

Meeting: Council

Date: 22 June 2017

Wards Affected: All Wards

Report Title: Constitution Amendments

Is the decision a key decision? No

When does the decision need to be implemented? Immediately

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1. Proposal and Introduction

- 1.1 At the Mayor and Group Leaders meeting held on 27 February 2017, Members received a proposal to consider introducing a 5 minute time limit to supplementary questions and responses to Members questions at Council meetings, so as to ensure consistency of speaking rules. It is proposed that the following amendment be made to Standing Orders – Council Meetings to address this matter:

A16.5 Length of speeches

No speech **or response** may exceed five minutes without the consent of the Chairman/woman except the opening speeches on the revenue budget by the Elected Mayor and the leaders of each political group at the annual budget setting meeting, which shall not exceed fifteen minutes without the consent of the Chairman/woman.

- 1.2 Members also considered reviewing the Terms of Reference of the Development Management Committee in respect of Council owned land. They recommended that three options be developed for consideration by the Council. These options are set out at Appendix 1 to this report.

2. Reason for Proposal

- 2.1 To agree the proposed changes to the Constitution to enable consistency in respect of speeches, clarity in the Terms of Reference for the Development Management Committee in respect of applications for Council-owned land and to ensure that the Terms of Reference for the Development Management Committee reflect recent changes to the Council's adopted planning policies.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Standing Orders – Council Meetings be amended as set out in paragraph 1.1 to the submitted report.
- 3.2 That the Council considers the amendment to the Terms of Reference for the Development Management Committee as set out in Appendix 1 to the submitted report and determines which option to pursue.

Appendices

Appendix 1: Options for changes to the Terms of Reference for the Development Management Committee

Options for changes to the Terms of Reference for the Development Management Committee

Changes shown in bold text

In all cases it is recommended that the following paragraphs are amended as indicated to clarify the Terms of Reference and/or to reflect the adoption of the new Torbay Local Plan and Community Infrastructure Levy Charging Schedule.

1. At all times to have regard to the adopted Torbay Local Plan ~~1995-2011 (“the Torbay Local Plan”)~~ and, following submission to the Secretary of State, the new ~~Torbay Local Plan 2012 - 20320~~.
2. To consider and (if appropriate) determine (unless such determination is reserved by law to Council) all applications and all other matters (including issuing notices, making Orders and requesting the Monitoring Officer to issue civil or criminal proceedings) relating to:

- Town and Country Planning, including
- Conservation Areas
 - Listed Buildings
 - Scheduled Ancient Monuments
 - The display of advertisements
 - Tree Preservation Orders
 - Complaints about high hedges
 - Public Rights of Way
 - Minerals
 - Highways matters
 - Waste
 - Enforcement; and
 - Environmental Assessment
 - **Community Infrastructure Levy**

so far as they are set out in Schedule 2 of this Part 3 of the Constitution (Council Functions) or are identified as Council functions in Schedule 1 of this Part 3 (Local Choice Functions): i.e. so far as they are not Executive functions.

3. The Committee shall not determine any application (or other matter) in a manner that would (in the opinion of the Executive Head of Business Services) not be in accordance with the adopted ~~and/or new~~ Torbay Local Plan ~~unless both those Officers recommend such determination and the determination is consistent with~~ **without the agreement of** the Executive Head's ~~recommendation~~.
4. If, ~~contrary to officer recommendation~~, the Committee consider that an application (or other matter) shall be determined not in accordance with the adopted ~~and/or~~ Torbay Local Plan then (unless their determination is consistent with the

recommendation of the Executive Head of Business Services **in the Officer Report**) the item shall be referred to Council for determination.

In respect of paragraph 5, three alternative proposals are proposed:

Option 1 – leave paragraph with the same meaning as currently, just providing greater clarification of the wording

5. The Committee shall not determine any ~~application (or other matter)~~ that relates to land owned, controlled or occupied by the Council ~~in a manner that is not in accordance with the recommendation~~ **unless it is in accordance with the recommendation of the Executive Head of Business Services set out in the Officer Report.** If the Committee consider that ~~the a an application (or other matter)~~ that relates to land owned controlled or occupied by the Council shall be ~~deferred or determined~~ **in a manner which is** not in accordance with the **Officer Recommendation of the Executive Head of Business Services, the Executive Head of Business Services shall may refer that matter to Council for consideration or determination with a recommendation from the Committee.**

Option 2 – as Option 1, but only relating to Council applications

5. The Committee shall not determine any **Council application** that relates to land owned, controlled or occupied by the Council **unless it is in accordance with** ~~without the agreement of the Executive Head of Business Services~~ **the recommendation set out in the Officer Report.** If the Committee consider that a **Council** application (or other matter) that relates to land owned controlled or occupied by the Council shall be ~~deferred or determined~~ in a manner which is not in accordance with the **Officer Recommendation of the Executive head Business Services, the Executive Head of Business Services shall may refer that matter to Council for consideration or determination with a recommendation from the Committee.**

This option allows the Committee to determine applications relating to Council owned land contrary to Officer recommendation but only where the application is not made by the Council. This option removes the requirement to refer a matter to Council, for instance, where it relates to land that is occupied by a third-party on a long lease.

Option 3 – removal of consideration by Committee of matters that relates to land owned, controlled or occupied by the Council

5. The Committee shall not determine any ~~application (or other matter)~~ that relates to land owned, controlled or occupied by the Council. ~~in a manner that is not in accordance with the recommendation of the Executive Head of Business Services. If the Committee consider that~~ **the an application (or other matter)** that relates to land owned, controlled or occupied by the Council shall be **deferred or determined in a manner which is** not in accordance with the recommendation of the Executive Head of Business Services, ~~The Executive Head of Business Services may refer that matter~~ **will be referred directly** to Council for consideration or determination. ~~with a recommendation from the Committee~~

Referring matters directly to Council may cause delays to schemes.

Option 4 – delete paragraph 5 altogether

- ~~5. The Committee shall not determine any application (or other matter) that relates to land owned, controlled or occupied by the Council in a manner that is not in accordance with the recommendation of the Executive Head of Business Services. If the Committee consider that an application (or other matter) that relates to land owned, controlled or occupied by the Council shall be deferred or determined not in accordance with the recommendation of the Executive Head of Business Services the Executive Head may refer that matter to Council for consideration or determination.~~

This option gives the power to make all planning decisions to the Committee.