



Report for: ACTION
Item Number: 11

<b>Contains Confidential or Exempt Information</b>	NO – Part I
<b>Title</b>	<b>Constitution Amendments – Neighbourhood Plans</b>
<b>Responsible Officer(s)</b>	Simon Hurrell – Head of Planning
<b>Contact officer, job title and phone number</b>	Suki Coe – Development Control Manager (01628) 796042
<b>Member reporting</b>	Councillor Derek Wilson, Lead Member for Planning Councillor Christine Bateson, Lead Member for Community Partnerships and Neighbourhood Plans
<b>For Consideration By</b>	Planning and Housing Overview and Scrutiny Panel, and Full Council (Constitution Sub-Committee)
<b>Date to be Considered</b>	23 September 2014
<b>Implementation Date if not Called In</b>	October 2014
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Non-Statutory Consultees, Neighbourhood Planning, Development Control Panels

### Report Summary

1. To establish the role and status of successor residents' groups involved in neighbourhood planning following the adoption of neighbourhood plans and how they engage in the Development Control decision making process.
2. To consider the mechanisms available to such residents' groups to ensure that there is open and transparent engagement in the decision making process at Development Control Panel meetings following the adoption of a Neighbourhood Plan.
3. To consider how best other residents' groups across the Royal Borough can engage in the decision making process at Development Control Panel meetings following the adoption of a Neighbourhood Plan or equivalent.
4. To suggest amendments to Part 7 of the Council's Constitution as a result of the above considerations.

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

Local residents engaged in the production of adopted neighbourhood plans will have continuity of involvement in the implementation of their plans, including being consulted on planning applications and speaking at Development Control Panels as of right.	Immediately
Councillors on Development Control Panels will be aware of local residents views and ambitions regarding the adopted Neighbourhood	Immediately

Plan	
Local residents' groups with particular interests in relevant local matters will, at the discretion of the Chairman, be able to speak at Development Control Panels once a Neighbourhood Plan or equivalent has been adopted in their area.	Following adoption of a Neighbourhood Plan
Decision making will be clearly accountable	Immediately

## 1. Details of Recommendations

### RECOMMENDATION:

1. That following the adoption of a neighbourhood plan or equivalent by the Royal Borough (a) local residents are empowered to form a formally constituted body to oversee its implementation (b) that body becomes a non-statutory consultee within the planning process on all applications relating to their neighbourhood plan area and (c) the new body is entitled as of right to speak at the appropriate development control panel.
2. That following the adoption of a Neighbourhood Plan or equivalent, other *bona fide* residents' groups, properly constituted and with genuine local interests, may also be entitled to speak.
3. The time allocated will be two minutes in total and will be shared if there is more than one group speaking in the neighbourhood plan slot.
4. That appropriate amendments are made to the Council's Constitution as set out in Appendix A to the report.

## 2. Reason for Recommendation and Options Considered

### Neighbourhood plan successor groups

- 2.1 The adoption of the Ascot, Sunningdale and Sunninghill Neighbourhood Plan brings to a close the work of the Neighbourhood Plan Steering Group. In the Localism Act 2011 (the legislation that created neighbourhood planning), there is no authority to accommodate any continuation of the plan making group and it has been legally dissolved. However, there is local support in the Ascot and Sunnings area for a new succession group (the Neighbourhood Plan Delivery Group) to be created to oversee the implementation of the Neighbourhood Plan and, in part, to hold the Royal Borough to account in ensuring that its planning decision-making properly reflects the adopted Neighbourhood Plan. A concern has been raised that a neighbourhood plan successor group could use up public speaking time at development control panels which might deny residents or other groups the opportunity to speak. That is why it is suggested that the successor groups have their own allotted 'slot'.
- 2.2 It is suggested that whatever principle is considered for the Ascot Sunningdale and Sunninghill Neighbourhood Plan area should apply to all areas in the Royal Borough once the relevant neighbourhood plan is adopted by the Council. There are ten other such plans. The successor groups would have three distinct roles:
  - To engage locally in the consultation and review of any development briefs resulting from the implementation of the Neighbourhood Plan policies

- To act as non-statutory consultees on any planning application submitted within the Neighbourhood Plan area, and
- To have the right, as they so wish, to address the relevant development control panel on any planning application on that panel's agenda, and to be offered a regular speaking 'slot' at panel meetings.

2.3 Once constituted the Council will add the local neighbourhood plan successor groups to its non-statutory consultee list and will consult, via the circulation of the weekly planning applications list, each body on planning applications and policy development matters in their area. The body can also engage in the assessment of development briefs that result from the adoption of neighbourhood plan policies and can act to ensure local consultation is robust.

2.4 It is accepted that the neighbourhood plan succession groups may also take a lead in the delivery of some of the key projects or policies contained in the adopted neighbourhood plan. Their potential role will have been set out in the implementation section of the adopted plan. They will work with the Royal Borough, landowners and their local communities in the planning and delivery of these schemes and policies. The Ascot and Sunnings Neighbourhood Plan has that provision.

### **Other representative residents' groups and public speaking**

2.5 Provided there is an adopted Neighbourhood Plan or equivalent, it is also suggested that throughout the Royal Borough, residents groups which are constituted in line with the requirements of the Localism Act, which have a particular interest in planning matters, and which have strong community interests – for example , the Cookham Society, the Society for the Protection of Ascot and Environs,– should also have the opportunity to address development control panels as they so wish. This would be at the discretion of the panel chairman.

2.6 In each case, whether a neighbourhood plan successor group or residents' group, when registering to speak the group will be asked whether it wishes to speak for or against an application. This is to ensure a proper balance of speaker time is set. If more than one local resident group wishes to speak they will be asked to share the time available or select a spokes person to speak for them collectively.

### **Status and role of a local residents' group**

2.7 In order for a local group to be an 'accountable' body which can be afforded weight in the planning process, whether a neighbourhood successor body or another residents' group, it would need to be set up on a formal basis and be able to demonstrate accountability. It would also need to be very clear that it is not a rival parish body. Therefore it would need to have a clear scope in terms of its roles and accountabilities. This would be achieved through a local constitution:

- The local group would need to have at least 21 members
- It should be formally constituted
- It should have a published scope and remit
- It should have a published committee programme taking decisions and making representations.

These criteria accord with the requirements of the Localism Act 2011. It is acknowledged of course that many such organisations pre-date the Localism Act

enactment, but the principle is to ensure that only *bona fide* organisations, with genuine local interest and foundation, can take speaker time at panel meetings.

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

2.8 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. Part 7 of the Constitution sets out the process that is followed to allow the public to address development control panels, and this may need amending to accommodate an opportunity for a local residents' representation group to address the panel.

Suggested amendments are set out at Appendix A.

2.10 The council cannot reduce the agendas on development control panels, which are set as a consequence of the size and complexity of applications or the requirement of a ward member or the Head of Planning to call applications in to be considered by a panel rather than under delegated authority. Council will be aware that the Planning Service is obliged to deal with planning applications within time limits prescribed by regulation – 8 weeks for most applications, 13 weeks for major applications.

Option	Comments
<p><b>1. Approve the introduction of extended consultation with residents groups that are formed as a consequence of the adoption of a neighbourhood plan as part of the planning application process, and to permit those groups to speak at Development Control Panels, and to amend the Constitution accordingly</b></p> <p><b>2. Approve the introduction of public speaking by any resident group or commercial interest group at Development Control Panels following the adoption of a Neighbourhood Plan or equivalent, and to amend the Constitution accordingly</b></p> <p><b>Preferred recommendation</b></p>	<p>Ensures continuity of neighbourhood planning groups from preparing their plans and seeing them adopted. Helps provide local accountability for the delivery of neighbourhood policies and projects.</p> <p>Ensures local interest groups have the opportunity to influence planning decision making in a public and transparent way.</p>
<p>3. Do not approve changes</p>	<p>Does not ensure continuity of plan making and plan implementation at the local level.</p>

### 3. Key Implications

Defined Outcomes	Unmet	Met	Exceed	Significantly Exceeded	Date they should be delivered by
Amend the Constitution by 30 October 2014	Do not amend the Constitution by 30 October 2014	Amend by the 30 <sup>th</sup> October 2014	n/a	n/a	1 <sup>st</sup> November 2014

### 4. Financial Details

None.

### 5. Legal Implications

The Constitution must be in compliance with 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.

The introduction of additional consultations does not raise any legal issues. However, the introduction of additional public speaking will have implications for the quasi judicial planning process and principles of natural justice as the balance of views voiced may no longer be maintained.

### 6. Value for Money

None

### 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 consultation process is not robust, as different groups operate on different remits across the Borough, the process is complex and risk or error is high. There is a risk of challenge if the process of decision making does not ensure the principles of fairness and natural justice. Incorrect consultation processes, un fairness in the process allowing one view to carry more weight because it is expressed	HIGH	Introduce additional consultation to formally constituted neighbourhood plan successor groups and other residents" groups as appropriate. Ensure formal registration process through Democratic Services. Chairman to use discretion to ensure balance of views is maintained. Revised Constitution available on website.	LOW

numerous times creating bias			
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## 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 require a full EQIA. Elements of the Royal Borough's community may be unable to participate in this process and become marginalised, particularly those who do not agree with the interpretation of a given neighbourhood plan or other policy or who do not have English as their first language.

## 11. Staffing/Workforce and Accommodation implications

None

## 12. Property and Assets

None

## 13. Any other implications

None.

## 14. Consultation

None.

## 15. Timetable for Implementation

By 30<sup>th</sup> October 2014. It is suggested a 6 month trial is introduced if additional public speaking is agreed with a review reported back to O&S for Housing and Planning before the trial ends.

## 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:
<b>Internal</b>				
Cllr Burbage	Leader of the Council	08/08/2014	08/09/14	
Mike McGaughrin	Managing Director	08/08/2014		
Simon Hurrell	Head of Planning and Property	25/07/2014	07/08/2014 09/09/14	Throughout
Cllr D Wilson	Lead Member for Planning	08/08/2014	13/08/2014 09/09/14 16/09/14	
Cllr P Comber	Deputy Lead Member for Planning	08/08/2014	26/08/2014	
Cllr Mrs C Bateson	Lead Member for Community Partnerships and Neighbourhood Planning	08/08/2014	08/09/14 16/09/14	
Maria Lucas	Head of Legal Services	08/08/2014	16/09/14	
Cllr Mrs Quick	Chairman of Windsor Urban Development Control Panel	08/08/2014	14/08/2014	
Andrew Brooker	Head of Finance	08/08/2014		
Mark Lampard	Finance Partner	08/08/2014		

### Report History

Decision type:	Urgency item?
Key decision	No

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

## **APPENDIX A: SUGGESTED AMENDMENTS TO CONSTITUTION**

If a neighbourhood plan successor organisation wishes to address a Development Control Panel meeting to speak on any planning application, they should notify Democratic Services by 5 pm two working days before the Development Control Panel of their intention to speak; this will be at the discretion of the Chairman. If Democratic Services are not notified in advance, then the Chairman of the meeting has discretion to allow the organisation to address the meeting. The organisation must be based in the appropriate neighbourhood plan area. The organisation will be allocated two minutes to speak. If more than one group registers to speak, they will be asked to share the single two minute speaking opportunity.

Following the adoption of a Neighbourhood plan or equivalent, should a *bona fide* representative residents' organisation wish to address a Development Control Panel meeting to speak on any planning application, they should notify Democratic Services by 5 pm two working days before the Development Control Panel of their intention to speak; this will be at the discretion of the Chairman. If Democratic Services are not notified in advance, then the Chairman of the meeting has discretion to allow the organisation to address the meeting. The organisation will share the allocated two minute opportunity to speak with any successor Neighbourhood Plan resident group.