

**Agenda Item No:** 7  
**Report To:** Selection and Constitutional Review Committee



**Date:** 21 May 2015

**Report Title:** Updating the Council's Constitution regarding Planning Matters

**Report Author:** Head of Legal and Democratic Services and Monitoring Officer

**Summary:**

This report proposes minor updates to the Council's Constitution - firstly to the scheme of delegation and the terms of reference of the Planning Committee, to enable the Council to respond to planning consultations including those for Nationally Significant Infrastructure Projects (NSIPs) within the required timeframes, and secondly to authorise the Monitoring Officer to update the Good Practice Protocol for Councillors Dealing with Planning Matters

**Affected Wards:** All Wards

**Recommendations:** **The Committee endorse the proposed changes to the Council's Constitution as set out in paragraphs 15, 16 and 19 of this report and recommend to Full Council that those changes are made.**

**Financial Implications:** Little or no effect but the revised procedures would enable the Council to respond within the required timescales to Planning-related consultations, and the Monitoring Officer to update the Good Practice Protocol as required.

**Risk Assessment** No

**Equalities Impact Assessment** There is no impact on equalities from the making of the proposed changes.

**Other Material Implications:** None

**Background Papers:** None

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## **Report Title: Updating the Council's Constitution regarding Planning matters**

### **Purpose of the Report**

1. To update the terms of reference of the Planning Committee to enable the Planning Committee to consider the responses to planning consultations, including Nationally Significant Infrastructure Projects (NSIPs), where time permits.
2. To update the delegation to the Head of Development, Strategic Sites and Design to enable the Council to respond to planning consultations, including for NSIP, where required within short timeframes.
3. To authorise the Monitoring Officer to update the Good Practice Protocol for Councillors Dealing with Planning Matters.

### **Existing Arrangements for Handling External Planning Consultations**

4. The Planning Act 2008 allows applications to be made for development consent for NSIPs, which are decided under the aegis of national policy statements.
5. The Planning Inspectorate is the decision-making body for NSIP under the Planning Act 2008.
6. The Council is consulted by the decision making body and the project promoter for NSIP.
7. Kent County Council is the decision making body for county matters and applications for its own land/developments. The Council is consulted by Kent County Council on these applications.
8. The Council needs to have in place arrangements to enable timely and effective engagement in pre-application negotiations and the examination process for NSIP, ensuring that the decision making arrangements within the Council are proportionate and are able to respond to the significance/sensitivity or otherwise of the issues raised.
9. Due to the relatively short timeframes for response and the need for rapid responses during pre-application negotiations and the examination process for NSIP, and sometimes for other planning consultations, it is not always feasible for Council responses to fit in with the normal lead in time or dates for Committee decisions.

10. The delegation to the Head of Development, Strategic Sites and Design in the Constitution needs to be amended accordingly.
11. The proposed amended delegations have been discussed with the Head of Development, Strategic Sites and Design.
12. At paragraph 16.14 (ii) of Appendix 5 of part 3 of the Constitution the Head of Development, Strategic Sites and Design has delegated power to respond to consultations under the Planning Act 2008, subject to the portfolio holder not having requested in writing that the response be made by the Planning Committee.
13. This function needs to be transposed into the terms of reference of the Planning Committee, in order to ensure that the Committee can deal with this in appropriate cases when the portfolio holder so requires.
14. The constitution needs to be amended accordingly.

### **Proposed New Arrangements for Handling External Planning Consultations**

15. The Terms of Reference of the Planning Committee at Appendix 4 of Part 3 of the Council's Constitution should include:-
  - "8 To respond on the Council's behalf to any consultation of a planning nature, including those made under the Planning Act 2008 (as amended) and any directions made thereunder."
16. The delegation to the Head of Development, Strategic Sites and Design at para. 16.14 of Appendix 5 of Part 3 of the Council's Constitution should read:

"Subject to the Portfolio Holder not having requested in writing that the response be made by the Planning Committee (where there is sufficient time at the time of the request), and unless in the opinion of the Head of Development Strategic Sites and Design the response should be made by the Planning Committee, to respond on the Council's behalf to:

  - (i) Kent County Council on any consultation made under the Town and Country Planning (Development Management Procedure) (England) Order 2015 and directions made thereunder, and
  - (ii) All other consultations of a planning nature, including those relating to planning applications and listed building consent applications in neighbouring authorities and those arising under the Planning Act 2008 (as amended) (for example national policy statements and applications for development consent orders for NSIPs)."

## Updating the Planning Good Practice Protocol

17. The Council first adopted a Planning Good Practice Protocol several years ago. Since then, best practice, professional and legal requirements and Government advice have moved on in some respects. The Protocol requires updating to reflect these developments although the underlying approach and guiding principles of the Protocol will remain in place. It is suggested that updates of this nature, to reflect changes in national standards and advice, are most efficiently dealt with through a delegation to the Monitoring Officer.
18. To bring every minor updating or change to the Good Practice Protocol to the Full Council would be onerous and the Monitoring Officer's statutory role includes ensuring that the Constitution is up-to-date and fit for purpose.
19. The following delegation should therefore be given to the Monitoring Officer:-  

"6.39 To update the Council's Good Practice Protocol for Councillors dealing with Planning Matters as required."
20. The Monitoring Officer would consult with the Head of Planning and Development and the Head of Development, Strategic Sites and Design, regarding updates to the Good Practice Protocol.
21. When the Monitoring Officer carries out significant updating of the Good Practice Protocol, he will arrange training for all Members regarding the revised Protocol.

## Handling

22. The resolution of the Selection and Constitutional Review Committee will be put to Full Council. If approved by the Full Council, the Constitution will be updated.

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