

## CCONSTITUTION AMENDMENTS

**EXECUTIVE MEMBER:** Councillor Elaine Woodburn  
**LEAD OFFICER** Paul Walker, Chief Executive  
**REPORT AUTHOR** Lindsay Tomlinson, Democratic Services Manager &  
Monitoring Officer

### Why has this report come to the Council?

The Constitution Working Group has been considering updates that are required to the Council's constitution to reflect the Directly Elected Mayor model of governance that will be in place from May 2015.

#### **Recommendation:**

1. That Council approves the following amended parts of the Constitution to take effect from 11<sup>th</sup> May 2015:
  - (i) Chapter 5 – Full Council functions
  - (ii) Chapter 2 – Article – Chairing the Council
  - (iii) Chapter 2 – Article – The Executive
  - (iv) Chapter 10 - Planning Participation Scheme
2. That the Democratic Services Manager, in consultation with the Constitution Working Group, be authorised to make any consequential amendments to the Constitution arising from these approved changes.

## **1 Introduction**

- 1.1 The cross party Constitution Working Group was set up in December 2014, and has been meeting weekly since that date with the purpose of reviewing the Council's constitution to ensure that it is up to date and reflects the changes brought about by the move to the Directly Elected Mayor model of governance.

The Working Group comprises:

Councillor Elaine Woodburn  
Councillor David Moore  
Councillor Graham Sunderland  
Councillor Stephen Haraldsen

Councillor Joan Hully  
Councillor David Banks

## **2 Constitution Amendments**

### **2.1 Chapter 5 - Full Council functions**

This Chapter sets out the procedures to be followed at meetings of Full Council. The proposed amendments reflect the changes required by the mayoral model and includes the amended voting process for budget and major policy proposals where, if council wishes to amend or reject such proposals then Council will require a two thirds majority to do so.

The procedure for public questions at Council has been amended to stipulate that three days' written notice is given, which will allow time for written answers to be prepared, and the time allotted for public questions will be limited to thirty minutes.

The procedure for questions by Members of the Council has also been amended to reflect the challenge expected by Members to the Mayor and Executive, and the time allowed for questions has been increased to allow for this.

There are a number of areas where consequential amendments may be required dependant on changes yet to be made to other Chapters of the Constitution and it is proposed that approval for these consequential amendments be delegated to the Chief Executive, following consultation with the Constitution Working Group.

**Deletions are shown in red in the attached Appendix A and additions in blue.**

### **2.2 Chapter 2 Article – Chairing the Council**

This Article re-designates the role of Civic Mayor to that of Chair of Council and sets out the role; it provides that the Chair will continue to be responsible for civic and ceremonial matters, leaving the Mayor free to concentrate of the business aspects of the Council.

**Deletions are shown in red in the attached Appendix B and additions in blue.**

### **2.3 Chapter 2 Article – The Executive**

Article 7 sets out the role of the Mayor and Executive under the new governance arrangements. The detail of the Executive functions and delegations will be considered by the Mayor and brought to the Annual Meeting of Council on 1 June.

**Deletions are shown in red in the attached Appendix C and work still to be undertaken shown in green.**

## 2.4 Chapter 10 - Planning Participation

The Planning Panel speaking scheme has been amended to bring it up to date and make the scheme fairer to local residents wishing to speak on an application. It now allows interested parties to register to speak up until 2 working days prior to the meeting at which the application will be considered and allows all interested parties, including those supporting an application, an opportunity to speak. In order to ensure meetings are not overly long a restriction of three speakers in each of the categories of objector and supporter is proposed, with a speaking time limited to three minutes each. A new system for registering to speak via a Planning Speaking “hotline” is proposed, and anyone who misses out on an opportunity to speak (where three people have already registered) will be given the chance to liaise with those speakers who are registered to request that their views are also put to the Panel.

**Deletions are shown in red in the attached Appendix D and additions in blue.**

## 3 Conclusions

- 3.1 This report presents the first tranche of proposed constitutional amendments. A further report will be presented to Council on 9 April 2015 and the proposals of the Mayor in relation to the Executive functions will be presented at the Annual Meeting on 1 June 2015. It is anticipated that during the ongoing work of the Constitution Working Group some consequential amendments to other sections of the Constitution may arise as a result of the amendments presented in this report and approval is sought for the Chief Executive to agree these in consultation with the working group. Any major amendments will be brought to Council for approval.

Consultees: Chief Executive; Section 151 Officer; Lead Executive Member

Monitoring Officer comments: Included in report

S151 Officer comments:

EIA comments:

## CHAPTER 5

### THE FULL COUNCIL

#### Functions / Terms of References of the Full Council

The Council will exercise the following functions which cannot be delegated, save by specific resolution of Council where these are not reserved to Council by law.

- i) **Constitutional**
  - a) To adopt and amend the Council Constitution (unless consequential amendments are required due to organisational changes and/or job roles);
  - b) To adopt or amend the terms of reference and delegations of the Executive and Committees, and the Officer Delegation Scheme;
  - c) To elect the **Chair of the Council** (~~the Mayor~~) and **Deputy Chair** of the Council (~~Deputy Mayor~~);
  - d) ~~To appoint the Leader of the Council. The Leader appoints the deputy leader and members of the Executive;~~
  - e) To determine which Council Committees the Council will have for the next Municipal year and the number of seats on them;
  - f) To make decisions about any matter which is the responsibility of the Executive or other Committee but which is not in accordance, or not wholly in accordance with, the policy framework or budget;
  - g) To appoint Chairs and Deputy Chairs of certain Committees, Sub-committees and to make appointments to other internal bodies not affected by the political balance rules;
  - h) To receive notification of the appointment by the ~~minority~~ **Political Group(s) on the Council** of the Leaders and Deputy Leaders of these Groups;
  - i) To appoint representatives of the Council on the Lake District National Park Authority, outside bodies, and any joint arrangements, and the spokespersons to answer any questions at Council on their functions ;

- j) To make arrangements for the discharge of the Council's functions by another local authority;
- k) To change the name of the area, to confer the title of Honorary Alderman or to grant the Freedom of the Borough;
- l) Where it relates to a Council function, any function under a Local Act;
- m) The determination of an appeal against any decision made by or on behalf of the authority;
- n) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area;
- o) The appointment of any individual:
  - (a) to any office other than an office in which he or she is employed by the authority;
  - (b) to any body other than -
    - (i) the authority;
    - (ii) a joint committee of two or more authorities; or
  - (c) to any committee or sub-committee of such a body and the revocation of any such appointment;
- p) Where it relates to a Council function, the making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities.
- ~~q) To agree a programme of and format for debates on matters of significance.~~

ii) **Probity**

- a) To adopt the Council's Codes of Conduct for Members and Officers,
- b) To adopt or amend the Members Allowances Scheme based on the recommendations of the Remuneration Panel.

iii) **Policy**

- a) To approve or amend the Council's Policy Framework,

The policy framework means the following plans and strategies:-

- Corporate Improvement Plan
- Sustainable Communities Strategy
- Community Safety Strategy
- Local Development Framework
- Housing Strategy
- Food Law Enforcement Service Plan
- Licensing Policy
- Gambling Policy
- Financial Strategy, including the Treasury Management Strategy and Annual Investment Strategy

- c) To approve any application to the Secretary of State for the transfer of housing land;
- d) To promote or oppose any legislation or to make or amend byelaws;
- e) To approve any plans or strategies which require approval by a Secretary of State;
- f) The duty to approve and publish a statement of principles under Section 349 of the Gambling Act 2005;
- g) To resolve not to issue casino premises licences under Section 166 of the Gambling Act 2005.

iv) **Financial**

- a) To oversee the Council's budget including the allocation of resources to different services and projects;
- b) To approve the Council's Revenue Budget and Capital Expenditure Programme;
- c) To set a Council Tax and calculate the Council Tax Base;
- d) To make decisions regarding the council's borrowing requirements;

- e) To determine any matter involving expenditure not provided for in the Council's approved budget subject to any agreed virement arrangements;
  - f) To approve any plan or strategy for the control of the authority's borrowing or capital expenditure, including the adoption of a Treasury Management Policy Statement;
  - g) To approve policies and practices regarding the granting of discretionary rate relief or remission of rates in accordance with section 47 of the Local Government Finance Act 1988;
  - h) To deal with matters relating to Local Government Pensions referred to in the Local Authorities (Functions and Responsibility Regulations) 2000 (as amended) with the appropriate Officer who does not wish to exercise his or her delegated powers;
- v) **Electoral**
- a) To appoint a Returning Officer for Borough, Parish and Town Council elections;
  - b) To appoint an Electoral Registration Officer;
  - c) To make recommendations concerning district boundaries, ward or Polling Districts, or other electoral arrangements.
- vi) **Staffing**
- a) To confirm the appointment of the Head of Paid Service;
  - b) To deal with all aspects of discipline and dismissal of the Head of Paid Service, Section 151 Officer and Monitoring Officer in accordance with statutory provisions;
  - c) To designate the posts of Head of Paid Service, Section 151 Officer and Monitoring Officer;
  - d) To determine the terms and conditions on which staff hold the offices in c) above (including procedures for their dismissal as set out in the appropriate regulations).
- vii) **Reports in relation to Council functions**

- a) To consider a report of the Head of Paid Service in accordance with Section 4 of the Local Government and Housing Act 1989;
- b) To consider a report by the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989;
- c) To consider a report by the Section 151 Officer in accordance with Section 115 of the Local Government and Finance Act 1988;
- d) To consider any report put to Council.

viii) **General**

- a) To take decisions on all matters which by law must be reserved for Council but may not be delegated to a Committee or Officers.

**Council Meetings**

There are four types of Council meetings:

- (a) the Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings.
- (d) Special Meetings

and they will be conducted in accordance with the Council Procedure Rules below.

**COUNCIL PROCEDURE RULES**

(Standing Orders relating to the Council)

These rules set out the way in which the Council conducts its business meetings where all Council members are required to attend to approve that business, together with any training requirements Members must meet on appointment to its Committees and the Executive

Definition: The term committee in these Rules includes committees, sub-committees, panels and any other bodies established by Council as a committee within the meaning of section 102(4) of the Local Government Act 1972.



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## **Meetings of the Council**

The Council meets collectively for four types of meetings

- i) The Annual meeting
- ii) Ordinary meetings
- iii) Extraordinary meetings
- iv) Special meetings

### **Rule 1 Annual Meeting**

#### **1.1 Timing and Business**

The Council will hold its Annual Meeting at a place and time and on a day in May which it will decide at or before its last meeting prior to the Annual Meeting. In the absence of decision or statutory provision to the contrary, the day will be the second Tuesday in May, but, in Borough Election year, the second Tuesday after the Council elections.

## 1.2 Order of Business at the Annual Meeting

The order of business at the Annual Meeting of the Council shall be:

- a) Election of ~~Mayor~~ Chair and appointment of Deputy Chair ~~Mayor~~ for the coming year.
- b) Signing of the Minutes of the last Ordinary Meeting.
- c) In the absence of the ~~Mayor~~ Chair and Deputy Chair ~~Mayor~~, to choose a Chair of the meeting.
- d) ~~Appointment of the Leader of the Council on a four year cycle and~~ To acknowledge the appointment of ~~other~~ the political groups of the Council for the coming year, including the appointment of the Executive by the ~~Leader~~ Mayor, and their portfolios.
- e) Appointment and delegation of Council business to, and the number and naming of Panels, ~~Standards Committee~~, Audit and Governance Committee and Overview and Scrutiny Committee for the coming year.
- f) Programme of meetings for the coming year.

1.3 No other business will be transacted at the Annual Meeting.

## Rule 2 Ordinary Meetings

2.1 Ordinary Meetings will be held at such place and time as the Council may determine in accordance with a programme decided at the Annual Meeting. There will be a minimum of five Ordinary meetings in each year. The agenda for these meetings is set out at Rule 2.2.

### 2.2 Order of Business at an Ordinary Meeting

The order of business at every Ordinary Meeting of the Council will be:

- a) Choose a person to preside if the ~~Chair~~ Mayor and Deputy ~~Chair~~ Mayor are absent.
- b) Deal with any item required by statute to be done before any other business.
- c) Approve as a correct record and sign the minutes of the last meeting of the Council.
- d) Declarations of Interest
- e) ~~Chair's~~ announcements.
- f) Dispose of business (if any) remaining from a previous meeting.
- g) Receipt of petitions.
- h) Receive and answer questions under Rule ~~12~~ 10 (~~Rule 6 deleted~~) from members of the public in the order received. (30 minutes)

- i) Receive and answer questions under Rule ~~13.1~~ 11.1 (Rule 6 deleted) from members of the Council in the order received. (~~30~~ 60 minutes)
  - j) Receive reports for information
  - k) Receive and answer questions under Rule ~~13.2~~ 11.2 (Rule 6 deleted) from Members of the Council in the order received. (45 minutes)
  - l) Receive ~~and debate reports for decision~~, the Mayor's Announcements
  - m) Consider motions under Rule 14 in the order received.
  - n) Other business, if any, specified in the summons.
    - a) Other business to be considered on grounds of urgency as agreed by the ~~Mayor~~ Chair under Section 100B of the Local Government Act 1972.
- 2.3 The order of business, with the exception of items (a), (b) and (c), may be altered by the ~~Mayor~~ Chair, or by a resolution following a motion moved, seconded and put to the meeting without debate.

### **3 Extraordinary Meetings**

- 3.1
- a) Extraordinary Meetings of the Council may be called at any time by the ~~Mayor~~ Chair, or by the Council by resolution. Where the Council calls the meeting it shall operate in the same way as that of a special meeting under Rule 4.
  - b) Five or more Members of the Council may call an Extraordinary Meeting of the Council if a requisition for such a meeting, signed by five or more Members of the Council, has been presented to the ~~Mayor~~ Chair and either he/she has refused to call a meeting or, without his/her so refusing, no Extraordinary Meeting has been called within seven days of the presentation of the requisition.
  - c) No business shall be placed on the agenda for an Extraordinary Meeting held in pursuance of a requisition for such meeting other than that specified in the requisition.
- 3.2 Any power or duty of the ~~Mayor or a~~ Chair in relation to the conduct of any meetings may be exercised by the person presiding at the meeting.

### **Rule 4 Special Meetings**

- 4.1 The Council may, at the Annual Meeting, or the Council may at any other ordinary meeting make arrangements for a special meeting to be held. The principal business to be transacted at Special meetings will be matters of more than usual importance to the Council.

4.2 The meeting at which the Council Tax is set is agreed is a designated Special Council.

4.3 Special meetings of the Council shall deal with the following business in order:

- a) choose a Member to preside as **Chair** ~~Mayor if the Mayor and Deputy Mayor if the Chair or Deputy Chair~~ is not present
- b) approve as a correct record and sign the minutes of the last meeting of the Council
- c) receive any declarations of interest from Members
- d) receive any public announcements from the ~~Mayor~~ **Chair**
- e) receive any public questions which have been notified and which relate to the business to be transacted at the meeting
- f) receive any written questions from members of the Council which relate to the business to be transacted at the meeting
- g) **receive and debate** the special business for which the meeting has been called and which is specified in the summons for the meeting

#### **Rule 5 Vacancies on Committees**

In the event of a vacancy occurring on any committee during any municipal year it shall be filled by the appointment of a Member from the political group to which the vacant seat is allocated as is notified in writing to the Chief Executive by the Leader of the Political Group so as to give effect to the wishes of the Political Group. In the event that the vacated seat was not allocated to a Member of a Political Group the Leaders of the Political Groups shall decide in accordance with the political balance rules and so notify the Chief Executive accordingly.

All such decisions shall be reported to the next full Council under ~~Mayor's~~ **Chair's** announcements.

#### ~~**Rule 6 — Personal Development for Members on the Executive, Panels and Committees**~~

~~6.1 — No member of Council may act as a member of the Executive, Planning Panel, Licensing Committee, Standards Committee, Resource Planning Working Panel, Audit Committee or any Overview and Scrutiny Committee unless they have made a commitment to and undertaken within the year personal development to enable them to carry out that role. Personal Development includes training related to the subject.~~

~~6.2 — For the purposes of determining whether a member has undertaken personal development to enable that Member to carry out his or her role it will be accepted that a Member has undertaken sufficient personal development for this purpose if that Member has undertaken to attend and attended a minimum of~~

- ~~———— (a) one day's personal development in either the year of their appointment to committee, or the year preceding their appointment, and~~
- ~~———— (b) 5 hours personal development each year thereafter, or~~
- ~~———— (c) an appropriate alternative as agreed with the Council's Monitoring Officer.~~

~~———— 6.3 ———— In the event that a Member fails to attend 5 hours personal development in any year, that Member must attend 5 hours personal development in the following year to remain eligible to sit on the Executive or committee. The Democratic Services Manager will need to be satisfied that Members have met the requirements set out in Rule 6.~~

~~———— 6.4 ———— A review of this rule will take place in April 2011.~~

#### **Rule 7 6 Date time and place of meetings**

The Council will approve a programme for annual, ordinary and designated special meetings of the Council. ~~for each year to be held at designated venues around the Borough at a time specified in the summons.~~

#### **Rule 8-7 Notice of and summons to meetings**

The ~~Chief Executive~~ Democratic Services Manager will give notice to the public of the time and place of any meeting in accordance with the access to information rules set out in this constitution. At least 5 clear working days before a meeting the ~~Chief Executive~~ Democratic Services Manager will send a summons signed on his or her behalf to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **Rule 9 8 Quorum**

8.1 The quorum at a meeting of the Council is one quarter of the voting Members. This is the number of members required for the meeting to go ahead. With regard to the Council meeting this number is 13. If the meeting lacks a quorum its business shall be adjourned to a fixed date and time, or to the next Ordinary Meeting.

8.2 If, during any meeting, the ~~Mayor~~ Chair after counting the number of Members present declares that there are not at least one quarter of the Members present, the meeting shall stand adjourned.

#### **Rule 10 9 Duration of meeting**

If the business of a meeting of the Council has not been concluded within 3 4 hours of the start of the meeting, excluding the period taken up by public question time. The Mayor will call for a vote on whether the meeting should continue and if it is agreed to discontinue the meeting the Council must consider whether the outstanding business should stand adjourned to the next Council meeting or whether an extraordinary Council meeting should be called to dispose of that business, and whether the meeting should continue for a further specified length of time.

## Rule ~~11~~10 Questions by the Public at Council (30 minutes)

### 10.1 General

A member of the public may ask the Mayor or the Chair of the Council, or Executive Member or the Chair of any committee any question on any matter where the Council has powers or duties or which affects the Borough, or any representative on an outside body, and the Mayor or Chair may ask another Member or officer of the Council to answer a question on his/her behalf.

Public Question time will be limited to 30 minutes per meeting, provided that the ~~Mayor~~ Chair shall allow for the question and/or answer which is in progress at the time limit to be completed. The time taken will not be taken into account for the purposes of calculating the 3-4 hours for other business to be conducted at the meeting.

### 10.2 Circulation

Where possible, the Democratic Services Manager will provide a copy of each question to every Member attending the meeting.

### 10.3 Notice

Notice to the public shall be as follows:

**Questions must be given in writing to the Democratic Services Manager at least 3 working days before the meeting.**

~~'No notice of the question need be given but it will help the Council prepare an answer to your question if you do submit it in writing before the day of the meeting.—All questions should be in writing and handed to the Chief Executive before the start of the meeting.'~~

### 10.4 Scope of questions

The Democratic Services Manager, following consultation with the Chief Executive, may reject a question if it:

- (a) is not about a matter for which the local authority has a responsibility or which affects the borough; or
- (b) is defamatory, frivolous or offensive; or
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

And,

- (e) where appropriate may make a recommendation on who is the most appropriate member to answer a question.

For clarification this power will not be extended to the chairs of panels/committees which have plenary powers to grant licences or planning permissions.

#### 10.5 Order of Questions

Questions will be asked and answered in the order they are received by the **Chief Executive** Democratic Services Manager.

#### 10.6 Number of Questions

At any one meeting a questioner may usually ask only one question, which shall be of a length considered reasonable by the **Mayor** Chair, and should be no longer than 3 minutes. A supplementary question to the question asked may be asked and answered at the discretion of the Chair.

#### 10.7 Record of Questions

The Democratic Services Manager will enter each written question received in a book open for public inspection and on receipt will send a copy to the **Mayor, Leader** Chair and/or the appropriate Committee Chair. Rejected questions will include reasons for rejection.

#### 10.8 Asking the Question at the Meeting

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The ~~Mayor~~ Chair will invite the questioner to read the written question. If a questioner who has submitted a written question is unable to be present a written reply will be sent to the questioner.

#### 10.9 Answering the Question at the Meeting

Where a question relates to a function of the Executive the ~~Leader of the Council~~ Mayor will decide which Executive Member will answer a particular question.

#### 10.10 Written answers

Any question which cannot be dealt with during Public Question Time will be dealt with by written answer.

### Rule ~~12~~ 11 Questions by Members (one hour ~~15~~ 45 minutes)

#### 11.1 A Member may put an ~~written~~ Oral question to

The Mayor

on any matter where the Council has powers or duties or which affects the Borough. ~~in accordance with paragraph 13.3 11.3 below, and if it does the Democratic Services Manager will provide a copy of each question to every Member attending the meeting (30 60 minutes).~~

#### 11.2 A Member may put a question, ~~not necessarily~~ in writing, to

~~The Mayor~~

~~— The Political Group Leaders~~

~~— Executive Member~~

~~— The chair of any committee or~~

~~— Member appointed to any outside body by the Council~~

the Mayor or any other Member of the Council in relation to the content of any recommendations or reports before the Council (45 minutes) – ~~any time remaining after 13.1 11.1 above will be added to this time allocation).~~

#### 11.3 A question must:

- a) be given in writing to the Democratic Services Manager at least 3 working days before the meeting; or
- b) relate to urgent business, in which case agreement of the ~~Mayor~~ Chair to the question being put shall be required and, where possible, a copy of the question will



be given to the Democratic Services Manager before 10.00 am on the day of the meeting; or

~~if asked under rule 12.2 11.2 above, a question may be given in writing~~

c) be a question not a statement.

11.4 Written questions will be put and answered in the order received by the Democratic Services Manager.

11.5 A **written** question shall be put and answered without discussion, but the person to whom the question is addressed may decline to answer. The Member shall be allowed one further or supplementary question at the discretion of the ~~Mayor~~ Chair which shall be dependent on the number of questions already received on notice, provided that it is relevant to the original question and does not introduce a new subject matter.

11.6 An **oral** question shall be put and answered without discussion, but the person to whom the question is addressed may decline to answer. The Member shall be allowed one further or supplementary question, provided that it is relevant to the original question and does not introduce a new subject matter.

11.7 Where a Member has given notice of more than one question, the first questions asked by all other Members shall be answered before second questions are answered, unless it is related, and then only at the ~~Mayor's~~ Chair's discretion.

11.8 The answer to a Member's question may be given orally and directly or by reference to published material of the Council or readily available to Members; or in writing to the Member concerned within ~~five~~ten days (which shall be circulated to all Members).

11.9 The maximum time allowed for asking and answering questions under this rule shall be ~~one hour and 15~~45 minutes, provided that the ~~Mayor~~ Chair shall allow the process of asking and answering a question which is in progress when the time limit is reached to be completed.

## Rule ~~13~~ 12 Notices of Motion at Council

### 12.1 Notice

Except for motions which can be moved without notice under rule ~~14~~ 13 written notice of every motion, signed by at least 1 Member, must be delivered to the Chief Executive

AT LEAST SEVEN CLEAR WORKING DAYS before the relevant meeting. They will be entered in a book for public inspection.

#### 12.2 Motions set out in the Agenda

The Chief Executive shall set out in the summons for the Council meeting all motions which comply with the requirements of paragraph ~~13.1~~ 12.1 of this rule in the order they have been received, unless the Member has in writing either withdrawn the notice or stated a wish to move the motion at a later meeting.

#### 12.3 Scope

Such Motions must relate to matters where the Council has powers or duties or which affect the Borough.

#### 12.4 Moving the motion

The Council will treat as withdrawn any such motion not moved at the meeting at which it appears upon the summons, unless its postponement is agreed.

#### 12.5 **Executive/committee matter**

Any such motion, the subject matter of which comes within the province of the Executive or any committee(s), may:

- a) after a motion has been proposed and seconded, if the subject matter comes within the province of the Executive or any committee may be moved for referral without discussion to the Executive or such committee as the case may be, and
- b) the member moving that the matter be referred may include in their speech a response to the motion,

Where Council agrees that the subject matter of the motion be referred, the Member who moved it must be notified by the Democratic Services Manager of the meeting(s) of the committee(s) to which it has been referred, and has the right to attend the meeting(s) and to explain the motion.

The Democratic Services Manager may determine upon receipt of a notice of motion that it is more appropriate to refer to another committee/panel without reference to Council. The Member submitting the notice of motion will be informed in writing of this decision.

#### **Rule ~~14-13~~ Motions without notice at Full Council**

A Member may move without notice any of the following motions and amendments:

- a) To appoint a Chair for that meeting or the remainder of the meeting.
- b) Motions relating to the accuracy of the minutes of a previous meeting of Council.
- c) To vary the order of the agenda.
- d) Subject to the limitation set out in paragraph (f) below of this rule, to move a motion arising out of consideration of an item on the agenda, but the motion must be relevant to that item and must not introduce any new subject matter.
- e) That a body be appointed, or a person appointed to a body.
- f) To adopt reports and recommendations of the Executive, committees, Panels or officers, but a Member cannot move a motion or amendment which amends a decision made under powers delegated to a committee or an officer by the Council, or a decision of the Executive.
- g) To give leave to withdraw a motion.
- h) To extend the time limit for speeches.
- i) Amendments to motions.
- j) To move on to the next item on the agenda.
- k) The Mayor may put the question immediately to the vote.
- l) To adjourn the debate.
- m) To adjourn the meeting.
- n) To suspend one or more council procedure rules.
- o) To exclude the public from the meeting under Section 100A(4) of the Local Government Act 1972.
- p) not to hear a Member further.
- q) by the Mayor to require a Member to leave the Meeting.
- r) To give any consent required by these rules
- s) That a matter be referred to the Executive or any committee. ~~in accordance with 13.5 above.~~ See 12.5 above

## **Rule ~~15~~ 14 Rules of debate at Council**

### 14.1 General rules of debate

- a) Each Member, on speaking, shall rise from his seat and address himself to the ~~Mayer~~ Chair and not to any other Member of the Council, and the Members shall refer to each other during the transaction of business by the respective titles of ~~'Mayer'~~ or Chair or 'Councillor' as the case may be.
- b) During the time when a Member is speaking no other Member shall rise or interrupt such Members speech, unless he rises to seek a ruling from the ~~Mayer~~ Chair on a point or order, or to seek permission to make a personal explanation in accordance with these rules.
- c) Whenever the ~~Mayer~~ Chair rise to speak or give a ruling or call a Member to order no other Member shall continue standing or shall any other Member rise until the Chair is resumed.
- d) If two or more Members rise to speak at the same time the ~~Mayer~~ Chair shall determine who shall speak first.
- e) Any Member shall be entitled to seek a ruling from the ~~Mayer~~ Chair on a point of order at any time during the meeting.
- f) No Member shall speak except on the question before the Council unless it is to make a personal explanation by permission of the ~~Mayer~~ Chair and any Member permitted to make such an explanation must confine his observations strictly to the personal point.
- g) If a Member rises to seek a ruling from the ~~Mayer~~ Chair on a point of order or to ask for permission to make a personal explanation, the Member speaking at the time shall sit down. The Member so rising shall immediately sit down on the ~~Mayer~~ Chair rising to give his ruling on the point of order or to admissibility of the proposed personal explanation.
- h) The ruling of the ~~Mayer~~ Chair on a point of order or the admissibility of a personal explanation shall be final and not open to discussion.
- i). The ~~Mayer~~ Chair shall decide all questions of order or procedure not provided for by these rules.
- j). If the ~~Mayer~~ Chair considers a Member's conduct disorderly, and so states to the Council, then the ~~Mayer~~ Chair or any other Member may move "Not to hear a particular Member further". If seconded, the motion shall be put to the vote without discussion. Disregarding the ruling of the ~~Mayer~~ Chair, wilfully obstructing its proceedings, or behaving improperly, offensively or irregularly shall, for these purposes, be considered disorderly conduct.
- k) If the Member's disorderly conduct continues after the motion has been carried, the ~~Mayer~~ Chair shall either:
  - (i) require the Member to leave the meeting; or
  - (ii) with the Council's consent, adjourn the Meeting to an appropriate time.

#### 14.2 Definition of Personal Explanation and Point of Order

- a) A personal explanation shall be confined to some material part of an earlier speech by the Member, on which a misunderstanding has occurred.
- b) A point of order is a request by a Member to the **Mayor Chair** to rule on an alleged irregularity in the constitution of or procedure in the meeting. The Member must specify immediately a standing order or statutory provision, and say how it has been broken or infringed;

#### 14.3 Content and length of speeches

- a) Speeches must be directed to the question under discussion or to a personal explanation or to a point of order. No speech shall exceed 5 minutes except with the consent of Council. The Council may consent to an extension of a speech by a further period not exceeding five minutes and only one extension is allowed.
- b) The **Mayor Chair** will have overall control of the content and number of speeches and will decide when a matter has been discussed enough for the debate to be closed and a vote taken.
- c) If a motion under rule ~~15 (k)~~ 14 (k) to put the question immediately to the vote is tabled it shall be at the **Mayor's Chair's** discretion as to whether the motion is accepted. Any such motion which is tabled during a Member's speech shall immediately be ruled out of order by the **Mayor Chair**.

#### 14.4 Debating Motions

##### a) Generally

A motion must be proposed and seconded at the meeting, and if the **Mayor Chair** so requires, it must be put in writing by the proposer and handed to the **Mayor Chair**.

##### b) Motion moved

The mover of the motion may reserve their right of reply.

##### c) Motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

When seconding a motion or an amendment, a Member may reserve their speech until later in the debate. Any Member who reserves their speech may not speak at the time of seconding their motion.

##### d) Debate

Members will proceed to debate the motion in accordance with the general rules of debate.

e) Voting on Motion

At the conclusion of the debate the Mayor will ask if there are any amendments to the motion, in the absence of a proposed amendment being put following the seconding of the motion. If there are none the ~~Mayor~~ Chair will call for a vote on the motion.

#### 14.5 Amendment to a motion

a) An amendment must relate to the motion and:

- i) Refer a matter to the Executive (where it relates to executive functions) or a committee, or refer back to the Executive or appropriate committee a matter recommended to the Council; or
- ii) leave out words; or
- iii) add or insert words; or
- iv) leave out words and add or insert words;

BUT an amendment cannot have the effect of introducing a new proposal into, or reversing the meaning of the motion, because if it does it becomes a new motion.

b) Procedure for amendments

Once a Member has moved an amendment it must be seconded by another Member otherwise the amendment will fail.

If the amendment is put before the debate on the motion, the Council must agree whether to accept it before the debate on the motion

The mover of the amendment will have a right of reply at the conclusion of the debate on the amendment.

The amendment will then be debated in accordance with the general rules of debate.

At the conclusion of the debate the Mover will reply.

The ~~Mayor~~ Chair will then call for a vote on the amendment. If the amendment is lost the ~~Mayor~~ Chair will ask if there are any other amendments and this procedure will repeat as above until all amendments have been dealt with.

If the amendment is carried then the amendment becomes the substantive motion and the ~~Mayor~~ Chair will ask if there are any amendments to that motion.

#### 14.6 Executive, Committee and any Reports received

~~A Motion for the approval of recommendations contained in an Executive or Committee Report must be proposed and seconded before it is discussed.~~

The **Mayer Chair** or an appointee will invite a motion to accept the Executive or Committee Report. Following the moving and seconding of a report, any Member may ask a question on or move an amendment to a recommendation or ask a question. When all questions and amendments have been dealt with, the **Mayer Chair** will proceed to the next Report, as listed on the agenda, and no further motion or question can be taken on any preceding item of business.

#### 14.7 **When a Member may speak again**

- a) A Member who has spoken on any motion or amendment (and for this purpose each recommendation of a particular committee or any group of recommendations being taken together will be regarded as a separate motion) must not speak again until the debate on the motion has finished EXCEPT:
  - (1) to speak once on an amendment moved by another Member; or
  - (2) if the motion has been amended since the Member last spoke, to move a further amendment; or
- b) if the Member's first speech was on an amendment moved by another Member, to speak on the main issue, whether or not that amendment was carried; or
- c) in exercise of a right of reply given by rule ~~15.4~~ 14.4; or
- d) on a point of order or by way of personal explanation in accordance with rule ~~15.1~~ 14.1(f) and (g) and rule ~~15.2~~ 14.2; or
- e) to move or speak on a procedural motion set out in rule ~~15.8~~ 14.8
  - (1) on a point of order; and
  - (2) by way of personal explanation

#### 14.8 **Motions which may be moved during debate**

When a motion is being debated, the only other motions which may be moved (either singly or combined and with any necessary added words) are:

- a) To amend the motion.
- b) To adjourn the meeting.
- c) To adjourn the debate.
- d) To move on to the next business.
- e) To put the question immediately to the vote (see rule 15.9 below).

- f) Not to hear a Member further.
- g) By the ~~Mayer~~ Chair, to require a Member to leave the meeting.
- h) To exclude the public from the meeting under Section 100A(4) of the Local Government Act 1972.
- i) To suspend one or more Council Procedure Rules.
- j) To extend the time limit for speeches on items of significance or importance.
- k) To give any consent required by these Council Procedure Rules.

#### 14.9 Closure Motions

At the conclusion of a speech of another Member, a Member may move without comment that:

- a) The debate be adjourned; or
- b) the Meeting be adjourned; or
- c) the Council proceed to the next business; or
- d) the question be put.

If the motion be seconded, the ~~Mayer~~ Chair shall proceed as follows, but only if in the ~~Mayer's~~ Chair's opinion the question before the meeting has been sufficiently discussed:

- d) In the case of a motion under (a), (b) or (c) above, invite the mover of the original motion to reply and then put the closure motion to the vote; or
- e) in the case of a motion under (d) above, put the closure motion to the vote.

If the motion is carried, the question before the meeting shall (subject to the rights of speech or reply) be put to the vote or be deemed to be disposed of or the meeting or debate shall stand adjourned as the case may be.

#### 14.10 Alteration of Motion by Proposer

A Member may with the consent of the Council:

- a) Alter a motion of which the Member has given notice; or
- b) with the further consent of the seconder, alter a motion which the Member has moved
- c) Only alterations which could be made as an amendment may be made.

The meeting's consent will be signified without discussion.



#### 14.11 **Withdrawal of Motion by Proposer**

A motion or amendment may be withdrawn by the proposer with the consent of the seconder and of the Council.

No Member may speak on a motion or amendment after the proposer has asked to withdraw it UNLESS permission to withdraw has been refused.

#### 14.12 **Right of Reply - Proposer of Motion Only**

Subject to the provision of [Rule 14.9](#) Closure Motions, the proposer of a motion has the right to reply at the close of the debate on the motion immediately before it is put to the vote.

Subject to the provision of [Rule 14.9](#) Closure Motions, at the close of a debate on an amendment:

- a) the proposer of the original motion has the right to reply; and
- b) the proposer of the amendment has no right to reply.

### **Rule 16-15 Voting**

#### 15.1 Majority

Any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

#### 15.2 Chair's casting vote

If there are equal numbers of votes for and against, the person presiding at the meeting will have a second or casting vote. There will be no restriction on how the person presiding at the meeting chooses to exercise a casting vote.

#### 15.3 Show of hands

Unless a ballot or recorded vote is demanded, the ~~Mayer~~ [Chair](#) will take the vote by Members by a show of hands or if there is no dissent, by the affirmation of the meeting.

#### 15.4 Recorded vote

If 6 Members present at the meeting demand it, by a show of hands, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. Each member will be required to respond to their name being called to give this information. [The Chair will vote first followed by all other Members in turn alphabetically by surname.](#)

15.5 Right to require individual vote to be recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the Minutes to show whether they voted for or against the motion or abstained from voting.

15.6 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list, and a new vote taken. The process will continue until there is a majority of votes for one person.

**15.7 Voting on Budget and Policy Framework Proposals**

Budget and policy framework proposals will be presented to Council by the Mayor.

The budget proposals shall be presented to Council by 8<sup>th</sup> February. If at that meeting Council resolves by a simple majority that it wishes to amend or reject the proposals then the Mayor shall be required to re-consider the proposals.

The Mayor will re-submit revised budget proposals to Council by 26 February. A simple majority will be required for the revised proposals to be agreed. If Council wishes to amend or reject these revised proposals then a two thirds majority of Members present and voting is required.

Policy framework proposals require a simple majority vote to be approved. If Council wishes to amend or reject such proposals then a two thirds majority of Members present and voting is required.

**Rule ~~17~~ 16 Public Disturbance**

Any member of the public continuing to interrupt proceedings after being warned shall, on the order of the Chair ~~Mayor~~, be removed from the building where the meeting is taking place. The Chair ~~Mayor~~ may order clearance of any public part of the meeting place if general disturbance occurs.

**Rule ~~18~~ 17 Petitions and Councillor Calls for Action**

18.1 All petitions addressed to the Council shall be considered by the Executive or relevant Committee at its next meeting.

18.2 Where petitioners specifically request that their petition shall go direct to Council, such petitions shall be considered by the Council with the prior agreement of the Mayor. The presenter of the petition (a member of the public or a Member of the Council) may address the terms of the petition for not more than five minutes and

the petition shall then stand referred without discussion to the Executive or relevant committee but the Council may, upon motion duly made and seconded, order any petition to be dealt with in a different manner, including consideration and determination at the meeting at which it is presented.

- 18.3 Where a Petition has been considered by an Executive or a Committee and the presenter of the petition is not satisfied with the result of that consideration that person may request a Ward Councillor to instigate a Community Call for Action. Alternatively a member of the public may ask their Ward Councillor to instigate a Community Call for Action without presenting a petition. In either of those two circumstances the Ward Councillor may write to the Chair of the Overview and Scrutiny Committee requesting a Community Call for action clearly setting out what is being requested. This relevant OSC Chair shall, provided he/she is satisfied, following consultation with the Chief Executive, that the request is reasonable, arrange for an OSC meeting to be held within 5 working days of such a request to consider how to deal with such a request.

**Rule ~~19~~ 18 Minutes of Council Meetings**

- 18.1 The ~~Mayer~~ Chair will move that the minutes of the previous meeting of the Council be approved as a correct record.
- 18.2 Only the accuracy of the minutes may be discussed and then only by motion. As soon as any motion has been disposed of (or if no motion is moved) the ~~Mayer~~ Chair will sign the minutes subject to any amendment set out in any motion approved by the Council.
- 20.3 Minutes shall be submitted to and signed at the next following ordinary meeting of the Council.

**Rule ~~20~~ 19 Rescinding an Earlier Resolution**

No motion or amendment by a Member to:

- a) Rescind a decision made, or which would have the effect of rescinding a decision made by the Council within the preceding six months; or
- b) pass a motion or amendment which has the same effect as one which has been lost during the preceding six months;

shall be proposed unless notice thereof has been given in pursuance of Standing Order 8 and bears the name of one quarter of the Members of the Council. When any such motion has been disposed of by the Council it shall not be open to any Member to propose a similar motion within a further period of six months.

**Rule ~~21~~ 20 Record of Attendances**

The names of the Members present at a meeting of the Council or any of its committees or the Executive shall be recorded by the **Democratic Services Manager** or his/her representative in an attendance book provided for that purpose.

**Rule ~~22~~ 21 Suspension and amendment of these rules**

All of these Council Rules of Procedure except Rule ~~16~~ 15 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present, and only for the duration of the meeting. Suspension can only be for the duration of the meeting or for the particular item under discussion.

Only Full Council on Notice and on advice from the Council's Democratic Services Manager can permanently amend these Council Procedure Rules in the Constitution

**(List of Appointments to be made at Council will be appended)**

## Article – Chairing the Council

### 6.01 Role and function of the Chair

The Chair has an important role to play in upholding the principles of the Constitution and to drive good governance amongst members of the Council.

The Chair will be elected by the Council annually.

#### Ceremonial Matters

The Chair will carry out the civic and ceremonial duties of the Council as he/she determines appropriate. The Chair has powers to nominate the Deputy Chair or another elected representative to attend on his/her behalf.

The Chair of the Council and in his/her absence, the Deputy Chair, will have the following roles and functions:

1. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of the elected members and the interests of the Community;
2. To uphold and promote the purposes of the Constitution; and
3. To provide a forum to debate the important issues affecting the Borough.

#### Nomination of Members for Election of ~~Mayer~~Chair

The political group(s) having a majority on the Council have the right to make a nomination of a Member for election to the ~~Mayorality~~ Chair for 2 consecutive years in three.

The political group(s) in a minority on the Council have the right to make a nomination of a Member for election to the ~~Mayorality~~ Chair every third year in three.

Nominations for appointment to the Deputy Mayor in each year will be made by the group entitled under this Article to nominate to the ~~Mayorality~~ Chair in the next following municipal year.

The Deputy Mayor will be appointed to the ~~Mayorality~~ Chair in the following year including in years when there has been a change of political control of the majority on the Council.

Where more than one nomination is made for election of a Member as Deputy ~~Chair~~ Mayor, voting shall be in accordance with the provisions of the rules on voting set out in Rule ~~16~~ 15 of the Council Procedure Rules.

## Article - The Executive

### **ELECTED MAYOR WITH EXECUTIVE**

#### **7.01 Role**

The Mayor will exercise all of the local authority's functions which are not the responsibility of any other part of the local authority, by law or under this Constitution.

#### **7.02 Form**

The Mayor and Executive together comprise the Executive

The Executive will consist of:

- an elected Mayor (who will be known as the Mayor); and
- at least 2 but not more than 9 Councillors appointed to the executive by the Mayor.

#### **7.03 Mayor and Executive**

##### **Role of the Mayor**

The role of the Mayor will include:

##### **1. First Citizen**

The elected Mayor shall take precedence, i.e. shall be the first citizen of the Borough of Copeland.

##### **2. Promotion of the Council**

The Mayor, Executive Members and the Head of Paid Service will promote the council as a whole and act as a focal point for the Community including promoting public involvement in the Council's activities.

##### **(a) Roles and Functions.** The Mayor will carry out the following roles:

- (i) to be the local authority's principal public spokesperson;
- (ii) to give overall strategic direction to the Council;
- (iii) to appoint the Executive and Deputy Mayor;
- (iv) to decide on the scheme of delegation for executive functions;

- (v) to chair meetings of the Executive.
- (b) **Mayor as Member of the Council.** The Mayor will be treated as a Councillor unless the law or context requires otherwise.
  - In particular the Mayor:
    - (i) is subject to the same rules about qualification and disqualification as any other Councillor;
    - (ii) must follow the rules about disclosure of interests and comply with the Councillors' Code of Conduct set out in Part 5 of this Constitution;
    - (iii) ~~may be a member of, attend and speak at any meeting of the Council, its Committees and Sub-Committees, except the Standards Committee and Overview and Scrutiny Committees. The elected Mayor may only speak at any overview and Scrutiny Committee or Standards Committee when invited to do so and may not vote at those meetings;~~
    - (iv) ~~if a member of a political group, will be taken into account when calculating seat allocations on Committees and Sub-Committees of which he/she is a member, if they have to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989;~~
    - (v) is subject to the Members' Allowances Scheme set out in Part 6 of the Constitution; and
    - (vi) is subject to the same rules about casual vacancies as apply to all Councillors.
- (c) **Title of Mayor.** The title of Mayor may only be used by the elected Mayor.

#### 7.04 Deputy Mayor

- (a) **Appointment.** At the first annual meeting of the Council after his/her election, the Mayor will appoint one of the members of the executive to act as Deputy Mayor.
- (b) **Term of Office.** The Deputy Mayor will hold office until the end of the elected Mayor's term of office unless he/she is no longer a member of the authority or the executive, resigns as Deputy Mayor, or is removed by the elected Mayor from the office of Deputy Mayor.
- (c) **Duties of the Deputy Mayor.** If for any reason the elected Mayor is unable to act, or the office of Mayor is vacant, the Deputy Mayor will act in his/her place until a new elected Mayor is elected or again able to act. If the elected Mayor is unable to act or the office is vacant, at the same time as the Deputy Mayor is unable to act or the office of Deputy Mayor is vacant, then the executive must act in the Mayor's place, or arrange for a member of the Executive to do so.

#### 7.05 The Executive other than the elected Mayor

- (a) **Composition.** Only Councillors may be appointed to the Executive. There may be no co-optees, deputies nor substitution of Executive Members. Neither the Chair nor Vice-Chair of the Council may be appointed to the Executive. Members of the Executive may not be Members of a Regulatory Committee
- (b) **Term of office.** Members of the Executive will hold office until their appointment is terminated by the elected Mayor, they resign from the Executive or are no longer a Councillor.
- (c) **Appointment by the Mayor.** Subject to Article 7.02 the size and composition of the Executive will be solely a matter for the Mayor to decide. He/she may choose to appoint Councillors from any political group on the Council or those not in a political group. The Executive need not reflect the political balance of the Council as a whole. The Mayor will report his/her appointments to Full Council and the proper officer at the 1<sup>st</sup> Annual Meeting then as and when they are made.
- (d) **Removal from office.** The Mayor is able to appoint and dismiss Members of the Executive as he or she wishes. However, any changes should be reported to the Head of Paid Service and the next meeting of Full Council.

#### 7.06 Inability of whole Executive to act

If all the Members of the Executive are unable to act for any reason, then the Council will appoint an interim Executive to discharge the relevant Executive functions.

Unable to act means that the Executive is either suspended from office or is unfit to act on health grounds. Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and other Provisions) (England) (Order 2001)

#### 7.07 Proceedings of the Executive

Proceedings of the Executive will take place in accordance with the Executive Procedure Rules set out in Part 2 of this Constitution.

#### 7.08 Responsibility for functions

The Mayor will maintain a list in Part 2 of this Constitution setting out whether the Executive itself or which individual Members of the Executive, Committees of the Executive, Officers or joint arrangements, are responsible for the exercise of particular Executive functions.



# CHAPTER 10

## REGULATORY - PLANNING

The Regulatory Committees deal with Planning and Licensing matters not delegated to the Legal Services Manager, this chapter, and chapter 9, set out the rules around these committees. Other parts of the constitution such as Chapter 3 on the citizens rights to speak, contain additional information.

Panels are Committees for the purposes of the Local Government Act 1972 and have delegated powers of resolution as detailed below. Panels implement council policy and may make recommendations for changes to policy in their areas of interest to the Executive (if the matter is within its delegations), or to Council in consultation with the Executive. An exception to this rule is the Licensing Panel, which by the nature of its work, has power to make, vary or revoke policy and conditions relating to the types of licences within its remit.

The Council will appoint a **Planning Panel** of eleven Members.

~~No Member may serve on the Planning Panel unless they have made a commitment to and undertaken within the year personal development to enable them to carry out the role. Personal development includes training related to the subject. (see Rule 6 of the Council Procedure Rules Chapter 5) (To be included elsewhere)~~

### TERMS OF REFERENCE OF THE PLANNING PANEL

**NOTE: County matters, the Lake District National Park Authority and nationally significant infrastructure projects are not dealt with by the Council**

1. Determination of applications for planning permission and consultation on planning applications or Crown proposals which shall include applications for the development or change of use of premises and matters relating to historic buildings Enforcement of all legislation relating to planning control other than those delegated for determination to the **Director of Economic Growth and/or Head of Nuclear Energy and Planning** ~~Head of Development Operations and/or Development Control Manager~~. **This shall include applications made by the Council itself which were previously reserved to Council.**
2. Receiving and making representations from and to adjacent local authorities

3. Authorising the making of Directions pursuant to Article 4 of The Town and Country Planning (General Permitted Development) Order 1995 and agreements under Section 106 of the Town and Country Planning Act 1990.
4. Receiving the results of appeals under planning legislation and costs incurred.
5. Implementing policy relating to development control, and recommending and implementing policies relating to the conservation of the built environment.
6. Making orders for the revocation or modification of planning permission or for the discontinuance of use of land subject to the concurrence of the Policy Forum in any case where compensation shall thereby become payable.
7. Determining applications under the Land Compensation Act 1961 and granting certificates of alternative development and lawfulness.
8. Authorising Hazardous Substance consents and serving contravention Notices.
9. The naming of streets and numbering of houses.
10. Determination of all issues relating to the creation, diversion, stopping up or interference (other than of a temporary nature) of highways, particularly consultation matters from the highway authority.
11. The making of tree preservation orders.
12. The designation of conservation areas

#### **SCHEME OF DELEGATION FOR THE DETERMINATION OF PLANNING AND OTHER APPLICATIONS.**

The power to make decisions is delegated to the **Head of Nuclear Energy and Planning** ~~Development Control Manager~~ or, in his/her absence, the ~~Head of Development Operations~~ **Director of Economic Growth**.

He/she has the power to determine all planning applications and applications for Listed Building Consent; Conservation Area Consent; Advertisement Consent; Certificates of Lawfulness or whether Prior Approval is required in relation to all notifications under the GPDO 1995 (as amended) for telecommunication, agricultural and forestry developments and demolitions and also to comment on proposals to be decided by Cumbria County Council or the Lake District National Park Authority

WITH THE FOLLOWING EXCEPTIONS:-

- (a) Any application which a Member of the Council has requested be referred to the Planning Panel for determination. Such a request shall be submitted in writing / by email to the **Head of Nuclear Energy and Planning** ~~Development Control Manager~~ within 21 days from circulation of the weekly list of planning applications on which such application appears and shall set out the reasons for requesting referral of the application to the Planning Panel.
- (b) Applications for the erection of 10 or more dwellings or, if the number is not known, where the site area is 0.5 hectares or more.
- (c) Applications for buildings where the floorspace to be created is 1000 square metres or more, or on a site of 1.0 hectare or more.
- (d) Applications recommended for approval / refusal which are contrary to the provisions of the Statutory Development Plan or other adopted or approved Council planning policies or supplementary planning guidance.
- (e) Applications submitted by or on behalf of the Council; applications in which the Council has a property or other financial interest; applications by or on behalf of any member of the **Development Team** or other Senior Council Officers, either as applicant or agent and applications by or on behalf of any elected Member, either as applicant or agent.
- (f) There are substantive objections from one or more statutory consultees such as Cumbria Highways, English Heritage or the Environment Agency raising material planning considerations contrary to officer recommendation.
- (g) There are substantive objections from a Parish/Town Council raising material planning considerations contrary to officer recommendation.
- (h) Applications which the ~~Development Control Manager~~ **Head of Nuclear Energy and Planning** considers to be of sufficient importance in planning terms to refer to the Planning Panel for determination even though the application may meet the criteria for officer delegation in other respects.
- (i) Applications which involve the proposed entering into, variation or discharge of a Section 106 agreement or other form of planning obligation.

Delegated authority is also granted to the **Head of Nuclear Energy and Planning** ~~Development Control Manager~~ to:-

1. Determine minor variations to permissions.
2. Determine submissions for discharge of planning conditions.
3. Determine applications under Section 64 of the Town and Country Planning Act 1990 (whether planning permission is required), including the Council's own "Householder Development Enquiry Forms".
4. Authorise the service of Planning Contravention Notices, Breach of Condition Notices and Planning Enforcement Notices in consultation with the Council's ~~Head of Legal and Democratic Services~~ Legal Services Manager (or nominee).
5. Determine applications to fell, lop, top or carry out other works to trees the subject of Tree Preservation Orders and/or located within Conservation Areas.
6. Determine the publicity arrangements required under the Town and Country Planning legislation.

The ~~Head of Development Operations~~ **Head of Nuclear Energy and Planning** is also delegated authority to duly authorise relevant officers to enter land and property for planning purposes by virtue of Sections 196, 198-200, 214, 220, 221, 225 and 324 of the Town and Country Planning Act 1990 (as amended) and Section 88 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Provisos and Clarification**

The ~~Development Control Manager~~ **Head of Nuclear Energy and Planning** shall only exercise his/her delegated powers after taking into account all material planning considerations, including any written planning representations which may have been received.

The ~~Development Control Manager~~ **Head of Nuclear Energy and Planning** shall only exercise his/her delegated powers in accordance with planning legislation, regulations and procedures and following the expiry of relevant consultation periods.

The ~~Development Control Manager~~ **Head of Nuclear Energy and Planning** shall report details of all applications determined under his/her delegated powers to the Planning Panel on a monthly basis.

## PROCEDURE FOR SPEAKING AT PLANNING PANEL MEETINGS

1. Objectors to applications, including Town and Parish Councillors, Ward Councillors and Councillors wishing to object are encouraged to follow the procedure of making written submissions which can be referred to in reports and submitted to the Planning Panel. However, the opportunity to speak in front of the Panel may also be available under the terms of the Planning Delegation Scheme.

2. Objectors, including Town and Parish Councillors, Councillors and Ward Councillors, wishing to speak should ~~write~~ **call the "Planning hotline"** ~~Development Control Manager~~ as quickly as possible and not later than ~~six~~ **two clear** working days before the meeting of the Planning Panel. The ~~letter~~ **call** should **state whether they wish to object to or support the application, giving full name and contact number and set out concisely the points to be raised verbally at the meeting.** Requests to speak received fewer than ~~two~~ **six clear** working days prior to the meeting will not be allowed. They will also be asked to submit, prior to the meeting, any material such as photographs, for consideration by the Panel. ~~in order to avoid using up part of their time allocation.~~

~~3. If the request to speak is agreed, speaking time will be allocated strictly in order of written requests received. If the grounds for objection are common to several or all the objectors/Ward Councillors then a spokesperson will be invited to present these collective Views. The objector who writes in first will normally be invited to act as spokesperson.~~

3. No more than 3 objectors and 3 supporters may register to speak on an application (supporters will include the applicant or agent) and each will be allowed to speak for up to 3 minutes. The 3 objectors and 3 supporters will not include Town and Parish Councillors, Councillors or Ward Councillors however the 3 minute time limit will apply to speakers from these groups. Additional speakers will only be allowed at the discretion of the Chairman.

Councillors wishing to speak as an objector/supporter on an application which is not in their Ward must demonstrate a need to speak. The decision to allow/not allow the Councillor to speak is delegated to the Chairman of the Planning Panel, who must give the reasons for allowing or not allowing such a request.

~~4. In all cases where an where an objector/Ward Councillor wishes to speak, the applicant (or applicant's representative) will be offered the opportunity at the same meeting to reply to the points made. An applicant will not be allowed a hearing if no objectors/Ward Councillors are to speak. Given that the applicant (or applicant's representative) will be invited to address the Planning Panel, supporters of an application will not be allowed to speak.~~

~~5. No objector/Ward Councillor or applicant (or applicant's representative) should speak for more than five minutes other than at the discretion of the Chair of the meeting. Where more than one objector/Ward Councillor has spoken an applicant will be allowed sufficient time to respond adequately to all objections raised.~~

4. The opportunity to speak will only be allowed on one occasion other than ~~in the following circumstance:-~~ **where an application is put to the Panel for a decision and, after an objector/Town and Parish Councillor, Councillor or Ward Councillor has spoken, the Planning Panel decides to have a site visit, then:-**

**(i) the original objector, Town and Parish Councillor, Councillor and Ward Councillor shall be given the chance to speak a second time when the application is re-considered following the site visit and the applicant/agent shall be given the opportunity to respond. Notification of a request to speak a second**

**time should be made direct to the planning department. ~~shall be made by message on the planning hotline within the timescales referred to in paragraph 2.~~**

~~(a) After a "minded to" decision has been made, the objectors/Ward Councillors may opt to speak a second time at the meeting following the "minded to" decision provided the timescales referred to in paragraph 2 are adhered to. In those circumstances if the objector/Ward Councillor speaks the applicant will be given the opportunity to respond;~~

**5. The Head of Nuclear Energy and Planning's representative will present the report** on the relevant application.

Order of speakers will be: -

Objectors  
Town and Parish Council  
Councillors who can demonstrate a need to speak  
Ward Councillors  
Supporters (including applicant or agent).

~~8. In order not to cause unnecessary waiting time to objectors/Ward Councillors and applicants the Planning Panel will, when considering applications, deal first with those applications where objectors wish to speak.~~

**6. With the Chair's permission, Members of the Panel or officers will be allowed to ask questions of the speakers about the planning issues raised.**

~~10. Where a member of the Planning Panel who has declared both a personal and prejudicial interest in a planning application and who wishes to speak on the application, they shall follow the same procedures as for Ward Councillors and having presented their case, shall immediately withdraw from the Planning Panel meeting room.~~

~~11. Otherwise, following consideration of the application the objector/Ward Councillor and applicant (or applicant's representative) may leave the meeting~~

~~12. Any objection deemed by the Development Control Manager or Head of Legal and Democratic Services to be defamatory or which relates to a specific officer or Member or an issue which is subject to the Data Protection Act will not fall within the scope of this scheme and the objector/Ward Councillor will be informed in writing of the reason for such a matter not going forward to a meeting. If such an issue is raised at the meeting, the Development Control Manager/ Legal Services Manager will so advise the Chair who will stop the objector/Ward Councillor/applicant.~~

~~13. In the circumstances of an application made by the Council under the provisions of the Town and Country Planning General Regulations 1992 to which objection has been made, the same facilities will be allowed with the additional benefit of being able to submit further written questions at the meeting of Full Council at which the decision is made.~~

Note:

~~(i) Upon arrival at the Copeland Centre, please report to the reception desk from where you will be directed to the Bainbridge Room.~~

~~(ii) Please make your presence known to the Committee Clerk who will advise you of the procedures to be followed.~~

~~(iii) When speaking to the Chair it is suggested that "Mr/Madam Chair" is an appropriate form of address.~~

~~(iv) Meetings are open to the public – anyone can attend whether or not they have elected to speak.~~

~~(v) If you have any queries in advance of the meeting please do not hesitate to contact staff in the Planning Department who will be pleased to assist (tel: 01946 598418/598421).~~

~~Objectors have no right of appeal to the Secretary of State against a decision to approve an application, but they can seek to have the decision quashed by application to the High Court by way of a Judicial Review.~~

~~For further information in relation to this chapter please contact the Development Services Manager at the Copeland Centre, Catherine Street, Whitehaven on 01946 59 8410 or by email: [tony.pomfret@copeland.gov.uk](mailto:tony.pomfret@copeland.gov.uk)~~

**7. *Members of the public are permitted to film or record meetings or parts of meetings of Copeland Borough Council that are open to the public and press. Anyone wishing to film or record a meeting must do so in a way that it is not disruptive or distracts the conduct of the meeting and must follow the guidelines set out below:***

- a. *Filming should take place from a fixed position, as agreed with the Chairman, that does not interfere with the ability of any attendee, whether councillor, officer or member of the public, to see or hear the proceedings, and ensures that any wires or cables do not present a hazard.***
- b. *The privacy of members of the public present should be respected and people seated in the public gallery/seating area are not to be photographed/filmed/recorded without their consent.***
- c. *Use must not be made of an image if consent is refused.***
- d. *The audio/visual recording must not to be edited in such a way that could lead to a misinterpretation of the proceedings.***
- e. *The use of flash photography or additional lighting should be avoided but if absolutely necessary then it will only be permitted for a limited period.***
- f. *If the Chairman feels the photography/audio/visual recording is disrupting the meeting in any way or that any of these guidelines has been breached the operator of the equipment will be required to stop.***

***Failure to comply with this Protocol may lead to the refusal of any requests to photograph/audio/visually record any future Council meetings.***

*The Council also permits Social media reporting of all its public meetings.*