

Subject:	Constitution Review		Status:	For Publication	
Report to:	Development Control Governance Working Group Council		Date:	24 th February 2015 5 th March 2015 18 th March 2015	
Report of:	Monitoring Officer		Portfolio Holder:	Customers, Legal and Licensing	
Key Decision:	No - reserved for Council	Forward Plan <input checked="" type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>	
Equality Impact Assessment:		Required:	No	Attached:	No
Biodiversity Impact Assessment		Required:	No	Attached:	No
Contact Officer:	Carolyn Sharples		Telephone:	01706 252422	
Email:	carolynsharples@rossendalebc.gov.uk				

1.	RECOMMENDATIONS
1.1	<p>That Council agrees to amend the Constitution as follows:</p> <ul style="list-style-type: none"> Amend the voting procedure for Development Control (with effect from May 2015 onwards). Include the voting procedure in the information available to members of the public attending Development Control Committee, which is available in the Council's Constitution (Article 3 Citizens and the Council).

2. PURPOSE OF REPORT

- 2.1 To consider changes to the Constitution as detailed in Appendix A with regards to voting procedures at Development Control Committee. To strengthen the decision making process and reduce risk of legal challenge.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following of the Council's corporate priorities:
- Responsive Value for Money Services: This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation in this report involve risk considerations as set out below:
- Failure to maintain and follow an up-to-date Constitution risks legal proceedings being taken against the Council, and risks members of the community being dissatisfied with the action of the Council.

5. BACKGROUND AND OPTIONS

Part 2 Article 3 Citizens and the Council

Voting procedure at Development Control Committee

- 5.1 Voting procedures for the Development Control Committee are not included within the Council's Constitution, therefore the general procedures for voting at committees apply.

- 5.2 If an application is voted on the chairperson clarifies to those present what the outcome will be if the motion is approved or lost. However, this can cause confusion for members of the public, particularly if any amendments are tabled.

In addition, this procedure does not always allow reasons for refusal, or reasons for any additional conditions to be stated, which can leave the Council open to legal challenge.

- 5.3 Amending the voting procedure for the Development Control Committee will allow members of the public a better understanding of what is being approved at the committee, because only a majority vote will carry a motion, otherwise members will revisit the officers recommendation and move and second a new motion (until there is approval by a majority).
- 5.4 This will provide clarity on the Council’s adopted procedures, and reduce the risk of legal challenge.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

- 6.1 There are no material financial implications arising from the report.

7. MONITORING OFFICER

- 7.1 All legal implications are commented upon in the body of the report.

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

- 8.1 Consultation with Statutory Officers, Legal Officers, Committee and Member Services, Development Control Committee and the Governance Working Group.
- 8.2 On 24th February the Development Control Committee recommended Council to agree the Constitution changes with an amendment to the section entitled “Details of Meetings.” The words “in Rawtenstall” needed to be removed from the reference to the One Stop Shop.
- 8.3 On 5th March the Governance Working Group recommended Council to agree the changes to the Constitution (as amended by the Development Control Committee).

9. CONCLUSION

- 9.1 The Council is required by law to implement a Constitution and it is in the interests of the Council to regularly review and update the document.

Background Papers

Document	Place of Inspection
The Constitution of the Council	www.rossendale.gov.uk/constitution

Part 2 Pages 12 - 14

Development Control Committee Public Speaking and Voting Procedures

YOUR RIGHT TO SPEAK AT THE DEVELOPMENT CONTROL COMMITTEE

This procedure explains how the Council's Development Control Committee works and how you can have your say upon an application of concern to you.

The Committee has to make decisions in the public interest and upon the merits of each application individually, upon the basis of what is relevant in the Development Plan and "any other material considerations". All representations made in writing will be taken into account in the written report, but this is another opportunity for you to make your views known.

A leaflet which summarises the procedure is available on the Council web site or from Committee and Member Services. Please email democracy@rossendalebc.gov.uk or telephone 01706 252423.

DETAILS OF MEETINGS

Meetings of the Development Control Committee are usually held in the Council Chamber and usually start at 6.30pm. Details of meeting dates, times and venues are publicised on the Council's website at www.rossendale.gov.uk/meetings, and outside the One Stop Shop ~~in Rawtenstall~~, or they can be obtained from ~~the~~ Committee and Member Services (see 'Contact Details').

AGENDA PAPERS

Agendas are usually published on the Council's website 5 clear days before the meeting. For example, if a meeting is on a Wednesday the agenda is published on the preceding Tuesday evening. Public copies of the agenda are available at the meeting. Please contact Committee and Member Services if you require information before the meeting or a copy of the agenda.

BEFORE THE MEETING

Please inform Committee and Member Services (see contact details) by no later than 12 noon on the day of the Committee if you wish to speak on an application (one in favour and one against). It is recommended that you arrive about 10-15 minutes before the meeting. If several people are objecting to an application, we will ask them to agree amongst themselves who will speak upon their behalf. If no agreement can be reached then the first party to have 'registered' a wish to speak will be chosen.

THE PROCEDURE FOR SPEAKING ON AN APPLICATION

The Planning Manager or Planning Officer will briefly identify, introduce and describe the application and refer to any new issues raised since the report was published.

The objector or a representative of all objectors will then address the Committee for up to a maximum of three minutes.

Members of the Committee may then, if necessary, through the Chair, question the objector to clarify any points, or issues already raised by the objector.

The applicants/supporters or their representative (if present) will then address the Committee for up to a maximum of three minutes.

Members of the Committee may then, if necessary, through the Chair, question the applicant/supporters to clarify any points, or issues already raised by the applicant/supporter.

The Planning Manager will then bring any necessary information, in addition to that contained in the report to the Committee's attention.

“Any elected member who is not a member of the committee may, by prior agreement with the chair, address the committee for a maximum of 5 minutes on each application that is within their ward. A member of another ward may be permitted to speak at the discretion of the chair.”

The members of the Committee only then debate and decide upon the application. The public cannot take part in this debate and decision making.

After hearing the Committee's decision you are welcome to stay and listen to the discussion about other applications but if you wish to leave please do so as discreetly as possible so as not to unduly disturb and delay the Committee and other parties who may well be attempting to consider later applications.

VOTING PROCEDURES

For planning applications, each report on the agenda will contain an officer recommendation for committee members to consider when making their decision.

Elected members must move and second a proposal (motion) before a vote can be taken. If the motion is not consistent with the officer's recommendation, the reason for approval with any conditions, or reasons for any refusal need to be declared.

The motion can be to:

- Approve an application (including any conditions).
- Refuse an application (including reasons for refusal).
- Delegate an application for officer approval/refusal (or for officer approval/refusal in consultation with the chair of the committee).
- Defer an application (reasons to be given for deferrals).

If the vote fails to attract a majority (including if the chair's casting vote/second vote is used), the motion is lost. (This does not mean that the opposite of the motion is approved by default).

If the motion is lost, members will revisit the application, continue the debate (if required) and move and second another proposal to be voted on.

A decision will only be carried where there has been a majority vote.

In line with normal committee procedures, motions will be taken in the order they are proposed at the meeting, and normal committee procedures will apply for amendments to motions.

AFTER THE DECISION

The Committee's decision is final. However, Applicants have the right of appeal to the First Secretary of State if their application is refused, or if conditions are attached which they do not like. In this event, anyone who has written about the original application will be informed.

Objectors have no right of appeal to the First Secretary of State against a decision to approve an application, but they can seek to have the decision quashed by application to the High Court by way of a Judicial Review.

PROCEDURE FOR SPEAKING ON OTHER ITEMS ON THE PUBLISHED AGENDA

The Chair will call for a report to be made (a Council Officer will normally have submitted a written report with the agenda and he or she will be called upon to speak upon the report).

Second, any members of the public who have registered will be invited to speak. A time limit of 3 minutes applies to each speaker, though this may be extended if the Chair agrees. Please note that a speaker can only usually only address members once, unless it is in response to a question from a member, or the Chair allows you to address members again.

Next, members will debate the item.

Following the debate, a decision will be made.

HOW SHOULD I ASK A QUESTION OR GIVE A STATEMENT?

Begin by giving your name and whether you are speaking as an individual member of the public or as a representative of a group.

It is useful to prepare notes in advance to ensure that all the important points are covered. Try and be brief and to the point.

Do not make derogatory or defamatory statements.

You may also bring an extra copy of any prepared statement for the Chair's information.

QUESTIONS THAT ARE NOT ALLOWED

You may not ask a question in furtherance of your own particular circumstances. These should be taken up with officers or councillors outside of the meeting. Nor may people ask about a matter where there is a right of appeal to the courts, tribunal or to a government minister. You may not ask a question about the service of any person employed by the Council.

The Chair may disallow any question that, in his or her opinion, is improper, vexatious irrelevant or otherwise objectionable. The Chair can also limit the number of questions that a person may ask. The answer may be given verbally or in writing.

Any question not dealt with at the meeting will normally be answered within 10 working days.

CONTACT DETAILS

Committee and Member Services, democracy@rossendalebc.gov.uk, 01706 252423.

Part 4 Page 103

Committee Procedure Rules

8 Regulatory Committees

Separate procedures exist for questions and speaking at Development Control Committee and Licensing Committee. Separate procedures also exist for voting at Development Control Committee (see Part 2 – Article 3).