

Council



Listening Learning Leading

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Date: 7 July 2021

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Summons to attend a meeting of Council

to be held on

THURSDAY 15 JULY 2021 AT 6.00 PM

at

FIRST FLOOR, 135 EASTERN AVENUE, MILTON PARK, MILTON, OX14 4SB

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MARGARET REED
Head of Legal and Democratic

Agenda

1 Apologies for absence

To record apologies for absence.

2 Minutes (Pages 6 - 16)

To adopt and sign as a correct record the Council minutes of the meeting held on 20 May 2021 - attached.

3 Declarations of disclosable pecuniary interest

To receive any declarations of disclosable pecuniary interests in respect of items on the agenda for this meeting.

4 Urgent business and chair's announcements

To receive notification of any matters which the chair determines should be considered as urgent business and the special circumstances which have made the matters urgent, and to receive any announcements from the chair.

5 Public participation

To receive any questions or statements from members of the public that have registered to speak.

6 Petitions

To receive any petitions from the public.

7 Review of planning application town and parish trigger arrangements for decision making (Pages 17 - 22)

To consider the report of the head of legal and democratic – attached.

8 Appointment of the council's monitoring officer, interim monitoring officer, electoral registration officer and returning officer (Pages 23 - 28)

To consider the report of the deputy chief executive – transformation and operations – attached.

9 Report of the leader of the council

To receive the report of the leader of the council.

10 Questions on notice

To receive questions from councillors in accordance with Council procedure rule 33.

- A. Question from Councillor Jane Murphy to Councillor Sue Cooper, Leader of the council

It is clear that the growing budget deficit cannot be bridged by income raising activity; to claim otherwise would be to mislead councillors and residents.

As the budget is a Council responsibility and not limited to the administration, will the Leader ask the Section 151 Officer to bring a report to Cabinet and Full Council on the full impact of all decisions taken?

- B. Question from Councillor Ken Arlett to Councillor Sue Cooper, Leader of the council

At the end of June an inspector granted planning permission on appeal. The reason given was that South Oxfordshire District Council only had 4.21 years of land supply instead of the minimum five years. South Oxfordshire District Council is suggesting that it has 5.33 years of land supply.

What was the land supply level at the time of the appeal? If the answer is over five years as has been suggested, what action will the Leader and district council planning officers be taking against the inspector's decision?

- C. Question from Councillor Stefan Gawrysiak to Councillor Anne-Marie Simpson, Cabinet member for planning

Recently "Bioabundance" have pursued three requests for permission to pursue a judicial review through the courts.

Can the Cabinet portfolio holder for planning please state:-

- a) The cost of these cases to the district councils
- b) The hours of officer's/legal time spent preparing the district council's defence

- D. Question from Councillor Celia Wilson to Councillor Sue Cooper, Leader of the council

Will you, as Leader of the council, support (and encourage others to support) the principle and process of achieving a Minor Injuries Unit (MIU) in Didcot, to serve people living in both the South Oxfordshire and Vale of White Horse parts of Didcot town and in the surrounding villages ?

If so, would your support include any or all of the following measures, or others:

- work cross-authority and cross-party to encourage South Oxfordshire District Council, Vale of White Horse District Council and Oxfordshire County Council to make it their policy to promote the proposal actively to Oxfordshire Clinical

Commissioning Group (OCCG)

- become active in pressing the OCCG to commit to providing Didcot MIU as a matter of urgency
- provide financial support and attendance at public meetings on the matter
- Be instrumental in introducing appropriate public transport to serve the Unit from the more difficult areas
- other financial and community involvement led by local councillors and organisations

11 Motions on notice

To consider motions from councillors in accordance with Council procedure rule 38.

- (1) Motion to be proposed by Councillor Tim Bearder, seconded by Councillor Andrea Powell:

This Council recognises that after four years of delays to the long-awaited environment bill we are still without crucial laws to restore nature and tackle climate change.

We are alarmed by the 68% decline in global wildlife populations since 1970 and feel we must take measures to act in the face of Conservative high population growth aspirations for the Oxford/Cambridge Arc.

We welcome plans to extend the Chilterns AONB but recognise that all our residents deserve access to nature.

With this in mind this Council agrees to support, in principle, the creation of new protected areas in Oxfordshire.

Some outline plans have already been devised by local groups, like plans in Otmoor, which have the widespread support of local people and parish councils.

These kinds of plans fit with the government's stated 25 Year Environment Plan commitments and its pledge to protect 30% of the UK's land by 2030.

To ensure we are 'spade ready' for any expressions of interest, Council asks the Leader to bring a paper to Cabinet on:

How the Council can take a lead in developing and promoting "regional parks" as part of Oxfordshire's nature recovery network through its partnerships, and with government agencies, investigating the most appropriate protections and designations to seek which are likely to attract funding.

- (2) Motion to be proposed by Councillor Sam Casey-Rerhaye, seconded by Councillor Pieter-Paul Barker

Council notes:

Councils are responsible for organising all elections in England. The recent Queen's Speech contained government proposals to require people to show identification including a photograph in order to vote in a General Election. Allegations of electoral registration or voter fraud are very rare in South Oxfordshire.

Council believes:

Voting at elections is the cornerstone of democracy at both local and national level.

Participation in elections should be encouraged in all those who are qualified regardless of age, ethnicity or income.

Unnecessary barriers to voting are likely to reduce voter participation in elections, proper representation of all parts of the community and so legitimacy of those elected to office.

Voter ID is a solution without a problem and as such insinuates barriers to voting which should be of great concern to anyone who supports an open and effective democratic system of government.

Council Resolves:

To oppose the introduction of photo ID as a requirement to vote at polling stations.

To request the Leader to write to the relevant minister indicating this opposition and the reasons why and requesting this measure is not included in any forthcoming Bill.

That should mandatory photo ID be passed into law, this council will investigate low-cost options for residents, bearing in mind the barriers outlined and focus efforts to promote the ID to those who are most likely to need it.

- (3) Motion to be proposed by Councillor Jane Murphy, seconded by Councillor Caroline Newton:

Council notes our CEO is an LGA Peer and has previously asked group leaders to support our Council being peer challenged.

Council supports him in this and recognizes the contribution that our officers have made to national best practice.

MARGARET REED

Head of Legal and Democratic



Minutes

OF THE ANNUAL MEETING OF

Council

HELD ON THURSDAY 20 MAY 2021 AT 6.00 PM

FIRST FLOOR, 135 EASTERN AVENUE, MILTON PARK, MILTON, OX14 4SB

Present:

David Bretherton (Chair - in the chair for the election of chair for the forthcoming municipal year)

Anna Badcock, Pieter-Paul Barker, David Bartholomew, Robin Bennett, Sam Casey-Rerhaye, Sue Cooper, Peter Dragonetti, Maggie Filipova-Rivers, Stefan Gawrysiak, Elizabeth Gillespie, Kate Gregory, Victoria Haval, Lorraine Hillier, Kellie Hinton, Mocky Khan, George Levy, Lynn Lloyd, Axel Macdonald, Jane Murphy, Caroline Newton, Andrea Powell, Leigh Rawlins, Jo Robb, Sue Roberts, David Rouane, Anne-Marie Simpson, Alan Thompson, David Turner, Andrea Warren, Ian White and Celia Wilson

Councillors in attendance remotely (not eligible to vote): Ken Arlett and Alexandrine Kantor

Apologies:

Tim Bearder and Ian Snowdon tendered apologies.

Officers: Steven Corrigan, Steve Culliford (in person). Margaret Reed and Mark Stone (remotely)

Prior to the meeting Councillor Bretherton provided general housekeeping notices and reminded those councillors attending the meeting remotely that they could participate in the meeting but would not be permitted to vote.

1 Election of chair

Councillor Robb was nominated as chair for the 2021/22 municipal year.

RESOLVED: to elect Councillor Robb as chair of the council for the 2021/22 municipal year, until the next annual meeting of the Council in May 2022.

Councillor Robb signed her declaration of acceptance of office and made an acceptance speech. She advised that her chosen charities are Home Start Southern Oxfordshire and Earth Trust.



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Councillor Robb in the chair.

2 Appointment of vice-chair

Councillor Turner was nominated as vice-chair for the 2021/22 municipal year.

RESOLVED: to appoint Councillor Turner as vice-chair of the council for the 2021/22 municipal year, until the next annual meeting of the Council in May 2022.

Councillor Turner signed his declaration of acceptance of office and gave an acceptance speech.

3 Minutes

RESOLVED: to approve the minutes of the meeting held on 25 March 2021 as a correct record and agree that the chair sign them as such.

4 Declarations of disclosable pecuniary interest

Councillor Cooper declared that she had been a member of the Ewelme Neighbourhood Plan Steering Group at the initial stages of the process and would not take part in the discussion or voting on agenda item 11.

Councillor Roberts declared that she had been involved in the initial preparation of the Wallingford Neighbourhood Plan and would not vote on agenda item 14.

Councillor Levy declared that he had campaigned for a Yes vote in the Wallingford Neighbourhood Plan referendum and would not take part in the discussion or vote on agenda item 14.

5 Urgent business and chair's announcements

The chair welcomed Councillors Tim Bearder and Andrea Warren to the council following their election at the by-elections held on 6 May 2021.

6 Public participation

No members of the public had registered to address Council.

7 Appointments to committees, panels and joint committees for 2021/22

Council considered the report of the head of legal and democratic on the appointment of those committees and joint committees which are required to be politically balanced; together with the Climate Ecological Emergencies Advisory Committee, Licensing Acts Committee, Community Grants Panel and appointments to joint bodies.

The chair referred to the following recommendation, circulated prior to the meeting, covering these appointments and to reflect the allocation of the vacant committee positions.

That for the 2021/22 municipal year Council

1. appoints the committees and panels for the 2021/22 year and allocate seats to each political group as set out in the schedule circulated prior to the meeting;
2. appoints councillors and substitutes to sit on the committees and panels as set out in the schedule circulated prior to the meeting;
3. agrees that the Liberal Democrat Group lose a seat on the Planning Committee reducing its total seat allocation on committees from 20 to 19;
4. appoints councillors to the Licensing Acts Committee as set out in the schedule circulated prior to the meeting;
5. appoints councillors to the Climate Ecological Emergencies Advisory Committee as set out in the schedule circulated prior to the meeting;
6. appoints councillors to the Community Grants Panel as set out in the schedule circulated prior to the meeting;
7. appoints chairs and vice-chairs as set out in the schedule circulated prior to the meeting;
8. appoints David Turner as the council’s representative and David Bretherton as substitute on the Oxfordshire Joint Health Overview and Scrutiny Committee;
9. appoints Sam Casey-Rerhaye as the council’s representative and Maggie Filipova-Rivers as substitute on the Thames Valley Police and Crime Panel;
10. appoints Peter Dragonetti, Victoria Haval and David Turner to the Oxfordshire Growth Board Scrutiny Panel;
11. authorises the head of legal and democratic to make appointments to any vacant committee or panel seat and substitute positions in accordance with the wishes of the relevant group leader.

RESOLVED: to

1. appoint the following committees and panels for the 2021/22 municipal year and to appoint the membership, substitutes and chairs and vice-chairs as indicated to sit on them (see table below);

Planning Committee, 11 Members					
Conservative (3)	Green (2)	Henley Residents (1)	Labour (1)	Liberal Democrat (3)	SORT (1)
Lorraine Hillier	Peter Dragonetti (Vice-Chair)	Ken Arlett	Axel Macdonald	Tim Bearder	Elizabeth Gillespie
Ian Snowdon	Jo Robb			David Bretherton (Chair)	

Planning Committee, 11 Members					
Conservative (3)	Green (2)	Henley Residents (1)	Labour (1)	Liberal Democrat (3)	SORT (1)
Alan Thompson				George Levy	
Preferred substitutes					
Conservative (3)	Green (3)	Henley Residents (2)	Labour (2)	Liberal Democrat (3)	SORT (1)
Jane Murphy	Sam Casey-Rerhaye	Stefan Gawrysiak	Mocky Khan	Victoria Haval	Sue Roberts
Caroline Newton		Kellie Hinton	Celia Wilson	David Turner	
Vacancy	Vacancy			Alexandrine Kantor	

Scrutiny Committee, 9 Members				
Conservative (3)	Green (1)	Henley Residents (1)	Labour (1)	Liberal Democrat (3)
Anna Badcock	Sam Casey-Rerhaye	Stefan Gawrysiak	Mocky Khan (Vice-Chair)	Alexandrine Kantor
David Bartholomew				George Levy
Ian White (Chair)				David Turner
Preferred substitutes				
Conservative (3)	Green (3)	Henley Residents (2)	Labour (2)	Liberal Democrat (3)
Lorraine Hillier	Peter Dragonetti	Ken Arlett	Axel Macdonald	Tim Bearder
Ian Snowdon	Jo Robb	Kellie Hinton	Celia Wilson	Victoria Haval
Alan Thompson				Kate Gregory

Joint Scrutiny Committee, 5 Members			
Conservative (1)	Green (1)	Henley Residents (1)	Liberal Democrat (2)
Ian White (Co-chair)	Sam Casey-Rerhaye	Stefan Gawrysiak	Kate Gregory

Joint Scrutiny Committee, 5 Members			
			David Turner
Preferred substitutes			
Conservative (3)	Green (3)	Henley Residents (2)	Liberal Democrat (3)
Anna Badcock	Peter Dragonetti	Ken Arlett	Alexandrine Kantor
Caroline Newton	Jo Robb	Kellie Hinton	Victoria Haval
Alan Thompson	Vacancy		George Levy

Joint Audit and Governance, 4 Members			
Conservative (1)	Green (1)	Labour (1)	Liberal Democrat (1)
Jane Murphy	Peter Dragonetti	Mocky Khan (Co-Chair)	George Levy
Preferred substitutes			
Conservative (3)	Green (3)	Labour (2)	Liberal Democrat (3)
David Bartholomew	Sam Casey-Rerhaye	Axel Macdonald	Victoria Haval
Alan Thompson	Jo Robb	Celia Wilson	Alexandrine Kantor
Ian White	Vacancy		David Turner

Community Governance and Electoral Issues Committee, 6 Members			
Conservative (2)	HRG (1)	Labour (1)	Liberal Democrat (2)
David Bartholomew	Ken Arlett	Mocky Khan	Maggie Filipova-Rivers
Lynn Lloyd (Chair)			David Turner
Preferred substitutes			
Conservative (3)	HRG (2)	Labour (2)	Liberal Democrat (3)
Anna Badcock	Stefan Gawrysiak	Axel Macdonald	Peter-Paul Barker
Lorraine Hillier	Kellie Hinton	Celia Wilson	Sue Cooper
Ian Snowdon			George Levy

Joint Staff Committee, 3 Members	
Conservative (1)	Liberal Democrat (2)
Jane Murphy	Sue Cooper

Joint Staff Committee, 3 Members	
	Maggie Filipova-Rivers
Substitutes	
The Leader may be substituted by another Cabinet member. Other members of the committee may be substituted by any other member of the council.	

General Licensing Committee, 12 Members					
Conservative (3)	Green (2)	Henley Residents (1)	Labour (1)	Liberal Democrat (4)	SORT (1)
Lorraine Hillier	Peter Dragonetti	Kellie Hinton (Chair)	Axel Macdonald	Victoria Haval (Vice-Chair)	Elizabeth Gillespie
Ian Snowdon	Jo Robb			Alexandrine Kantor	
Andrea Warren				Leigh Rawlins	
				Anne-Marie Simpson	
No substitutes					

Licensing Acts Committee, 12 Members					
Conservative (3)	Green (2)	Henley Residents (1)	Labour (1)	Liberal Democrat (4)	SORT (1)
Lorraine Hillier	Peter Dragonetti	Kellie Hinton (Chair)	Axel Macdonald	Victoria Haval (Vice-Chair)	Elizabeth Gillespie
Ian Snowdon	Jo Robb			Alexandrine Kantor	
Andrea Warren				Leigh Rawlins	
				Anne-Marie Simpson	
No substitutes					

Appeals Panel, 5 Members			
Conservative (1)	Green (1)	Liberal Democrat (2)	SORT (1)
Lorraine Hillier	Peter Dragonetti	Victoria Haval	Vacancy
		Anne-Marie Simpson	

Appeals Panel, 5 Members			
Preferred substitutes			
Conservative (3)	Green (3)	Liberal Democrat (3)	SORT (2)
Lynn Lloyd	Sam Casey-Rerhaye	Kate Gregory	Vacancy
Caroline Newton	Vacancy	George Levy	
Ian Snowdon	Vacancy	Alexandrine Kantor	

Community Grants Panel, 9 Members				
Conservative (3)	Green (1)	Henley Residents (1)	Labour (1)	Liberal Democrat (3)
Lynn Lloyd	Jo Robb	Kellie Hinton	Axel Macdonald	Kate Gregory
Ian Snowdon				George Levy (Chair)
Andrea Warren				Victoria Haval
Substitutes				
Conservative (3)	Green (3)	Henley Residents (2)	Labour (2)	Liberal Democrat (3)
Lorraine Hillier	Sam Casey-Rerhaye	Ken Arlett	Mocky Khan	David Bretherton
Caroline Newton	Peter Dragonetti	Stefan Gawrysiak	Celia Wilson	David Turner
Alan Thompson	Vacancy			Alexandrine Kantor

Names	Climate Ecological Emergencies Advisory Committee, 12 Members				
Conservative (3)	Greens (2)	Henley Residents (1)	Labour (1)	Liberal Democrat (4)	SORT (1)
Lynn Lloyd	Sam Casey-Rerhaye (Chair)	Stefan Gawrysiak	Celia Wilson (Vice-Chair)	Sue Cooper	Sue Roberts
Jane Murphy	Andrea Powell			Kate Gregory	

Names	Climate Ecological Emergencies Advisory Committee, 12 Members				
Conservative (3)	Greens (2)	Henley Residents (1)	Labour (1)	Liberal Democrat (4)	SORT (1)
Caroline Newton				Leigh Rawlins	
				David Rouane	
PREFERRED SUBSTITUTES					
Conservative (3)	Greens (3)	Henley Residents (2)	Labour (2)	Liberal Democrat (4)	SORT (1)
Lorraine Hillier	Robin Bennett	Ken Arlett	Mocky Khan	Anne-Marie Simpson	Elizabeth Gillespie
Alan Thompson	Jo Robb	Kellie Hinton	Axel Macdonald	Alexandrine Kantor	
Vacancy	Vacancy			Victoria Haval	
				Maggie Filipova Rivers	

2. (with no councillor voting against) agree that the Liberal Democrat Group lose a seat on the Planning Committee reducing its total seat allocation on committees from 20 to 19;
3. appoint David Turner as the council’s representative and David Bretherton as substitute on the Oxfordshire Joint Health Overview and Scrutiny Committee;
4. appoint Sam Casey-Rerhaye as the council’s representative and Maggie Filipova-Rivers as substitute on the Thames Valley Police and Crime Panel;
5. appoint Peter Dragonetti, Victoria Haval and David Turner to the Oxfordshire Growth Board Scrutiny Panel;
6. authorise the head of legal and democratic to make appointments to any vacant committee or panel seat and substitute positions in accordance with the wishes of the relevant group leader.

8 Chinnor Neighbourhood Plan

Council considered the recommendation of Councillor Simpson, Cabinet member for planning, made on 10 May 2021, to make the Chinnor Neighbourhood Development Plan part of the development plan for South Oxfordshire.

RESOLVED:

1. To make the Chinnor Neighbourhood Development Plan so that it continues to be part of the council’s development plan.
2. To authorise the head of planning, in consultation with the appropriate Cabinet member and in agreement with the Qualifying Body, the correction

of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

9 Cuddesdon and Denton Neighbourhood Plan

Council considered the recommendation of Councillor Simpson, Cabinet member for planning, made on 10 May 2021, to make the Cuddesdon and Denton Neighbourhood Development Plan part of the development plan for South Oxfordshire.

RESOLVED:

1. To make the Cuddesdon and Denton Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To authorise the head of planning, in consultation with the appropriate Cabinet member and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

10 Ewelme Neighbourhood Plan

Councillor Cooper took no part in the discussion or vote on this item – see minute 3.

Council considered the recommendation of Councillor Simpson, Cabinet member for planning, made on 10 May 2021, to make the Ewelme Neighbourhood Development Plan part of the development plan for South Oxfordshire.

RESOLVED:

3. To make the Ewelme Neighbourhood Development Plan so that it continues to be part of the council's development plan.
4. To authorise the head of planning, in consultation with the appropriate Cabinet member and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

11 Sydenham Neighbourhood Plan

Council considered the recommendation of Councillor Simpson, Cabinet member for planning, made on 10 May 2021, to make the Sydenham Neighbourhood Development Plan part of the development plan for South Oxfordshire.

RESOLVED:

1. To make the Sydenham Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To authorise the head of planning, in consultation with the appropriate Cabinet member and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with

any improvements from a presentational perspective.

12 Tetsworth Neighbourhood Plan

Council considered the recommendation of Councillor Simpson, Cabinet member for planning, made on 10 May 2021, to make the Tetsworth Neighbourhood Development Plan part of the development plan for South Oxfordshire.

RESOLVED:

1. To make the Tetsworth Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To authorise the head of planning, in consultation with the appropriate Cabinet member and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

13 Wallingford Neighbourhood Plan

Councillor Roberts took no part in the vote on this item – minute 3 refers.
Councillor Levy took no part in the discussion or vote on this item – see minute 3.

Council considered the recommendation of Councillor Simpson, Cabinet member for planning, made on 10 May 2021, to make the Wallingford Neighbourhood Development Plan part of the development plan for South Oxfordshire.

RESOLVED:

1. To make the Wallingford Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To authorise the head of planning, in consultation with the appropriate Cabinet member and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with any improvements from a presentational perspective.

14 Wheatley Neighbourhood Plan

Council considered the recommendation of Councillor Simpson, Cabinet member for planning, made on 12 May 2021, to make the Wheatley Neighbourhood Development Plan part of the development plan for South Oxfordshire.

RESOLVED:

1. To make the Wheatley Neighbourhood Development Plan so that it continues to be part of the council's development plan.
2. To authorise the head of planning, in consultation with the appropriate Cabinet member and in agreement with the Qualifying Body, the correction of any spelling, grammatical, typographical or factual errors together with

any improvements from a presentational perspective.

15 Coronavirus Regulations delegation

On 18 May 2020, the chief executive, under emergency powers authorised the head of housing and environment to enforce any requirements imposed by the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and any regulations replacing, amending or supplementing them. This delegation applied until 6 May 2021.

Council was invited to authorise the head of housing and environment to exercise the council's powers and duties under any legislation relating to the control of Coronavirus, including taking enforcement action, service of notices, inspections, powers of entry, and the appointment of inspectors and to authorise the head of legal and democratic to include this delegation in the constitution.

RESOLVED: to

1. authorise the head of housing and environment to exercise the council's powers and duties under any legislation relating to the control of Coronavirus, including taking enforcement action, service of notices, inspections, powers of entry, and the appointment of inspectors;
2. authorise the head of legal and democratic to include this delegation in the constitution.

16 Report of the leader of the council

Councillor Cooper, Leader of the council, provided an update on a number of matters. The text of her address is available on the council's [website](#).

Council noted the details of an urgent decision taken by Councillor Cooper, Leader of the council, to approve arrangements for the council to administer Contain Outbreak Management Fund (COMF) grant funding to implement measures to support proactive containment and intervention to reduce Covid-19 outbreaks and the spread of infection. Council also noted an urgent decision taken by Councillor Rawlins, Cabinet member for finance, to approve South Oxfordshire District Council's Additional Restrictions Grant Scheme – Round 3.

17 Minutes

RESOLVED: to approve the confidential minutes of the meeting held on 25 March 2021 as a correct record and agree that the chair sign them as such.

The meeting closed at 7.05pm

Chair

Date

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Council



Report of Head of legal and democratic

Author: Margaret Reed

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Cabinet members responsible:

Pieter-Paul Barker (Cabinet member for legal and democratic)

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To: COUNCIL

DATE: 15 July 2021

Review of planning application town and parish trigger arrangements for decision making

Recommendations

That Council

(a) makes permanent the temporary change in town and parish trigger arrangements (trigger for major applications but no trigger for minor applications as described in paragraph 7 of this report), with effect from the date of this meeting;

(b) authorises the head of legal and democratic to make the necessary changes to the Constitution and to make any minor or consequential amendments to the Constitution and the rules for consistency and to reflect the council's style guide.

Purpose of Report

1. The purpose of this report is to ask Council to review the town and parish trigger arrangements in the scheme of delegation to the head of planning.

Strategic Objectives

2. The Constitution underpins all of the council's functions but clear planning procedures contribute to the corporate plan theme of openness and accountability.

Background

3. On 18 May 2020 the chief executive, under emergency powers, agreed temporary changes to the delegations to the head of planning to allow alternative arrangements for the determination of applications that would ordinarily be determined by the council's planning committee. The views of all group leaders were sought by Democratic Services on 15 May 2020 after the views of the Leader and Cabinet Member for Planning had been informally sought.
4. These changes were brought in as a response to the challenges presented by the pandemic to reduce the number of applications referred to committee whilst strengthening the links between council planning officers, ward councillors and town and parish councils. It was agreed that the temporary changes would be reviewed after six months but at its meeting on 16 July 2020 Council asked for them to be reviewed at its October meeting.
5. At the time this decision was taken, the government's Chief Planner and MHCLG both emphasised the importance of keeping the planning system moving, so it could play its part in supporting the economic recovery. They suggested prioritising decision making, taking an innovative approach using all options available including the use of technology to continue the service and ensuring discussions and consultations could go ahead. MHCLG advised "The government would also encourage local planning authorities to consider delegating committee decisions where appropriate."
6. The chief executive agreed several temporary changes to the constitution which allowed increased delegation to the head of planning, including changes to the town and parish trigger arrangements which are the subject of this report.
7. In respect of the determination of planning applications, minor applications (e.g. 1-9 new houses) would no longer automatically be triggered and referred to the planning committee where the officer's recommendation for approval/consent was in direct conflict with the clear and unambiguous views of the town or parish council. However, for all major applications (e.g. 10 houses plus) there was no change and if there is a town or parish council objection on an application where the officer recommends approval the application continues to go to the planning committee. There would continue to be a mechanism for the local ward councillor to call in applications to the planning committee, based on material planning reasons.

8. Council agreed that a further report on the operation of call-in and trigger procedures relating to planning matters would be brought to Council no later than the end of October 2020, with the aim of introducing a revised long term scheme of delegation regarding call in and triggers at that time, or as soon as possible thereafter.

9. At its meeting on 8 October 2020, Council reviewed the temporary arrangements and resolved to:

1. agree, with effect from the date of this meeting, to extend the temporary change in town or parish trigger arrangements agreed by the chief executive under emergency powers on 18 May 2020 so that minor applications (e.g. 1-9 new houses) continue not to be automatically triggered and referred to the Planning Committee where the officer's recommendation for approval/consent is in direct conflict with the clear and unambiguous views of the town or parish council;

2. agree to further review the operation of these town or parish trigger arrangements at a Council meeting by no later than 31 July 2021; these trigger arrangements will automatically lapse unless full Council votes to renew them at the review;

Council also authorised the head of legal and democratic to make the necessary changes to the Constitution and to make any minor or consequential amendments to the Constitution and the rules for consistency and to reflect the council's style guide.

10. In moving the motion at the October Council meeting, Councillor Anne-Marie Simpson stated that there was an increasing number of planning applications waiting to be considered by the planning committee and therefore the temporary change in town and parish trigger arrangements needed to continue to help reduce a building backlog of applications waiting for a committee decision. The motion sought to simplify the ward councillor call-in arrangements with the removal of the previous consultation arrangements with the head of planning and chair and vice chair of the planning committee. Ward councillors would now have an automatic right to refer an application to the planning committee thus recognising the local community leadership role of ward councillors.

11. Some councillors expressed the view that it was important to restore the local democratic right of parish/town councils to have such applications considered by the planning committee. However, the majority of councillors supported the view that going back to the old scheme at that time would mean more planning committee meetings with their associated costs and with slow progress on committee decisions there was an increased risk of planning appeals for non-determination. The motion provided for the call in of applications to the committee by ward councillors who should liaise with their parish/town councils in respect of any concerns they have with particular applications.

Operation of the temporary arrangements

Parish and town trigger arrangements

12. Following the introduction and temporary retention of the changes to the parish council trigger arrangements in May and July 2020, officers, ward councillors, the Cabinet member for Planning and the Oxfordshire Association of Local Councils received a number of representations from town and parish councils who were against the changes and felt that they were undemocratic.

13. Balanced against this, the head of planning has assessed the impact of the changes on decision-making. Whilst the current temporary arrangements have kept the number of applications being referred to the Planning Committee to a more manageable level there are still a comparatively high number of applications (as at June) waiting to be scheduled for a meeting. These 34 applications comprise a mixture of ward councillor call-ins (20 applications), conflict with the views of the town or parish on major applications (9 applications) and 5 applications referred at the discretion of the planning development manager.

14. Since the decision of 8 October 2020:

- 54 applications have been considered over 14 Planning Committee meetings
- Of the 54 applications that have been determined by the Committee since 8 October 2020, 12 were overturns (11 refusals and one approval). 78% of the decisions made were in accordance with the officer's recommendation.
- 45 delegated planning decisions have been made under the new arrangements which would have otherwise been referred to the Planning Committee.
- Had the 45 delegated decisions been reported to the Planning Committee, this would have resulted in an estimated 11 additional Planning Committee meetings over nine months (since October 2020), equivalent to a 78% increase of meetings over that period.

15. As part of the new temporary arrangements, officers have increased the level of engagement with town and parish councils and ward councillors, explaining the application proposals and their assessment, copying in ward councillors. In the main this has been a positive experience by town and parish councils and resulted in some revised views, but many tended to reaffirm their objections, contrary to officer recommendation. A few parishes continue to express disappointment to officers that their democratic views are being challenged.

16. Officers have seen more ward councillor call-ins than before the changes were made, as town and parish councils ask their ward councillor to refer the application to committee which would have automatically been referred under the previous system.

17. It is worth noting, of those 54 applications referred to the Planning Committee since October 2020, 83% (45) had a town or parish council objection, however, 78% of the applications were determined in accordance with the officer's recommendation for approval.

18. Although many towns and parishes have expressed a view that the trigger and determination process at the planning committee represents a democratic judgement, this view fundamentally misunderstands how the planning system, administered by the council, works, as the planning committee is not offering political interpretation or political determination but is required to apply planning policy in accordance with planning law as a regulatory committee.
19. Even with the current temporary arrangement we have 34 applications (as at June) that will need to be referred to the planning committee. Based on the current average of four applications per committee meeting, officers will need at least eight meetings to deal with the current workload, potentially needing two planning committees a month for at least the next three months. We also have new applications (town and parish objections to major applications/councillor call-ins) consistently adding to the committee case work.
20. If we return to the previous scheme of delegation where both major and minor applications can be triggered by a town or parish objection, (based on our workload since Oct 2020) we estimate that this would add around five applications a month to those needing to be scheduled for a planning committee meeting. In turn that would require an additional planning committee meeting a month (totalling three planning committee meetings per month) with their associated costs, resource implications to service the meetings and slowing down of the decision making process. Officers believe applicants and agents will get more frustrated, meaning we would have a higher risk of planning appeals for non-determination, where the decision is taken away from the elected councillors. We already have a comparatively high number of planning appeals. This would have an impact on our performance as a council under the housing delivery test, which is measured by Government and can trigger Special Measures (government intervention) which we have seen happen elsewhere in the country.
21. Council is recommended to make permanent the temporary change in town and parish council trigger arrangements agreed by the chief executive under emergency powers on 18 May 2020 and extended by Council on 8 October 2020 (i.e. no trigger for minor applications as described in paragraph 7 of this report) with effect from the date of this meeting.

Financial Implications

22. There are no immediate direct financial implications arising from this report. However, the number of applications referred to the planning committee has a direct impact on planning and democratic services staffing resources and may lead to requests for additional resources if additional volumes arise.

Legal implications

23. The chief executive acting under his emergency powers and Council in July and October 2020 agreed temporary changes to the scheme of delegation to the head of planning and Council is recommended to make these permanent. It should be noted that these trigger arrangements will automatically lapse after this meeting unless Council votes to renew them (by further extension or on a permanent basis) at this review.

Risks

24. The council needs to have efficient and effective arrangements and delegations in place to ensure timely determination of planning applications. Failure to do so could attract intervention by the Secretary of State for Communities and Local Government who refused to grant a request for a temporary relaxation of statutory targets and the five year land supply requirement to avoid a return to speculative development across the district. Council must balance this need against the desire expressed by a number of town and parish councils to have an automatic right to trigger or call applications into the planning committee and the need for transparency and democratic process.

Climate and Ecological Emergencies Implications

25. Key climate policies including DES 10 relate to all new build residential developments and will therefore cover minor applications. It is therefore expected that such planning decisions will ensure that climate policies are implemented. Increased engagement with town and parish councils will give an opportunity for planning officers to communicate how new climate policies have influenced decisions. Efficient determination of planning applications will facilitate the delivery of any climate and ecological benefits that may arise from permissions granted.

Conclusion

26. Council is recommended to make permanent the current temporary town and parish trigger arrangements (trigger for major applications but no trigger for minor applications as described in paragraph 7 of this report), with effect from the date of this meeting and to authorise the head of legal and democratic to make the necessary changes to the Constitution.

Background Papers

- Decision taken by the chief executive under emergency powers dated 18 May 2020
- Decisions of Council on 16 July 2020 (Minutes 88 and 91 (Motion D))
- Decision of Council on 8 October 2020 (Minute 104)

Council



Report of Deputy Chief Executive – Transformation and Operations

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To: VALE COUNCIL

To: SOUTH COUNCIL

DATE: 14 July 2021

DATE: 15 July 2021

Appointment of the council's monitoring officer, interim monitoring officer, electoral registration officer and returning officer

Recommendations

That Council

- (a) appoints Catherine Whitehead as the council's monitoring officer with effect from her taking up her role as the councils' head of legal and democratic;
- (b) appoints Steven Corrigan, Democratic Services Manager, as the council's monitoring officer, on an interim basis, with effect from 16 July 2021 until Catherine Whitehead becomes monitoring officer when she takes up her role;
- (c) in terms of the Representation of the People Act 1983 and all related legislation, appoints Mark Stone as the council's electoral registration officer with effect from 16 July 2021 and agrees to continue the designation of Steven Corrigan as deputy electoral registration officer;
- (d) that in terms of section 35 of the Representation of the People Act 1983 and all related legislation appoints Mark Stone as the council's returning officer with effect from 16 July 2021, with authority to act in that capacity for elections to the council and all or any parish and town councils within the council's area;
- (e) authorises the council's electoral registration officer to act in respect of all related electoral, poll or referendum duties, including in relation to county council elections, and national, regional and local polls or referendums;
- (f) agrees that in relation to the conduct of local authority elections and polls, and elections to the United Kingdom Parliament, and all other electoral duties where the council is entitled by law to do so, the council shall take out and maintain in force insurance indemnifying the council and the returning officer against legal expenses reasonably incurred in connection with the defence of any proceedings brought against the council or the returning officer and/or the cost of holding another election in the event of the original election being declared invalid (provided that such proceedings or invalidation are the result of the accidental contravention of the Representation of the People Acts or other legislation governing the electoral process, or accidental breach of any ministerial or other duty by the returning officer or any other person employed by or officially acting for him in connection with the election or poll);
- (g) agrees that in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the council will indemnify the returning officer up to the value of such excess.
- (h) authorises the monitoring officer to make any consequential changes required to the Constitution to reflect these changes.

Purpose of report

1. This report recommends Council to appoint a monitoring officer, an interim monitoring officer, an electoral registration and a returning officer.

Corporate objectives

2. This report relates to the discharge of statutory responsibilities which contribute to all the corporate objectives of the two councils.

Background

3. As recognised at the recent Joint Staff Committee meeting, both councils need to appoint a new monitoring officer, electoral registration officer and returning officer to come into effect immediately in anticipation of the retirement of the councils' current holder of these appointments.

Appointment of monitoring officer

4. Under section 5 of the Local Government and Housing Act 1989, Council is required to appoint one of its officers as its monitoring officer. The monitoring officer is a shared role and the postholder works across both councils. The role of the monitoring officer includes such responsibilities as ensuring the lawfulness and fairness of the council's decision making; promoting and maintaining high standards of conduct; reporting to Council on any instances of maladministration; and reviewing the councils' Constitution on an ongoing basis.
5. Following a recruitment process, the Joint Staff Committee at its meeting on 10 June 2021 agreed to appoint Catherine Whitehead as the new head of legal and democratic. As required by the councils' officer employment procedure rules and the Local Authorities (Standing Orders) (England) Regulations 2001, all members of the cabinets were informed of the decision to appoint and given an opportunity to raise any objections. No objections were raised.
6. The job role for the head of legal and democratic includes, subject to full Council approval, the statutory function of monitoring officer for both councils. The Joint Staff Committee agreed to recommend Vale Council on 14 July 2021 and South Council on 15 July 2021 to appoint the successful candidate as the councils' monitoring officer.
7. It is therefore recommended that Council formally appoints Catherine Whitehead as monitoring officer with effect from her taking up her role as the councils' head of legal and democratic. Catherine has extensive experience across local government, including previously as a monitoring officer and was appointed after an extensive recruitment search and competitive interview process led by the Joint Staff Committee.
8. It is anticipated that Catherine will take up her role in mid-late September. Council therefore needs to appoint an interim monitoring officer until then. Council is recommended to appoint Steven Corrigan, Democratic Services Manager, as the council's monitoring officer, on an interim basis, with effect from 16 July 2021 until Catherine Whitehead becomes monitoring officer when she takes up her role. Steven has acted as a deputy monitoring officer for many years and has agreed to take on this interim role.

Appointment of electoral registration and returning officer

9. In order to be able to vote in elections, a person's name must be included in a register of electors. Responsibility for compiling the register of electors lies with the electoral registration officer. Section 8 of the Representation of the People Act 1983 requires every district council to appoint an officer of the council to be electoral registration officer.

10. The electoral registration officer has a duty to maintain registers of electors that contain the details of all those who are registered to vote. The electoral registration officer must publish registers that are as accurate and complete as possible. The councils must provide the electoral registration officer with the resources they need to discharge their statutory functions.
11. The councils can approve the appointment of one or more deputy electoral registration officers. Unlike a returning officer, the electoral registration officer cannot appoint a deputy themselves, unless the power to do so has been delegated to them by the council. In 2017, the councils appointed Steven Corrigan as the deputy electoral registration officer and it is recommended that he continues in this role.
12. Section 35 of the Representation of the People Act 1983 requires every district council to appoint a returning officer for district and parish council elections. The role is to ensure that the elections are administered effectively and that, as a result, the experience of voters and those standing for election is a positive one.
13. The returning officer is personally responsible for the administration of the local government election including: nominations, the provision of polling stations, the appointment of presiding officers and poll clerks, management of the postal voting process and the verification and counting of votes.
14. The duties of a returning officer are separate from the duties held by that individual as a local government officer. A returning officer is not responsible to the councils but is a separate legal entity to that of the council which appointed them and is directly accountable to the courts as an independent statutory office holder.
15. Returning officers should have a working knowledge of the relevant legislation governing the conduct of the elections. This means that, in addition to having a clear understanding of the statutory functions, they should have an overview of what the legislation contains and an understanding of how it affects the administration of the elections, so that they can review, question where necessary, and quality-assure the whole process in their council area.
16. The roles of electoral registration officer and returning officer are currently held by the head of legal and democratic in each council but the most common (but not universal) practice across the country is for the roles to be held by the chief executive. Although the law allows a council to appoint different people to the roles of electoral registration officer and returning officer, it is beneficial for both roles to be undertaken by the same person because of the close interaction between the two roles and the reliance on the same staffing resources from an operational perspective.
17. Like most chief executives, Mark Stone has worked closely with electoral registration and election teams throughout his career and has undertaken various roles within the administration of elections. Within a South and Vale context, during the electoral period, he is involved in many aspects of the elections due to his role as Chief Executive and the extensive reliance placed on the goodwill and willingness of council staff in their delivery. He has supported the current postholder in their duties, including during elections counts and has engaged with and spoken to relevant electoral agents and candidates on their behalf.

18. Council is asked to appoint Mark Stone as the council's electoral registration officer with effect from 16 July 2021 and to agree that Steven Corrigan, Democratic Services Manager, continues to be the council's deputy electoral registration officer.
19. Council is also asked to appoint Mark Stone as the council's returning officer with effect from 16 July 2021. The appointments of any deputy returning officers are made by the returning officer and not a matter for Council.
20. Council is asked to note that given his role as Chief Executive, Mark Stone does not intend to receive the normal additional payments for these responsibilities and instead would wish that the sums that are normally payable to the postholder continue to be shared with deputy returning officers and/or are used to support the costs of additional staff and workloads across the councils in supporting this role.

Climate and ecological impact implications

21. There are no direct climate and ecological impact implications arising from this report.

Financial Implications

22. Both councils have agreed scales of fees and charges for local elections, referendums and polls and these are due for review before the council elections in 2023. There are statutory fee scales for national elections and referendums.
23. The council holds appropriate insurance cover for elections. As the returning officer is not acting as agent of the councils at elections, it could be construed that liability for any excess will be personal to the returning officer. However, it is suggested that in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the councils will indemnify the returning officer up to the value of such excess. This would be met from the council's contingency budget. The recommendations cover the personal liability and insurance position

Legal Implications

24. Appointing a permanent and interim monitoring officer will fulfil the councils' duty under section 5 of the Local Government and Housing Act 1989.
25. Appointing an electoral registration officer and a returning officer will fulfil the councils' duties under sections 8 and 35 of the Representation of the People Act 1983.
26. The councils have power to agree to indemnify the returning officer up to the value of any excess on their insurance for elections, polls and referendums.

Risks

27. The council has a statutory duty to appoint a monitoring officer, an electoral registration officer and a returning officer. Making the appointments suggested in this report, including the interim appointment, will ensure that the council meets these duties throughout. The Electoral Commission will be informed of the change in the council's electoral registration and returning officer.

Conclusion

28. This report asks Council to appoint a new monitoring officer, an interim monitoring officer, a new electoral registration officer, to continue the appointment of the current deputy electoral registration officer and to appoint a new returning officer. It also asks Council to agree the insurance and indemnity arrangements

Background Papers

- None