

 Executive 13 November 2019		Agenda Item No. 4
Title	Minor Amendments to the Constitution	
For further information about this report please contact	Graham Leach Democratic Services Manager & Deputy Monitoring Officer 01926 456114 graham.leach@warwickdc.gov.uk	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number		
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes 1074
Equality Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Deputy Chief Executive	22/10/19	Andrew Jones
Head of Service	24/9/19	Dave Barber
	20/9/19	Lisa Barker
CMT	22/10/19	
Section 151 Officer	22/10/19	Mike Snow
Monitoring Officer	22/10/19	Andrew Jones
Finance	25/10/19	Lorraine Henson
		Victoria Bamber
Portfolio Holder(s)	October 19	Councillors: Cooke, Day and Matecki
Consultation & Community Engagement		
Councillor Alan Boad as Chairman of Planning Committee – October 19		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
If approved, the recommendations will be made to Council for consideration on 20 November 2019.		

1. **Summary**

- 1.1 The report brings forward minor amendments to the Constitution that seeks additional delegations to officers as well as clarification on delegations to officers and Council Procedure Rules and an updated structure chart of the Council.

2. **Recommendation**

- 2.1 The Executive recommends to Council the amendments to the Constitution as set out at Appendix 1 to the report.
- 2.2 The Executive recommends to Council the revised structure Chart for the Council as set out at Appendix 2 to the report.

3. **Reasons for the Recommendation**

- 3.1 The revision proposed to delegation HS (35) is to remove the need for a report to be made to the Executive for information purposes only. The information will be included within the annual reports by Portfolio Holder to Scrutiny but as this is not a formal reporting mechanism, it is advised against referencing this within the Constitution.
- 3.2 The proposed new delegation to the Head of Housing (HS(NEW)) is to make allowance for Registered Providers (RP) in the event that the RP becomes insolvent and has a mortgage on a site which is subject to a s106 agreement. When Rs (social housing providers) become insolvent if the site is subject to a mortgage, the mortgagee may exercise their right to take possession of the site in order to recover the monies provided under the mortgage. The standard section 106 clauses provide that so long as the mortgagee makes reasonable attempts to resell the Affordable Housing properties to another RP, and follows the process set out in the mortgagee in possession clauses in the relevant s106 agreement, that in the event that they are unable to do so that they can dispose of the Affordable Housing as open market dwellings. The purpose behind this is that Registered providers often fund new developments or the acquisition of Affordable Housing by raising finance by lending monies against existing sites. If lenders are unable to exercise their right to enter into possession of the charged site and to sell the Affordable Housing as open market dwellings once they have made reasonable attempts to sell to another Registered Providers, they will not lend monies against such sites. The effect of this is that Registered Providers will be unable to fund future Affordable Housing and this will prejudice the delivery of future Affordable Housing schemes in the District. There are time limits within the s106 agreement for the mortgagee in possession and the Council to meet. Therefore, delegated authority is sought to enable the Council to meet those requirements.
- 3.3 The proposed amendment to DS70(i) seeks to ensure clarity for all parties on the reason(s) why a District Councillor is asking for a planning application to be considered by Planning Committee. This amendment will ensure requests are thought through and are understood by officers so that the issues can be properly addressed. The amendment seeks to reduce the risk of unreasoned referrals in acknowledgment of the significant additional costs involved with making a decision through the Planning Committee.
- 3.4 The proposed amendment to DS(70)(ii) looks to remove the need for applications to come to Committee where representations are received on an

application, from the general public and these are subsequently resolved through amendments to the application

- 3.5 The proposed amendment to DS70(iib) seeks to clarify when a planning application will be referred to Planning Committee following comments from a Parish or Town Council. Currently, the delegation implies that even if a material consideration is raised by a Town/Parish Council, it should not go to Planning Committee if a non-material matter is also raised. This is not the intention and it has not been used in this way. However, it is appropriate to clarify its meaning so that the proposed new wording reads: "where a material matter is raised and the representation is contrary to officers' recommendations, then it should be considered by Planning Committee". This involves no reduction in the power of parish or town councils to influence the referral of cases to Planning Committee, but clarifies the requirement that the reasons for referrals are material planning considerations.
- 3.6 The addition to DS(48) to include notices under Section 54 of the Planning Listed Buildings and Conservation Areas (LBCA) Act, by their very nature, often need to be issued urgently and therefore it is proposed that this should be a matter delegated to officers, with appropriate consultation. The current procedure requires a report to Planning Committee and this increases the risk that urgent works cannot be undertaken when required. The proposed additional delegation under Section 55 of the LBCA goes hand-in-glove with Section 54 by allowing service of notice of an intention to recover reasonable expenses associated with works carried out under Section 54. This notice is usually served concurrently with a notice under Section 54, and therefore also needs to be included in the proposed amendments.
- 3.7 The proposed new delegation to the Head of Development Services, in respect of responses to Planning Policy Consultations, is to enable non-strategic responses to consultations to be made without the need for an Executive report and therefore improve responsiveness, particularly where deadlines are short.
- 3.8 The clarification to the rules of debate are intended to provide clarity for Members when considering these options at meetings, to ensure all are aware of the implications.
- 3.9 The revisions to public speaking procedures for Planning Committee are included for clarification for all parties on speaking rights for what is a very emotive subject matter.
- 3.10 The revised structure chart is included as a result of the introduction of the revised Portfolio Holder remit to include Environment and where this falls within the structure.

4. **Policy Framework**

4.1 **Fit for the Future (FFF)**

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/productivity of local economy Increased employment and income levels
Impacts of Proposal		
None	None	None
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
Impacts of Proposal		
<i>The proposals enable staff to undertake their roles effectively.</i>	<i>None</i>	<i>The proposals will improve the efficiency of delivering service in a more responsive manner and reduce cost.</i>

4.2 **Supporting Strategies** - Each strand of the FFF strategy has a number of supporting Strategies but this report does not directly contribute or amend one of these.

4.3 **Changes to Existing Policies** – The report does not bring forward and changes to existing Council Policies but includes minor amendments to the Constitution of the Council which provides the framework for the operation of the Council.

5. **Budgetary Framework**

5.1 The report does not impact on the budgetary framework or budget of the Council.

6. **Risks**

- 6.1 The proposals within the report bring forward clarification to the Constitution to remove the potential ambiguities and introduces new delegations to enable quicker responses to urgent items. Therefore, the main risks associated with the recommendations are not introducing them as it would result in ambiguity within the Constitution remaining and not enabling the Council to respond to urgent matters in a timely manner.

7. Alternative Option(s) considered

- 7.1 For the amendments to Council Procedure Rules and revisions to delegation, these are proposed to provide clarity within the Constitution for all interested parties. Therefore, no direct alternative has been considered to them.
- 7.2 In respect of the additional delegations for Housing and Development Services, careful consideration has been given to the best approach to be used. At present, these would be matters where the Executive or Planning Committee would be required to make a decision. This can take a long time to progress for what are either relatively minor or urgent items. After consultation with relevant Councillors, these were considered more expedient and a better use of resources to delegate these matters as suggested.

Revisions to the Warwick District Council Constitution

Additions are set out in *italics* and removals are ~~struck through~~

Part 3 - Section 4 Scheme of Delegation Proposed Amendments

- HS (35) re-purchase former Council owned dwellings within the agreed criteria and with the assistance of an independent valuation subject to resources being made available ~~report back to the Executive on each purchase made.~~
- HS (NEW) *to approve the release of affordable housing secured under a section 106 agreement for sale as open market dwellings and to discharge the obligation under the S106 agreement restricting the use of the affordable housing where the Registered Provider has become insolvent and defaulted on a mortgage secured against the relevant site and the Registered Providers Mortgagee has exercised their power to enter into possession of the relevant site subject to the Mortgagee having first acted in accordance with the mortgagee in possession provisions in the relevant section 106 agreement.*
- DS (70) Determine all applications submitted to Warwick District Council as required by the Town and Country Planning Act 1990 (as amended), Town and Country Planning (Control of Advertisement) Regulations 1992, and Planning (Listed Buildings and Conservation Areas) Regulations 1990, with the exception of the following:
- (i) Applications where a written request is received from a Member of Warwick District Council within the specified consultation period (i.e. 21 days), that Committee referral is required. *Such requests should clearly state the reasons why a Committee referral is required.*
 - (ii) Applications where ~~5 or more written objections (or letters of support) or a petition (including one of support) with 5 or more signatures has been received, or more valid representations are received~~ where these ~~recommendation is~~ *are* contrary to the representations that have been ~~made~~ *officers' recommendation unless the Head of Development Services is satisfied that the plans have been amended to address the concerns raised so that there are no more than four contrary representations.*
 - (iii) Applications where the recommendation of the Head of Development Services i.e. Grant/Refuse is contrary to the representations made by a Parish/Town Council, i.e. Object/Support, except in the following circumstances:
 - a. the Head of Development Services is satisfied that the plans have been amended to address the concerns of the Parish/Town Council;
 - b. where the representations made by the Parish/Town Council *do not raise any* ~~raise~~ issues which are ~~not~~ material to the planning assessment of the particular application; or
 - c. where the concerns of the Parish/Town Council have been previously considered as part of the assessment of an extant permission on the site and there has been no change in circumstances.
- DS (48) Serve and withdraw notices in respect of the following: Town and Country
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Planning Act 1990 (TCPA) and Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) as amended

(xii) Section 54 (LBCA): Urgent works to preserve listed buildings

(xiii) Section 55 (LBCA): Recovery of expenses of works under s. 54.

DS (New) *In consultation with the relevant portfolio holder, make representations in relation to Planning Policy consultations that may affect Warwick District undertaken by neighbouring or overlapping authorities. This does not include the following:*

- *National Planning Policy and other national planning-related consultations; and*
- *Where in the judgement of the Head of Development Services or the relevant portfolio holder, the issues arising from the consultation are such that they have important strategic implications for Warwick District.*

Part 4 Rules of Procedure Council Procedure Rules

13. Rules of Debate for meetings

*To provide clarification within the rules of debate that to adjourn the debate for an item would seek to defer consideration of the item to a future meeting when different information could be available and different members could consider the matter. **To adjourn the meeting** would be to pause the meeting for it reconvene on a future date with the same membership and agenda items as it is a continuation of the original meeting.*

34. Public speaking (c) Committees - Planning Committee

People wishing to speak will fall into five categories, and these are:

Parish/Town Council;

Warwick District Towns Conservation Area Advisory Forum;

Objector(s) to the application;

Applicants/Supporters of the application; and

Warwick District Councillor.

That Parish/Town Councils, CAF and WDC Councillors be allowed to speak on planning applications when they have registered to do so. This is unless they are speaking as the applicant, in which case they will have to speak in the applicants/supporters category.

Parish/Town Council representatives, Warwick District Towns Conservation Advisory Forum representatives and Warwick District Councillors can only speak either in favour or objecting to the application.

To ensure equity, applicants/supporters of the application will only be allowed to address the Committee if somebody has registered to speak in the objectors category for the application, except for cases where the recommendation is to refuse. An objector to the application may only address the Committee if an Applicant/Supporter is registered to speak on the application, except for cases where the recommendation is to grant.

There is a time limit of three minutes for each category of speaker, excluding District Councillors, on all applications.

If there is more than one speaker in the same category for an item, the three minutes will be shared among them.

This is with the exception of major applications, where up to four speakers will be permitted to address the Committee in both the Objectors and Applicants/Supporters categories for a maximum of three minutes each.

The times allocated for Parish & Town Councils, CAF, Objectors and Applicants/Supporters may be varied at the discretion of the Chairman of the Planning Committee, when they believe there is significant public interest in an application, for example, regional developments such as the former gateway proposal and the passenger terminal at Coventry Airport.

Warwick District Councillors are not permitted to address the Planning Committee for more than five minutes on any application. Unless they are providing contrary views or representing views from different District Wards, no more than one Warwick District Councillor will be permitted to address the Committee on any application.

The time for District Councillors to address the Planning Committee may be increased, at the discretion of the Chairman of the Planning Committee, when they believe there is significant public interest in an application.

Appendix 2

Chief Executive Chris Elliott	Deputy Chief Executive, Monitoring Officer & Legal Client Manager Andrew Jones				Deputy Chief Executive Bill Hunt		
Andrew Day - Leader	Moria-Ann Grainger Portfolio Holder and Deputy Leader Cultural Services	Richard Hales Portfolio Holder Finance	Judy Falp Portfolio Holder Health & Community Protection	Alan Rhead Portfolio Holder Environment & Business	John Cooke Portfolio Holder Development Services	David Norris Portfolio Holder Neighbourhood Services	Jan Matecki Portfolio Holder Housing Services
Human Resources Corporate HR People Management Learning & Development Corporate Payroll Media Website Tracy Dolphin (reporting direct to Chris Elliott, Chief Executive)	Head of Cultural Services Rose Winship	Head of Finance & Section 151 Officer Mike Snow	Head of Health & Community Protection Marianne Rolfe		Head of Development Services Dave Barber	Head of Neighbourhood Services Robert Hoof	Head of Housing Services Lisa Barker
ICT Services Desktop Services incl Helpdesk/Infrastructure Services/Application Support/Geographical Information Systems (GIS) Digital Mapping Services/Local Land & Property Gazetteer (LLPG)/Street Naming & Numbering Ty Walker (reporting direct to Andrew Jones, Deputy Chief Executive)	Arts Royal Spa Centre & Theatre Town Hall Royal Pump Rooms Art Gallery & Museum Arts Development David Gilding	Accountancy All Council Accountancy Services Andrew Rollins	Community Partnership Team Community Leadership Community Forums & Voluntary Sector Contracts Health and Wellbeing Elizabeth Young		Development Management Enforcement Land Charges Conservation Gary Fisher	Contract Services Refuse & Recycling Collections Parks & Open Space Maintenance Street Cleansing Gary Charlton	Housing Needs Homelessness and Housing Advice Private Sector Housing Disabled Adaptations Rough Sleeper Initiative Elaine Wallace
Democratic Services Elections/Electoral Registration/Committee Registration/Councillors/FOI/Data Protection/Complaints/Civic Support/Corporate Support Team Graham Leach (reporting direct to Andrew Jones, Deputy Chief Executive)	Sports & Leisure Stuart Winslow	Audit & Risk Corporate Insurance Richard Barr	Regulatory Food Safety, Health & Safety and Licensing Lorna Hudson		Building Control Consortium Phil Rook	Bereavement Services Pam Chivers	Sustaining Tenancies Landlord Services to Council Tenants Collecting Rent Estate Management Ensuring Tenancy Conditions are Complied with Caroline Russell
Asset Management Maintenance & Repair of Corporate Property Assets and Council Houses Steve Partner (reporting direct to Bill Hunt, Deputy Chief Executive)	Programme Manager for future sport service options Pdraig Herlihy	Exchequer Council Tax and Business Rates Rate Collection Sundry Debt Collection Corporate Invoice Payment Dave Leech	Safer Communities Domestic Noise Anti-Social Behaviour Dog Warden Pest Control & Animal Licensing CCTV Environmental Protection Pete Cutts		Policy & Projects Local Plan & Planning policy development Major sites implementation Corporate feasibility studies Economic Development Business Support & Events Philip Clarke	Green Spaces Green Space Strategy St Marys Land Wildlife Habitats Dave Anderson	Housing Strategy and Development Housing Strategy New Affordable Housing Developments inc Council House Building Tenants Participation Sally Kelsall
		Benefits & Fraud (Impact of UC) Housing Benefits & Council Tax Reduction Corporate Fraud One Stop Shop - managed with WCC Andrea Wyatt				Business Support & Development Graham Folkes-Skinner	
		Procurement Compliance with Legislation Support & Advice on Procurement Contracts Rebecca Reading				Car Parks Off Street Parking Zoe Court	