service - Virtual Planning Committees - A guide to revising protocols and procedures
- Planning Advisory Service - Virtual planning committee – a hints & tips guide

### CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Date returned</b>
Cllr Johnson	Leader of the Council	15/05/20	15/05/20
Cllr Rayner	Lead Member for Resident and Leisure Services, HR, IT, Legal, Performance Management and Windsor	15/05/20	15/05/20
Cllr Coppinger	Lead Member for Planning and Maidenhead	13/05/20	15/05/20
Duncan Sharkey	Managing Director	14/05/20	15/05/20
Russell O'Keefe	Director of Place	13/05/20	15/05/20
Adele Taylor	Director of Resources/S151 Officer	14/05/20	15/05/20
Mary Severin	Monitoring Officer	12/05/20	15/05/20
Nikki Craig	Head of HR, Corporate Projects and IT	15/05/20	15/05/20
Karen Shepherd	Head of Governance	12/05/20	15/05/20

### REPORT HISTORY

<b>Decision type:</b> Council decision	<b>Urgency item?</b> No	<b>To Follow item?</b> No
Report Author: Adrien Waite, Head of Planning,		

## Appendix A – Existing Terms of Reference for Development Management Panels

### B1 Development Management Panels

#### B1.1 Purpose

##### Borough-wide Development Management Panels

Planning applications which are likely to have a significant impact, going beyond the area of the relevant Area Development Management Panel will be considered and determined at a meeting of the Borough-Wide Development Management Panel.

The initial decision as to whether an application falls into this category will be taken by the Head of Planning in consultation with the Lead Member for Planning, the relevant Area Panel Chairman and the Borough Wide Panel Chairman.

In the event of a lack of unanimity, the Lead Member for Planning, the Borough-wide Panel Chairman and the relevant Area Panel Chairman will meet and reach a majority decision to recommend to the Head of Planning.

##### Area Development Management Panels

(I) Within the operating guidelines and budget approved by the Council the Area Development Management Panels will determine applications other than those delegated to the Borough-wide Development Management Panel 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 Area Development Management Panel (other than applications for Certificates of Lawfulness, prior notification, non-material amendments, conditions applications and Screening and Scoping Opinions)

b. Where the application is for Major/large scale development (with the exception of S73 and S73a TCPA1990 applications), **regardless of recommendation**, that has not been directed to the Borough-Wide Development Management Panel. Such development is defined as any one or more of the following:—

- (a) the excavation, processing or working of minerals or the use of land for such uses;
- (b) any development designed to be used wholly or mainly for the purpose of, or material change of use to, treating, storing, processing or disposing of refuse or waste materials;
- (c) the provision of dwellings where—
  - (i) the number of dwellings to be provided is 10 or more; or
  - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);

- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

*Note: “dwellings” includes a building constructed as a single occupation dwelling or a single flat within a contained within a building;*

*Note: major S73 and S73A applications may still be called in to panel within the call in period, under provision (A) above.*

c. Where a planning application proposes an increase of more than two dwellings (net) and the Head of Planning’s recommendation is to approve then the decision is made by the Area Development Management Panel unless the decision is delegated to the Head of Planning by the Chairman of the relevant Panel.

d. Where the Officer’s decision would reverse a previous decision of a Development Management Panel for the same development or would have the effect of preventing the proper implementation of any previous decision of a Development Management Panel.

e. Where an emerging or approved Local Plan or other Policy or Guidance is in existence for a particular area or development type and the Officer’s recommendation on the application would be contrary to the Development Plan

f. 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.

g. Where an application resulting in an increase in floor space is made by the Council or the Council has land ownership interest in the site and objections have been received.

h. Where an application is made by an officer employed in a role which is part of or interacts with the planning application process and there are one or more objections or it is contrary to adopted planning policies

i. Where in the opinion of the Head of Planning in consultation with the Lead Member for Planning, that it would not be appropriate to use delegated authority.

j. Where any tree of amenity value or significance that is to be felled whether covered by a TPO or in a Conservation Area or on Highways land may come to an Area Panel if the Head of Planning, in consultation with the Lead Member for Planning agree it is appropriate in the public interest. i.e. a contribution to the amenity or street scene.

k. Any notices for planning enforcement, trees and listed building enforcement notices that the Head of Planning considers should be considered by the relevant Area Development Management Panel and any planning enforcement notices called in by the Panel Chair (see IV for all other Enforcement Notices).

II. All other functions regarding town and country planning and development management listed in Part A and related to trees and hedgerows listed in Part I of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the CIL regulations are to be delegated to the Head of Planning. All functions listed in the Localism

Act 2011 related to plan making and neighbourhood planning are delegated to the Head of Planning save for those which the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 require to be determined by Full Council. For the avoidance of doubt the Head of Planning also has delegated authority for those types of application subsequently introduced under the Town and Country Planning Acts (including secondary legislation and regulations) subject to the exceptions listed above.

(III) To advise the Council, the Cabinet, the Infrastructure Overview and Scrutiny Panel on the preparation, updating and monitoring of the Local Plan and policies relating to development management guidance.

(IV) Delegated Authority for Enforcement Notices: Recommendations for Enforcement Notices and listed building Enforcement Notices and relevant reports shall be prepared by officers. These reports shall be sent to the Chairman of the relevant Area Planning Panel (copied to the relevant ward members). The Chairman shall decide whether or not to 'call in' the matter before the relevant Area Development Management Panel. If the item is not called in by the Chairman, Officers can proceed under delegated authority. If the Chairman of the relevant Area Panel is unavailable, or a response or holding response is not received within 48 hours the decision may be made by the Vice Chairman of the Panel.

## **B1.2 Membership of Development Management Panels**

The Membership of all Development Management Panels and substitutes and the Chairman of the Borough-wide Development Management Panel will be selected at Annual Council.

### Borough-wide Panel

#### 13 members

The Borough-Wide Panel shall have 13 members. One shall be the Chairman. Where possible, the 12 other Members should ideally be drawn equally from the two Area Development Management Panels (and relevant substitutes) in line with political balance rules.

### Area Development Management Panels

There shall be two Area Development Management Panels who shall consider applications in the following wards:

- a) Maidenhead Area Development Management Panel – 11 Members  
Wards: Belmont, Bisham & Cookham, Boyn Hill, Bray, Cox Green, Furze Platt, Hurley & Walthams, Oldfield, Pinkneys Green, Riverside, St Mary's
- b) Windsor Area Development Management Panel – 11 Members  
Wards: Ascot & Sunninghill, Clewer & Dedworth East, Clewer & Dedworth West, Clewer East, Datchet, Horton & Wraybury, Eton & Castle, Sunningdale & Cheapside, Old Windsor



A Cabinet Member may be a Member of a Development Management Panel but the Lead Member(s) holding the portfolio or responsibility for Planning matters shall not be permitted to be members.

### **B1.3 Quorum**

Maidenhead Area Development Management Panel – 3 Members

Windsor Area Development Management Panel – 3 Members

Borough-wide Development Management Panel – 4 Members

### **B1.4 Frequency**

Meetings will be arranged on a monthly cycle. Where possible meetings should be arranged as follows:

Windsor Area Development Management Panel – 1st Wednesday of each month

Borough-wide Development Management Panel – 2nd Wednesday of each month

Maidenhead Area Development Management Panel – 3rd Wednesday of each month

Note: While the dates are ideally fixed they may be subject to change for reasons such as venue availability issues.

## Appendix B – Existing Protocol for Public Speaking at Development Management Panels

### 1. Public Speaking at Development Management Panel Meetings

#### 1. Public Speaking at Development Management Panel Meetings

- 1.1 Planning applications are determined by either a Development Management Panel or officers acting under delegated authority.
- 1.2 Each application is subject to a public consultation exercise which enables the public and other bodies to comment in writing on the application before it is determined.
- 1.3 The Council provides the opportunity for the public and for applicants (or their agents) to speak at the planning meeting before the Development Management Panel makes their decision.
- 1.4 If objectors speak at the meeting, the applicant must be allowed to speak provided they have notified Democratic Services of their intention (or provided the Chairman has used his discretion to allow speaking in the absence of notification to Democratic Services). An applicant may speak at a meeting even where there are no objectors wishing to speak (but if the applicant is in agreement with the Officers' recommendations to the Panel the Chairman will request the applicant to restrict any comments to matters not covered, or not covered fully, in the Officer's Report).
- 1.5 Anyone who has written to the Council with objections or comments to a planning application will be contacted by the planning department at least one week before the relevant meeting is due to take place when the application will be considered. They will be invited to tell the Council if they wish to speak at the meeting.

#### Notification to Democratic Services

- 1.6 If anyone does wish to speak they must register with Democratic Services by 5pm, 2 working days before the Development Management Panel (i.e. Monday, 5pm, if the Panel is on Wednesday).
- 1.7 The Panel Chairman will not normally allow applicants or objectors (or their respective agents) or any other members of the public to speak if they have failed to notify the Council as stated above, of their wish to speak.

#### Speeches to the Development Management Panel

- 1.8 Generally, applications where the public are to speak will be moved to the start of the agenda, at the discretion of the Chairman. Any objectors will be given, together, a total of **three (3) minutes** in which they can present their views. It may be convenient, if there are a number of objectors that they agree amongst themselves to appoint one or two spokesmen for them all, to stay within the **three (3) minutes** allotted.
- 1.9 If the objectors are unable to agree amongst themselves, the Chairman shall refer to the list of notifications received from people wishing to speak and shall call them in the order the names are recorded, which shall, as far as reasonably possible, reflect the time of notification of their interest in speaking. When the end of the **three (3) minute** period has been reached, the Chairman will not permit any more objectors to speak.

- 1.10 No new documents should be circulated to the Panel at the meeting except the Panel Update prepared by officers. The Panel Update will contain information pertinent to the application provided to the case officer after the Panel report publication date and up to 5pm of the working day before the date of the Panel meeting. It shall be at the discretion of the Head of Planning if any further updates are to be accepted after this point. Messages should not be passed to individual Panel Members.
- 1.11 If a Parish or Town Council, or a Neighbourhood Forum with a made Neighbourhood Plan (where there is no parish), or a properly constituted Neighbourhood Plan Forum or Steering Group where the plan is in progress and has not yet been made, has made representations, and a member of that organisation wishes to address the meeting, they should register with Democratic Services by 5pm, two working days before the Development Management Panel of their intention to speak. If Democratic Services are not notified in advance, then the Chairman of the meeting has discretion to allow individuals to address the meeting. For those parishes preparing a neighbourhood plan either the steering group or the parish council representative may speak for the allotted time, but not both.
- 1.12 If any other Parish or Town Council, or a Neighbourhood Forum with a made Neighbourhood Plan (where there is no parish), or a properly constituted Neighbourhood Plan Forum or Steering Group where the plan is in progress and has not yet been made wishes to address the meeting, they should register with Democratic Services by 5pm, two working days before the Development Management Panel of their intention to speak. If Democratic Services are not notified in advance, then the Chairman of the meeting has discretion to allow individuals to address the meeting. For those parishes preparing a neighbourhood plan either the steering group or the parish council representative may speak for the allotted time, but not both
- 1.13 A Parish or Town Council or a Neighbourhood Forum (with a made plan, where there is no parish) representative will be allotted a further **two (2) minutes**, in addition to the objectors' **three (3) minute** period. If more than one Parish or Town Council or neighbourhood forum member wishes to address the meeting, no additional time will be allocated unless exceptional circumstances apply (see below).
- 1.14 The applicant, their agent or any supporters will be allocated, in total **three (3) minutes** in which to present their views. If in addition to the Applicant or their agent, members of the public wish to speak in favour of an application, they must register with Democratic Services, by 5pm, at least two working days before the Panel meeting. They should also contact the applicant or their agent as the total time allocated to the applicant and any supporters is a total of **three (3) minutes**.
- 1.15 Any Member of the Council, not already a Member of the DMP, wishing to speak at a Panel will be permitted to speak in favour or against any agenda item after all public speakers have spoken and prior to the Panel debating the item. Non Panel Members will be restricted to **three (3) minutes** in total. Non Panel Members should notify the Chairman of the meeting or Democratic Services by 5pm, 2 working days prior to the Development Management Meeting.
- 1.16 The Chairman of the meeting has discretion to extend the speaking time for any party, in exceptional cases. This discretion is intended to be applied only rarely. Exceptional circumstances might arise as a result of the range of issues raised by the matter. Where the Chairman has extended speaking time for those (either for or

against the application) then the time shall be extended by a similar amount for the other party.

## Appendix C – Proposed Terms of Reference for Development Management Panel

### B1 Royal Borough Development Management Panel

#### B1.1 Purpose

(I) Within the operating guidelines and budget approved by the Council the Royal Borough Development Management Panel will determine applications relating to the following:

a. New full or outline planning applications, **regardless of recommendation**, falling into the definition of major development as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (or as superseded).

*Note: Section 73/73A applications or reserved matters applications are delegated matters unless called in under the call-in provisions in b) below.*

*Note: Any Crown applications which are covered by the National Security arrangements set out in the National Planning Policy Guidance are exempt from part a) and are delegated to the Head of Planning.*

b. Applications where a Borough councillor has requested that an application be called-in to be the subject of a decision by the Development Management Panel (an application is this case being an application for Full, Outline, Hybrid or Householder Planning Permission or an application for Listed Building Consent. No other case types are the subject of the call-in provision.) This is conditional in that the call-in must:

- i) Be in writing using the Councillor call-in pro forma and received before the Neighbour Consultation Expiry Date for that application, and
- ii) Relate to an application in their own ward; and
- iii) provide a planning reason based on a material consideration for the call-in.

c. Where an application is made by a Councillor or a member of their family and there are one or more representations.

d. Where an application is made by an officer employed in a role which is directly involved in the decision making stage of the planning application process and there are one or more representations.

e. Any matter where authority is normally delegated to the Head of Planning, but where the Head of Planning chooses not to exercise their delegated authority and considers the matter should be referred to the Royal Borough Development Management Panel

(II) All other functions regarding town and country planning and development management listed in Part A and related to trees and hedgerows listed in Part I of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the CIL regulations are to be delegated to the Head of Planning. All functions listed in the Localism Act 2011 related to plan making and neighbourhood planning are delegated to the Head of Planning save for those which the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 require to be determined by Full Council. For the avoidance of doubt the Head of Planning also has delegated authority for those types of application subsequently introduced under the Town and Country Planning Acts (including secondary legislation and regulations) subject to the exceptions listed above.

(III) To advise the Council, the Cabinet, the Infrastructure Overview and Scrutiny Panel on the preparation, updating and monitoring of the Local Plan and policies relating to development management guidance.

### **B1.2 Membership of the Royal Borough Development Management Panel**

The Panel shall have 6 members. One shall be the Chairman.

Membership shall be in line with political balance.

A Cabinet Member may be a Member of the Development Management Panel but the Lead Member(s) holding the main portfolio for Planning shall not be permitted to be a Member.

### **B1.3 Quorum**

2 Members

### **B1.4 Frequency**

Meetings of the Panel will take place once per calendar month, usually on the 3<sup>rd</sup> Wednesday of each month

Note: While the dates are ideally fixed they may be subject to change for reasons such as venue availability issues or may be on other days if additional extraordinary meetings of the Panel are required. Extraordinary meetings may be called by agreement of the Head of Planning with the Chairman of the Panel.

## Appendix D – Proposed Protocol for Public Speaking at Development Management Panels

### 1. Public Speaking at Development Management Panel Meetings

#### 1. Public Speaking at Development Management Panel Meetings

- 1.1 Planning applications are determined by either a Development Management Panel or officers acting under delegated authority.
- 1.2 Each application is subject to a public consultation exercise which enables the public and other bodies to comment in writing on the application before it is determined.
- 1.3 The Council provides the opportunity for the public and for applicants (or their agents) to speak at the planning meeting before the Development Management Panel makes their decision.
- 1.4 If objectors speak at the meeting, the applicant must be allowed to speak provided they have notified Democratic Services of their intention (or provided the Chairman has used his discretion to allow speaking in the absence of notification to Democratic Services). An applicant may speak at a meeting even where there are no objectors wishing to speak (but if the applicant is in agreement with the Officers' recommendations to the Panel the Chairman will request the applicant to restrict any comments to matters not covered, or not covered fully, in the Officer's Report).
- 1.5 Anyone who has written to the Council with representations on a planning application will be contacted by the planning department at least one week before the relevant meeting is due to take place when the application will be considered. They will be invited to tell the Council if they wish to speak at the meeting.

#### Notification to Democratic Services

- 1.6 If anyone does wish to speak they must register and provide a written copy of their proposed representations to Democratic Services by 5pm, 2 working days before the Development Management Panel (i.e. Monday, 5pm, if the Panel is on Wednesday).
- 1.7 The Panel Chairman will not normally allow applicants, the public, any other members of the public (or their respective agents) to speak if they have failed to notify the Council as stated above, of their wish to speak.

#### Speeches to the Development Management Panel

- 1.8 Generally, applications where the public are to speak will be moved to the start of the agenda, at the discretion of the Chairman.
- 1.9 No new documents should be circulated to the Panel at the meeting except the Panel Update prepared by officers. The Panel Update will contain information pertinent to the application provided to the case officer after the Panel report publication date and up to 5pm of the working day before the date of the Panel meeting. It shall be at the discretion of the planning officer if any further updates are to be accepted after this point. Messages should not be passed to individual Panel Members.
- 1.10 Only one public speaker will be allowed to speak against an application. They will be given, a total of **three (3) minutes** in which they can present their views. They must

register their intention to speak and provide a written copy their proposed representations to Democratic Services by 5pm, two working days before the Development Management Panel. If there are multiple people wishing to express opposition to an application, they must nominate a single spokesperson. If a single spokesperson is not nominated only the first person to register will be allowed to speak.

- 1.11 If a Parish or Town Council, has made representations, and a member of that organisation wishes to address the meeting, they must register their intention to speak and provide a written copy their proposed representations to Democratic Services by 5pm, two working days before the Development Management Panel. The Panel Chairman will not normally allow a member of the organisation to speak if they have failed to notify the Council as stated above, of their wish to speak.
- 1.13 A Parish or Town Council representative will be allotted a total of **two (2) minutes in which they can present their views..** If more than one Parish or Town Council wishes to address the meeting they should nominate a single spokesperson for all organisations no additional time will be allocated unless exceptional circumstances apply (see below).
- 1.14 The applicant, their agent or any member of the public wishing to support an application will be allocated, in total **three (3) minutes** in which to present their views. They must register their intention to speak and provide a written copy of their proposed representations to Democratic Services, by 5pm, at least two working days before the Panel meeting. Only a single spokesperson will be allowed to speak in support of an application, as such should a member of the public wish to speak they are encouraged to contact the applicant or their agent. If a single spokesperson is not nominated only the application or their agent will be allowed to speak.
- 1.15 Any Member of the Council, not already a Member of the DMP, wishing to speak at a Panel will be permitted to speak in favour or against any agenda item after all public speakers have spoken and prior to the Panel debating the item. Non Panel Members will be restricted to **three (3) minutes** in total. Non Panel Members must notify Democratic Services by 5pm, 2 working days prior to the Development Management Meeting of their request to speak, and provide a written copy of their proposed representations.
- 1.16 The Chairman of the meeting has discretion to extend the speaking time for any party, in exceptional cases. This discretion is intended to be applied only rarely. Exceptional circumstances might arise as a result of the range of issues raised by the matter. Where the Chairman has extended speaking time for any one party, then the time shall be extended by a similar amount for any other party.
- 1.17 Where any circumstances prevent a party from attending the meeting or being able to present for their full allotted time the Panel shall continue to consider and determine the application having regard to the written copy of their representation submitted to Democratic Services in advance of the meeting.