

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

09 July 2024

Report of the Monitoring Officer

Part 1- Public

Matters For Decision

1 CHANGES TO CONSTITUTION

The report recommends that changes are made to the constitution to (1) amend the Council and Committee Procedure Rules relating to motions for Council and (2) update the Planning Code of Good Practice in order to require that applications for planning permission on Council-owned land are determined by full Council.

1.1 Committee Procedure Rules

1.1.1 At the meeting of annual Council on 14 May 2024 Members considered a motion submitted by Cllr Hood, seconded by Cllr Cope on behalf of the Green Group in relation to zero tolerance of any hate crime.

1.1.2 Members will recall that concern was expressed that the issues set out in the Motion were beyond the remit of the Borough Council and were for national Government to address.

1.1.3 To provide greater clarity for any future motions, I have therefore reviewed rule 5.28 of the Committee Procedure Rules at Part 4 of the Constitution.

1.1.4 It is proposed that rule 5.28 be amended to read as follows: -

'Motions must be about matters for which the Council has a responsibility or affect the Borough.

The Chief Executive may reject a motion if, in their opinion, the subject matter does not relate to a matter for which the Council has a responsibility or affects the Borough e.g., the motion relates to national or international matters in respect of which the Council has no powers, rights or duties.

All valid notices of motion will be entered in a book open to public inspection.'

1.2 Planning Code of Good Practice

1.2.1 Members will be familiar with the review of Council assets within Tonbridge through the Tonbridge Town Centre Asset Review. Phase 2 of that programme

was reported to the Finance, Regeneration and Property Scrutiny Select Committee on 12 March 2024, with recommendations from that meeting subsequently considered by Cabinet on 2 April 2024. The Council has also recently appointed a Tonbridge Town Centre Programme Manager and established the Programme Board for this review.

- 1.2.2 As we progress into the next phase of the review, it is timely to consider how any applications for development on Council-owned land will be considered by the Council in its capacity as Local Planning Authority. It is expected that proposals for significant development will be brought forward through the review and the Council will need to demonstrate that it has considered any associated applications for planning permission openly and transparently.
- 1.2.3 Presently, the Planning Code of Good Practice provides that proposals for development submitted by the Council must be treated no differently to any other application. That principle is entirely sound. However, given the potential significance of proposals that are expected to arise through the review, it is proposed that all applications for planning permission submitted by the Council should be determined by full Council. That will ensure not only that applications have been determined openly and transparently but also allow all Members of the Council to be involved in consideration of the proposals for development.
- 1.2.4 The proposed amendments to the Code are attached as **Annex 1**.

1.3 Legal Implications

- 1.3.1 Article 10 of the Constitution sets out the procedure for review and revision of the Constitution. Except in specified circumstances, changes to the Constitution may only be approved by full Council after consideration of a report on the proposal from the Council's Monitoring Officer.

1.4 Financial and Value for Money Considerations

- 1.4.1 None.

1.5 Risk Assessment

- 1.5.1 The changes to the Planning Code of Good Practice proposed in this report are intended to reduce the risks of challenge to development proposals submitted by the Council.

1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Recommendations

1.7.1 It is **RECOMMENDED** that the Monitoring Officer be authorised to amend the Constitution as set out at paragraphs 1.1.4 and **Annex 1**.

Background papers:

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