

## Report to Governance Committee

26 July 2017

By the Interim Monitoring Officer

**DECISION REQUIRED**



**Horsham  
District  
Council**

Not Exempt

### Changes to the Constitution of Horsham District Council

#### Executive Summary

The Governance Committee was created by Council on 7 December 2016. One of the functions of the Governance Committee is to receive reports from the Monitoring Officer on amendments to the Constitution and make any consequent recommendation to Full Council.

The report sets out a number of proposed variations to the Constitution in respect of the discharge of planning functions delegated to the Planning Committee. The Committee are to decide whether to recommend the amendments to Full Council for approval.

#### Recommendations

That the Committee is recommended to consider the proposed amendments to the Constitution as set out in Appendix 2 and if agreed to recommend approval of changes to the Constitution to the Full Council.

#### Reasons for Recommendations

To comply with Article 13, Review and Revision of the Constitution.

#### Background Papers

The Council's Constitution.

**Wards affected:** All

**Contact:** Ann-Maria Brown, Interim Monitoring Officer.

## Background Information

### 1 Introduction and Background

- 1.1 It is a legal requirement for the Council to have a Constitution under Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011).
- 1.2 The Council undertook a major review of the Constitution in 2016 resulting in the adoption of a revised Constitution by Full Council on 7 December 2016. At the same time as the adoption of a revised Constitution, Full Council created a Governance Committee.
- 1.3 One of the functions of the Governance Committee is to ensure that the Council's Constitution is kept up to date and fit for purpose. This includes receiving reports from the Monitoring Officer to amend the Constitution and to make recommendations to Full Council on any changes that are not covered by the Monitoring Officer's delegated powers.
- 1.4 The discharge of planning functions are delegated to the Planning Committees of the Council (Planning Committee North and South). These are currently set out in Part Three of the Constitution (Responsibility for and delegation of functions), Delegation of Functions 3:2:2 a) – c). The determination of Applications to the Committee are set out in 3.2.2 c) i. – vii. These delegations are set out in Appendix 1 to the report. Further under the Council's Scheme of Delegation to Officers, the Director of Planning, Economic Development and Property under Part Three of the Constitution at paragraph 3:6:2 has delegated authority for all operational and administrative matters relating to the discharge of functions of the Council relating to Town and Country Planning matters including development management **except for** those matters reserved to Planning Committee.
- 1.5 It is considered that there are a number of ambiguities currently set out in the Scheme of Delegation to the Planning Committee regarding the determination of applications under the Town and Country Planning Act 1990 and related Regulations. Under the Council's former Scheme of Delegation to the Planning Committee in the Council's old Constitution, there was a clear explanation of what applications would be considered by the Planning Committee and those that would be delegated. The previous scheme of delegation differentiated between planning applications and "minor applications" for example the discharge of conditions, non-material amendments, reserved matters applications, prior approval matters. If the application was a Council application, a member's or an Officer's application, these minor applications were excluded from the Director's delegated authority to determine and had to be determined by the planning committee, in all other instances those applications as described above would be delegated to the Director. The ambiguity that has arisen is that the term "Applications" which is referred in the delegation of planning functions to the Planning Committee in paragraph 3.2.2 of the Constitution is not qualified in any way. This means that all "minor" applications will have to be determined by Planning Committee.
- 1.6 To enable the efficient discharge of planning functions, changes have been made to the Delegation of Planning functions to the Planning Committee in order to address

the ambiguities that have arisen. These draft changes to Part Three paragraph 3:2:2 are set out as track changes in Appendix 2 to the report.

## **2 Relevant Council policy**

- 2.1 The Corporate Plan 2016-19 heading Efficiency – Great value services will be better enabled by a modern, agile constitution which if flexible, permissive, well-understood, and realigned to a model constitution in an accessible single-document format.

## **3 Details of the Proposed Variations and Amendments**

- 3.1 The draft changes to the delegation of planning functions to the Planning Committee under Part Three paragraph 3:2:2 of the Constitution are set out as track changes in Appendix 2 attached to this Report.

## **4 Next Steps**

- 4.1 These changes are not considered to fall within the delegations of the Monitoring Officer to make minor changes to the Constitution, if approved the Governance Committee will make a Recommendation to Full Council to make the changes to the Constitution. Following approval by Full Council the Monitoring Officer will publish the amendments on the Council's website.

## **5 Outcome of Consultations**

- 5.1 Consultation has taken place with the Director of Planning, Economic Development and Property and Service Managers.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 The Constitution requires to be updated for effective governance it needs to be treated as a 'living' document with the need for frequent amendments to ensure it remains up to date and reflects the operation of the Council.

## **7 Resource Consequences**

- 7.1 There are no cost implications arising from these changes.

## **8 Legal Consequences**

- 8.1 Under Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011), it is a legal requirement for the Council to have a Constitution. It is the responsibility of the Monitoring Officer to monitor and review the operation of the Council's Constitution to ensure that the aims and principles of it are given full effect and to make recommendations for ways in which the Constitution could be amended in order to enable decisions to be taken efficiently and effectively.

## **9 Risk Assessment**

- 9.1 The recommendations within this report are part of mitigating corporate risk CRR08 described in the Corporate Risk Register. The risk source: The Council's decision-making processes are based on Constitution that is overly bureaucratic and unnecessarily complicated. Event: Non-compliance with the Constitution and delays in decision-making. The potential consequences described are: opportunities lost, complaints/claims/litigation/financial losses and lack of openness and transparency.

## **10 Other Considerations**

- 10.1 The Constitution and its Procedures, Rules and Codes act as an enabling tool in helping the Council meet its obligations under the Human Rights Act 1998 and the Equality Act 2010.
- 10.2 Consideration of how projects and proposals can secure environmental, social and economic benefits and reduce negative consequences should be an integral part of decision-making and the Constitution will facilitate such considerations.