

# **Somerset West and Taunton Council**

## **Special Full Council – 29 April 2021**

### **Constitution Update Report**

**This matter is the responsibility of the Leader of the Council, Cllr Federica Smith-Roberts**

**Report Author: Amy Tregellas, Governance Manager**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 To present the Committee with a number of proposed changes to the Constitution.

#### **2 Recommendations**

That the Council resolves that:

- 2.1 The number of Members on the Planning Committee is reduced from 15 to 11 from the start of the 2021/22 Municipal Year
- 2.2 A minimum of Five Councillors are trained to be able to substitute for members of their own political group in the absence of a Planning Committee member of their political group.
- 2.3 The number of public speakers for each application going before the Planning Committee is set out as follows:
- Up to 5 supporters (including the applicant/agent)
  - Up to 5 objectors
  - Town/Parish Council representative
  - County Councillor
  - Ward Member(s)
- 2.4 The Planning Committee Procedure (attached as Appendix A) is adopted and added to the Constitution, as well as being published on the SWT website
- 2.5 Planning Committee meetings should be 4 hours maximum (with the Chair having discretion to conclude an agenda item if part way through), and the procedure rules within the Constitution amended to only allow 2 x 30 minute extensions beyond the original 3 hour meeting.
- 2.6 Regular breaks are introduced for 15 minutes every two hours (to be taken off the duration of the meeting)
- 2.7 Where there is a controversial planning application going before the Planning

Committee, that a single item agenda meeting is held.

- 2.8 Site visits for the Planning Committee are introduced for specific reasons only, and follow the guidance set out on the revised Planning Committee Member's Code of Good Practice (Appendix B)
- 2.9 The number of Members on the Licensing Committee is reduced from 15 to 11 from the start of the 2021/22 Municipal Year
- 2.10 That the amended Financial Procedure Rules (Appendix C) are approved

### **3. Risk Assessment**

- 3.1 Failure to have robust governance arrangements in place could impact on the Council's control environment and ability to operate in an economic, efficient and effective manner. This could lead to recommendations being made by Internal and External Audit.

### **4. Background and Full details of the Report**

- 4.1 The purpose of this report is to make some recommendations for change to the Constitution to improve the democratic process.

#### Planning Committee

- 4.2 The first set of proposed improvements relates to the operation of the Planning Committee. These changes have been discussed with the Planning Advisory Service (PAS) during their recent review.
- 4.3 The Planning Committee can often be the most visible part of the way that decisions within the Council are made, and can impact on public perception. It is therefore important that the Committee operates well.
- 4.4 The Council has had a number of lengthy Planning Committee meetings over the last two years, which has generated negative feedback from Members, officers and the public. Therefore, a number of changes are proposed which, it is anticipated will improve the democratic process and the way that the Committee operates. This in turn will improve public perception of the Planning Committee.

#### Number of Members on the Committee

- 4.5 Currently there are 15 Members on the Planning Committee. Discussions with PAS endorsed reducing the number of Members on the Planning Committee from 15 to 11.
- 4.6 It is suggested that a reduction in the number of Members would allow for more focused debate, improved accountability and consistency of decision-making, and would give the ability to conduct business with greater efficiency and effectiveness.

4.7 Section 101 of the Local Government Act 1972 provides for a local authority to arrange for the discharge of its functions by a committee. The SWT Constitution delegates the powers relating to town and country planning and development control to the Planning Committee. The Committee has made delegations to Officers, which are included within the Planning Committee terms of reference and the scheme of delegation.

4.8 It is local choice as to the size of the Planning Committee. The Association of Democratic Services Officers (ADSO) suggest that ‘the size of a Committee can range from very small, say 7 members up to 20 plus members. Best practice would generally err on the side of smaller rather than larger.’ Discussions with PAS concluded that 11 is the optimum number for SWT, with a pool of appropriately trained substitute Members.

4.9 **Recommendations:**

- ***The number of Members on the Planning Committee is reduced from 15 to 11 from the start of the 2021/22 Municipal Year***
- ***That a minimum of Five Councillors are trained to be able to substitute for members of their own political group in the absence of a Planning Committee member of their political group.***

Public speakers & length of speeches

4.10 Currently there are no restrictions on the number of members of the public that are able to speak on planning applications. This can mean that, when an application is contentious there can be a significant number of public speakers, which can up a significant amount of time.

4.11 Some examples of meetings where there has been 10 or more public speakers, in the last 12 months are as follows:

<b>Date of meeting</b>	<b>Application details</b>	<b>Public Speakers</b>	<b>Length of meeting</b>
25 February 2021 (virtual meeting)  3 applications	42/20/0042 – Erection of a foul pumping station at Comeytrove/Trull	Objectors = 28 Supporters = 1 Parish Council= 1 Ward Members = 6 <b>Total = 36</b>	Started at 1pm, finished at 8.20pm Duration – 7 hours & 20 minutes
19 November 2020 (virtual meeting)  9 applications	36/19/0032, 36/19/0033, 36/19/0034 & 36/19/0035 – agricultural building Lower Huntham Farm, Stoke St Gregory	Objectors = 5 Supporters = 4 Parish Council= 1 Ward Members = 0 <b>Total = 10</b>	Started at 1.15pm, finished at 7.25pm Duration – 6 hours & 10 minutes

<b>Date of meeting</b>	<b>Application details</b>	<b>Public Speakers</b>	<b>Length of meeting</b>
16 July 2020 (virtual meeting)  3 applications	3/37/18/015 – 136 dwellings at Cleeve Hill	Objectors = 20 Supporters = 1 Parish Council= 0 Ward Members = 2 <b>Total = 23</b>	Started at 1pm, finished at 6.35pm Duration – 5 hours & 35 minutes

In respect of all other applications considered in the last 12 months, the number of public speakers has been below 10.

- 4.12 The December 2019 Local Government Association (LGA) and PAS guidance '*Probity in Planning: Advice for councillors and officers making planning decisions*' covers the area of public speaking at Planning Committees and states:

'Whether to allow public speaking at a planning committee or not is up to each local authority. Most local planning authorities do allow it and some authorities film and broadcast committee meetings. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage. Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors. In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the local planning authority in writing.'

- 4.13 Benchmarking of other District Councils in Somerset and Devon found the following, in terms of the number of speakers:

<b>Council</b>	<b>Number of Public Speakers</b>
Somerset West and Taunton Council	No limit
Sedgemoor District Council	7 speakers – one supporter, one objector, Parish Council, Ward Councillor(s), County Councillor, Portfolio Holder and Applicant/Agent
Mendip District Council	Three speakers – one supporter, one objector and Parish/Town Council
South Somerset District Council	Town/Parish Council, Objectors, Supporters, Applicant/Agent and District Ward Member. No clear limit on number of speakers but

<b>Council</b>	<b>Number of Public Speakers</b>
	it does say that where there are a number of people wishing to speak they are encouraged to choose one spokesperson
Mid Devon District Council	One Objector, one from applicant/ agent/ supporter, Parish Council, Ward Member(s)
East Devon District Council	Major applications – 5 supporters, 5 objectors, the agent/applicant and Parish/Town Council Minor/Other applications – 2 supporters, 2 objectors, the agent/applicant and Parish/Town Council The agenda lists whether the application is Major or minor/other
Exeter City Council	One objector, one supporter, agent/applicant
North Devon District Council	Up to six supporters, up to six objectors, Parish/Town Council, Applicant/Agent
Torrige District Council	Two objectors, Two supporters (including the agent/applicant) and Town/Parish Council
Teignbridge District Council	Major applications – two objectors and two supporters Other applications – one objector and one supporter
South Hams District Council	One objector, one supporter & Town/Parish Council If there is more than one supporter or objector then only one person can be chosen as the spokesperson
West Devon District Council	One supporter and one objector

For all other District Councils in Somerset and Devon, they have a limit on the number of public speakers.

- 4.14 It is suggested that limiting the number of public speakers for each application going before the Planning Committee would give the ability to conduct business with greater efficiency and effectiveness and reduce the length of meetings, which is beneficial for Members, officers and members of the public. It is not proposed to change the length of time for each speaker and that will remain as 3 minutes.

#### 4.15 **Recommendations:**

- **The number of public speakers for each application going before the Planning Committee is set out as follows:**
  - **Up to 5 supporters (including the applicant/agent)**
  - **Up to 5 objectors**
  - **Town/Parish Council representative**
  - **County Councillor**
  - **Ward Member(s)**
- **The Planning Committee Procedure (attached as Appendix A) is adopted and added to the Constitution, as well as being published on the SWT website**

#### Length of meetings

- 4.16 As alluded to in earlier sections of this report, the length of the Planning Committee can often exceed 4 hours. Analysis of the 32 Planning Committee meetings that have taken place since SWT came into being on 1 April 2019, showed that 15 exceeded 4 hours, as follows:

<b>Date</b>	<b>Start/Finish times</b>	<b>Duration</b>
25 February 2021	1pm to 8.20pm	7 hours & 20 mins
19 November 2020	1.15pm to 7.25pm	6 hours & 10 mins
20 August 2020	1pm to 6.58pm	5 hours & 58 mins
6 August 2020	1pm to 5.39pm	4 hours & 39 mins
23 July 2020	1pm to 5.15pm	4 hours & 15 mins
16 July 2020	1pm to 6.35pm	5 hours & 35 mins
9 July 2020	1pm to 5.45pm	4 hours & 45 mins
12 March 2020	1pm to 5.24pm	4 hours & 24 mins
30 January 2020	1pm to 8.55pm	7 hours & 55 mins
5 December 2019	1pm to 5.45pm	4 hours & 45 mins
24 October 2019	1.15pm to 5.30pm	4 hours & 15 mins
3 October 2019	1pm to 5.44pm	4 hours & 44 mins
1 August 2019	1pm to 5.45pm	4 hours & 45 mins
11 July 2019	1pm to 5.10pm	4 hours & 10 mins
30 May 2019	1.10pm to 7.30pm	6 hours & 20 mins

In 15 out of 32 (47%) cases, the Planning Committee meetings have exceeded 4 hours. In 6 out of 32 (19%) cases, the Planning Committee exceeded 5 hours.

- 4.17 Long meetings run the risk of the focus and attention span of the participants being effected, and this risk increases the longer the meeting goes on for.
- 4.18 Council Procedure Rule 28, within the Constitution, states 'A meeting of Full Council or other committees including the Scrutiny Committee shall not exceed 3 hours in duration' (this excludes any time for comfort breaks). However, Procedure Rule 29 does allow the meeting to be extended for 30 minutes, once during the meeting. Procedure Rule 29.3 states 'However, the Chair of the Council, Chair of Planning Committee or Chair of the Licensing Committee may

decide otherwise in respect of the meeting they are chairing. This will generally only occur in exceptional circumstances.'

- 4.19 It is suggested that limiting the length of the Planning Committee meetings would focus the debate and give the ability to conduct business with greater efficiency and effectiveness, which is beneficial for Members, officers and members of the public. It is also suggested that for applications that are controversial in nature, and likely to attract a lot of public interest, that single agenda item meetings are held rather than other items being added to the agenda.
- 4.20 **Recommendations:**
- ***Planning Committee meetings should be 4 hours maximum (with the Chair having discretion to conclude an agenda item if part way through), and the procedure rules within the Constitution amended to only allow 2 x 30 minute extensions.***
  - ***Regular breaks are introduced for 15 minutes every two hours (to be taken off the duration of the meeting)***
  - ***Where there is a controversial planning application going before the Planning Committee, that a single agenda item meeting is held.***

#### Site Visits

- 4.21 The Planning Committee Member's Code of Good Practice within the Constitution, states that 'Whilst it is not the practice for the Planning Committee to make site visits as a Committee, **do** make a personal visit to an application site if you do not feel you will be able to come to a fair decision without seeing the site. Always try to view the land or building concerned from a public vantage point, for example an adjoining road or a public footpath.'
- 4.22 This approach often raises challenge from members of the public, so it is suggested that site visits are introduced following the PAS guidance, which states 'Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.'
- 4.23 **Recommendations:**
- ***Site visits for the Planning Committee are introduced for specific reasons only and follow the guidance set out on the revised Planning Committee Member's Code of Good Practice (Appendix B)***

#### Licensing Committee

- 4.24 The second Committee to consider in terms of a proposed improvement relates to the operation of the Licensing Committee. As with Planning Committee, the Licensing Committee is classed as a Regulatory Committee. Therefore, it makes sense to mirror the number of Members on the Committee to match the proposed change to the Planning Committee, i.e. reduce the number from 15

to 11.

- 4.25 When considering the size of the Licensing Committee, benchmarking against a number of other District Councils in Somerset and Devon, the numbers vary between 10 and 15 Members, with the average number being 12 Members:
- Sedgemoor District Council – 15 Members
  - Mendip District Council – 14 Members
  - South Somerset District Council – 15 Members
  - Torridge District Council – 10 Members
  - Teignbridge District Council – 11 Members
  - South Hams District Council – 12 Members
  - West Devon District Council – 10 Members
  - Mid Devon District Council – 12 Members
  - Average = 12.3 Members
- 4.26 It is proposed that no change is made to the process and procedure relating to Licensing Sub-Committees and that the number of Members remains at 3
- 4.27 **Recommendation:**
- ***The number of Members on the Licensing Committee is reduced from 15 to 11 from the start of the 2021/22 Municipal Year***

#### Audit, Governance and Standards Committee

- 4.28 The Council Governance Arrangements Working Group (CGAWG) Report is recommending that the Audit, Governance and Standards Committee is split into two separate Committees:
- Audit and Governance Committee
  - Standards Committee
- The recommendations to make this change are included in the CGAWG report.
- 4.29 The CGAWG report is also suggesting that the number of Members on each Committee is 11 for the Audit and Governance Committee and 9 for the Standards Committee. This is in line with the numbers that other local Councils have.
- The recommendations to make this change are included in the CGAWG report.
- 4.30 In terms of frequency of meetings, it is anticipated that the Audit and Governance Committee will follow the current Audit, Governance and Standards Committee timetable. However, it is suggested that the Standards Committee meets as and when needed.

## **5. Links to Corporate Strategy**

- 5.1 Having a robust, effective and efficient governance framework in place is a fundamental element of being a 'well managed' council and avoiding recommendations from Internal and External Auditors.

## **6. Finance / Resource Implications**

6.1 None arising from this report

**7. Legal Implications**

7.1 The changes set out in the report are at the local discretion of the Council and do not breach legislation or have any legal implications

**8. Climate and Sustainability Implications**

8.1 None arising from this report

**9. Safeguarding and/or Community Safety Implications**

9.1 None arising from this report

**10. Equality and Diversity Implications**

10.1 None arising from this report

**11. Social Value Implications**

11.1 None arising from this report

**12. Partnership Implications**

12.1 None arising from this report

**13. Health and Wellbeing Implications**

13.1 None arising from this report

**14. Asset Management Implications**

14.1 None arising from this report

**15. Data Protection Implications**

15.1 None arising from this report

**16. Consultation Implications**

16.1 None arising from this report

**Audit, Governance and Standards Committee Comments / Recommendation(s)**

– the Committee considered this report at their meeting on 12 April 2021. The Committee voted to approve the recommendations with the additional recommendation (2.11) as follows:

2.11 Wherever possible reports taken in the public domain and confidential appendices used where appropriate.

**Democratic Path:**

- **Audit, Governance and Standards Committee – Yes** (12 April)
- **Cabinet/Executive – No**
- **Full Council – Yes** (29 April)

**Reporting Frequency: Annually**

**List of Appendices (delete if not applicable)**

Appendix A	Protocol on Speaking at Planning Committee
Appendix B	Planning Committee Members Code of Good Practice
Appendix C	Updated Financial Procedure Rules

**Contact Officers**

Name	Amy Tregellas
Direct Dial	01823 785034
Email	<a href="mailto:a.tregellas@somersetwestandtaunton.gov.uk">a.tregellas@somersetwestandtaunton.gov.uk</a>