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Subject to approval at the next Constitution Working Party meeting

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CONSTITUTION WORKING PARTY

7 February 2022 at 6.00 pm

Present: Councillors Bower (Chair), Cooper (Vice-Chair), Chace, English, Haywood and Yeates

Councillor Pendleton was also in attendance for part of the meeting.

14. APOLOGIES FOR ABSENCE

Apologies for Absence had been received from Councillors Bennett and Daniells.

15. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

16. MINUTES

The minutes of the meeting of the Working Party held on 1 November 2021 were approved by the Working Party as a correct record with the Chair confirming that these would be signed at the first opportunity made available to him.

17. ITEMS NOT ON THE AGENDA THAT THE CHAIR OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES

There were no items for this meeting.

18. CONSTITUTIONAL AMENDMENT - SITE VISITS PROTOCOL FOR PLANNING APPLICATIONS

The Chair confirmed that this report had been considered by the Planning Committee on 2 February 2022.

The Interim Group Head of Law & Governance and Monitoring Officer then introduced this report. He outlined that the issue of Planning Committee Site Visits had caused some concern to some Planning Committee Members for a while and so a review of the current protocol in place had been undertaken. A report had been taken to the Planning Committee to allow comments or concerns to be forwarded to this Working Party prior to recommendations being forwarded to Full Council.

The Working Party was informed that the Planning Protocol currently in the Constitution at Paragraph 13.0 [Site Visits] provided some guidance as to how site visits should be conducted. It had been felt that this guidance was not sufficiently clear enough for Members and Officers in relation to various issues and so this was why this version of the protocol had been brought forward. The key item to bring Members' attention was the fact that a site visit was just that - a visit, it was not a committee meeting and therefore there were no rights to speak as such. Members who wanted to

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visit the site on their own could do, but the need to request a site visit had to be clearly set out and this was why the protocol already in place had been strengthened to provide more operational input as to how a confirmed site visit should work.

The revised site protocol had been considered by the Planning Committee which had been in general agreement with the proposed changes.

The Chair then invited comments/questions from Members and these have been set out below:

- Would Ward Members be able to attend as had been the case in the past? The Interim Group Head of Law & Governance and Monitoring Officer explained that as this was a site visit and intended for the benefit of the Committee Members, the role of the Ward Member in making any representations was not necessary for a site visit. The purpose of the visit was to allow Members of the Committee to obtain more information about the site in question and any specific issues raised at Committee when the site visit was convened.
- The Chair outlined that the current protocol did permit attendance by local Ward Members and that custom and practice had also been to allow one representation from the appropriate Parish or Town to also attend. They could ask questions and make representations but were not allowed to take part in any discussion at the site visit. Site visits in the past had effectively been Sub-Committees that then made a recommendation to the Committee. Pre-Committee site visits could not make recommendations, these were for information only.
- The Chair sought clarification that the revised protocol meant that the site visit would not be making any form of recommendations to the Committee. This was confirmed.
- Clarification was also sought as to whether the attendance of a Town or Parish representative should be included in 13.4 of the Constitution. It was explained that Town or Parish Councils may choose to do their own site visit under their own rules as part of their consultation on an application before the application was considered by the District Council.
- Looking at the draft protocol proposed, point 6 did confirm that one representative from the relevant Town/Parish Council would be invited to attend but that their attendance would be as an observer with no statements being able to be made. It was felt that this should be added to the existing Constitution at 13.4. The Interim Group Head of Law & Monitoring Officer provided advice. His view was that the site visit was a visit for the District Council only. It was not necessary for a representative of the Town/Parish to be invited. Based on this advice, it was confirmed that Point 6 of the new protocol be removed for the reasons already explained.

As there were no further requests to speak on this item, the Chair confirmed that he wished to put to the vote the removal of Point 6 in the new protocol. Councillor Cooper proposed and this was seconded by Councillor Chace. Having conducted a vote, the proposal to remove Point 6 from the new Protocol was LOST.

The Chair then returned to the substantive recommendations and the Working Party

RECOMMEND TO FULL COUNCIL

That the amendments in Appendix 2 of the report be approved subject to 13.4 in the existing Constitution being updated to reflect Point 6 in the updated Protocol.

19. CHANGES TO THE TERMS OF REFERENCE OF THE PLANNING POLICY COMMITTEE - PART 3 - RESPONSIBILITY FOR FUNCTIONS - BIODIVERSITY NET GAIN

The Chair invited the Director of Place to present this item. He reminded the Working Party that when it had discussed this as its last meeting, there had been much debate over where Biodiversity Net Gain should be placed within the new Committee structure.

It was appreciated that this was a complex issue as biodiversity as an issue had many strands sitting within it. There was work that the Council did from a general biodiversity point of view such as tree planting and other matters which sat under the Environment Committee's remit. However, Biodiversity Net Gain was a very specific matter relating to planning in particular. The Director of Place explained how this would be taken forward and would come into place from November 2023 with many developers and Councils already considering how they should apply Biodiversity Net Gain and further details were supplied in terms of how this could be taken forward in line with legislation. This would mean that there would be a lot of work that would need to be undertaken ahead of November 2023 and this was why it had been suggested that Biodiversity Net Gain be added to the responsibility for functions of either the Planning or Planning Policy Committee.

The Chair, also as the Chair of the Planning Policy Committee, confirmed that he saw sense in adding Biodiversity Net Gain to the functions of the Planning Policy Committee but that the name of that Committee should not be changed to accommodate this function. The issue was then put to the Working Party to discuss and debate.

There were some Councillors who put forward arguments for this to be part of the functions of the Planning Committee explaining that Biodiversity Net Gain could become a condition of planning. The Director of Place outlined that many of the regulations around this would be coming forward over the coming months and ahead of November 2023. He stated that there was an equal argument, at this time, to state that

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this was a matter for the Planning Committee but that it was also a matter for the Planning Policy Committee.

The concern of one Member was that Biodiversity Net Gain could fall under other Committee's remits but that the solution was for the Planning Policy Committee to make Policies for forwarding onto Planning or any other relevant Committee.

The Interim Group Head of Law & Governance commented stating that between now and November 2023, the Council would receive many sources of information in terms of how this would need to be dealt with and taken forward. Between now and when Biodiversity Net Gain would be adopted, it was necessary for the Council to assign a Committee to deal with and develop this function. In practical terms, it was his view that it was not appropriate for the Planning Committee to undertake this task.

Following further discussion, the Chair confirmed that he would be comfortable for this to fall within the remit of the Planning Policy Committee.

The Working Party

RECOMMEND TO FULL COUNCIL

That the specific functions for the Planning Policy Committee be updated to include Biodiversity Net Gain at Part 3 of the Constitution – Responsibility for Functions.

20. INTERIM GROUP HEAD OF LAW & GOVERNANCE & MONITORING OFFICER'S UPDATE REPORT

The Interim Group Head of Law & Governance provided a verbal update to the Working Party on future work items.

21. DATE OF NEXT MEETING

The Working Party noted the date of its next meeting as Monday, 11 April 2022 at 6.00 pm, this would be held virtually using Zoom.

(The meeting concluded at 7.54 pm)