

Name of meeting: Council

Date: 14th July 2021

Title of report: Proposed amendment to Council Procedure Rule 35

Purpose of report:

To set out proposed changes to the Council's constitution, namely CPR 35, as described in paragraph 2 below and recommended by the Corporate Governance and Audit Committee, for consideration by the Council.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer-Henshall – 5 th July 2021
Is it also signed off by the Service Director for Finance?	Eamonn Croston – 5 th July 2021
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 5 th July 2021
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: No

Public or private: Public

Has GDPR been considered? YES

1. Summary

- 1.1 At Annual Council an amendment to item 10 on the agenda was proposed by Cllr Bolt and Cllr D Hall.
- 1.2 The effect of the amendment, if approved, would be to exclude certain members from sitting on Strategic Planning Committee as well as any of the Planning Sub-Committees.

- 1.3 The amendment was referred to the Corporate Governance and Audit Committee (CGA), before going on to Council.
- 1.4 A report on the proposed changes was put before CGA on 25th June 2021 and the Committee voted in favour of recommending the changes to Council. That report is attached at Appendix A for reference and sets out some further background including what other Councils say in their Constitution on this matter and some of the existing checks and balances that exist in the current planning decision making process.

2. Information required to take a decision

- 2.01 The full text of the recommended amendment is as follows:

Addendum to CPR35: rule2: section 3 (in italics)

- (2) The Council subject to any statutory provision:-

(iii) shall not appoint the Leader, the Deputy Leader of the Council or any Members of the Cabinet as members of the Overview and Scrutiny Committee or its Panels **or the Strategic Planning Committee or Sub-Committee thereof.**

- 2.02 The amendment that was proposed and subsequently recommended by CGA is highlighted above and consists of extending the provisions of CPR 35, rule 2.
- 2.03 For information the discussion at CGA focused on a number of points, listed below:
 - i. The view that Kirklees is not bound by what other authorities do and are free to choose their own rules;
 - ii. It was suggested that the issue was one of perception, with some decisions being made on a strategic level and then being later considered at a subsequent Planning Sub-Committee by the same members;
 - iii. The perception could be that the matter had been pre-determined by Cabinet members, with an example given as a decision by Cabinet to dispose of Kirklees owned land, with the same members or members making a subsequent decision on a planning application made by the purchaser;
 - iv. It was suggested that, in such a situation, a member would declare their involvement in the decision making at strategic level, and withdraw from the planning decision making;
 - v. A belief that there was a lack of understanding of and therefore a lack of confidence in the planning process by members of the public and that members of the public could perceive there to be conflicts of interest;
 - vi. It was suggested that the proposed amendment didn't deal with the wider issues around public confidence;
 - vii. There was some acceptance that the issues around planning were wider than just the subject of the proposed amendment, but it was put that, failing to vote for the amendment could send the wrong message, that members

were unwilling to address public perceptions about planning, or to address wider problems;

- viii. It was suggested that much of the frustration of the public expressed to councillors related to the planning process;
- ix. A suggestion was made that safeguards are already in place to ensure that the planning process is correctly followed and is non political;
- x. There was a view that there may need to be a wider look at the planning process in light of some of the issues discussed;
- xi. It was put that the issues around public perception could possibly be addressed via the Council's comms process.

3. Implications for the Council

It is essential the Council's Constitution is regularly reviewed to ensure that it remains fit for purpose and that it enables Council meetings to be conducted in a fair, business like and effective manner.

3.1 Working with people

N/A

3.2 Working with Partners

N/A

3.3 Place Based Working

N/A

3.4 Climate Change and Air Quality

N/A

3.5 Improving Outcomes for Children

N/A

3.6 Other implications (eg Legal/Financial or Human Resources)

N/A

4. Consultees and their opinions

N/A.

5. Next steps and timelines

- 5.1 The amendments that have been recommended by Corporate Governance and Audit will now be considered by Council with any amendments agreed upon resulting in an update being made to the Constitution.

6. Officer recommendations and reasons

That Council consider the recommendation of the Corporate Governance and Audit committee and approve the adoption of the amendment to the Council's Constitution at Council Procedure Rule 35, as set out at paragraph 2.01.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

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9. Background Papers and History of Decisions

Report to Annual Council dated May 19th 2021.

10. Service Director responsible

Julie Muscroft – Service Director – Legal, Governance and Commissioning

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11. Appendices

Report to Corporate Governance and Audit dated 25th June 2021.