


Agenda Item No:	12	
Committee:	Council	
Date:	14 December 2017	
Report Title:	Constitution Updates	

## 1 Purpose / Summary

For Members to consider a series of updates to the Council's Constitution.

## 2 Key issues

- From time to time, information within the Constitution becomes out of date therefore it is important to update the document periodically.
- The substantive suggested changes to the Constitution are outlined in Appendix 1 and relate to:
  - the brownfield register,
  - updated terminology in relation to Local Development Plans
  - neighbourhood planning and
  - footpaths.

## 3 Recommendations

For Members to agree the changes to the Council's Constitution and delegate to the Monitoring Officer to update the master document and the Council's website.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	
<b>Portfolio Holder(s)</b>	Councillor Will Sutton, Deputy Leader of the Council and Portfolio Holder for Neighbourhood Planning
<b>Report Originator(s)</b>	Carol Pilson - Corporate Director and Monitoring Officer
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<b>Background Paper(s)</b>	Constitution

## Appendix 1

### A) Updated Terminology and decision making in relation to Local Development Plans

- The current terminology in the Constitution is out of date and does not reflect current legislation set out in the Localism Act 2011 and the Neighbourhood Planning Policy Framework (NPPF).
- If the recommended changes are agreed, Full Council will continue to approve any future Fenland Local Plan (which is legally known as a Development Plan Document).
- If the recommended changes are agreed, Cabinet will have delegated authority to determine other planning documents such as Draft Local Plans for public consultation, Supplementary Planning Documents (SPDs), Statement of Community Involvement (SCI), Local Development Scheme (LDS), and all other forms of Local Development Documents (LDDs). Most other Cabinet based systems delegate these decisions to Cabinet to support efficiency and timeliness in decision making.

To achieve the above, the following changes are necessary:

Part 1 – Article 4 - Para 1.1(d).

Current text:

“(d) Plans and strategies which together comprise the Local Development Framework”

Suggested text:

“(d) Development Plan Documents (DPDs)”

Part 3 – Page F-8

Current text:

Council	Plans and strategies and Supplementary Planning Guidance which together comprise the Local Development Framework	As defined in Tables 4 and 5 of this Part of the Constitution
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Suggested text:

Council	Development Plan Documents (DPDs)	As defined in Tables 4 and 5 of this Part of the Constitution
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### B) Brownfield Register

- The Brownfield Register Regulations were published in March 2017 which makes it compulsory for FDC to publish a Register by 31 December 2017, and republish once a year. The register is in two parts: Part 1 (list of sites); Part 2 (those sites also granted ‘permission in principle’, which is the equivalent of outline planning consent).
- The Brownfield Register will list all the brownfield sites considered suitable for housing development. Brownfield (or previously developed land) is defined in Annex 2 of the [National Planning Policy Framework](#).

- Through Brownfield Registers, a standard set of information will be kept up-to-date (annually) and made publicly available to help provide certainty for developers and communities and encourage investment in local areas.
- Regulation (regulation 19) makes it compulsory for Part 2 of the register not to be approved by its executive (i.e. Cabinet or Portfolio Holder).
- The changes to the constitution request that Part 1 of the Register is delegated to officers and Part 2 is delegated to Planning Committee.
- If the above recommendation is agreed, it would bring it into line with constitutional changes being made by other local authorities (including, for example, near neighbours of Peterborough and East Cambridgeshire)

To achieve the above, the following changes are necessary:

### Part 3 Responsibility for Functions – Page F-8

Current text:

Planning Committee	Planning and Conservation [etc]	As defined in Tables 4 and 5 of this Part of the Constitution
	Highways Use and Regulation [etc]	As defined in Tables 4 and 5 of this Part of the Constitution
	Trees and Hedgerows [etc]	As defined in Tables 4 and 5 of this Part of the Constitution

Suggested text:

Planning Committee	Planning and Conservation [etc]	As defined in Tables 4 and 5 of this Part of the Constitution
	Highways Use and Regulation [etc]	As defined in Tables 4 and 5 of this Part of the Constitution
	Trees and Hedgerows [etc]	As defined in Tables 4 and 5 of this Part of the Constitution
	Brownfield Register (and other Registers)  To undertake the functions of the Council under Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), section 14A ('Register of Land'), including preparation of a Brownfield Land Register as required by The Town and Country Planning (Brownfield Land Register) Regulations 2017.	As defined in Tables 4 and 5 of this Part of the Constitution

Part 3, Responsibility for Functions, Table 4, Corporate Management Team, Development Control paragraph 89a include:

89a. Brownfield Register

To prepare and publish sites in Part 1 of a Brownfield Land Register, as defined by The Town and Country Planning (Brownfield Land Register) Regulations 2017.

**C) Neighbourhood Planning**

- FDC has extensive guidance on what it will do in respect of Neighbourhood Planning, in its latest Statement of Community Involvement:
- <http://fenland.gov.uk/CHttpHandler.ashx?id=8646&p=0>
- Throughout the various stages of preparing a neighbourhood plan, there are numerous elements whereby the Council is statutorily obliged to make 'decisions' on it and the constitution is currently silent on these matters.
- The regulations in relation to Neighbourhood Planning are very strict whereby certain steps need to be taken within a limited time period.
- It is recommended that officers can take all decisions on neighbourhood planning, except for the very final adoption (or 'making') stage, which is reserved for Full Council.
- If the above recommendation is agreed, it would bring it into line with constitutional changes being made by other local authorities (including, for example, near neighbours of Peterborough and East Cambridgeshire)

To achieve the above, the following changes are necessary:

Part 1 – Article 4 - Paragraph 1.1

Add:

“(m) Making of Neighbourhood Plans and Neighbourhood Development Orders”

Part 3 – Table 2 – add:

Council	Making of Neighbourhood Plans and Neighbourhood Development Orders	As defined in Tables 4 and 5 of this Part of the Constitution
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Part 3, Responsibility for Functions, Table 4, Corporate Management Team, Development Control paragraph 89b include:

“89b To operate the Council’s neighbourhood planning function (except for the ‘making’ (adoption) of such Orders and Plans) including, but not necessarily limited by, the following:

- The designation of neighbourhood areas and neighbourhood forums
- Providing comments on behalf of the Council to consultations on draft plans or orders
- The appointment of an independent examiner for neighbourhood plans or orders
- Making decisions on behalf of the Council on whether a plan meets the basic conditions and should proceed to referendum, following the receipt of a report from the independent examiner and publishing this decision.

## D) Footpaths

Under normal circumstances, footpaths and rights of way come under the jurisdiction of Cambridgeshire County Council. However, as Local Planning Authority, we have the jurisdiction under the Town and Country Planning Act 1990 to divert footpaths if this arises as a result of a planning application. Currently the constitution makes no specific provision for the diversion, extinguishment or creation of public rights of way.

It is recommended that officers can take all decisions in relation to rights of way matters except where there are 5 or more unresolved objections.

To achieve the above the following changes are necessary:

Part 3 – Table 2 – add:

Planning Committee	Rights of Way	As defined in Tables 4 and 5 of this Part of the Constitution
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Part 3, Responsibility for Functions, Table 4, Corporate Management Team, Development Control paragraph 125 include

125 To fulfil all responsibilities in relation to rights of way matters except where there are 5 or more unresolved objections.