

To: All Members of the STANDARDS
COMMITTEE

When calling please ask for:
Ema Dearsley, Democratic Services Officer
Policy and Governance
E-mail: ema.dearsley@waverley.gov.uk
Direct line: 01483 523224
Calls may be recorded for training or monitoring
Date: 13 May 2020

Membership of the Standards Committee

Cllr John Robini (Chairman)
Cllr Michael Goodridge (Vice
Chairman)
Cllr Brian Adams
Cllr Paul Follows
Cllr John Gray
Cllr Jerry Hyman

Cllr Robert Knowles
Cllr Penny Marriott
Cllr Peter Marriott
Cllr Thomas Hughes (Co-Optee)
Cllr Stefan Reynolds (Co-Optee)

Dear Councillors

A meeting of the STANDARDS COMMITTEE will be held as follows:

DATE: THURSDAY, 21 MAY 2020
TIME: 5.00 PM
PLACE: ZOOM VIDEO CONFERENCE MEETING

The Agenda for the Meeting is set out below.

The meeting can be viewed remotely in accordance with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, via the Council's YouTube page.

Yours sincerely

ROBIN TAYLOR
Head of Policy and Governance

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This meeting will be webcast and can be viewed by visiting www.waverley.gov.uk/committees

NOTES FOR MEMBERS

Contact Officers are shown at the end of each report and members are welcome to raise questions, make observations etc. in advance of the meeting with the appropriate officer.

AGENDA

1.. **MINUTES**

To confirm the Minutes of the meeting which took place on 13 January 2020.

2.. **APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

3.. **DISCLOSURES OF INTERESTS**

To receive from Members, declarations of interests in relation to any items included on the agenda for this meeting in accordance with the Waverley Code of Local Government Conduct.

4.. **QUESTIONS BY MEMBERS OF THE PUBLIC**

The Chairman to respond to any written questions received from Members of the public in accordance with Procedure Rule 10.

5.. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

The Chairman to respond to any written questions received from Members in accordance with Procedure Rule 11.

ETHICAL STANDARDS

6.. WAVERLEY MEMBERS' CODE OF CONDUCT - PROPOSED REVISION (Pages 7 - 20)

This report proposes a minor revision to the Waverley Member's Code of Conduct, to update the descriptions of the seven Nolan Principles to those now being used by the Committee on Standards in Public Life. The revised version of the Waverley Members' Code of Conduct showing the new text as tracked changes is attached at Annexe 1.

The LGA's work on the new Model Code of Conduct has been delayed due to their work supporting local authorities on the Covid-19 pandemic response. The draft will be brought to the Standards Committee for consideration when it is released.

Recommendation

That the Standards Committee recommends to Full Council that the revised Waverley Members' Code of Conduct be adopted.

CONSTITUTIONAL MATTERS

7.. REMOTE MEETINGS PROTOCOL AND PROCEDURE RULES (Pages 21 - 34)

The current Covid-19 pandemic and related Government restrictions have impacted on local authorities' decision making processes and the ability for meetings of the Full Council, its committees and Executive to be held. This is in large part due to the inability in previous legislation for members to vote at meetings remotely.

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ("the Regulations") which came into effect in early April now provide the ability for remote meetings to be held. This report responds to the provisions in the Regulations and seeks to provide clarity around the necessary arrangements for remote meetings and attendance.

Recommendation

It is recommended that the 'Remote Meetings Protocol and Procedure Rules' as set out in Annexe 1 is recommended to Full Council for adoption.

8.. NEW PLANNING COMMITTEES TEMPORARY ARRANGEMENTS FOR 2020/21 (Pages 35 - 50)

This report sets out proposals for the establishment, on a temporary basis, of two new planning committees (WESTERN and EASTERN) to replace the

Council's five existing planning committees (Joint Planning Committee, and Southern, Western, Eastern and Central Area Planning Committees, in order to streamline planning committee decision-making arrangements whilst resources are stretched due to the impact of the Covid-19 pandemic.

Recommendation

It is recommended that Standards Committee recommends to Full Council:

- i. that the arrangements set out in Section 4 are adopted as a temporary measure to facilitate decision-making by Planning Committees whilst the work of the Council is impacted by the effects of the Coronavirus pandemic;**
- ii. the Terms of Reference of the new temporary WESTERN and EASTERN planning committees as set out in Annexe 1 are incorporated into the Constitution and clearly identified as being temporary measures for a period to be agreed by Full Council;**
- iii. that the need for the new temporary WESTERN and EASTERN planning committees are kept under review by the Planning Committee Chairman in consultation with the Head of Planning & Economic Development, and should continue until such time as Council agrees that they cease, or until 7 May 2021, whichever is sooner.**
- iv. that where an application could be decided under delegated authority were it not for there being a connection with a Member of Officer, then these applications may be delegated to the Head of Planning & Economic Development in consultation with the relevant Planning Committee Chairman and Vice-Chairman, such special delegation expiring with the temporary planning committee arrangements.**

9.. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:

Recommendation

That, pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

**For further information or assistance, please telephone
Ema Dearsley, Democratic Services Officer, on 01483 523226 or by
email at ema.dearsley@waverley.gov.uk**

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WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 MAY 2020

Title:

Waverley Members' Code of Conduct
- Proposed revision

Head of Service: Robin Taylor, Head of Policy & Governance and
Monitoring Officer

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 This report proposes a minor revision to the Waverley Member's Code of Conduct, to update the descriptions of the seven Nolan Principles to those now being used by the Committee on Standards in Public Life. The revised version of the Waverley Members' Code of Conduct showing the new text as tracked changes is attached at Annexe 1.
- 1.2 The LGA's work on the new Model Code of Conduct has been delayed due to their work supporting local authorities on the Covid-19 pandemic response. The draft will be brought to the Standards Committee for consideration when it is released.

2. Recommendation

That the Standards Committee recommends to Full Council that the revised Waverley Members' Code of Conduct be adopted.

3. Reason for the recommendation

To ensure that the Waverley Members' Code of Conduct is consistent with the updated statement of the Nolan Principles.

4. Relationship to the Corporate Strategy and Service Plan

- 4.1 This report supports the Council's Corporate Strategy priority of 'Open, democratic and participative governance'.

5. Implications of decision

5.1 Resource (Finance, procurement, staffing, IT)

There are no direct resource implications arising from this report.

5.2 Risk management

Updating the Waverley Members' Code of Conduct to be consistent with the current public descriptions of the Nolan Principles avoids there being any confusion about the expected standards in public life.

5.3 Legal

There are no direct legal implications arising from the proposed changes to the descriptions of the Nolan Principles within the Waverley Members' Code of Conduct.

5.4 Equality, diversity and inclusion

There is a general obligation in the Code of Conduct in which Members undertake to "not do anything which may cause the Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2010)".

5.5 Climate emergency declaration

There are no direct climate emergency implications arising from this report.

6. Consultation and engagement

6.1 None.

7. Other options considered

7.1 The original descriptions of the Nolan Principles in the current Code of Conduct have been updated but not changed significantly in their meaning. However, updating them to reflect the current text avoids potential confusion for Members.

8. Governance journey

8.1 The recommendation of the Standards Committee will be reported to Full Council.

Annexe:

Annexe 1 – Waverley Members' Code of Conduct – draft May 2020 revision (with tracked changes)

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

CONTACT OFFICER:

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The Waverley Members' Code of Conduct

The Waverley Members' Code of Conduct was adopted by Council on 17 July 2012, and subsequently amended by Council on 18 October 2016 and 19 March 2019.

Introduction and Interpretation

1. (1) This Code applies to you as a Member of Waverley Borough Council ("the Council") when you act in your role as a Member, including the use of email or social media platforms.
- (2) You are a representative of the Council and the public will view you as such. Your actions can impact on how the Council as a whole is viewed.
- (3) Waverley is under a duty to promote and maintain high standards of conduct by Members. This Code is based on and is consistent with the seven "Nolan principles" of public life set out in Section 28 of the Localism Act 2011 which Waverley endorses:
 - (a) **Selflessness.** Holders of public office should act solely in terms of the public interest. ~~They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.~~
 - (b) **Integrity.** Holders of public office ~~should not place~~ must avoid placing themselves under any ~~financial or other~~ obligation to ~~people outside individuals~~ or organisations that might ~~try inappropriately seek~~ to influence them in ~~their work the performance of their official duties.~~ They should not act or take decisions in order to gain financial or other material benefits for themselves, their families, or their friends. They must declare and resolve any interests and relationships.
 - (c) **Objectivity.** ~~Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.~~
 - (d) **Accountability.** Holders of public office are accountable to the public for their decisions and actions ~~to the public~~ and must submit themselves to ~~whatever the~~ scrutiny necessary to ensure this. ~~is appropriate to their office.~~
 - (e) **Openness.** Holders of public office should act and taken decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing. ~~be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.~~

(f) **Honesty.** Holders of public ~~should be truthful. office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.~~

(g) **Leadership** Holders of public office should ~~exhibit these principles in their own behaviour. They should actively promote and robustly support these principles and be willing to challenge poor behaviour wherever it occurs. by leadership and example.~~

- (4) It is your responsibility to comply with the provisions of this Code when acting in your capacity as a Member.
- (5) In this Code:
- (i) “Member” includes elected councillors, and co-opted or appointed members.
 - (ii) A “Disclosable Pecuniary Interest” is an interest within the prescribed descriptions set out in Annexe 1 that you have personally, or that is an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners, and you are aware that that person has the interest.
 - (ii) “meeting” means any meeting of
 - (a) the Council
 - (b) the Executive
 - (c) any of the Council’s committees, sub-committees, joint committees, joint sub-committees, area committees, working groups, panels or Boards.
- (6) If you are unsure about whether or not the code of conduct applies to a particular situation, you should consult the Monitoring Officer or Deputy Monitoring Officer.
- (7) A failure of a Member to comply with this Code of Conduct will be dealt with in accordance with the Arrangements approved by the Council under which allegations of such failure can be investigated and decisions on such allegations be made.
- (8) Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may also result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to five years.

General Obligations

2. (1) **You must** always treat others (including member colleagues, officers, other organisations and members of the public) with respect.
- (2) **You must not do** anything which may cause the Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2010).
- (3) **You must not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members.
- (4) **You must not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest;
 - (bb) made in good faith and in compliance with the reasonable requirements of the Council; and
 - (cc) you have consulted the Monitoring Officer or taken other independent legal advice prior to its release.

This particularly includes Waverley Borough Council reports which are exempt, which remain confidential until released by a resolution of the Executive or Committee of the Council.

- (5) **You must not** prevent another person from gaining access to information to which that person is entitled by law.
- (6) **You must not** use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.

- (7) **You must not** undertake any action that could be regarded as harassment, intimidation and/or bullying of member colleagues, officers, or members of the public.
 - (8) In addition to compliance with this Member Code of Conduct, you are expected to comply with the following codes:
 - (i) Planning Code of Best Practice
 - (ii) Member/Officer Protocol
3. When using or authorising the use by others of the resources of the Council:
- (1) **Do** act in accordance with the Council's reasonable requirements and policies;
 - (2) **Do** ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (3) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Gifts and Hospitality

4. (1) **Do** exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.
- (2) **Do not** accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- (3) **Do** register with the Monitoring Officer any gift with an estimated value of at least £50 or hospitality with an estimated value of at least £100 within 28 days of its receipt.

Registration of Interests

5. (1) As a Member of the Council **you must** avoid participating in any decision where you could reasonably be seen as having an interest which compromises your honesty or objectivity. Equally, you should avoid any action which might reasonably lead others to conclude that you were not acting selflessly or with integrity. In order to assist with this and promote openness and accountability, the Monitoring Officer must, by law, establish and maintain a register of interests, open for inspection by the public at the Council's offices and publicly accessible on the Council's website.
- (2) **You must** notify the Monitoring Officer of your Disclosable Pecuniary Interests, or other interests which the Council has decided are appropriate for registration

(those listed in paragraph 5(4)). On election, you must do this within 28 days of being elected or appointed to office. Details of disclosable pecuniary interests are set out in the Annexe to this Code. You should give sufficient detail of the interests for a member of the public to understand where there might be a conflict of interest.

- (3) **Do** similarly notify the Monitoring Officer of any Disclosable Pecuniary Interest or other interests not already registered within 28 days of your re-election or re-appointment to office. If any of these change you should update your Register of Interests entry promptly.
- (4) **Do** be aware that Disclosable Pecuniary Interests include not only your interests but also the interests of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner, so far as you are aware of the interests of that person. They also apply to any past and reasonably expected future occupational pension, office, trade, profession or vocation as well as present ones.
- (5) **Do** be aware that the Council has decided that it is appropriate for you to register and disclose non-pecuniary interests that arise from your membership of or your occupation of a position of general control or management in the following bodies –
 - (i) bodies to which you have been appointed or nominated by the Council;
 - (ii) bodies exercising functions of a public nature;
 - (iii) bodies directed to charitable purposes;
 - (iv) bodies one of whose principal purposes include the influence of public opinion or policy.
- (6) **Sensitive Information** Where a Member of the council has an interest (whether or not a Disclosable Pecuniary Interest) and the nature of the interest is such that they, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the Member (or a person connected to them) being subject to violence or intimidation, then:
 - (a) if the interest is entered in the Register of Interests, copies of the register that are made available for inspection or published on the Council's website, must not include details of the interest (but may state that the Member has an interest the details of which are withheld under this provision of the Code).

- (b) where a disclosable pecuniary interest is not entered on the Register of Interests and would otherwise require disclosure at a meeting, the Member shall be entitled to merely disclose at the meeting the fact that they have such an interest in the matter concerned.
- (7) **Removal of entries in the register** An entry in the register of interests will be removed once the person concerned no longer has the interest or is neither a councillor nor a co-opted Member of the council (other than transitorily on re-election or re-appointment).

Disclosure of Interests and Participation

6. (1) **Do** disclose to a meeting at which you are present any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for disclosure (see paragraph 5(4) above) as soon as you become aware of it.
- (2) **Do** notify the Monitoring Officer of any interest not already registered that is disclosed to a meeting under paragraph 6(1) above within 28 days of the disclosure.
- (3) **Do not** participate in any discussion, or vote, where you have a disclosable pecuniary interest in a matter. **Do** withdraw from the meeting during the consideration of the matter.
- (4) **Do** declare any other non-pecuniary interest(s) that you consider to have sufficient weight so as to undermine your ability to make an open-minded and objective decision. Where this is the case, **do** exclude yourself from consideration of the item by withdrawing from the chamber for the duration of it being discussed.

In making a judgement about whether a non-pecuniary interest is of sufficient weight as to undermine your objectivity, you should consider what an ordinary member of the public, with knowledge of the relevant facts, would think.

7. Notwithstanding the provisions of Paragraph 5 (1), **you may** participate in any business of the Council where that business relates to the Council's functions in respect of:
- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (b) agreeing an allowance, payment or indemnity given to councillors or co-opted members; and
 - (c) setting council tax or a precept under the Local Government Finance Act 1992.

Decision-making and Predetermination

8. (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Member.
- (2) However, **do not** place yourself under any financial or other obligation to outside individuals or organizations that might seek to influence you in the performance of your official duties.
- (3) When making a decision, **do** consider the matter with an open mind and on the facts before the meeting at which the decision is to be made, listening to the advice of relevant parties, including advice from officers, and taking all relevant information into consideration, remaining objective and making decisions on merit. Whilst this is particularly relevant for Planning and Licensing Committees, it also applies to other decision-making.

Dispensations

9. (1) A councillor or co-opted member with a disclosable pecuniary interest in a matter may submit a written request to the Monitoring Officer for the grant to a dispensation allowing that councillor or co-opted member to participate in any discussion and/or vote on that matter at a meeting.
- (2) The Monitoring Officer may, after having had regard to all relevant circumstances, grant a dispensation allowing that councillor or co-opted member only if they consider that without the dispensation:
 - (a) the number of persons prohibited from participating in any particular business in relation to the matter would be so great a proportion of the body transacting the business as to impede the transaction of that business, or
 - (b) each member of the Executive would be prohibited from participating in any particular business to be transacted by the Executive in relation to the matter.
 - (c) the representation of different political groups on the body transacting the particular business would be so upset as to alter the likely outcome of any vote relating to that business, or
 - (d) granting the dispensation is in the interests of persons living in the borough, or
 - (e) it is otherwise appropriate to grant the dispensation.
- (3) Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

ANNEXE 1 – DISCLOSABLE PECUNIARY INTERESTS

1. Employment, office, trade, profession or vocation

Any employment, occupational pension, office, trade, profession or vocation carried on for profit or gain. If your employment relates to any Waverley service or function you should give full details, including any details of past, present or future contracts with an organisation seeking any permission or licence for Waverley.

2. Sponsorship

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or section 31(7) of the Localism Act 2011 in respect of any expenses incurred in carrying out your duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

3. Contracts

Any contract which is made between you (or a body in which you have a beneficial interest) and the Council-

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

4. Land and property

Any beneficial interest in land or property which is within the area of the Council. This includes your own home if you own it.

5. Licences or Tenancies

Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

6. Corporate Tenancies

Any tenancy where (to your knowledge)-

- (a) the landlord is the Council; and
- (b) the tenant is a body in which you have a beneficial interest.

7. Securities and Shares

Any beneficial interest in securities of a body where-

- (a) that body (to your knowledge) has a place of business or land in the area of the Council; and
- (b) either-
 - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 MAY 2020

Title:

Remote meetings Protocol and Procedure Rules

Head of Service: Robin Taylor, Head of Policy & Governance

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 The current Covid-19 pandemic and related Government restrictions have impacted on local authorities' decision making processes and the ability for meetings of the Full Council, its committees and Executive to be held. This is in large part due to the inability in previous legislation for members to vote at meetings remotely.
- 1.2 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ('the Regulations') which came into effect in early April now provide the ability for remote meetings to be held. This report responds to the provisions in the Regulations and seeks to provide clarity around the necessary arrangements for remote meetings and attendance.

2. Recommendation

It is recommended that the 'Remote Meetings Protocol and Procedure Rules' as set out in Annexe 1 is recommended to Full Council for adoption.

3. Reason for the recommendation

The adoption of the Remote meetings Protocol and Procedure Rules will provide clarity to Councillors and the public in relation to the implementation of the Regulations at Waverley Borough Council.

4. Background

- 4.1 The current Covid-19 pandemic and related Government restrictions have impacted on local authorities' decision making processes and the ability for meetings of the Full Council, its committees and Executive to be held. This is in large part due to the inability in previous legislation for members to vote at

meetings remotely.

- 4.2 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 now enable meetings of Full Council, its committees, and the Executive to take place with some or all Members attending remotely.
- 4.3 The Regulations, made under section 78 of the Coronavirus Act 2020, apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Authority governing meetings and remain valid until 7th May 2021. This means that, wherever there is a conflict, the Remote Meetings Procedure Rules take precedence in relation to any remote meeting.
- 4.4 The effect of the Regulations on an Authority's Constitution is to insert what are, in effect, mandatory standing orders for those authorities that wish to hold meetings remotely, either wholly or partially. It is considered that the Regulations, and therefore the standing orders, have an automatic amending effect on an authority's existing rules and can be applied immediately in order to run meetings remotely. Nonetheless it is regarded as good practice, even with express mandatory standing orders, to have these adopted formally.
- 4.5 Accordingly, set out in Annexe 1 to this report is a proposed Protocol and Procedure Rules which provide guidance for the conduct of any remote meeting of the Council, and its various committees and the Executive held under the provisions of the Regulations, and clarity on which of the Council's Procedure Rules are directly impacted by the Regulations. This protocol and procedure rules should be read in conjunction with the Council's Procedure Rules within the Constitution.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 Ensuring that the Council is still able to take essential decisions during the Covid-19 emergency that support Waverley's residents, businesses and communities is fundamental to the purpose of the Council.
- 5.2 Implementation of Regulations to enable remote attendance at formal council meetings by Members supports open, democratic and participative governance at a time when Members and the public are unable to travel to the Council offices to take part in meetings in person.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are no direct financial or other resource implications arising from the recommendations in this report.

6.2 Risk management

Relevant risks and opportunities have been considered and reflected in the

report as appropriate.

6.3 Legal

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392 which are made under The Coronavirus Act 2020 make provision for remote meetings and deferral of Annual Council Meetings. These Regulations remain valid until 7th May 2021.

6.4 Equality, diversity and inclusion

The ability for members of the public to 'attend' and participate in council meetings by remote means is embedded with the Regulations. Waverley has webcast its principal committee meetings for a number of years, and the public are familiar with viewing meetings online, either live or after the event.

There are no other direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

6.5 Climate emergency declaration

The ability for Members to attend council meetings remotely will reduce the number of car journeys that need to be made to the Council offices and make an immediate contribution to reducing the Council's carbon footprint. Whilst the Regulations are time-limited (local authority meetings held up to 7 May 2021) it might be expected that this will bring closer the time when these arrangements are enabled permanently.

7. Consultation and engagement

7.1 None.

8. Other options considered

8.1 The Regulations, and therefore the standing orders, have an automatic amending effect on an authority's existing rules and can be applied immediately in order to run committee and cabinet meetings remotely. Nonetheless it is good practice, even with express mandatory standing orders, to have these adopted formally by the full authority at the first opportunity to do so.

8.2 The other main option is to not hold any fully or partially remote meetings during this time. However, now that the Regulations have been passed to enable remote attendance at meetings, there is scope to enable Members to fulfil their democratic responsibilities in a way that is proportionate to the current emergency.

9. Governance journey

9.1 Recommendations from the Standards will be submitted to Full Council for consideration.

Annexe:

Annexe 1 – Waverley Borough Council General Guidance Note and Procedure Rules for Virtual Meetings and Remote attendance at meetings

Background Papers

There are no background papers, as defined by Section 100D (5) of the Local Government Act 1972).

CONTACT OFFICER:

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Position: Democratic Services Manager
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WAVERLEY BOROUGH COUNCIL
VIRTUAL MEETINGS PROCEDURE RULES

These rules have been made in order to implement The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (the ‘Regulations’) and will remain in force until those Regulations are repealed.

Any Procedure Rules that have not been specifically referenced, but that are nonetheless inconsistent with the Regulations will be disappplied by virtue of Regulation 5(5).

VMPR 1 No Requirement to Hold an Annual Meeting

Amends Council PR1 (Annual Meeting)

The requirement to hold an Annual Meeting is to be disregarded and, prior to 7th May 2021, an Annual Meeting of Council may only take place:

- (a) where called by the Chair in consultation with the Chief Executive and Group Leaders; or
- (b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.

VMPR 2 Access to Information

Amends Council PR 6 (notice and summons to meeting) and

Access to Information PR 5 (access to agenda and reports before the meeting), etc

For all purposes of the Constitution, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

- (i) “open to inspection” shall include for these and all other purposes as being published on the website of the council; and
- (ii) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

VMPR 3 Remote Access to Meetings

Amends Council PR 6 (notice and summons to meeting) and

Access to Information Procedure Rule 3 (rights to attend meetings)

- (a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:
 - (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and

- (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and
- (b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

VMPR 4 Members in Remote Attendance

Amends Council PR 8 (quorum)

- (a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting’s quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
 - (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.
 - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chair may, as they deem appropriate:
 - (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;
 - (ii) count the number of Members in attendance for the purposes of the quorum;
 - or
 - (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

VMPR 5 Remote Attendance by Members of the Public

Amends Council PR10 (questions by the public),

Amends any scheme for public participation in respect of planning, licensing and other committees and Executive PR 2.9

- (a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following

conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
 - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in Standing Order 5A(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in Standing Order 5A(a) above to be re-established;
 - (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
 - (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

VMPR 6 Remote Voting

Amends Council PR 17 (voting)

Unless a recorded vote is demanded, [which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair,] the Chair will take the vote

- (a) by use of the electronic polling system for Remote Voting and electronic voting in the Chamber or where an electronic voting system is not working correctly or unavailable,
- (b) by the affirmation of the meeting if there is no dissent [by assent]; or
- (c) the Chair will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.

VMPR 7 Members excluded from the meeting

Amends Council PR 21 (Member Conduct)

Where a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.

VMPR 8. Exclusion of Public and Press

Amends Council PR 20 (Exclusion of public and press)

- 8.1 There are times when council meetings are not open to the public, when confidential, or “exempt” issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that there are no members of the public in remote attendance or remotely accessing the meeting and are able to hear or see the proceedings once the exclusion has been agreed by the meeting.
- 8.2 Any Member in remote attendance who fails to disclose that there are in fact persons present who are not so entitled will be in breach of their Members’ Code of Conduct responsibilities.

Waverley Borough Council

General Guidance Note and Procedure Rules for Virtual Meetings and Remote attendance at meetings

This Protocol, and accompanying Procedure Rules (Appendix 1), provide the means and guidance for the conduct of any remote (virtual) meeting of the Council, and its various Committees and the Executive, held under the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ('the Regulations'), or remote attendance by Members at a physical meeting of the Council.

This Protocol and Procedure Rules should be read in conjunction with the Councils Procedure Rules within the Constitution. The Regulations, made under section 78 of the Coronavirus Act 2020, apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Authority governing meetings and remain valid until 7 May 2021. This means that, wherever there is a conflict, these Virtual Meetings Procedure Rules take precedence in relation to any remote meeting.

Preparing for a virtual meeting

- You do not need to have a Zoom account in order to join a Zoom meeting.
- You do not need to join a Waverley Zoom meeting from your Waverley iPad – the security of the meeting is embedded within Waverley's account settings, not the device you use to join the meeting.
- Meeting appointments will be sent that include details of how to join the Zoom meeting – a link &/or Meeting ID and password. Depending on which device you are using to join the meeting, you may need to make a note of the Meeting ID and password – please refer to the appropriate guide from IT on how to join a meeting.
- In order to maintain the security of the Zoom meeting room, **do not** share the Meeting ID or Password with anyone.
- Give apologies or make declarations of interests prior to the meeting by contacting the Democratic Services Team in the usual way.
- Councillors who wish to speak on a particular item at a committee of which they are not a members are required to register in advance with Democratic Services in the usual way (by midday on the day of the meeting).
- Councillors who wish to observe a meeting but not participate may join the Zoom meeting, but will be asked to mute their microphone and video feed so as not to confuse members of the public about who is part of the active meeting. Alternatively, Members can observe the meeting by viewing the meeting on Waverley's YouTube Channel at <https://www.youtube.com/user/WaverleyBorough>

Setting up your virtual meeting room

- Think about where you will be situated in your home for the video-conference, and what aspects of your home will be on show.

- Check the physical set-up of the device that you will be using. You want the camera to be at eye-level, so you may need to adjust the height by propping your laptop or iPad up on some books.
- Practice speaking to the camera and not the screen - It can feel natural to look at the person on the screen, but you should look at the camera if you are speaking or presenting so your audience feels like you're talking directly to them.
- Check your lighting. Try not to sit directly near a bright light source, for example with a window behind you. Experiment with moving lamps and your camera until you can see your face lit brightly. If possible, try to provide a plain background to reduce distractions.
- Check that you won't be interrupted during the meeting – you might need to put a 'do not disturb' notice on the door of the room as a reminder to others who are in the house.
- Is there a smart speaker in the room or on your device (Amazon Echo, Google Home, Siri, etc)? Apart from the potential for an inadvertent interruption these devices may also record, so please switch them off during the meeting. Staff at these companies are also able to listen in to devices at any time and this could be a breach of data protection.

Access to documents

- Democratic Services will publish the agenda and reports for committee meetings on the Council's website and on Modern.Gov and will notify councillors by email.
- Printed copies will not normally be circulated other than to the committee members and substitutes; nor will they be available for inspection at the Council's offices.
- All documents will be page-numbered for ease of reference.
- Presentations given at a meeting will have a slide number on each slide and will be shared on screen by the presenter.

Joining the meeting

- Please dress appropriately for a formal committee meeting, even if you are joining from home.
- An online meeting invitation is like a physical room in that you can enter it as early as you want but the start time just reflects when everyone needs to be ready to start. This gives all users time to join the meeting and ensure that their internet connection, camera, audio speaker and microphone are working. Try to join the meeting 30 minutes in advance, have the confidence that everything is working, mute your microphone and go and grab a coffee.
- Everyone should have joined the meeting and tested their equipment 5 minutes before start time.
- Ensure you are correctly identified on your video feed eg as "Cllr Paul Follows" rather than 'Paul's iPad'.

- Turn off all nearby noise sources (radio, television, mobile phone) and try to separate yourself from any interruptions. Switch off smart speakers if they are in the same room.
- Bear in mind that some meetings may contain confidential information so make arrangements to ensure that other members of your household are not able to over hear this and that your papers cannot be overlooked or seen by the camera.

During the meeting

- Where using video-enabled equipment, keep your camera on at all times, but mute your microphone if you are not speaking. This helps to minimise background noise being broadcast. The meeting host is also able to mute your microphone.
- If you are in a room with others and have all joined the meeting on individual devices, then ensure that only one of you has your microphone on at any one time to reduce feedback.
- Be present: Don't work on other tasks (like emails) during the meeting.
- Be courteous and don't interrupt. Zoom has a 'hand raise' facility (within 'Participants') that you should use to indicate when you wish to speak.
- It is important to wait until the Chairman invites you to speak, particularly as there is not any eye contact now to indicate intention to speak. The Chairman will offer everyone the opportunity to contribute throughout the meeting.
- When you speak at the meeting, particularly if you have joined the meeting by phone and have no video feed, it is important to state your name so that viewers are aware who is speaking.
- If you have an interest in an item, you will need to declare that in the usual way. Once the Committee comes to consider this item, if you are required to leave the meeting the Chairman will announce that you will be leaving the meeting. **You will then need to leave the meeting by muting your microphone and switching off your camera feed. You will be able to re-join the meeting once the item has concluded.**

Voting

- The Council will use the polling facility within Zoom to enable councillors participating in meetings remotely to indicate their vote. Where a councillor joins the meeting by audio only, the Chairman will invite them to vote verbally.
- Notwithstanding this, where a vote is required on a particular item, the Chairman may seek the affirmation of the meeting if there is no dissent; or may ask each member of the committee to vote in turn. Councillors should express their vote verbally. This will be used to tally up the votes, but the way in which each councillor has voted will not be recorded in the minutes unless a Recorded Vote has been agreed in accordance with the Procedure Rules.

- The Democratic Services Officer will record the outcome of votes and announce this to the meeting.

Participation by members of the public

- Where there is no physical meeting room for members of the public to attend the meeting in person, there is a legal requirement that they should be able to hear, and where practicable see, the proceedings.
- Members of the public who wish to observe the proceedings of a committee are able to do so by watching the live stream on the Council's YouTube channel at <https://www.youtube.com/user/WaverleyBorough>
- A member of the public who has been given permission by the Chairman to address a meeting in accordance with the Council's Procedure Rules will be invited to participate in the remote meeting for the duration of the item in question.
- A member of the public who has been given permission by the Chairman to address a meeting in accordance with the Council's Procedure Rules may, as an alternative, submit a written statement that can be read out by the Chairman at the appropriate time.

Dealing with exempt items of business

- There are times when council meetings are not open to the public, when confidential, or "exempt" information – as defined in Schedule 12A of the Local Government Act 1972 – is under consideration.
- Councillors in remote attendance at a meeting considering exempt information must ensure that there are no members of the public (including family members) present that are able to hear or see the proceedings during such meetings or parts of meetings.
- Any councillor in remote attendance who fails to disclose that there are other persons present, such as those who may be able to see and/or hear the meeting, who are not so entitled will be in breach of the Council's Code of Conduct.

Managing technical failures

- Similar to hosting a physical meeting when attendees get stuck in traffic, there will be occasions when an individual encounters a technical issue that cannot be resolved in time for the start of the meeting. Joining the meeting in plenty of time provides an opportunity for technical issues to be resolved before the start of the meeting.
- Within a timely manner before the issue causes a distraction, the Chairman should be clear when the meeting should go ahead without the attendee or be postponed/rescheduled.
- Where there is no physical meeting room for members of the public to attend the meeting in person, in the event that the Chairman or Democratic Services Officer identifies a failure of the remote participation facility, the Chairman will declare a

recess while the fault is addressed. If the problem cannot be resolved within 15 minutes, the meeting will be adjourned until such time as it can be reconvened.

- In the event of a councillor losing their connection during the course of a meeting, the Chairman may adjourn for up to 5 minutes to enable the councillor time to rejoin the meeting.
- If it is not possible to address the fault and the meeting is inquorate, the meeting will be adjourned until such time as it can be reconvened. If the meeting is quorate, the meeting may continue. Those attending remotely would be aware and accept that the meeting would continue and a vote would be taken without their attendance.
- Dialling into a Zoom meeting can be an acceptable emergency workaround for one or two participants or very small meetings, but this may not be practicable when managing a meeting with multiple online attendees.
- If the meeting was due to determine an urgent matter or one which is time-limited and it has not been possible to continue because of technical difficulties, the Chief Executive, in consultation with the Monitoring Officer and where appropriate/possible the relevant Executive member, shall explore such other means of taking the decision as may be permitted by the Council's constitution.
- If a connection to a Member is lost during a regulatory meeting, the Chairman will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed. If the Member is subsequently able to re-join the meeting they will not be able to vote on the matter under discussion as they would not have heard all the facts.

Chairmen

- Chairmen will be supported at a meeting by the Democratic Services Officer clerking the meeting, and a separate 'Host' of the Zoom meeting. The Chairman can communicate privately with the DSO during the meeting using the Zoom chat function.
- Chairmen will need to work with DSO and Host regarding management of the meeting on the software (eg 'locking' the room once the meeting starts, allowing external speakers, arranging break out rooms, etc)
- Chairmen need to be very directive and explain the procedures at the beginning of the meeting, along with leading introductions of all present.
- Where the Chairman is required to interpret the Council's existing Procedure Rules in light of the requirements of remote participation, he or she shall take advice from the Monitoring Officer prior to making a ruling. The Chairman's decision in all cases shall be final.

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WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 MAY 2020

Title:

New Planning Committees
Temporary arrangements for 2020/21

Heads of Service: Robin Taylor, Head of Policy & Governance
Zac Ellwood, Head of Planning & Economic Development

Key decision: Yes

Access: Public

1. Purpose and summary

- 1.1 This report sets out proposals for the establishment, on a temporary basis, of two new planning committees (WESTERN and EASTERN) to replace the Council's five existing planning committees (Joint Planning Committee, and Southern, Western, Eastern and Central Area Planning Committees, in order to streamline planning committee decision-making arrangements whilst resources are stretched due to the impact of the Covid-19 pandemic.

2. Recommendation

It is recommended that Standards Committee recommends to Full Council:

- i. that the arrangements set out in Section 4 are adopted as a temporary measure to facilitate decision-making by Planning Committees whilst the work of the Council is impacted by the effects of the Coronavirus pandemic;
- ii. the Terms of Reference of the new temporary WESTERN and EASTERN planning committees as set out in Annex 1 are incorporated into the Constitution and clearly identified as being temporary measures for a period to be agreed by Full Council;
- iii. that the need for the new temporary WESTERN and EASTERN planning committees are kept under review by the Planning Committee Chairman in consultation with the Head of Planning & Economic Development, and should continue until such time as Council agrees that they cease, or until 7 May 2021, whichever is sooner.
- iv. that where an application could be decided under delegated authority were it not for there being a connection with a Member of Officer, then these applications may be delegated to the Head of Planning & Economic Development in consultation with the relevant Planning Committee Chairman and Vice-Chairman, such special delegation expiring with the temporary planning committee arrangements.

3. Reason for the recommendation

- 3.1 The temporary arrangements for planning committee decision-making will enable the Council to meet its obligations to determine planning applications in accordance with Members' desire for democratic involvement in this process, whilst also streamlining the process at a time when officers and Members are working remotely, and adopting new working practices including holding meetings with remote attendance.
- 3.2 It is proposed that the temporary arrangements operate whilst remote attendance at meetings is likely to be a significant factor in the management of the meetings, but will automatically expire on 7 May 2021, when the ability for Members to attend meetings remotely ceases, if Council has not taken a decision to revert to the existing structure before that date.

4. Background

- 4.1 Once the Government confirmed that it expected councils to continue to deliver a Planning service, the Council has worked with legal advisers on ensuring that a service could be provided, while still prioritising the safety of the public and of staff members. The Head of Planning and Economic Development issued detailed advice on what levels of service could be expected, including protocols for a temporary reconfiguring of Planning Committees.
- 4.2 The proposed arrangements for two temporary new planning committees, comprising a WESTERN committee (covering the existing Southern and Western Wards) and an EASTERN committee (covering the existing Eastern and Central wards) have cross-party support.
- 4.3 Whilst the temporary arrangements are not intended to be a model for a possible future structure for planning committees, we do need to ensure that decisions made by the new temporary committees are robust, and cannot be challenged on the basis that the committees are geographically unbalanced (eg. one bigger than the other), or are not politically proportional.
- 4.4 So, as a temporary arrangement, it has been agreed in principle that we have two new equal committees of 15 members each (substitutes allowed as shown in [..])

EASTERN (Chairman Cllr Richard Cole, Vice-Chairman Cllr David Else)

Conservatives	8 [4]
Farnham Residents	0
Liberal Democrats	4 [2]
Green	1 [1]
Labour	1 [1]
Independent	1 [1]
	15

WESTERN (Chairman Cllr Beaman, Vice-Chairman Cllr John Robini)

Conservatives	4 [2]
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Farnham Residents	8 [4]
Liberal Democrats	3 [2]
Green	0
Labour	0
Independent	0
	15

- 4.6 These new committees will – on a temporary basis – replace the existing Joint Planning Committee and four Area Planning Committees. Standards Committee is asked to consider and make a recommendation to Full Council on *Sunset Clauses* to this temporary arrangement.
- 4.7 Membership of the committees will be politically proportional, and nominated by the respective Group Leaders from the ward members in the respective geographical areas. Each Group will be able to nominate a number of substitute members from within the respective EASTERN and WESTERN areas so that as far as possible actual attendance is politically proportional.
- 4.8 The new WESTERN and EASTERN committees will deal with all applications, both large and small, that have to be decided by Committee and that are within their geographical area. Members will still be able to request that an application be called-in to committee; but, all requests for call-ins will be reviewed by the Chairman and Vice-Chairman of the relevant committee plus the Head of Planning & Economic Development to ensure that there are valid planning reasons.
- 4.9 There is no change proposed to Procedure Rule 23: All Members who are not members of a Planning Committee will still be able to register to speak at a meeting of a planning committee, and a councillor who is not a member of the planning committee also has a right to follow up on any points of clarification at the end of the committee’s debate on an application within their ward.
- 4.10 Meetings will be scheduled to meet the demand from Planning for applications to be determined. We are working with Planning colleagues to understand what that demand is, and how frequently the committees might need to meet. We are aware that holding planning committee meetings via Zoom will be a new challenge for Members and officers, and we will manage the agenda for each committee meeting to ensure as far as we can that they present a realistic workload for the committee at each meeting. This may mean that in the short term meetings are more frequent than has been usual.
- 4.11 Public speaking at planning committees can be accommodated by the Zoom meeting arrangements, and registered speakers will be provided with the opportunity to join a meeting in order to make their representations in person. We expect to have a back-up option to enable speakers to join the meeting by phone (audio) only. We will ask speakers to submit a copy of their statement in advance so that if there are any issues at the last minute that prevent them speaking in person, their statement can still be read out to the committee.
- 4.12 All meetings will be webcast to the Council’s YouTube channel, for the public to see and hear proceedings.
- 4.13 The only significant change to the Scheme of Delegation in in relation to planning

applications where there is a connection to a Member or an Officer. Under the current Scheme of Delegation, any such applications have to be determined by a planning committee. In order to relieve the pressure on the planning committee agendas, it is proposed that where an application could be decided under delegated authority were it not for the connection with a Member of Officer, then these applications may be delegated to the Head of Planning & Economic Development in consultation with the relevant Planning Committee Chairman and Vice-Chairman.

- 4.14 For clarity, the Terms of Reference of the proposed temporary planning committees are set out in Annexe 1, which if agreed by Full Council, will replace the extant arrangements set out in the Constitution.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 Ensuring that the Council is still able to take essential decisions during the Coronavirus emergency that support Waverley's residents, businesses and communities is fundamental to the purpose of the Council.
- 5.2 Implementation of Regulations to enable remote attendance at formal council meetings by Members supports open, democratic and participative governance at a time when Members are unable to travel to the Council offices to take part in meetings in person.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are no direct finance implications of the proposed temporary change to the configuration of the planning committees. In the short- to medium-term, meetings will be held with some, if not all, Members and officers attending remotely and an IT solution has been put in place to enable that, and training provided to Members and officers.

There will be a requirement for additional staffing at remote meetings to manage the 'hosting' of the meeting, which will be met from existing resources.

6.2 Risk management

Not making arrangements to enable essential decisions to be taken at this time will hamper the Council's ability to meet its legal responsibilities, particularly in relation to determining planning applications.

In the event that IT fails, and a significant number of Members are not able to join a meeting remotely; or broadcasting fails so that the public are unable to hear (and see, if video is available) the meeting proceedings, protocols will require the Chairman to adjourn the meeting and reconvene at a later time, or date.

6.3 Legal

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of

Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392, which are made under The Coronavirus Act 2020, make provision for remote meetings. These Regulations remain valid until 7th May 2021.

6.4 Equality, diversity and inclusion

The ability for members of the public to 'attend' and participate in council meetings by remote means is embedded with the Regulations. Waverley has webcast its principal committee meetings for a number of years, and the public are familiar with viewing meetings online, either live or after the event.

There are no other direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

6.5 Climate emergency declaration

The ability for Members to attend council meetings remotely will reduce the number of car journeys that need to be made to the Council offices and make an immediate contribution to reducing the Council's carbon footprint. Whilst the Regulations are time-limited (local authority meetings held up to 7 May 2021) it might be expected that this will bring closer the time when these arrangements are enabled permanently.

7. Consultation and engagement

- 7.1 The proposal set out in this report have been discussed with the Executive, Group Leaders and Independent Members and reflects the feedback they have provided.

8. Other options considered

- 8.1 No change the extant Planning Committee arrangements of four Area Planning Committees (Southern, Western, Eastern and Central) and Joint Planning Committee. This committee arrangement is very resource intensive for the committee Chairmen and Vice-Chairmen, and would be particularly challenging to operate at the current time when most officers are working from home, and meetings will be held with remote attendance by Members and officers.
- 8.2 Other options explored with Members include temporarily making the Joint Planning Committee the sole planning committee as a temporary measure; and splitting the current Joint Planning Committee members on geographical lines to establish Western and Eastern committees. The former option was not acceptable to Members, as it was not felt to provide enough local input to planning decisions. The latter of these options would give two geographically unbalanced committees which also would not be politically proportional.

9. Governance journey

- 9.1 The proposals in the this report have been discussed informally by the Executive Members meeting with the Leader of the Principal Opposition Group and Independent Members. They have been formally endorsed by the Executive.
- 9.2 Recommendations from the Standards Committee on temporary changes to the Constitution will be considered at Full Council, including dates for reviewing arrangements and *sunset clauses*.

Annexes:

Annexe 1 – WESTERN and EASTERN Planning Committee Terms of Reference (Draft)

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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Waverley Borough Council

EASTERN and WESTERN Planning Committees - Terms of Reference

Temporary arrangements for 2020/21 (until a decision is taken by Full Council to revert to the substantive arrangement)

Where these Terms of Reference are silent on a matter of procedure, the current Procedure Rules as set out in the Waverley Borough Constitution take precedence.

Purpose of the Planning Committees

1. The key purpose of planning is to manage development in the public interest.
2. The purpose of the Planning Committees is to exercise the Council's functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (Amendment No 2) (England) Regulations 2004 (the Functions Regulations) [see Appendix 1], in so far as these are not delegated to the Head of Planning & Economic Development.
3. The EASTERN and WESTERN Planning Committees will assume the decision-making powers of the Joint Planning Committee and the four Area Planning Committees as they relate to planning applications within the Eastern and Central borough wards, and the Southern and Western borough wards, respectively.

Membership [PR4]

4. The EASTERN and WESTERN Planning Committees will each comprise 15 Members, appointed on a politically proportional basis as follows:

EASTERN = 15 Members out of 28 ward seats plus 9 substitute members

(Alford, Cranleigh Rural & Ellens Green; Blackheath & Wonersh; Bramley, Busbridge & Hascombe; Dunsfold*; Cranleigh East; Cranleigh West; Elstead & Thursley; Ewhurst; Godalming Binscombe; Godalming Central & Ockford; Godalming Charterhouse; Godalming Farncombe & Catteshall; Godalming Holloway; Milford' Shamley Green & Cranleigh North; Witley & Hambledon)

WESTERN = 15 Members out of 29 ward seats plus 8 substitute members

(Chiddingfold*; Farnham Bourne; Farnham Castle; Farnham Firgrove; Farnham Hale & Heath End; Farnham Moor Park; Farnham Shortheath & Boundstone; Farnham Upper Hale; Farnham Weybourne & Badshot Lea; Farnham Wrecclesham & Rowledge; Frensham, Dockenfield & Tilford; Haslemere Critchmere & Shottermill; Haslemere East & Grayswood; Hindhead)

*NB Dunsfold & Chiddingfold ward is split between the two areas.

5. Members and substitutes will be appointed by Council, with regard to the nominations of the political Group Leaders.
6. The Chairman and the Vice-Chairman of the Committees will be appointed by Council or elected by the committee as a vacancy arises.
7. Any Member of the Council may be a member or substitute member of a Planning Committee.

Substitute members

- 7.1 Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.
- 7.2 The following procedure will apply to the appointment of substitutes when members are not able to attend a meeting of a Committee, including in the case of a vacancy:
 - (a) The member unable to attend a Committee meeting will submit their apologies to the Head of Policy and Governance at least four clear working days in advance of the meeting to enable a substitute to be arranged, if applicable [eg. by the end of Wednesday for a meeting the next Wednesday].
 - (b) The Head of Policy and Governance will then approach substitutes from the appropriate political group in the order agreed by the Council or the parent Committee.
 - (c) Substitute members must be from the same political group as the member giving the apology, and in the event that no substitute is available, no substitute will be made for that member.
 - (d) The Head of Policy and Governance will notify the Committee of any substitutions at the start of the meeting.
 - (e) Substitutes shall exercise the full voting rights of a member of a Committee when attending a Committee meeting.
 - (f) Substitute members shall be eligible for payment of travelling and subsistence allowances.
 - (g) Members on substitute lists will be sent the full agenda for meetings.
8. All Members of the Committee and Councillors attending as Substitutes must have undertaken mandatory training in the relevant law and procedures which relate to the Committee's work; and, must undertake further mandatory training on an ad hoc basis and at least annually.

Time and Place of Meetings [PR 5, PR6]

9. The time and place of meetings will be determined by the Head of Policy & Governance and notified in the summons.
10. Planning committee meetings will take place in accordance with an agreed schedule. Extra meetings may be scheduled as required.
11. The Head of Policy & Governance will give notice to the public of the time and place of any meeting. At least five clear working days before a meeting, the Head of Policy & Governance will publish the agenda on the Council's website and send an electronic summons to every member of the Planning Committee. 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 necessary. The agenda will also be published on the Modern.Gov app.
Public participation

Chairman of Meeting [PR7]

12. The Chairman presiding at the meeting may exercise any power or duty of the Mayor.

Quorum [PR8]

13. The quorum of a meeting will be one quarter of the whole number of members (ie four Members). During any meeting, if the Chairman counts the number of members present, whether in person or attending remotely, and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

Members speaking [PR23]

14. Any Member of the Council who is not a Member of a Planning Committee shall be entitled to attend any meeting of that Committee, but not to vote, but shall be entitled to speak on any specific item for up to four minutes.
15. Any Member wishing to do this shall have to give notice specifying the item to the Head of Policy and Governance by noon on the day of the meeting if the meeting begins after 2pm or by 5pm on the previous working day if the meeting commences before 2pm. The Chairman may waive this rule.
16. Members may seek the consent of the Chairman to present documents or photographs in support of when they speak, but should give the Head of Policy and Governance forty-eight hours' notice, but where this has not been possible the Head of Policy and Governance and Chairman may waive the rule.

17. In the case of Planning Committee meetings, where a Member addresses the Committee on a matter affecting their ward, they shall have a right to speak again towards the end of the debate to clarify any matters.

Public Speaking Scheme for Planning Meetings

18. Waverley runs a public speaking scheme for the Planning Committees. It applies to planning applications scheduled to be determined by one of the planning committees and which have received five or more letters of support (from separate addresses) or five or more letters of objection (from separate addresses).
19. If a planning application is subject to public speaking at a planning committee, there will be three slots, each of four minutes, in which a representative of the objectors, the Town or Parish Council, and a supporter (usually the applicant or agent) may make a statement. Speakers may not present documents or photographs in support of their statement.

Appendix 1

Extract from Waverley Borough Council Constitution Part 3 Responsibility for Functions:

Council functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (Amendment No 2) (England) Regulations 2004 (the Functions Regulations)

Power

To make decisions on the administrative and procedural issues affecting the determination of applications.

Power to determine planning applications

Power to determine applications to develop land without compliance with conditions previously attached

Power to grant planning permission for development already carried out

Power to decline to determine planning applications for planning permission

Duties relating to the making of determinations of planning applications

Power to determine applications for planning permission made by the Council

Power to make determinations, give approvals and agree other matters relating to the exercise of permitted development rights, including Article 4 Directions removing such rights

Power to enter into or vary or discharge agreements relating to development or use of land, including the enforcement of a restriction or requirement imposed by an agreement.

Power to issue certificates of lawfulness of existing or proposed use or development

Power to serve a completion notice

Power to grant consent for the display of advertisements

Power to authorise entry onto land

Power to authorise applications for warrants to enter land

Power to require the discontinuance of a use of land

Power to require proper maintenance of land

Power to serve a Planning Contravention Notice, Breach of Condition Notice or Stop Notice (including temporary stop notice)

Power to issue an enforcement notice and power to require proper

Power to apply for an injunction restraining breach of planning control, or in relation to a listed building

Power to determine applications for hazardous substances consent and related powers

Power to determine applications for listed building consent and related powers and duties relating to applications for listed building consent

Power to determine applications for Conservation Area Consents and to issue an enforcement notice in relation to demolition of an unlisted building in a Conservation

Area

Power to serve a Building Preservation Notice and related powers including the power to execute urgent works

Powers relating to the preservation of trees and protection of important hedgerows

Appendix 2

Extract from Scheme of Delegation to Officers

M. HEAD OF PLANNING & ECONOMIC DEVELOPMENT

Development Control and Planning Policy

Authority	After Consultation with	Function
M.1 To determine major planning applications where these are resubmitted applications previously refused only for SPA reasons which are now resolved and where: (a) the application is not materially different from the original application; (b) the material considerations affecting the decision have not changed; (c) there is no request from a councillor to call in the application for determination by the Committee as set out in 3(b) below.	The Chairman of the relevant Joint Planning Committee and Ward Councillors	Non-executive
M.2 To agree variations to Section 106 legal agreements under the Town and Country Planning Act 1990 which relate to planning applications determined by the Area Planning Committees and Joint Planning Committee	The Chairman of the relevant Joint Planning Committee and Ward Councillors	Non-executive
Authority		Function
M.3 To make all decisions, take all actions and exercise all powers in respect of the Council's Development Management, Planning Policy and Planning Enforcement functions in accordance with any one or number of the following legislation (and any regulations and/or statutory instruments made thereunder) and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's Development Management, Planning Policy and Planning Enforcement functions: i. Caravan Sites and Control of Development Act 1960 ii. Countryside and Rights of Way Act 2000 iii. Enterprise and Regulatory Reform Act 2013 iv. Environment Act 1995 v. Environmental Protection Act 1990 vi. Growth and Infrastructure Act 2013 vii. Housing Act 1996 viii. Housing Act 2004 ix. Human Rights Act 1998 x. Infrastructure Act 2015 xi. Local Democracy, Economic Development and Construction Act 2009		Non-Executive /Executive

- xii. Local Government Act 2003
- xiii. Localism Act 2011
- xiv. Planning (Hazardous Substances) Act 1990
- xv. Planning (Listed Buildings and Conservation Areas) Act 1990
- xvi. Planning Act 2008
- xvii. Planning and Compensation Act 1991
- xviii. Planning and Compulsory Purchase Act 2004
- xix. Pollution Prevention and Control Act 1999
- xx. Town and Country Planning Act 1990
- xxi. Building Act 1984
- xxii. Self-build and Custom Housebuilding Act 2015
- xxiii. Neighbourhood Planning Act 2017
- xxiv. Anti-Social Behaviour Act 2003

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| M.4 | <ul style="list-style-type: none"> (A) to determine planning applications, applications for advertisement consent, non-material and minor material amendments applications, details to comply with conditions, variation/removal of condition applications, prior notifications/prior approval notices and certificates of lawfulness (after consultation with the Borough Solicitor for applications of certificates of lawfulness); (B) to determine applications for listed building consent and to take action in relation to listed buildings and Conservation Areas; (C) to respond to consultations and notifications from other local authorities, public bodies, etc.; (D) to determine the need for an Environmental Impact Assessment and/or a Strategic Environmental Assessment; (E) to take direct action/seek injunctions in relation to breaches of planning control, remove unauthorised signage/advertisements and remedying the condition of land; (F) to serve, amend, vary, withdraw, revoke any notices, permissions, certificates (as appropriate) (including but not limited to: enforcement notices, breaches of condition notices, temporary stop notices, stop notices, amenity notices, planning contravention notices, community infrastructure stop notices, certificates of lawfulness); (G) the making and/or adoption of any plan for the purposes of neighbourhood planning | Non-executive |
|-----|--|---------------|

except:

(a) planning applications that must be referred to the **Joint** Planning Committee in accordance with Part 3 of the Constitution and as set out below:

- (a.1) To review all housing schemes which propose a net increase of more than 25 dwellings, where the recommendation is for permission to be granted

(a.2) To consider applications defined as major, as defined by the Government (10 or more units of residential accommodation, more than 1,000 sqm commercial floor space and site area of more than 1 hectare) and which, in the judgement of the Chief Executive, after consultation with the Head of Planning & Economic Development and the appropriate **Area** Planning Committee Chairman, meet the following criteria

- i. have a significant planning impact beyond the Area in which they are situated, and/or
- ii. are of strategic importance, and/or
- iii. involve new planning issues for the Borough; or
- iv. is a revised application for parcel of land within a development with an extant planning permission previously determined by Joint Planning Committee that increases the total number of dwellings on the total site; and/or
- v. where a revision to an extant planning permission brings the total number of dwellings on a site to 25 or more; or

(a.3) where within three weeks of the application appearing on the Waverley weekly list of planning applications, the Chairman and Vice-Chairman of the relevant **Area** Planning Committee and the ward member request that it be referred to the **Joint** Planning Committee and put forward relevant grounds as set out in (i) to (v) above, the Chief Executive and Head of Planning & Economic Development will normally submit the application to the **Joint** Planning Committee;

(b) any planning application where, within three weeks of the publication of the weekly list of planning applications, any councillor from the relevant **Area** Committee (for the Committee including all or part of the planning application site concerned) makes a request to the Head of Planning & Economic Development (or any officer(s) nominated by them), which may or may not be supported in writing by the relevant Town or Parish Council, putting forward matters that are relevant planning grounds, to refer an application to the next appropriate meeting of the **Area or Joint** Planning Committee for determination;

(For (b) above) Where the three-week call-in period has expired, but the Head of Planning & Economic Development is satisfied that there is sufficient justification on planning grounds

and the application has not been determined, they may, after consultation with the Chairman of the relevant Committee, arrange for that application to be referred to the Committee;

(c) any planning application submitted by or on behalf of a serving Councillor or employee of the Council, or the spouse or partner of any of the above persons;

(d) any planning application where an objection from a statutory consultee remains unresolved and the officer's recommendation is to approve the application;

(e) any planning application where the Council is the applicant;

(f) any planning application which is required to be referred to the Secretary of State;

(g) planning applications, which by the time of the expiry of the 21 day consultation period, have received 5 or more letters of objection or 5 or more letters of support (but not a combination of both, and not from the same individual or the same household) shall only be determined under delegated powers after the Head of Planning or Economic Development (or any officer nominated by them) has received written confirmation from the relevant ward members(s) that they do not wish the matter to be determined by the relevant Planning Committee.