

**Constitutional Amendments, Appointments to Committees & Reporting**

**REPORT TO FULL COUNCIL**



<b>DATE</b>	<b>28/09/2022</b>
<b>PORTFOLIO</b>	<b>Leader</b>
<b>REPORT AUTHOR</b>	<b>Alison McEwan</b>
<b>TEL NO</b>	<b>01282 477259</b>
<b>EMAIL</b>	<b>amcewan@burnley.gov.uk</b>

**PURPOSE**

1. To inform Members of a waiver of call-in relating to an urgent decision (Executive Functions) taken by the Executive on 28th July 2022 relating to the UK Shared Prosperity Fund (UKSPF) Investment Plan for submission to government for approval.
2. To consider changes to the Terms of Reference for the Audit & Standards Committee and to its member qualifications to take effect from next Full Council on 7<sup>th</sup> December 2022.
3. To consider an addition to the Constitution in Part 3, the Scheme of Delegation to permit the Head of Housing & Development Control in consultation with the Chair of Development Control Committee (or Vice-Chair if the Chair is not available) to revoke planning permission where such revocation would be unlikely to give rise to a substantial claim for compensation.
4. To consider an amendment to the Constitution Part 3, the Scheme of Delegation to increase the threshold from 1 to 3 or more for the number of objections received before the application is required to be heard by Development Control Committee.
5. To consider an addition to Part 4.1 of the Constitution, Council Procedure Rule 16.3 'Show of hands' to allow the use of electronic voting in meetings, as well as voting by the affirmation of the meeting or by show of hands.
6. To note the impact on the political balance of the Council and approve consequential appointments to membership of committees following the recent resignation of Councillor Peter Gill from the Conservative Group.
7. To consider the introduction of an additional long service award to recognise 20 years of service as an elected member.
8. To note that a recruitment exercise will commence shortly to fill a vacancy for a Parish Council representative on the Audit and Standards Committee arising from this year's elections.

## RECOMMENDATION

9. That the call-in waiver relating to the urgent decision by the Executive on 28th July 2022 be noted. (Appendix 1)
10. That Members approve the following additions to the Terms of Reference for the Audit & Standards Committee and to its member qualifications. The changes to take effect at the Full Council meeting on 7<sup>th</sup> December 2022.
  - 8.1 That the positions of Chair and Vice-Chair of the Committee should not be held either by a member of the Executive, or the Scrutiny Chair.
  - 8.2 The Head of Internal Audit and the representative of External Audit will have free and confidential access to the Chair of the Audit and Standards Committee. Members of the Audit and Standards Committee have free and confidential access to the Head of Internal Audit and the representative of External Audit.
  - 8.3 That the Committee should have a focus on Strategic Risk.
11. To grant delegated powers to the Head of Housing and Development Control in consultation with the Chair of Development Control Committee (or Vice-Chair if the Chair is not available) to revoke planning permission where such revocation would be unlikely to rise to a substantial claim for compensation.
12. To amend the delegation in Part 3 of the Constitution (Council Functions) section a) Development Control Committee – Head of Housing and Development Control, to increase the threshold for the number of objections received before determination by Development Control Committee is required. Paragraph 3 will be amended to read:

*(The Head of Housing and Development Control is granted delegated authority for)*

3. *The approval of all other applications, apart from those in Paragraph 2, except:*
  - (i) where in the opinion of the Head of Housing & Development Control the decision is likely to be contentious;*
  - (ii) where the application has been submitted by a Member of the Council, Officer of the Council or their partners;*
  - (iii) Proposals for the Council's own development which must not be treated under delegated powers and must be reported to Development Control Committee and identified as the Council's own development in the written report to Committee;*
  - (iv) where the decision is not in accordance with a stated Council policy e.g. Local Plan;*
  - (v) where **3 or more** material planning objections have been received; or*
  - (vi) Where three Members have indicated that they wish the application to be considered by Development Control Committee - Members wishing for this to happen must notify the Head of Housing & Development Control, or deputy, no later than the 'consultation expiry date' shown in the planning application record on the Council's website and must give planning reasons for their request. The Head of Housing & Development Control will determine whether these reasons are material and arrange for the application be placed on the agenda for Development Control Committee.*

13. To amend 16.3 of the Council Procedure Rules to read:

*Voting at Meetings*

*Unless a recorded vote is demanded under Rules 16.4 and 16.5, or the Mayor requests a roll-call under 16.6, the Chair will take the vote either by affirmation of the meeting if there is no dissent; by show of hands or by the use of an electronic voting system.*

14. That Council notes the change in the Political Balance of the Council following the resignation of Cllr Peter Gill from the Conservative Group on 7<sup>th</sup> September 2022; AND approves the consequential changes to the Development Control Committee submitted by the relevant political groups (Appendix 2 to follow).
15. That Council approve the introduction of an additional long service award to recognise 20 years of service as an elected member (Appendix 3 and 4).
16. That Council note that a recruitment exercise will commence shortly to fill the vacancy for Parish Council representative on the Audit and Standards Committee and that the outcome will be reported to Council for approval in due course.

## **REASONS FOR RECOMMENDATION**

17. To ensure that the requirements of the Constitution are upheld, and transparency is maintained.
18. To amend the Constitution as appropriate and ensure the efficient running of meetings.
19. To ensure that committee seats are politically balanced as required by the Local Government and Housing Act 1989, and appointments are up to date.
20. To ensure that the commitment and dedication of long serving members is recognised for those members who serve 20 years or more.
21. To complete Parish Council representation on the Audit and Standards Committee.

## **SUMMARY OF KEY POINTS**

### 22. Call-in Waiver

Part 4.5 of the constitution requires that a waiver to call-in be reported at Full Council. The Chair of Scrutiny waived call-in regarding the following decision: Approval of the UK Shared Prosperity Fund (UKSPF) Investment Plan for submission to government for approval -Urgent Executive Decision taken by Executive 28th July 2022. (see Appendix 1)

## 23. Audit & Standards Committee Terms of Reference

- 23.1. Any change to the Terms of Reference (ToR) for a committee is a decision for Council following consultation with Member Structures Working Group and the relevant committee.
- 23.2. A report was presented to Audit & Standards Committee in March 2022. The report highlighted best practice regarding the Terms of Reference (ToR) & membership of committees according to both the National Audit Office (Central Government) and the Chartered Institute for Public Finance and Accountancy (CIPFA) Position Statement on Audit Committees in Local Authorities and Police 2018.
- 23.3. The main differences between the current ToR and best practice examples highlighted were:
  - 23.3.1. That the committee should be independent from the Executive.
  - 23.3.2. The CIPFA note also indicates that the committee should be independent of the Scrutiny function.
  - 23.3.3. The committee should have a focus on Strategic Risk (currently included in work programme but not ToR).
- 23.4. Feedback from Members at that meeting was that the committee did not feel strongly for or against a change in the Terms of Reference.
- 23.5. The Executive Members (there were two Executive Members on the committee) and Chair of Scrutiny indicated that they felt their role at the meeting was independent of Executive and Scrutiny.

## 24. Constitutional Additions and Amendments

### 24.1 Delegation to Revoke Planning Permission

It is proposed to give the Head of Housing and Development Control delegated authority to revoke planning permission in consultation with the Chair of Development Control, or in their absence the Vice-Chair. This is considered to be an appropriate addition to the Scheme of Delegation. Whilst this power would be exercised rarely, it is thought appropriate to create this delegation. The power would only be exercised if the decision was unlikely to give rise to a substantial claim for compensation.

### 24.2 Increase to number of objections required before application considered by Development Control Committee

- a. Under the current scheme of delegation there are a number of triggers that determine whether or not planning applications are brought before Development Control Committee for a decision. The Head of Housing and Development Control has delegated authority to determine,
  - Applications covered by Tree Preservation Orders except where the application has been submitted by a Member of the Council, officer of the Council or their partners.

- Applications for the consent to display advertisements except where the application has been submitted by a Member of the Council, officer of the Council or their partners, or where the application is called in by three Members.
- The refusal of applications unless the refusal could give rise to a claim for compensation, the application has been submitted by a Member of the Council, officer of the Council or their partners, or where the application is for the Council's own development.
- All decisions relating to the approval of reserved matters.

The Head of Housing and Development Control also has delegated authority to approval all other applications except,

- Where the application has been submitted by a Member of the Council, officer of the Council or their partners.
  - Proposals for the Council's own development.
  - Where the application has been called in by three Members.
  - Where the decision is not in accordance with a stated Council Policy e.g. the Local Plan.
  - Where in the opinion of the Head of Housing and Development Control the decision is likely to be contentious.
  - Where material planning objections have been received.
- b. The key trigger in the above Scheme of Delegation that significantly increases the number of applications presented to Development Control Committee is where material planning objections have been received. This trigger results in a sizable number of householder and minor applications going before committee that have only received one, or a very small number of objections. The effect of this is a significant increase in the workload of officers and Members in preparing for committee and completing the agenda on the evening of committee and presents an inefficient way of processing planning applications and determine them within target timescales.
- c. The proposal is to amend the Scheme of Delegation so that applications are only referred to Committee for decision if the Council has received three or more objections. This change will see a reduction of around 40% in the number of planning applications going before Development Control Committee for determination and importantly will allow Members to focus their time on key applications of strategic interest, or those which are contentious within neighbourhoods. It will ensure that the Council has effective delegation arrangements in place to operate in the public interest and ensure that planning applications that raise no significant planning issues are determined without delay.

### 24.3 Voting in Meetings

The Council now has electronic voting capability via the application used by members to access committee papers. The proposed update is required in order that the system can be used. It may not be used in all circumstances, but may aid the efficiency of meetings in cases where multiple votes are required.

## 25. Appointments to Committees

Councillor Peter Gill informed Democracy on 7<sup>th</sup> September that he had resigned from the Conservative Group and would now sit on the Council as an Independent member.

The Political Balance has been calculated in line with the requirements of the Local Government & Housing Act 1989. The net change is that Conservative Group lose one seat on Development Control Committee. Burnley & Padiham independent Party gain one seat on Development Control Committee.

Group Leaders have been contacted and asked to confirm the members to be removed and added.

## 26. Additional Long Service Award – 20 years' service

Members have asked that Full Council should be recommended to approve that an additional long service award be introduced to recognise 20 years of service as an elected member.

The relevant section of Protocol 5i from the Council's Constitution follows this report at Appendix 3 and the draft revised protocol follows at Appendix 4.

## 27. Parish Council Representation Vacancy on the Audit and Standards Committee

The Constitution provides for two Parish Council representatives to be co-opted onto the Audit and Standards Committee. One of the previous incumbents, Parish Councillor Gill Smith, was not re-elected to Cliviger Parish Council in this year's elections and this has therefore resulted in a vacancy on the committee. A recruitment exercise will commence shortly and the result of the exercise will be brought back to this Working Group in due course, prior to an appointment being made at Full Council.

### **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

28. None.

### **POLICY IMPLICATIONS**

29. Change to Part 3 of the Council's Constitution and 4.1 Council Procedure Rules

### **DETAILS OF CONSULTATION**

30. Member Structures Officer Group.  
Member Structures Working Group.  
Audit & Standards Committee

<b>BACKGROUND PAPERS</b>
--------------------------

31. None.

<b>FURTHER INFORMATION</b> <b>PLEASE CONTACT: Catherine Waudby</b> <b>01282 477198</b> <b>ALSO:</b>
--