

Report to Council
26 November 2019
Report of Director of resources
Subject Constitutional review

Item

3

Purpose

To adopt changes to the constitution as recommended by cabinet.

Recommendation

To adopt the following changes to the constitution:

- (1) to amend Appendix 1, Council rules and procedures by:
 - (a) inserting after rule 63, the following new rule 64:
 64. Amendments to recommendations or motions set out in the council agenda shall only be considered if they have been delivered in writing to the director of resources by 17:00 on the day preceding the meeting.
 65. The exceptions to the above rule are:
 - (a) technical amendments may be moved to correct factual errors;
 - (b) the director of resources will have discretion to permit amendments from members if the director of resources is satisfied that the need for the amendment could not have been anticipated before the 17:00 deadline and that advance notice of such amendments was given as soon as reasonably practical."
 - (b) inserting additional wording to current rule no 16:

"If there is opposed business to take after two hours have elapsed since the beginning of the meeting, a short break of up to ten minutes will be taken before continuing with the business of the meeting."
- (2) to insert the Planning Applications Committee Procedures and Delegations at Appendix 11 of the constitution;
- (3) to amend Article 5 – Lord Mayor, Deputy Lord Mayor and Sheriff by deleting the text in 5.1.2 and replacing it with "Any sitting councillor can be nominated for the position of Lord Mayor".
- (4) to agree in principle to amending the structure of the constitution to make it more user friendly by placing the relevant articles and appendices together

rather than having a section for all articles and all appendices; and making a single pdf version of the constitution available on the council's website;

- (5) to note recent changes made to the constitution under Article 15 or by resolution of full council as set out in Appendix A to this report.

Corporate and service priorities

The report helps to meet the corporate priority a healthy organisation

Financial implications

There are no direct financial implications arising from this report

Ward/s: All Wards

Cabinet member: Councillor Kendrick - resources

Contact officers

Anton Bull, director of resources	01603 212326
Stuart Guthrie, democratic and elections manager	01603 212055
Lucy Palmer, democratic team leader	01603 212416

Background documents

None

Report

Background

1. At its meeting on 29 October 2019, the constitution working party met to consider factual changes to the constitution made by the director of resources under Article 15 or at by council resolution. .
2. The working party also discussed other changes to the constitution which will require approval and adoption of full council.
3. On 13 November 2019, cabinet considered the outcome of the working party's review of the constitution and resolved to recommend that council adopted changes to the constitution, noted changes made by the director of resources under Article 15 and approved an amendment to the structure of the constitution.

Factual changes

4. The majority of the factual changes made by the director of resources reflect the new job titles for the corporate leadership team and an ongoing piece of work to ensure that all personal pronouns used in the constitution are gender neutral.
5. The other significant changes to the constitution are:
 - (a) inclusion of a new Appendix 16A - Parental Leave Policy which was approved at council on 19 March 2019;
 - (b) amending Appendix 4 – Terms of Reference to use the Licensing Act's generic term for sex establishments which incorporates the committee's powers to determine sexual entertainment venues.
6. A table of recent changes made by the director of resources under Article 15 or by council resolution is attached at Appendix A.

Proposed changes to the constitution

Appendix 1

7. Members recently had a training session with the director of resources around council procedures. One of the areas identified for improvement was how motions to council are amended.
8. The current arrangement is that written amendments may be received at any time to a motion. An informal agreement was reached which requires members to confirm the detail of amendments to motions in writing by 17:00 on the day before the cabinet meeting. This will allow democratic services to ensure the smooth running of the council meetings. The proposal is therefore to formalise this arrangement by inserting a new rule after rule 63:
 - "64. Amendments to recommendations or motions set out in the council agenda shall only be considered if they have been delivered in

writing to the director of resources by 17:00 on the day preceding the meeting.

65. The exceptions to the above rule are:

- (a) technical amendments may be moved to correct factual errors;
- (b) the director of resources will have discretion to permit amendments from members when the director of resources is satisfied that the need for the amendment could not have been anticipated before the 17:00 deadline and that advance notice of such amendments was given as soon as reasonably practical.”

9. This will not change the deadline for amendments to the budget which need to be received three working days prior to the budget council meeting or take away the opportunity for members to raise amendments during debate where it is appropriate.

10. Because of the length of council meetings it is proposed that members have a short break where more than two hours have passed since the beginning of the meeting and there remains opposed business to be considered. It is therefore proposed to add the following wording to current rule 16:

“If there is opposed business to take after two hours have elapsed since the beginning of the meeting, a short break of up to ten minutes will be taken before continuing with the business of the meeting.”

Appendix 11 – Planning Applications Committee Procedures and Delegations

11. The planning applications committee and cabinet have agreed procedures and delegations for the committee at various times over the years. It is important to provide clarity for members of the public and the addition of the committee’s procedures and delegations to the constitution will support this. It is proposed that this new appendix is inserted at Appendix 11 which is currently not being used.

12. Members of the working party supported this proposal and asked that the document is also available through the planning section of the council’s website and consideration given to providing a simplified version.

13. The proposed Appendix 11 – Planning Applications Committee Procedures and Delegations is attached at Appendix B to this report.

Article 5 – Lord Mayor, Deputy Lord Mayor and Sheriff

14. The working party considered that the process for the selection of Lord Mayor in Article 5, Lord Mayor, Deputy Lord Mayor and Sheriff, Rule 5.1.2 (set out below) was not in use and therefore should be removed from the constitution:

“5.1.2 The Lord Mayor shall be nominated based on a system according to the accumulation of points determined by the number of seats held by each political group on the Council starting with the base year of 2004. Unless agreed otherwise by Council, the party group having the largest cumulative total of points on the day after the Annual General Meeting of the Council, will nominate a member of its party group to serve as the Lord Mayor for the ensuing civic year. A party group loses 39 points the day following one of its members being elected Lord Mayor.”

15. Members suggested that it should be replaced with wording to reflect that all councillors can be nominated to serve as Lord Mayor, as follows:

“Any sitting councillor can be nominated for the position of Lord Mayor”.

Structure of the Constitution

16. The constitution is set out in two main sections – Articles and Appendices. Members considered that it would be more user friendly if a structure was implemented with the appropriate appendix sitting directly behind each article. Members also asked for a single pdf version of the constitution to be available on the council's website.

Integrated impact assessment



NORWICH
City Council

The IIA should assess **the impact of the recommendation** being made by the report

Detailed guidance to help with the completion of the assessment can be found [here](#). Delete this row after completion

Report author to complete

Committee:	Council
Committee date:	26 November 2019
Director / Head of service	Director of resources
Report subject:	Constitutional review
Date assessed:	4 November 2019

	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other departments and services e.g. office facilities, customer contact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Economic development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Health and well being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Recommendations from impact assessment

Positive

Negative

Neutral

Issues

Summary of Amendments to the Constitution – Issued October 2019

Document	Amendment	Reason for change	Document reference		Powers under Article 15
			Document amended	Amended Document	
Article 4 - The Council Budget	Rule 4.4.1 – replace “offers” with “officers”	Typographical correction	Article 4 Version 5 January 2019	Article 4 Version 7 October 19	15.3.
Article 12 Employees	Reference to director job title	Updated to reflect changes to senior management structure	Article 12 August 16 Version 9	Article 12 October 19 Version 10	15.3
Article 13 Decision making	Reference to director job title	Updated to reflect changes to senior management structure	Article 13 February 15 Version 8	Article 13 October 19 Version 9	15.3
Article 14 Finance, contracts and legal matters	Reference to director job title	Updated to reflect changes to senior management structure	Article 14 August 16 Version 10	Article 14 October 19 Version 11	15.3
Article 15 Review, Revision of the constitution	Reference to director job title	Updated to reflect changes to senior management structure	Article 15 August 16 Version 9	Article 15 October 19 Version 10	15.3
Article 16 Suspension, Interpretation and Publication of the Constituion	Reference to director job title	Updated to reflect changes to senior management structure	Article 16 August 16 Version 10	Article 16 October 19 Version 11	15.3
Appendix 1 Council and Committee Procedures	Replace references to he/she and his/hers with they and their	To update references which are not gender neutral	Appendix 1	Appendix 1 V18 October 2019	15.3.
	Reference to director job title	Updated to reflect changes to senior management structure			

Summary of Amendments to the Constitution – Issued October 2019

Document	Amendment	Reason for change	Document reference		Powers under Article 15
			Document amended	Amended Document	
Appendix 4¹ Terms of Reference 1. Licensing	To change from: 18. Power to license sex shops and sex cinemas. 18. Power to license sex establishments	Sex establishment is the generic term used in the Licensing Act 2003 Incorporates the powers to determine sexual entertainment venues	Appendix 4 January 19 Version 11	Appendix 4 February 19 Version 12	15.3
Appendix 5 Cabinet Procedure Rules	Reference to director job title	Updated to reflect changes to senior management structure	Appendix 5 October 17 Version 10	Appendix 5 October 19 Version 11	15.3
Appendix 6 Scrutiny Procedure Rules	Reference to director job title	Updated to reflect changes to senior management structure	Appendix 6 October 17 Version 12	Appendix 6 October 19 Version 13	15.3
Appendix 7 Access to Information Procedure Rules	Reference to director job title	Updated to reflect changes to senior management structure	Appendix 7 February 17 Version 12	Appendix 7 October 19 Version 13	15.3
Appendix 8 Scheme of Delegation to Officers	Reference to director job titles and function allocation	Updated to reflect changes to senior management structure	Appendix 8 August 18 Version 15	Appendix 8 October 19 Version 16	15.3

¹ Published on website February 2019

Summary of Amendments to the Constitution – Issued October 2019

Document	Amendment	Reason for change	Document reference		Powers under Article 15
			Document amended	Amended Document	
Appendix 9a Proper officers	Reference to director job titles and function allocation	Updated to reflect changes to senior management structure	Appendix 9a August 16 Version 10	Appendix 9a October 19 Version 11	15.3
Appendix 9b Monitoring Officer Protocol	Deleted “Dave Moorcroft”	Updated to reflect that the named officer is no longer a deputy monitoring officer	Appendix 9b January 19 Version 6	Appendix 9b October 19 Version 7	15.3
Appendix 16A	Insert Parental Leave for Councillors – new Appendix 16A	Approved at council on 19 March 2019		Appendix 16A Version 1 October 2019	Approved at Council, 19 March 2019
Appendix 17 Management Structure	Reference to director job title	Updated to reflect changes to senior management structure	Appendix 17 Version 15 November 18 Also version 16 June 19 ²	Appendix 17 Version 17 October 19	15.3.
Appendix 19 Code of Governance	Reference to director job title	Updated to reflect changes to senior management structure	Appendix 19 Version 6 January 18	Appendix 19 Version 7 October 19	15.3

² Published on website June 2019

APPENDIX 1(A)

PLANNING APPLICATIONS COMMITTEE PROCEDURE RULES

Terms of Reference

1. The terms of reference for the planning applications committee are set out in Appendix 4 of the council's constitution.

Scheme of Delegation

2. The committee's scheme of delegations is as follows:

A. Planning applications, conservation area applications, listed building applications and hazardous substances consent applications

All applications will be determined by the area development managers with the exception of the following:

- (1) approval of major^[1] planning applications if:

- (a) subject to one or more objection raising material planning issues provided that said objections are received within the statutory consultation period or, in the case of revised plans, any subsequent formal consultation period; or
- (b) the proposal would represent a serious departure from the development plan.

- (2) approval of non-major^[2] applications if:

- (a) subject to two or more objections from neighbours and/or **other third parties citing material planning issues provided** that said objections are received within the statutory consultation period or, in the case of revised plans, any subsequent formal consultation period;
- (b) there is a petition signed by 50 or more local residents (identically worded letters will be treated as a petition); or
- (c) the proposal would represent a significant departure to the approved development plan.

- (3) Where a member of the city council requests, within 14 days of the publication of the weekly lists, and an appropriate planning justification is made, that the application be referred to the committee for decision.

^[1] major is defined by central government as applications for 10 or more dwellings, outline applications for residential development on sites over 0.5ha, or offices, research, industrial, warehousing or retail development over 1,000 sq m or over 1ha for outline applications.

^[2] the opposite of major as defined above.

- (4) Applications submitted by a member of the city council, a member of staff employed in the planning service or who works in a professional capacity in a field closely related to the planning service or their immediate family defined as husband / wife / partner / son / daughter / mother / father / brother / sister /and equivalent in-laws as either applicant or agent.

B. Prior notifications

All applications will be determined by the area development managers with the exception of the following:

- (1) In the case of telecoms cabinets, masts or antennae under Part 25 of The Town and Country Planning (General Permitted Development) Order 2015 as amended which are subject to two or more objections from neighbours and/or other third parties citing issues of siting and/or appearance (these being the only matters for which prior approval is required) that the area development managers decision must be subject to consultation with the chair and vice chair of the planning applications committee if one or more ward councillors so request within 21 days of advertisement, neighbour consultation or publication of the weekly list.

C. Planning enforcement

All decisions will be made by the area development managers.

D. Tree Preservation Orders (TPOs) and applications for tree works in conservation areas or protected by TPOs

All decisions will be made by the area development managers with the exception of:

- (1) The confirmation of a tree preservation order served where there are 5 or more objections to that order UNLESS the order relates to a site upon which there is an existing order.

E. Applications for Permission in Principle and for Technical Details Consent

All decisions will be made by the area development managers:

F. Other

Any Items which the director of regeneration and development considers appropriate to refer to the planning applications committee.

Neighbour notification procedure

3. The neighbour notification procedure was approved by planning applications committee on 2 April 2009.
4. The following procedure will be used in advertising all planning and related applications. It should be noted that they exceed the statutory minimum required by the regulations in a number of areas.

A. Neighbour notification

- (1) There is a requirement under the regulations to notify neighbours or erect a site notice for all planning applications. In all but exceptional circumstances then neighbour notification rather than site notice will be undertaken as it provides direct notification to people's homes and contact details to occupiers. In most cases it would normally be more cost effective than the erection of site notices.
- (2) The definition of 'neighbours' is based on the advice in Circular 15/92 Publicity for Planning Applications, but with key additions to go beyond the immediately adjoining property in some cases:
 - (a) land which is coterminous with the boundary of the land for which development is proposed, plus one additional property where such property's curtilage is less than 10m from the edge of the application site boundary;
 - (b) in the case of a multi-occupied building it shall include units immediately above and below the unit being proposed for development;
 - (c) if the property fronts a road, the width of the road will be disregarded when assessing neighbouring land opposite (except where the development is at the rear and would not be visible from properties on the opposite side of the road) i.e. neighbours opposite a site would be notified in most cases;
 - (d) In the case of telecommunications development, all properties which fall within 40m of the proposal (when measured from the proposed site of the facility to the curtilage of the property).
- (3) The additional property(ies) notified under bullet point a) and the telecoms applications under bullet point d) are beyond the minimum required by central government.
- (4) Letters will be sent addressed to "the Occupier" in envelopes clearly branded with the message "Important planning documents enclosed".

B. Site notices

- (5) These will be utilised in lieu of direct notification to neighbours in very limited circumstances (e.g. where there are no obvious neighbours (such as a rural site), or a very large site with a complex site boundary and with

wide implications for the area, (such as Anglia Square) or where the application is of a nature which means individual notification is impractical (such as window and door replacement applications for several properties in one area). In these cases site notices rather than neighbour notification will be undertaken and be more practicable than neighbour letters.

(6) In addition there is a statutory requirement to advertise on site the following:

- (a) Applications accompanied by an environmental statement;
- (b) Developments affecting the setting of a listed building;
- (c) Developments affecting the character or appearance of a conservation area;
- (d) Applications considered to be a departure from the development plan;
- (e) Major developments - only in cases where neighbour notification is not practicable;
- (f) Applications affecting a public right of way.

C. Press notices

(7) There is also a statutory requirement to advertise some applications in a newspaper circulating in the locality. These are currently published in the Evening News on a Wednesday:

- (a) Applications accompanied by an environmental statement;
- (b) Developments affecting the setting of a listed building;
- (c) Developments affecting the character or appearance of a conservation area;
- (d) Affecting a public right of way; • Major developments (i.e. developments of 10 dwellings or more, or 0.5 ha in area or 1,000sq.m of development);
- (e) Applications considered to be a departure from the development plan.

D. Website

(8) All applications are listed in a weekly list on the website. All applications are available to view on the Public Access part of the website.

E. Other applications

(9) Advertisement applications:

- (a) There is no neighbour notification or press /site advertising.

(10) Listed buildings and conservation area consent applications:

- (a) Required to publish in the press and put up a site notice.
- (b) No requirement to notify neighbours.

(11) Applications for hazardous substances consent:

- (a) Applicants are required to carry out pre-submission publicity;
- (b) Due to the sensitivity of the applications no further publicity to be carried out post submission, and will not be included in the weekly list or viewable via the website.

Making representations on planning applications

5. Written representations from persons or parties are incorporated into the officer's committee report and considered as part of the appraisal of the application process. However, representations received after the publication of the committee report will be reviewed by the case officer but not reported or taken into account unless they raise new issues or material considerations which need to be taken into account.

Planning committee public speaking procedures

6. The procedures for speaking at planning applications committee are as follows:

- (1) Persons or parties who have made representations on planning proposals which are referred to committee may address the committee provided that they have notified the committee officer by 10:00 am on the working day before the meeting. Only persons or parties that have submitted written representations will be allowed to speak, unless in exceptional circumstances, the chair has chosen to exercise discretion. Members of the public who have submitted written submissions in advance will be allowed to appoint an advocate to speak on their behalf if they so wish.
- (2) Ward councillors or other councillors who have commented on the planning proposal may speak provided they have given notice by 10:00 am on the day before the meeting.
- (3) The chair will consider changing the order of the agenda where there is public interest to avoid numbers of objectors having to wait.
- (4) The chair will advise those speaking that they may:-
 - (a) speak for up to three minutes;
 - (b) direct their comments to planning issues;
 - (c) make their points concisely.
- (5) The chair may allow a longer period for representations to be made in complex cases.

- (6) Any speaker will be stopped by the chair where he or she:
 - (a) reports comments already made;
 - (b) introduces non planning issues;
 - (c) makes defamatory comments about councillors, Officers or any other individual or party involved in the matter under discussion;
 - (d) has spoken for three minutes.
- (7) Where several people have expressed the wish to speak, the chair will request that a spokesperson is nominated and that other speakers to add any points which have not already been made.
- (8) The applicant or agent may also address the committee provided that there are other speakers registered to speak. The applicant or agent will be permitted to address the committee for 3 minutes. Where there is a large number of objectors or the proposal is complicated then the chair may use their discretion and extend the permitted time beyond 3 minutes.
- (9) Where the application is recommended for approval and no speakers have registered, the applicant or agent will not be invited to address the committee. Where the application is recommended for refusal the applicant or agent will be permitted to address the committee.

Procedures of debate/decision making

- 7. In reaching decisions, the committee will follow good practice as set out in the Local Government Association's "Probity in Planning for councillors and officer" guidelines.
- 8. The procedures of debate/decision making at committee is as follows:
 - (1) Presentation by officers (not to repeat the report but provide brief scene setting, introduction of presentational material (if any) and summary of recommendation), update on late responses/implications.
 - (2) Representation(s) by objectors/supporters (if any) to time limit (3 minutes per speaker) – no opportunities for debate/questions.
 - (3) Representation by applicant/agent (if any) to time limit (3 minutes per speaker) – no opportunities for debate/questions.
 - (4) Comment by officers on representations (matters of fact or view on materiality of matters raised to planning decision only).
 - (5) Members' questions where necessary to seek clarification or explanation on the details of the application.
 - (6) Debate – members discuss planning merits of the application.

- (7) Any alternative motion proposed (and reason for it).
- (8) Officers' chance to comment on alternative motion (in extremis request deferral of decision).
- (9) Members declare their views and whether they are minded to vote for or against. If a substantial number of members indicate they are against the officers' recommendations, the chair asks for motion supported by reasons. Officers comment.
- (10) Move to a vote which will be recorded unless unanimous.

Site visit procedure

9. The committee has agreed the following site visit procedure:

Selection of site visits

- (1) The decision of the planning applications committee to hold a site visit is made by members of the committee, sometimes on the recommendation of the area development managers.
- (2) A site visit enables councillors to ensure that they have sufficient information about the effects of proposed development. Site visits should be held selectively, where there is a clear substantial benefit, such as where the impact of a particular scheme is difficult to judge from the submitted material, or where the concerns expressed by objectors cannot be adequately expressed in writing.
- (3) Site visits are fact finding meetings and are not formal committee meetings. No recommendations are made at the site visit and no decisions are made.

Attendance at site visits

- (4) All members of the planning applications committee will be invited to attend. Attendance at site visits is optional. Ward councillors will also be notified and are welcome to attend if they so choose. The applicants' agent will be notified of the proposed site visit and requested to give permission for access to the land and to inform them of the fact finding nature of the visit and the general procedure. Please note that members of the public may attend to observe but access to privately owned land is subject to the landowner's permission.

Site visit procedure

- (5) The site visit procedure will be:
 - (a) The chair welcomes councillors and others attending indicating:

- that the purpose of the site visit is fact finding;
 - that the application will not be determined at the site visit, but will be decided at the formal meeting of the planning applications committee;
 - the procedure of the site visit.
- (b) The chair should endeavour to ensure that explanations and representations from members of the public are given to the committee collectively. Members should be mindful of their obligations to keep an open mind and not to reveal bias when hearing such representations and when determining the application.
- (c) The committee officer will declare and record apologies for absence.
- (d) The planning officer will point out the key features of the application site.
- (e) Comments of other officers as appropriate.
- (f) Inspection.
- (g) Councillors' questions to the planning officer.
- (h) Chair closes the inspection.
- (6) At the site meeting councillors should ensure that they do not express opinions as to their likely decision.