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Governance Committee 16 AUGUST 2017

Present: Councillors: Michael Willett (Chairman), David Coldwell (Vice-Chairman), Toni Bradnum, Karen Burgess, Peter Burgess and Leonard Crosbie

Apologies: Councillors: Philip Circus, Roger Clarke and Matthew French

Also Present: Councillors: David Skipp and Claire Vickers

GO/15 MINUTES

RESOLVED

That the minutes of the meeting held on 26th July 2017 be approved as a correct record.

GO/16 DECLARATION OF MEMBERS' INTERESTS

There were no declarations of interest.

GO/17 ANNOUNCEMENTS

With reference to a statement made by Mr Kornycky at the last meeting of the Committee, the Chairman stated that the review of governance arrangements approved by Council on 27th April 2016 had been focused on improving the involvement and engagement of Members in policy development. The subsequent one year review had therefore been designed to gauge the effectiveness of the revised arrangements for Members. In these circumstances there was no need for public consultation at any stage nor was there a requirement for any form of public consultation to be undertaken as no formal change in governance arrangements, as defined by the Localism Act 2011, were proposed. The Council, at its meeting on 7th December 2016, and separately from the revised governance arrangements, had agreed a revised Constitution which included rules on public speaking and questions at meetings. Article 3 of the Constitution summarised the rights of members of the public in terms of information, the opportunity to participate and the ability to make complaints. In addition, members of the public could submit suggestions for the work programme of the Overview and Scrutiny Committee.

GO/18 CHANGES TO THE CONSTITUTION OF HORSHAM DISTRICT COUNCIL

Three members of the public addressed the Committee in objection to the proposed changes to the Constitution relating to the delegation of certain planning functions.

Members were reminded that one of the functions of the Committee was to receive reports from the Monitoring Officer on amendments to the Constitution and make any consequent recommendations to Full Council.

The report of the Interim Monitoring Officer set out a number of proposed variations to the Constitution in respect of the discharge of planning functions delegated to the Planning Committees and minor changes to the Scheme of Delegation to Officers (Director of Planning, Economic Development and Property). The changes were proposed as a number of ambiguities had arisen, as a consequence of the introduction of a new streamlined Constitution, regarding the delegation to the Planning Committees of the determination of applications under the Town and Country Planning Act 1990 and related Regulations. The effect of these ambiguities was that many minor applications would now have to be considered by the Planning Committees as the term “application” referred to in the delegation of planning functions to the Planning Committees (paragraph 3.2.2 of the current Constitution) was not defined in any way.

The changes now proposed were intended to overcome these ambiguities by setting out clear definitions of applications that would be determined by the Planning Committees and those that would be delegated to the Director of Planning, Economic Development and Property for determination. If approved, these changes would enable the efficient discharge of planning functions by the Council.

The Committee discussed the report with particular reference to the exception clauses contained in the proposed changes to the delegation of planning functions to the Planning Committees (Part 3, Paragraph 3.2.2 of the Constitution), as set out in Appendix 2 of the report.

As a result of the discussion it was agreed that Members should be able to request Committee consideration of “Applications to modify or discharge an obligation contained within a Unilateral Undertaking or a S106 Agreement” and that this clause should therefore be omitted from the list of exceptions in the proposed Part 3, Paragraph 3.2.2 (c) 5 of the Constitution, as set out in Appendix 2 of the report.

RECOMMENDED TO COUNCIL

That the proposed amendments to the Constitution as set out in the Appendix to these minutes be approved.

GO/19 **URGENT BUSINESS**

There were no matters of special urgency to be considered.

The meeting closed at 6.31 pm having commenced at 5.30 pm

CHAIRMAN

APPENDIX

PROPOSED CHANGES (NEW WORDING BOLD AND UNDERLINED) TO THE DELEGATION OF PLANNING FUNCTIONS TO THE PLANNING COMMITTEES UNDER PART 3 PARAGRAPH 3.2.2 OF THE CONSTITUTION: FUNCTIONS OF THE PLANNING COMMITTEES

- (a) To discharge those functions falling within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, regulations 2 and 3 and Schedule 1 Part A paragraphs 5-31, Part I paragraphs 46-47A and Schedule 2 paragraphs 16-18 and as may be amended.
- (b) Those matters referred to in an agreement between South Downs National Park and Horsham District Council, having effect from 1 April 2011, shall be discharged by the Planning Committee (South) only.
- (c) Determination of applications as follows:
1. Where the Head of Development considers the application should be presented to the Planning Committee for a decision.
 2. Any planning application that is defined as a departure application under the Town & Country Planning (Development Management Procedure) (England) Order 2015 where the recommendation of the Head of Development would represent **an initial** departure from the development plan **with the exception of where the initial departure has already been agreed by virtue of a previous grant of planning permission (extant and not extant) and the application represents a subsequent application for either the same, similar or alternative development on the same or an adjacent site which would not alter the previous material planning considerations.**
 3. **Planning Applications, Outline Planning Applications and Applications for Approval of Reserved Matters or Listed Building Consent made by or on behalf of the Council or on land owned by the Council or in which the Council has a legal interest with the exception of: a) Applications to vary or remove a condition; b) Applications seeking advertisement consent; and c) clauses i to viii below.**
 4. An application that has been made by a council member or an officer or a member of their immediate family with **the exception of: a) Applications to remove or vary a condition; b) Applications seeking advertisement consent; and c) clauses i to viii below.**
 5. Where a Member of the relevant Planning Committee requests it. Such request to be in writing (to include e-mail) and received by the Head of Development within 35 days of the date of validation for all applications **with the exception of clauses i to vi and viii below.**
 6. Where eight or more persons in different households or bodies make a written representation (to include email), which discloses a material planning consideration within the consultation period and is inconsistent with the Head of Development's recommendation **with the exception of clauses i to viii below.**
 7. Where the Parish or Neighbourhood Council makes a written representation (to include email) which discloses a material planning consideration and is inconsistent with the Head of Development's recommendation, within the consultation period, and wishes to address the Planning Committee **with the exception of clauses i to viii below.**

Exception clauses applying to 3-7 above:

- i. Applications for a Certificate of Lawfulness (proposed or existing)
- ii. Applications for Prior Approval (submitted pursuant to the General permitted Development Order 2015 (as amended))
- iii. Applications for Prior Notification (submitted pursuant to the General permitted Development Order 2015 (as amended))
- iv. Applications for the submission of details of conditions pursuant to planning permission
- v. Applications for works to trees in a Conservation Area
- vi. Applications for works to trees covered by a Tree Preservation Order
- vii. Applications to modify or discharge an obligation contained within a Unilateral Undertaking or a S106 Agreement
- viii. Applications for a non-material amendment

PROPOSED CHANGES (ADDITIONAL WORDING SET OUT IN BOLD AND UNDERLINED IN (B)) TO THE DELEGATION OF PLANNING FUNCTIONS TO THE DIRECTOR OF PLANNING, ECONOMIC DEVELOPMENT AND PROPERTY

3.6.2 Director of Planning, Economic Development and Property

Within the overall resources allocated by the Council and in direct support of the Council's objectives act on behalf of the Council on all operational and administrative matters relating to the discharge of the Council's functions relating to the following service delivery functions, unless that function has been specifically delegated to another Officer or elsewhere within this constitution: Planning Policy, Development Management, Building Control, Housing Strategy and Economic Development and specifically:

a) Administer, subject to the Key Decision framework, the acquisition, re-use appropriation and disposal of the Council's land and buildings, together with the granting or taking assignment or surrender of leases, tenancies, licences, easements, wayleaves and variations of rent of the Council's land and buildings and all consequent operational and administrative matters.

b) To discharge those functions falling within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, regulations 2 and 3 and Schedule 1 Part A paragraphs 5-31, Part 1 paragraphs 46-47A and Schedule 2 paragraphs 16-18 and as may be amended.

c) Exercise all the functions of the Council relating to town and country planning matters, including development management, **except for** those matters reserved to a committee in part three of this constitution.

d) Refer to Full Council if he is of the opinion that the relevant Planning Committee is minded to make a decision in which there are likely to be significant cost implications.