

COUNCIL MEETING

22 APRIL 2021 - 7.30.P.M.

SUPPLEMENTARY SUMMONS

8. RECOMMENDATION FROM CORPORATE MANAGEMENT COMMITTEE- 15 APRIL 2021

a) Constitution Review 2021

The Committee considered a report providing a summary of changes to the Council's Constitution resulting from periodic updating and recommendations arising from a review of the Constitution by the Constitution Member Working Party (MWP). As it was a large item, the full draft Constitution document was not reproduced with the Agenda, but a copy showing all of the proposed changes was available for inspection from the Democratic Services Manager and a copy had been made available in the Members' Room. Many of the changes proposed had emanated from the MWP which had met regularly and had made a valuable contribution to the review of the Constitution. Officers and Members expressed their appreciation of the MWP's detailed review of the Constitution and of the contribution made by the various political groups to the review and in particular, thanked Councillor Tom Gracey, who had chaired the MWP since its inception, for his work for the MWP.

The Committee noted a summary of all of the proposed changes to the Constitution which is at Appendix 'A' attached and noted the proposed new arrangements for matters reserved to the Planning Committee which is at Appendix 'B' attached. The Committee recommended all of the proposed changes to the Constitution subject to two further amendments. The first amendment was to change paragraph 23.3 at Appendix 'B' attached as shown in red type. This amendment was proposed as references to "called-in" and "call-in" in this context could result in confusion with the call-in provisions set out in the Council's Constitution relating to the Overview and Scrutiny Select Committee. The second amendment was that additional wording in the Council's Constitution would be provided for the Full Council meeting on 22 April 2021 that would refer to the payment of allowances to Members for membership of Member Working Parties. These Member Working Party payments did not form part of the Members Allowances Scheme and it was agreed that it would be appropriate, on grounds of transparency, to make reference to these Member Working Party payments in the Constitution. Appendix 'D' attached sets out how reference will be made in the Constitution to these Member Working Party payments.

It was noted that the current Code of Conduct for Members would be replaced in the new Constitution with the Model Code produced by the Local Government Association. The Committee was also pleased to note that large numbers of printed copies of the Constitution would not be produced in order to reduce the use of paper.

The primary recommended change to the items to be considered by the Planning Committee, which was fully supported by the Constitution MWP, was in the number of representations required for a Planning application to be reported to the Planning Committee, as set out in paragraph 23.6 of the proposed new arrangements. The current trigger for a Planning application to be considered by the Planning Committee was when more than two objections had been received from more than two different households or addresses. It was proposed to increase this number to more than ten different households or addresses after analysis of historical data and benchmarking with other local authorities. The Committee noted further information which is at Appendix 'C' attached explaining the reasons for increasing this number in this way.

Some Members considered that the trigger for a Planning application to be considered by the Planning Committee should be where more than six objections had been received from

more than six different households or addresses. It was suggested that a new figure of six objections was appropriate taking into account the number of properties in close proximity to a typical Runnymede property as shown on Runnymede maps. These Members considered that one of the disadvantages of smaller applications being decided by officer delegation rather than by the Planning Committee was that this would remove the opportunity for the Planning Committee to add restrictive conditions to an application. These conditions which were added by Members enhanced Runnymede's environment. The view was also expressed that a threshold of six objections was appropriate for Planning applications in rural areas and in view of the effect of the Covid pandemic on communications. It was also suggested that residents were not in favour of increasing the threshold to ten and that if Members were concerned at the increased length of Planning Committee meetings caused by considering smaller applications then a possible remedy might be to hold more Planning Committee meetings.

A majority of Members of the Committee supported increasing the threshold to ten as they considered that this change was based on evidence and had been well researched. Compared to other local authorities directly adjacent to Runnymede or in close proximity to the borough, Runnymede's threshold was very low. The Committee noted the provisions in place for Planning applications to be referred to the Planning Committee in the Surrey Heath, Spelthorne, Elmbridge, Woking, Guildford, Bracknell Forest and Royal Borough of Windsor and Maidenhead local authorities as set out in Appendix 'C' attached.

Runnymede's low threshold had led to a significant and disproportionate number of small applications being brought to the Planning Committee. These smaller applications were usually relatively uncontroversial in comparison to other Planning applications, with interest expressed only from directly adjacent neighbours, and were nearly always approved in line with officer recommendation(s) because they accorded with approved Planning policy. These applications did, however, take up a significant amount of the Committee's time and reduced the time that could be spent on larger applications and policy matters.

Over the period from January 2020 to April 2021 a threshold of ten would have removed 26 items from the Planning Committee agenda, which were all approved in line with officer recommendation(s). This would bring the average number of Planning application items on the Planning Committee from 5 to 3.5. This would allow more time for the Planning Committee to consider the more finely balanced Planning applications and also other business such as policy items or service plans and would result in a more manageable agenda. The data suggested that applications with more than ten objections tended to be more controversial and that therefore it would be appropriate for those applications to be determined by the Planning Committee.

A review of the Council's Planning service had been undertaken by the Council's Overview and Scrutiny Select Committee which had included a visit to the Council from the Planning Advisory Service (PAS) and a report from PAS and a meeting held with local residents. This problem of smaller applications being considered by Runnymede's Planning Committee had been identified by PAS and also by the local residents that had taken part in the review and had formed part of the Overview and Scrutiny Select Committee's recommendations to the Planning Committee.

A majority of Members of the Committee considered that dealing with small, less contentious items at Planning Committee was not a good use of Member, officer or resident time. A number of Planning Committee meetings had extended beyond four hours. Removal of less contentious items from Planning Committee agendas would help deliver the PAS, local residents and Overview and Scrutiny Select Committee recommendation that smaller applications should not be considered by the Planning Committee. Concerning the removal of the opportunity for the Planning Committee to add restrictive conditions to smaller applications which enhanced Runnymede's environment, a majority of Members of the Committee considered that the Corporate Head of Development Management and Building Control exercising delegated authority would add suitable conditions for these smaller applications if they were required.

Any items which were particularly controversial would fall within either the ten household or address threshold (paragraph 23.6) or the provision for a Councillor to request an application to be the subject of a decision by the Planning Committee (paragraph 23.3) or the Corporate Head of Development Management and Building Control's power to list applications for consideration by the Committee as set out in paragraph 23.4 of the proposed new arrangements at Appendix 'B' attached.

An Amendment was moved proposing that the trigger for a Planning application to be considered by the Planning Committee should be where more than six objections had been received from more than six different households or addresses. A requisition that the voting on the Amendment be recorded was made by Councillor R King and the voting was recorded as shown below:-

For the Amendment (2): Councillors R King and D Whyte.

Against the Amendment (10): Councillors Prescott, J Gracey, Alderson, Chaudhri, Cotty, Gillham, Heath, Hulley, Maddox and Willingale.

The Amendment was lost.

An Amendment was moved proposing that Part 6 – Scheme of Allowances, which contained the new scheme of Members' Allowances which had been approved at Full Council on 4 March 2021 and had come into effect on 1 April 2021, should not be included in the new Constitution. A requisition that the voting on the Amendment be recorded was made by Councillor R King and the voting was recorded as shown below:-

For the Amendment (1): Councillor R King.

Against the Amendment (11): Councillors Prescott, J Gracey, Alderson, Chaudhri, Cotty, Gillham, Heath, Hulley, Maddox, D Whyte and Willingale.

The Amendment was lost.

RECOMMEND TO FULL COUNCIL ON 22 APRIL that -

- i) the changes to the Council's Constitution be approved subject to the amendment of paragraph 23.3 of the proposed new arrangements for matters reserved to the Planning Committee (as set out in Appendix 'B' attached) and to the provision of additional wording referring to the payment of allowances to Members for membership of Member Working Parties (this is set out at Appendix 'D' attached);**
- ii) the revised Constitution be effective from 19 May 2021; and**
- iii) the Corporate Head of Law and Governance be authorised to settle the final form of the Constitution for adoption in accordance with the above decisions, and the Corporate Head of Law and Governance be authorised to incorporate any delegations to Officers subsequently authorised by Committee(s) after 22 April 2021 and prior to printing, and make any minor editing changes necessary to correct errors or omissions discussed after 19 May 2021.**

Summary of changes to Constitution for 2021

The changes are as follows. The page numbers shown which are not in brackets indicate where the relevant matter appears in the current Constitution which is on the Council's website and the page numbers in brackets indicate where it appears in the proposed new Constitution, a copy of which is available in the Members' Room. Formatting and some indices of the proposed Constitution will be tidied up prior to final printing.

General

- Minor updates, corrections and clarification of wording – dates, spellings, post titles, formatting, changes to reflect current practices, etc. throughout document.

Part 3 – Responsibility for Functions

- **Page 58 (59)-Scheme of Delegation-Officers General powers and Duties-** addition to authorise Officers to sign any Notices, Agreements (e.g. tenancy or management agreements), Consents, Permissions and Licences which relate to their specific service areas.

Page 64 (page 66)- Matters reserved to Planning Committee

The primary recommended change, which was fully supported by the Constitution MWP, is in the number of representations required for an application to be reported to the Planning Committee. The current trigger for an application to go to Committee is when more than two objections have been received from more than two different households.

It is proposed to increase this number to ten. Compared to other local authorities directly adjacent to Runnymede or in close proximity to the borough, Runnymede's threshold is very low and this has led to a significant and disproportionate number of small applications being brought to Planning Committee. These are usually uncontroversial, with only interest from directly adjacent neighbours, and are nearly always approved in line with the officer recommendation because they accord with adopted planning policy. These applications do, however, take up a significant amount of the Committee's time, significantly extend meetings and reduce the time and focus on larger applications and policy matters. This problem was identified by both the PAS report and residents' panel.

Dealing with very small less contentious items at Planning Committee is not considered a good use of Member, officer or resident time, and a number of recent Planning meetings have extended beyond four hours. It is considered that the Planning Committee's time should be primarily 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.

Removal of less contentious items from agendas would help deliver both the PAS, Overview and Scrutiny Select Committee and residents' panel recommendation on the Planning Service. Any items that are particularly controversial would be caught by the proposed ten letter threshold, the Member call- in provision or the CHDMBC's power to list applications for consideration by the Committee.

A number of other revisions are proposed to the schedule of matters reserved to the Planning Committee and again these were fully supported by the Constitution MWP. The main revisions are:

- In relation to the Council's own developments recommended for approval to go to Committee, the threshold is raised from 1 to 3 objections. This will help to prevent delays to Council schemes where there is a solitary objector.
- S73/S73A amendment applications & reserved matters would only be reported to Committee if they had 10 or more objections, were called-in by a Councillor or listed by the CHDMBC. It is considered prudent not to have the uncontroversial ones go to Committee, these applications relate to developments that would already have been approved either as full applications or in principle by the Committee. If an application of such type proved controversial then it could be caught by the other three provisions mentioned in this paragraph and subsequently considered by the Committee.
- Current provision 23.9 has gone into the broader new provision 23.4.
- Current provision 23.5 has become new provision 23.6. This has been refined to focus on the primary statutory consultees in the Borough. As the list of statutory consultees has become rather broad and can be updated by the Government without notice it is considered prudent to define this list to avoid unforeseen consequences that could expose the Council to risk.
- Clarification of the position on applications submitted by Officers or their spouse/civil partners or persons who they are living with as spouses/civil partners.
- A note clarifies that the CHDMBC has the authority to amend or add conditions or obligations where it is in the interests of proper planning and does not conflict with the requirements of the Planning Committee. This is considered necessary and appropriate to protect the Council from potential legal challenges and allow correct and proper consideration of updated or improved information.
- A number of other minor refinements are made to the text.

A revised schedule showing the above changes and refinements is attached for ease of reference at Appendix 'B'. The Constitution MWP fully supported these changes.

Functions delegated to specific Officers

- **Page 72 (77) Mobile Homes (Requirement for manager of site to be Fit and Proper Person)(England)Regulations 2020-** authorisation of Corporate Head of Environmental Services to i) grant, grant with conditions, or reject applications for inclusion of persons on the relevant register of fit and proper persons ii) remove a person from the register or vary or remove a condition imposed on a person on the register iii) to appoint a person to manage a site if the local authority is satisfied that the person is a fit and proper person.
- **Page 72 (77) – Licensing** – addition to authorise CHLG and Deputy CHLG to sign decisions of Licensing Committee/Sub Committee.
- **Page 73 (79) – Housing** – addition to authorise Corporate Head of Housing in consultation with Corporate Head of Assets and Regeneration to determine applications for the release of restrictive covenants which were imposed on the disposal of Right to Buy properties.

Standing Orders for Council and Committee meetings

- **Page 177 (187)-Standing Order 51-Procedure for Hearings and Consideration of Complaints against Councillors** -revisions in order to address situations when the Monitoring Officer is unable to deal with a complaint about a Councillor owing to a conflict of interest including examples of potential conflicts of interest.
- **Page 180 (190)-Arrangements for Dealing with Code of Conduct Complaints-**section 8-add para 8.3 to state that dormant complaints against Councillors will be closed after 4 weeks has elapsed following one chaser email to the complainant.

Standing Orders for Contracts

- **Page 204-230 (215-243)** – replace references to OJEU and PCR2015 as per Government guidance.
- **Page 228 (241)-Standing Order 20** -replacement wording to tighten and rectify a misalignment with the PCR Regulations regarding ‘Additional Work Not Contracted For’.

Pages 278-285 (298-314) Code of Conduct for Members

- Replace current Code with the Model Code produced by the Local Government Association. The Model Code also addressed many of the Ethical Standards Best Practice recommendations from the LGA. Provisions relating to dispensations would be transferred from the existing Code to the new Code as the model Code had not made reference to these matters. The Standards and Audit Committee had recommended its adoption and this was supported by the Constitution MWP.
- **Page 287 (316) Gifts and Hospitality for Members**-update on guidance on gifts and hospitality to state that declarations of such must be made to Monitoring Officer in accordance with new Code of Conduct and that details thereof are published on the website.

Part 6 –Scheme of Members’ Allowances

- **Page 405 (435)** – The new scheme of Members’ Allowances was approved at Full Council on 4 March 2021 and will replace the existing scheme contained in the Constitution.

Part 7 – Management Structure

- **Page 410 (444)** - updated structure diagram will be included to reflect changes made since the Constitution was last adopted.

Proposed new arrangements for matters reserved to the Planning Committee

23. Planning

23.1 All applications required to be referred to the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2009;

23.2 New full, hybrid or outline planning applications recommended for approval (with the exception of S73 & S73A applications, unless called in under provision 23.3) that fall into the definition of major development as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (or as superseded) or are for a net increase of 5 or more new dwellinghouses.

23.3 Planning applications where a Councillor of the Authority has requested that the application ~~be called in to~~ be the subject of a decision by the committee (an application in this case being an application for Full, Outline, Reserved Matters, Hybrid, S73/S73A or Householder Planning Permission or an application for Listed Building Consent. No other case types are the subject of ~~the call in this~~ provision).

The request must be in writing, relate to development in their own ward, state whether it applies if the recommendation is to permit or refuse (not both), give a valid planning reason, and be received within 28 days of the registration of the application.

23.4 Any matter where authority is normally delegated to the CHDMBC, but where the CHDMBC chooses not to exercise their delegated authority and considers the matter to be most appropriately dealt with by the committee.

23.5 Planning applications made on behalf of the Council for its own developments for new buildings or extensions which result in an increase in floor space greater than 250sqm and for which three or more objections have been received.

23.6 Any planning applications which are recommended for approval but on which a planning objection has been received from one of Natural England, the Environment Agency, Historic England, Sport England or the County Highway Authority which have not, in the opinion of the CHDMBC, been subsequently resolved by negotiation or through the imposition of conditions;

23.6 Any planning applications that are not caught by other provisions of this section and are for householder development or minor development and are recommended for approval, that have received objections from more than 10 different parties*.

**For this purpose, objections received from different members of the same household or address shall count as coming from a single party.*

23.7 Any planning applications submitted by, or on behalf of, a Councillor of the Authority (or their spouse/civil partner or a person with whom they are living as spouse/civil partner) where there is one or more objections received within 28 days of registration of the planning application.

23.8 Any planning applications submitted by, or on behalf of, an officer (or their spouse/civil partner or a person with whom they are living as spouse/civil partner)** that has a role or potential involvement in the planning process, where there are one or more objections received within 28 days of registration of the planning application.

***For this purpose, such a member of staff shall be broadly defined as a member of the Development Management and Building Control Service, a Member of the Planning Policy and Economic Development Service, any internal consultees who respond on planning applications or a member of the Senior/Corporate Leadership teams.*

23.9 The making of Directions restricting permitted development under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order which revokes and re-enacts that Order.

23.10 The making of Local Development Orders under the Town and Country Planning Act.

23.11 All necessary approvals for the Compulsory Purchase of land under the Town and Country Planning Act and determinations as to whether to appropriate land for planning purposes, or dispose of such land held for planning purposes under section 232 and 233 of the Act.

23.12 The adoption of documents as part of the Development Plan, including any Development Plan Documents and Supplementary Planning Documents.

Note on committee items: For the avoidance of doubt, where it is in the interests of good planning and decision making and where it would not conflict with the instruction of the committee on a particular matter, the CHDMBC has the delegated authority to add, remove or amend conditions, reasons or obligations ahead of a formal notice being issued.

In any case where the CHDMBC is unsure of whether it is appropriate to exercise this authority, permission should be sought from the chair of the committee in writing.

1. Background to planning element of Constitution review

- 1.1 This addendum includes the information that was reviewed and agreed through Constitution Member Working Party as well as additional analysis of historic planning data. The purpose of this is to include benchmarking information as well as demonstrate the rationale for ten as a threshold, rather than a higher or lower number or the deletion of the provision entirely.
- 1.2 In 2019 the Planning Advisory Service conducted a review of the RBC Planning Service and set out a number of recommendations. Recommendation 13 stated that it was recommended that the Council review and improve the matters reserved to Committee in order to ensure adequate time was available to consider major applications and to ensure Planning Committee meetings did not run significantly beyond a maximum of 2 hours.
- 1.3 The RBC Overview & Scrutiny Select Committee sought feedback on the PAS report from a residents' panel and resident recommendations were noted. Resident recommendation 7 was that delegation arrangements should be considered to ensure that proportionate amount of time is allowed for consideration of major planning applications, whilst still allowing time for consideration of some of the smaller developments which generate public interest particularly where an appropriate trigger had been met. A report was then prepared and went through Constitution Member Working Party.

Rationale behind ten as the threshold for number of representations leading to an item going to committee

- 1.4 The primary recommendation is a change in the number of representations required for an item to come before the Planning Committee. The current trigger for an application to go to Committee is when more than two objections have been received from more than two different households. This has led to an additional 41 items coming before the Planning Committee since January 2020, these have predominantly been minor householder development. It is proposed in the report to increase this number to ten.
- 1.5 In total there have been 89 planning applications at Planning Committee since Jan 2020 (this is only applications business, not policy or other items). 41 of the planning applications have only been on the agenda due to number of representations being 3 or more. 15 of these 41 applications that were only caught by the representations provision have had more than 10 objections.
- 1.6 The number ten was informed by analysis of historical data as well as benchmarking with other Authorities. Using historic data, if the ten threshold were to be applied retrospectively to committee items heard since Jan 2020 the results would have been:
- 100%** of applications with less than 10 representations, that were only at Committee because of this provision, were approved in line with Officer recommendation (26 out of 26)
- 80%** of applications which were only at Committee due to the number of representations, and had more than 10 representations, were approved in line with Officer recommendation (12 out of 15)

- 1.7 The reason for this is likely to be that the ones that have less than 10 objections are generally small householder schemes that are relatively uncontroversial, with only interest from directly adjacent neighbours. As a result 100% of these have been approved in line with officer recommendation because they accord with adopted planning policy. These items do however take up a significant amount of the Committee's time, significantly extend meetings and reduce the time and focus on larger applications. This problem is identified by both the PAS report and residents' panel.
- 1.8 Over the period Jan 2020- April 2021 the ten threshold would have removed 26 items from the Planning Committee agenda, which were all approved in line with officer recommendation. This would bring the average number of planning application items from 5 to 3.5, plus other business such as policy items, service plans etc, making for a manageable agenda and delivering the PAS and resident Panel objectives.
- 1.9 It is considered that going significantly lower than 10 would not deliver the benefits to the agenda or free up time for consideration of larger or more controversial items. The data suggests that applications with more than 10 objections tend to be the more finely balanced or controversial ones and as such it is right that these are determined at Planning Committee, as such at this time it is not recommended that a significantly higher number be set or that the provision be removed all together.

Practice at other Local Planning Authorities in the region:

- 1.10 Runnymede is a significant outlier in having such a low threshold and this has led to a significant and disproportionate number of small applications being brought to Planning Committee.
- 1.11 Analysis of the 7 local authorities directly adjacent to RBC, or in close proximity to the Borough, indicates that Runnymede's threshold is very low when compared to practice elsewhere. Runnymede's is the lowest in the sub region by some distance. Even with the provisions in the proposal, it would still be one of the lowest thresholds in the region.

Authority	<u>Constitutional provision re letters of objection.</u>
Runnymede	More than 2 objections lead to applications recommended for approval being brought to committee. <i>"Any applications which are recommended for approval where objections have been received from more than two parties"</i> (with some exceptions listed)
Surrey Heath	<u>No provision/trigger.</u> Letter numbers do not lead to an application being referred to committee.
Spelthorne	<u>No provision/trigger.</u> Letter numbers do not lead to an application being referred to committee. The only provision is: <i>"Where the Head of Planning and Housing Strategy decides, after consultation with the Chairman of the Planning Committee, that an application should be submitted to the Planning Committee on planning grounds, or where there is significant public concern or where it is very contentious"</i>
Elmbridge	The minimum threshold is <u>15 letters</u> in Elmbridge. The relevant provision is: <i>"Major applications (10+ dwellings or 1000sqm+ non-residential floorspace) which are recommended for approval by Officers where there are objections from 15 or more households or from Claygate Parish Council (if a petition, or an objection letter is received from an organisation such as a residents'</i>

	<i>association, political party or conservation area advisory committee each shall be treated in the same way as an objection from 1 household).</i> "
Woking	<p><u>No provision/trigger.</u></p> <p>Letter numbers do not lead to an application being referred to committee.</p> <p>There is however a provision that states that, the receipt of <i>"10 letters enables a right to public speaking at planning committee."</i></p> <p>It doesn't not however result in the application being listed to the committee in the first place.</p>
Guildford	<p>10-20 letters leads to listing of the item on the committee agenda (depending on type of application)</p> <p>The relevant constitution section is:</p> <p><i>"Applications are referred automatically to the Planning Committee in the following cases:</i></p> <ul style="list-style-type: none"> <i>- for all householder and other applications, the trigger for Committee will be 10 letters/emails or more contrary to the officer's recommendation;</i> <i>- for all Major and Minor applications, the trigger for Committee will be 20 letters/emails or more contrary to the officer's recommendation;</i>
Bracknell Forest	<p><u>5 Valid objections on valid planning grounds:</u></p> <p><i>"applications (including applications to vary planning obligations but not including applications for Certificate of Lawful Use) attracting more than five valid planning objections from different households or other organisations before a delegated decision is made, may not be allowed by the Director Place Planning and Regeneration."</i></p>
Royal Borough Windsor and Maidenhead	<p><u>No provision/trigger.</u></p> <p>Letter numbers do not lead to an application being referred to committee.</p>

- 1.12 Dealing with very small less contentious items with less than 10 objections at Planning Committee is not considered a good use of Member, Officer or resident time, and a number of recent Planning meetings have extended beyond four hours. The consideration of these items at Planning Committee has not been leading to different outcomes. It is considered that the Planning Committee's time is best 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.
- 1.13 Removal of less contentious items from agendas would help deliver both the PAS, O&SS committee and resident panel recommendation. Any items that are particularly controversial would be caught by the proposed ten letter threshold, the Member call in provision or the CHDMBC's provision to list applications for consideration by the committee. For these reasons ten is considered to strike the right balance.

MEMBER WORKING PARTY PAYMENTS

Reference to Member Working Party (MWP) payments will be made in that part of the Constitution which outlines the Terms of Reference and operation of MWPs.

Paragraph 3.13 will be added to this part of the Constitution as follows:-

“3.13 All Members are expected to serve on one MWP, with the exception of the serving Mayor, who will not sit on any MWPs. Each Member receives an annual allowance of £1,000 for serving on an MWP.”