

# DEMOCRACY COMMITTEE MEETING

Date: Wednesday 15 November 2017  
Time: 6.30 p.m.  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Boughton, Fermor, Fissenden (Vice-Chairman), Mrs Hinder, Lewins, Newton (Chairman), Mrs Ring and Vizzard

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1. Apologies for Absence	
2. Notification of Substitute Members	
3. Notification of Visiting Members	
4. Disclosures by Members and Officers	
5. Disclosures of Lobbying	
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
7. Minutes of the meeting held on 6 September 2017	1 - 6
8. Presentation of Petitions (if any)	
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**Issued on Tuesday 7 November 2017**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

## **PUBLIC SPEAKING**

In order to book a slot to speak at this meeting of the Democracy Committee, please contact on 01622 602743 or by email to [committeeservices@maidstone.gov.uk](mailto:committeeservices@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting. If asking a question, you will need to provide the full text in writing. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated on a first come, first served basis.

## **ALTERNATIVE FORMATS**

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## **MAIDSTONE BOROUGH COUNCIL**

### **DEMOCRACY COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON WEDNESDAY 6 SEPTEMBER 2017**

**Present:** Councillor Newton (Chairman), and  
Councillors Boughton, Cox, Fissenden, Hemsley,  
Lewins, Newton, Perry, Mrs Ring and Vizzard

**Also Present:** Councillors Garten and Mrs Gooch

19. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Fermor and Mrs Hinder.

20. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Cox for Councillor Fermor  
Councillor Perry for Councillor Mrs Hinder

21. URGENT ITEMS

There were no urgent items.

22. NOTIFICATION OF VISITING MEMBERS

Councillor Mrs Gooch indicated her wish to speak on the report of the Head of Policy, Communications and Governance relating to the proposal to change Barming Ward name. She also advised the Committee that she had brought along the Chairman and Vice-Chairman of Teston Parish Council to speak on this matter as well.

Councillor Garten indicated his wish to speak on the report of the Head of Policy, Communications and Governance relating to the Review of Outside Bodies.

23. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Vizzard declared an interest in the report of the Head of Policy, Communications and Governance relating to the proposal to change the name of Barming Ward as he was a Parish Councillor for Barming.

24. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

25. EXEMPT ITEMS

**RESOLVED:** That the items of the agenda be taken in public as proposed.

26. MINUTES OF THE MEETING HELD ON 3 JULY 2017

**RESOLVED:** That the minutes of the meeting held on 3 July 2017 be approved as a correct record and signed.

27. PRESENTATION OF PETITIONS

There were no petitions.

28. QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions or statements from members of the public.

29. COMMITTEE WORK PROGRAMME

The Committee considered the draft Committee Work Programme and requested that a Community Governance Review into Parish Boundaries be inserted for November.

**RESOLVED:** That the Committee Work Programme be noted.

30. PROPOSAL TO CHANGE BARMING WARD NAME

The Committee considered the report of the Head of Policy, Communications and Governance relating to the proposal to change the name of Barming Ward.

Councillor Mrs Gooch and representatives from Teston Parish Council addressed the Committee in support of the name change.

It was noted that the Parish of Teston was one of the two parishes that make up the ward of Barming. To give clarity to the make-up of the electoral area i.e. that the ward comprises the two distinct parishes of Barming and Teston it was proposed that the name of the ward be changed from Barming to Barming and Teston.

In response to questions from Members, the Head of Policy, Communications and Governance advised that the Council had a duty to consult with persons that it considered appropriate on the proposed name change. The timetable would allow for a consultation to be carried out during October to every household affected and a report would be presented to Democracy Committee at its meeting in November before a recommendation is made to Council at a special meeting towards the end of November.

The name change would be from the date of the revised Register of Electors.

Members were of the opinion that there should be a Community Governance Review into Parish boundaries across the borough as there were others where a similar problem existed and that it should be added to the Committee Work Programme for later in the year.

**RESOLVED:**

1. That a consultation exercise for changing the name of Barming Ward to become Barming and Teston Ward be agreed.
2. That a Community Governance Review be undertaken for Parish Boundaries in the borough.

31. **REVIEW OF OUTSIDE BODIES**

The Committee considered the report of the Head of Policy, Communications and Governance relating to the Review of Outside Bodies.

It was noted that the report followed a culmination of work to review all the outside bodies that Councillors were appointed to. The Outside Bodies Working Group had met on 24 July 2017 and had made suggested recommendations which were set out in the Appendix to the report.

Following a suggestion from a Member the Committee reviewed all the outside bodies that met 'no' under the following criterion:-

1. Is this an appointment to a strategic body and/or is there a statutory requirement?
2. Does the Council provide funding to this body – is it of a significant level, is a member appointment essential to oversee the funding?
3. Is there a legal requirement for a council appointment if a charitable trust?

The results of the exercise were as follows:-

**Collis Millennium Green Trust** – Recommended that this is added to recommendation 4 for deletion:

Voting: For: 4 Against: 1 Abstentions: 4

**Kent Community Rail Partnership** – Recommended that this is added to recommendation 4 for deletion:

Voting: For: 6 Against: 0 Abstentions: 3

**Kent Downs AONB Joint Advisory Committee** – Recommended that this be deferred following further investigation:

Voting: For: unanimous

**Maidstone Area Arts Partnership** – Recommended that this be retained under recommendation 2:

Voting: For: 4 Against: 3 Abstentions: 2

**Maidstone Cycling Forum** – Recommended that this be retained on recommendation 2.

Voting: For: 5 Against: 4 Abstentions: 0

**Maidstone Mind** - Recommended to be deferred following further investigation:

Voting: For: unanimous

**Maidstone Sea Cadets** – Recommended that this be retained on recommendation 2.

Voting: For: unanimous

**Maidstone Street Pastors** - Recommended that this be retained under recommendation 1.

Voting: For: 7 Against: 2 Abstentions: 0

**Maidstone Beauvais Twinning Association** – Recommended that this be retained under recommendation 2.

Voting: For: 6 Against: 3 Abstentions: 0

**Medway Valley Line Steering Group** – Recommended that this be retained under recommendation 2. However, the motion was lost and is therefore recommended to be on the list of deletions under recommendation 4.

Voting: For: 1 Against: 6 Abstentions: 2

**Quality Bus Partnership** – Recommended that this be retained under recommendation 2. However, the motion was lost and is therefore recommended to be on the list of deletions under recommendation 4.

Voting: For: 2 Against: 5 Abstentions: 2

**Relief in Need Charities** – Recommended that this be retained under recommendation 1.

Voting: For: 8 Against: 1 Abstentions: 0

**South East Rail Passenger Group** – Recommended that this be retained on recommendation 2:

Voting: For: 5 Against: 4 Abstentions: 0

**Upper Medway Internal Drainage Board** – Recommended that this be retained on recommendation 2:

Voting: For: 8 Against: 0 Abstentions: 1

**Vinters Valley Park Trust** – Recommended that this be retained on recommendation 2:

Voting: For: 7 Against: 1 Abstentions: 1

**RESOLVED:**

1. That the decision on the following outside bodies be deferred pending further investigation:-

Maidstone Mind  
Kent Downs AONB Joint Advisory Committee

**RESOLVED** to **Recommend** to **Council** that:-

1. The following outside bodies be retained and appointed by the Democracy Committee:-

Allington Millennium Green Trust – Allington Ward Member  
Headcorn Aerodrome Consultative Committee – Headcorn Ward Member  
Howard de Walden Centre – East and North Ward Members  
Hayle Park Nature Reserve – South Ward Member  
Maidstone Street Pastors – High Street Ward Member  
Relief in Need Charity  
Kent and Medway Crime Panel – Leader automatic appointment  
Kent and Medway Economic Partnership – Leader automatic appointment  
West Kent Health and Wellbeing Board – Leader automatic appointment

2. The following outside bodies be retained but appointed by the relevant Committees as listed:-

Action with Communities in Rural Kent – CHE Committee  
Age UK – CHE Committee  
Bentlif Wing Trust – HCL Committee  
Brenchley Charity Trust – HCL Committee  
Citizens Advice Bureau – CHE Committee  
Cutbush and Corral – CHE Committee  
KCC Health Overview and Scrutiny Committee – CHE Committee  
(Chairman automatically appointed)

Local Government Association General Assembly – P&R Committee to appoint non-Voting Member (Leader automatically appointed as voting Member)

Maidstone Area Arts Partnership – HCL Committee

Maidstone Beauvais Twinning Association – HCL Committee

Maidstone Cycling Forum – SPS&T Committee

Maidstone Mediation – CHE Committee

Maidstone Sea Cadets – HCL Committee

One Maidstone – P&R Committee

PATROLAJC – SPS&T Committee

Relate West and Mid Kent – CHE Committee

Rochester Bridge Trust – SPS&T Committee

South East Employers – Employment Committee

South East Rail Passenger Group – SPS&T Committee

Upper Medway Internal Drainage Group – SPS&T Committee

Vinters Valley Park Trust – CHE Committee

3. That each outside body representative reports to the appointing Committee at least on an annual basis.
4. That the following organisations be deleted from the Council's list of outside bodies:-

Collis Millennium Green Trust

KCC Youth and Community Charity

KCC Youth and Community Management Committee

Kent Community Rail Partnership

Kent County Playing Fields Association

Maidstone YMCA

Medway Valley Line Steering Group

Mid Kent Downs Steering Group

Quality Bus Partnership

5. That the Monitoring Officer be delegated to make the necessary changes to the Constitution.
6. That the removal of funding for the Mid Kent Downs Countryside Project be referred to Strategic Planning, Sustainability and Transportation Committee for reconsideration.

32. DURATION OF MEETING

6.30 p.m. to 8.10 p.m.

## DEMOCRACY COMMITTEE

**15 November 2017**

### Planning Referral Process Review

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Angela Woodhouse – Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Angela Woodhouse – Head of Policy, Communications and Governance (Lead Officer) Debbie Snook – Democratic Services Officer (Report Author)
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

This report sets out the recommendations of the Working Group appointed by the Democracy Committee to review the arrangements for managing risk in relation to Planning Committee decisions, including the Planning Referral process.

#### **This report makes the following recommendations to this Committee:**

That the Council be recommended to agree:

1. That there is a need to provide a check and balance mechanism in relation to Planning Committee decisions, and there should continue to be provision for the referral of an application to a second body for determination in circumstances where the Planning Committee votes to continue with a decision that it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council’s budget, but that body should be the Policy and Resources Committee and the Planning Referrals Committee should be abolished.
2. That in the event of an application being referred to the Policy and Resources Committee for determination, then a special meeting of the Committee should be arranged for this purpose, the provisions relating to public speaking at Planning Committee should apply and there should be no provision for referral of the Committee’s decision to full Council.
3. That no Member will be able to serve on the Policy and Resources Committee without having agreed to undergo the mandatory training required to be undertaken by Members and Substitute Members of the Planning Committee, including training on pre-determination of planning applications. The training must be completed before the Policy and Resources Committee first meets to discharge its function as the Planning Referral body, and must be refreshed as appropriate.

4. That, with regard to the sections of the Constitution/Local Code of Conduct for Councillors and Officers Dealing With Planning Matters relating to Planning Decisions Which Have Significant Cost Implications, the delegation to the Head of Planning and Development upon the advice of the Legal Officer present to refer an application to a second body for determination should be amended to be in consultation with the Chairman of the meeting.
5. That the Monitoring Officer be requested to amend the Constitution and Local Code of Conduct for Councillors and Officers Dealing with Planning Matters accordingly.

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**Timetable**

<b><i>Meeting</i></b>	<b><i>Date</i></b>
Democracy Committee	15 November 2017
Council	6 December 2017

# Planning Referral Process Review

## 1. INTRODUCTION AND BACKGROUND

1.1 Following the activation of the Planning Referral process earlier in the year when the Head of Planning and Development referred a decision of the Planning Committee to the Planning Referrals Committee, Group Leaders asked the Democracy Committee to review the arrangements for managing risk in relation to Planning Committee decisions, including the Planning Referral process. The Democracy Committee, at its meeting held on 3 July 2017, appointed a Working Group comprising all Members of the Committee to carry out the review.

1.2 The terms of reference of the Working Group were agreed as follows:

*To consider how the Council can provide a check and balance for Planning Committee decisions and reduce the financial and legal risk for the Council giving consideration to:*

*(a) Other Councils' arrangements and models;*

*(b) Options for and/or improvements to the current arrangements; and*

*(c) Any other ways to manage and reduce risk in relation to Planning Committee decisions.*

1.3 The Working Group was asked to report the findings and recommendations arising from the review to this meeting of the Democracy Committee.

1.4 The Working Group has met twice to carry out the review. At the first meeting the Group considered a briefing paper prepared by the Head of Policy, Communications and Governance covering current arrangements, examples of arrangements at other local authorities and possible options. A copy of the briefing note is attached as **Appendix A**. James Bailey (Development Manager) and Russell Fitzpatrick (Lawyer, Team Leader, Planning) attended the second meeting to provide further background information and to advise on issues such as pre-determination, Member training and possible options.

1.5 The procedure for referral of planning applications to a second body for determination was introduced in 2006 to provide a further safeguard against the possible risks associated with not being able to sustain Planning Committee decisions at appeal. The award of costs against the Council, following the granting of a planning permission on appeal, had a significant impact on the Council's financial resources at that time.

1.6 Although the first stage of the process (deferral of the decision of the Planning Committee to its next meeting) has been invoked on several occasions, the second stage (referral of the application by the Head of Planning and Development on the advice of the Legal Officer present to

the Planning Referrals Committee for determination) has been invoked twice (in relation to the Boughton Lane and Woodcut Farm appeals) given the anticipated very significant costs involved.

- 1.7 The Working Group was mindful that when the Planning Committee's decision to defend the Woodcut Farm appeal was referred to the Planning Referrals Committee by the Head of Planning and Development, there was a lot of public interest and extensive lobbying, and the three Members of the Committee felt under considerable pressure.
- 1.8 The Working Group agreed that there is a need to provide a check and balance mechanism in relation to Planning Committee decisions, and that there should continue to be provision for the referral of an application to a second body for determination in circumstances where the Committee votes to continue with a decision that it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget. However, that body should be the Policy and Resources Committee and the Planning Referrals Committee should be abolished.
- 1.9 In reaching this conclusion, the Working Group reviewed the Council's existing Committee framework and took into account manageability of the process (including using the existing framework), representation, Member training and pre-determination issues. The Group considered the advantages and disadvantages of an alternative referral body and of increasing the size of the Planning Referrals Committee, details of which are summarised in **Appendix B**.
- 1.10 During its discussions, the Working Group sought guidance on pre-determination and the implications for Members and Substitute Members of the Planning Committee who might also be Members or Substitute Members of the alternative referral body.
- 1.11 The Localism Act 2011 clarified the rules on pre-determination. The rules were developed to ensure that Councillors come to Council discussions on any matter with an open mind. Section 25 of the Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. In terms of any Members and Substitute Members of the referral body having participated in a decision of the Planning Committee which has been referred to it, even in the event of a named vote being taken at the Planning Committee, it does not necessarily mean that they will be pre-determined. Each individual case would need to be looked at, but it is ultimately the responsibility of the individual Councillor to decide, and Substitutes could be used if required.
- 1.12 In formulating its recommendations, the Working Group took into account the need to provide appropriate training on the policies, procedures, legislation and guidance relevant to the work of the Planning Committee

for Members and Substitute Members of the referral body. It was accepted that it would be impossible to train all 55 Members of the Council, and that the Members and Substitute Members of a smaller referral body could participate in the mandatory training arranged for Members and Substitute Members of the Planning Committee, including training on pre-determination of planning applications. The Working Group also felt that as far as possible Planning Committee processes should apply to the referral body; for example, the existing provisions relating to public speaking at meetings of the Planning Committee should apply for consistency and fairness. Further, it was agreed that the decision of the referral body should be final.

- 1.13 The Group considered the wording of the sections of the Constitution/Local Code of Conduct for Councillors and Officers Dealing with Planning Matters relating to Planning Decisions Which Have Significant Cost Implications. It was suggested, and agreed, that the delegation to the Head of Planning and Development upon the advice of the Legal Officer present to refer an application to a second body for determination (currently the Planning Referrals Committee) should be amended to be in consultation with the Chairman of the meeting; however, the decision would remain with the Head of Planning and Development. Initially, the Working Group thought that the delegation should be exercised in consultation with the Chairman and Vice-Chairman of the Committee, but accepted that these Members might not be in attendance at the meeting.
- 1.14 Any decision to abolish the Planning Referrals Committee will necessitate a review of the allocation of seats on Committees.

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## **2. AVAILABLE OPTIONS**

- 2.1 The Committee is asked to consider and agree the recommendations made for submission to Council.
- 2.2 The Committee could decide that no action be taken on the recommendations of the Working Group, however this would not be appropriate having regard to the concerns which have been expressed about the current Planning Referral process.

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## **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.1 The recommendations reflect the views of the Working Group appointed by this Committee to undertake a review of the arrangements for managing risk in relation to Planning Committee decisions, including the Planning Referral process. It is considered appropriate that the Committee give consideration to the recommendations arising from the review.

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## **4. RISK**

- 4.1 The procedure for referral of planning applications to a second body for determination was introduced to provide a further safeguard against the

possible risks associated with not being able to sustain Planning Committee decisions at appeal. The recommendations of the Working Group are intended to address concerns which have been raised about the current arrangements.

## **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

5.1 The Working Group has balanced the need to provide a check and balance mechanism in relation to Planning Committee decisions against concerns expressed about the existing arrangements and formulated recommendations which, if adopted, will improve the process, be fully representative and increase public and Member confidence.

## **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

6.1 The recommendations of the Democracy Committee, arising from its consideration of the findings of the review, will be reported to the Council for final decision.

## **7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	The Council has in place processes to manage risk. The recommendations contained within this report are intended to assist in managing risks associated with Planning Committee decisions.	Head of Policy, Communications and Governance
<b>Risk Management</b>	The recommendations of the Working Group are intended to address concerns which have been raised about the current arrangements in place to manage risk in relation to decisions of the Planning Committee.	Head of Policy, Communications and Governance
<b>Financial</b>	Some decisions of the Planning Committee could have significant implications for the Council's budget. The recommendations of the Working Group are intended to safeguard the Council against the possible risks associated with not being able to sustain	Paul Holland, Senior Finance Manager (Client)

	Planning Committee decisions at appeal.	
<b>Staffing</b>	No specific issues arise.	Head of Policy, Communications and Governance
<b>Legal</b>	It is essential that effective procedures are in place to provide a check and balance system with the view to reducing the legal and financial risks to the Council. The legal implications with regards to pre-determination are set out within the body of the report.	Interim Deputy Head of Legal Partnership
<b>Privacy and Data Protection</b>	No specific issues arise.	Interim Deputy Head of Legal Partnership
<b>Equalities</b>	No detrimental impact identified with the recommendations set out in the report. However, the communication of changes to Council policy to residents should include hard to reach groups to ensure our services and process are transparent and accessible to all.	Equalities and Corporate Policy Officer
<b>Crime and Disorder</b>	No specific issues arise.	Head of Policy, Communications and Governance
<b>Procurement</b>	No specific issues arise.	Head of Service & Section 151 Officer

## 1. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Planning Referrals Committee – Short Briefing Paper on Current Arrangements, Examples of Arrangements at Other Local Authorities and Possible Options
- Appendix B: Planning Referrals Committee – Advantages/Disadvantages of Alternative Referral Bodies

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## 2. BACKGROUND PAPERS

None

**Planning Referrals Committee – Short Briefing Paper on Current Arrangements, Examples of Arrangements at Other Local Authorities and Possible Options**

**1. Introduction**

This paper sets out possible options for the arrangements for managing risk in relation to planning decisions. It also sets out the Council's current arrangements, examples of arrangements at other local authorities in Kent and some beyond who have similar procedures. The research is by no means exhaustive and it is apparent that everywhere approaches planning delegations and procedures differently in relation to committee arrangements.

**2. Maidstone's Current Arrangements**

The current arrangements are set out in section 2.2.8 of Part 2 of the Constitution (Composition and Purpose/Functions of the Planning Referrals Committee), section 29.3 of Part 3.1 of the Constitution (Planning Decisions Which Have Significant Cost Implications) and section 17 of the Local Code of Conduct for Councillors and Officers Dealing With Planning Matters (Planning Decisions Which Have Significant Cost Implications) as follows:

2.2.8 of Part 2 of the Constitution (Composition and Purpose/Functions of the Planning Referrals Committee)

Membership: 3 Councillors

Purpose: To determine planning applications referred to it by the Head of Planning and Development if s/he is of the opinion that the decision of the Planning Committee is likely to have significant cost implications.

Section 29.3 of Part 3.1 of the Constitution - Planning Decisions Which Have Significant Cost Implications

- (a) If the Head of Planning and Development, on the advice of the Legal Officer present at the meeting, believes that the Planning Committee's reasons to justify refusal/the imposition of conditions are not sustainable, the decision of the Planning Committee will be deferred to its next meeting. The Committee itself may also agree to defer consideration of an application for the same reasons.
- (b) If, at that meeting, the Planning Committee votes to continue with a decision which it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, the Head of Planning and Development, on the advice of the Legal Officer present, will request Councillors to refer the consideration of the application to Part II of the meeting, to offer Councillors further advice on the legal and financial implications, and the likelihood of success at appeal. If the Committee still decides to refuse the application/impose an unreasonable condition, the Head of

Planning and Development will on the advice of the Legal Officer present, immediately after the vote has been taken, refer the application to the Planning Referrals Committee for determination.

Section 17 of the Local Code of Conduct for Councillors and Officers Dealing With Planning Matters - Planning Decisions Which Have Significant Cost Implications

- (a) If the Head of Planning and Development, on the advice of the Legal Officer present at the meeting, believes that the Planning Committee's reasons justifying a resolution to refuse/impose conditions are not sustainable, that decision of the Planning Committee will be deferred to its next meeting. The Head of Planning and Development will give advice on this before any vote is taken. The Committee itself may also agree to defer consideration of an application for the same reasons.
- (b) If, at that next meeting, the Planning Committee votes to continue with a decision which it has been advised cannot be sustained at appeal and which could have significant cost implications for the Council's budget, the Head of Planning and Development, on the advice of the Legal Officer present, will request Councillors to refer the consideration of the application to Part II of the meeting (private session), to offer Members further advice on the legal and financial implications, and the likelihood of success at appeal. If the Committee still decides to refuse the application/impose an unreasonable condition, the Head of Planning and Development will on the advice of the Legal Officer present, immediately after the vote has been taken, refer the application to the Planning Referrals Committee for determination.

*Note: The wording in Section 17 of the Local Code of Conduct for Councillors and Officers Dealing With Planning Matters is slightly different from that in Section 29.3 of Part 3.1 of the Constitution*

### **3. Examples from other Councils in Kent**

#### Swale

No Planning Referral Committee, the Head of Planning can defer the item to next meeting as set out below:

If the vote does not follow the Officer recommendation then:

- (a) The Chairman will invite the Head of Planning to consider if the application should be deferred in accordance with Part 3 of the Constitution. If the application is deferred to that next meeting, the Head of Planning will advise Members of the prospects of such a decision being challenged on appeal and on the implications of a cost application being made against the Council.

(b) If the decision is not deferred to the next meeting, a further motion must be made to refuse the application. A detailed minute of the Planning Committee's reasons (which should be full, clear and convincing) should be made by the Democratic Services Officer and a copy placed on the application file. The courts have expressed the view that such reasons should be clear and convincing. The Chairman should also give the Planning Officer the opportunity to explain the implications of any decision contrary to his/her recommendation.

Shepway

Take particularly controversial applications to full Council.

Tunbridge Wells

No referral process or option for an Officer to defer an item.

Ashford

No Planning Referral Committee, Officers can recommend deferral to a later meeting of the Planning Committee as set out below:

"In cases where Members propose to make a decision contrary to Officers' advice, Officers may **request** deferral (which would remain at the discretion of the Committee) but only in the following exceptional circumstances where the complexity of the case demands:

- In order to formulate proper summary reasons and/or appropriate conditions and/or planning obligations in relation to a grant of permission.
- In order to formulate effective full reasons in relation to a refusal of permission in the light of Members' views at the meeting.

Requests would be made only in exceptional circumstances where the issues arising are so complex that Officers consider the Council's interests are best served by a deferral to allow time to prepare such."

In such cases the "first" Committee would make a resolution that it is minded to grant/refuse whilst the "second" Committee would make the formal decision and give reasons and agree conditions etc. This is necessary as a matter of law to avoid the situation of one Committee formulating reasons etc. for a decision taken by a different Committee which would be legally problematic. (Minute No. 72/6/08 refers).

Tonbridge and Malling

No obvious referral process.

Sevenoaks

Procedures are focussed on pre-meeting action with advice on how to raise concerns and the option for Officers to withdraw a report. At the meeting itself an Officer can recommend that a decision be deferred but

only the Chairman can decide whether or not to accept that recommendation.

Gravesham

Regulatory Board has no referral or Officer deferral mechanism.

**4. Sample of Councils with Planning Referral Committees**

Chichester

In the event that the Committee is minded to determine an application in a manner which is contrary to the Officers' recommendation and the Officers have identified this as being a major departure from the Development Plan or inconsistent with the policies of the Council, the application will be referred to the Council's Planning Applications Referral Committee for determination with a recommendation from the relevant Area Development Control Committee.

Harrogate

Have a Planning Committee and Planning Referral Committee. The Planning Referral Committee has 16 Members on a politically proportional basis and membership is drawn from the widest practicable geographical spread of Ward Members.

The Borough Solicitor or their representative makes a decision to refer the application where a decision the Committee wish to make is contrary to policy or could lead to costs being awarded against the Council, the application will be deferred by the Solicitor present at the meeting and brought to another meeting of the Committee or the Referrals Committee. The Committee meet fairly regularly and consider referrals from the Planning Committee as well.

St Albans

Have a Planning Referral Committee to deal with amongst other items particularly contentious applications.

**5. Possible Options**

When reviewing possible options consideration needs to be given to how we will provide a check and balance for Planning Committee decisions and reduce financial and legal risk for the Council.

1. Increase the size of the Planning Referrals Committee.
2. Retain current arrangements.
3. Change the referral body. Head of Planning and Development to refer decisions to Policy and Resources Committee following the same procedure as for referral to the Planning Referrals Committee

and abolish the Planning Referrals Committee. Consideration would need to be given to training for Policy and Resources Committee Members.

4. Adopt a model similar to one of the Kent Councils above focussed on pre-meeting identification and resolution of issues with a back stop of the Head of Planning and Development being able to recommend or defer an application where there is a major risk to the Council and that item is deferred to a later meeting of the Committee (essentially the first part of our present process).

**PLANNING REFERRALS PROCESS - ADVANTAGES/DISADVANTAGES OF ALTERNATIVE REFERRAL BODIES**

<b>Advantages of Referral to Full Council – Extraordinary Meeting</b>	<b>Disadvantages of Referral to Full Council – Extraordinary Meeting</b>
<p>Relieves pressure on a small group of Members (Planning Referrals Committee comprising three Members).</p> <p>Provisions relating to public speaking would apply – details to be determined.</p>	<p>Unwieldy.</p> <p>Could result in delays in decision making and additional costs, including loss of the planning fee, which could be substantial, if an extension of time has not been agreed with the applicant</p> <p>Issues relating to pre-determination to be resolved - would need to discuss with the individual Members involved.</p> <p>Logistics of training 55 Members on relevant planning issues.</p>
<p>Note: The Working Group was initially under the impression that at Shepway District Council particularly controversial applications are reported to full Council for determination. However, it was established that at Shepway planning applications are delegated within the Council’s Constitution to the Planning and Licensing Committee. There is no provision for referral by an individual. The only applications that have been reported to full Council (Lydd Airport and the sea front) were due to resolutions of the full Council for these applications to be determined there as there were major issues relating to employment and site sensitivity. In the case of a critical application, this approach could be adopted, but the issues described above would apply.</p>	
<b>Advantages of Referral to Other Body – Policy and Resources Committee – Special Meeting</b>	<b>Disadvantages of Referral to Other Body – Policy and Resources Committee – Special Meeting</b>
<p>Relieves pressure on a small group of Members (Planning Referrals Committee comprising three Members).</p> <p>Provisions relating to public speaking would apply – details to be determined.</p> <p>Responsible for co-ordinating financial management and performance across the Council.</p>	<p>Issues relating to pre-determination to be resolved – would need to discuss with the individual Members involved, but Substitutes could be used.</p> <p>Perception that the determination of planning applications is driven by financial considerations.</p>

<p>Policy and Resources Committee Members and Substitute Members could be included in the mandatory training arranged for Members and Substitute Members of the Planning Committee.</p> <p>It would be necessary to make clear that applications were being referred to the Policy and Resources Committee for final determination (with no provision for referral of the Committee’s decision to full Council).</p> <p>All Groups represented and membership includes all Group Leaders.</p>	
<p><b>Advantages of Referral to Other Body – Strategic Planning, Sustainability and Transportation Committee – Special Meeting</b></p>	<p><b>Disadvantages of Referral to Other Body – Strategic Planning, Sustainability and Transportation Committee – Special Meeting</b></p>
<p>Relieves pressure on a small group of Members (Planning Referrals Committee comprising three Members).</p> <p>Provisions relating to public speaking would apply – details to be determined.</p> <p>Responsible for overseeing, inter alia, the development, review and implementation of the Council’s strategic planning policies, including the Council’s Development Plan.</p> <p>Strategic Planning, Sustainability and Transportation Committee Members and Substitute Members could be included in the mandatory training arranged for Members and Substitute Members of the Planning Committee.</p> <p>It would be necessary to make clear that applications were being referred to the Strategic Planning, Sustainability and Transportation</p>	<p>Issues relating to pre-determination to be resolved – would need to discuss with the individual Members involved, but Substitutes could be used.</p> <p>Issues relating to the Committee being asked to arbitrate on the application of its own policies.</p>

<p>Committee for final determination (with no provision for referral of the Committee’s decision to the Policy and Resources Committee).</p>	
<p><b>Advantages of Increasing the Membership of the Planning Referrals Committee</b></p>	<p><b>Disadvantages of Increasing the Membership of the Planning Referrals Committee</b></p>
<p>Relieves pressure on a small group of Members (Planning Referrals Committee currently comprises three Members).</p> <p>Membership excludes Members and Substitute Members of the Planning Committee so pre-determination should not be an issue.</p> <p>Provisions relating to public speaking would apply – details to be determined.</p> <p>Planning Referrals Committee Members and Substitute Members could be included in the training arranged for Members and Substitute Members of the Planning Committee.</p>	<p>Difficult to find additional Members to serve on the Committee and there may be unwillingness on the part of Political Groups to be allocated seats on a Committee that has only been required to meet twice in ten years to exercise its functions.</p>

The Working Group also considered the advantages and disadvantages of a third party independent review as follows:

<p><b>Advantages of a Third Party Independent Review</b></p> <p>Relieves pressure on a small group of Members (Planning Referrals Committee currently comprises three Members).</p> <p>Objective approach by an independent party.</p>	<p><b>Disadvantages of a Third Party Independent Review</b></p> <p>Cost implications and issues associated with ratification of the third party’s conclusions.</p>
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# Agenda Item 11

**DEMOCRACY COMMITTEE**

**15 November 2017**

## **Results of Consultation on Barming Ward Name Change**

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Angela Woodhouse
<b>Classification</b>	Public
<b>Wards affected</b>	Barming Ward

### **Executive Summary**

This report details the results of the consultation on changing the name of Barming Ward to Barming and Teston following approval to go out to consultation on the name change by the Democracy Committee in September.

### **This report makes the following recommendations to this Committee:**

1. To review the consultation results and agree whether to recommend the change of ward name from Barming to Barming and Teston to Council

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy Committee	15 November 2017
Special Council meeting	To be confirmed

# Results of Consultation on Barming Ward Name Change

## 1. INTRODUCTION AND BACKGROUND

- 1.1 The Committee at its meeting in September considered a request from Councillor Mrs Gooch to change the name of Barming ward to more accurately reflect the two parishes the ward covers. This follows feedback from residents in the ward and the parish council of Teston.
- 1.2 By law, a local authority may not pass a resolution to change the name of a ward unless it has taken reasonable steps to consult with persons that it considers appropriate on the proposed name. A consultation was carried out from the 1 October 2017 to 31 October 2017 via a hand delivered letter to each household in the ward.

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## 2. AVAILABLE OPTIONS

2.1 The results of the consultation are:

### Barming Consultation Results

	Electorate	No	Yes	Response
Barming Parish	1373	134	172	24.33%
Teston parish	556	34	162	30.22%
Total	1929	168	334	26.02%
% result		8.71%	17.31%	26.85%

### Rejected votes:

Uncertainty 5  
Blank 5  
Undelivered 6

17.31% of the electorate were in favour of changing the name from Barming Ward to Barming and Teston Ward.

Of those who responded 67% were in favour of the name change.

- 2.2 The Committee must decide if the results are sufficient to recommend a name change to Council. The results are clearly in favour of change with 27% of the electorate responding to the consultation.
- 2.3 A number of comments were received as part of the consultation. A few comments reflected confusion over the boundary of the ward with a number

of respondents believing the name change constituted a boundary change to bring in Teston into the Barming Ward. To clarify Teston is already within the boundary of the ward and the consultation was run on change of name and not boundary. There was also a link by a couple of comments to housing suggesting the name change would allow more houses to be built between the two villages or by combining the two villages. An assertion that it would be more logical to link Teston and Watringbury. A comment "not sure if going to make ward bigger and disrupt it then no" and another comment that they were not moved either way as long as it did not involve updating records. Other comments stating that they were two distinct areas so should not be put together, showing the understanding of which areas are in Barming Ward could be improved. There were also a number of comments in favour of the name change including that change "seems obvious" was long awaited and a reasonable proposal. Other comments included it would improve identity and it would be good to have Teston recognised in the ward name. A full list of comments is attached at Appendix A.

2.4 If the Committee are minded to recommend to Council the change of name this will be considered at a special meeting of full Council. As there is a by election in November the Council will now not be publishing the revised register until 1 February 2018, this means that a special meeting could be convened by the proper officer in December or January to consider the name change.

2.5 Section 59 of the Local Government and Public Involvement in Health Act 2007 enables a Local Authority to agree to change the names of any of its electoral areas (normally known as wards) by passing a resolution at a Special Meeting of the full Council held for that purpose, subject to the statutory procedure being followed. The Act specifies steps that must be taken by an Authority in order to change the name which are summarised as follows:

- a. Before passing a resolution at a Special Meeting to change the name of an electoral area the authority must take all reasonable steps to consult such persons as it considers appropriate on the proposed name.
- b. A resolution to change the name must be passed by a majority of at least two-thirds of members voting at a specially convened Council meeting.
- c. Notice of the object of the meeting must be given.

### **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

3.1 As stated in the September report the local ward Councillor, Councillor Mrs Gooch put forward the proposal following feedback from the residents and Teston parish Council:

*"The parish of Teston is one of two parishes that make up the ward of Barming. Teston is a well-defined rural village of about 300 homes with its village shop and village hall which lie together in the centre of the village which is a conservation area. Teston lies to the west of Barming Ward.*

*The other parish is Barming and is semi-rural. It lies on the western edge of the Maidstone urban area, comprising approx. 720 homes. Its boundary with the adjoining wards of Heath and Fant (neither of which is parished) runs up the middle of one of its estates: the Beverley Estate. It is not uncommon for residents in those adjoining wards to mistakenly believe they live within the parish of Barming.*

*The two settlements of Barming and Teston are separated by almost 1.5 miles of open countryside. They are both very distinct and separate communities.*

*Hence Members are asked to approve a request to change the name of the ward from 'Barming' to 'Barming and Teston'. This will add clarity and will enable a more accurate reflection of the make-up of the electoral area i.e. that the ward comprises the two distinct parishes of Barming and of Teston.*

*There are other wards within the borough that already carry the identity of its parishes, such as Boughton Monchelsea and Chart Sutton; also Sutton Valance and Langley.*

*Members are asked to note that no boundary change is involved. This is purely a request to amend the title of the ward. The added value of the amendment will be three-fold:*

- 1. To accurately reflect the electoral make-up of the ward i.e. two distinct and separate communities;*
- 2. To foster the identity of Teston and inclusivity of its residents, being just as much a distinctive part of the ward as the residents of the parish of Barming.*
- 3. To illustrate to residents in neighbouring communities such as St Andrews and Fant that they are not electorally in Barming (even though estate agents and Royal Mail like to think they are) thus helping to reduce confusion."*

- 3.2 In light of the above and the results of the consultation the Committee is asked to consider whether to recommend the change of ward name to full council or not.

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#### **4. RISK**

- 4.1 The Committee will need to consider risk as part of their options appraisal there are risks to the council's reputation if we run a consultation and fail to take action as a result. The risk is within the councils risk appetite.

#### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The results of the consultation are set out at 2.1 above.

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#### **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 If the Committee agrees to recommend the name change to full council a special council meeting will be held to consider this in December 2017 or January 2018 to enable the name change if agreed to be incorporated into the new electoral register which will be published on 1 February 2018. A

number of actions are then required including issuing a press release, notifying teams in the council to update systems and publishing notices.

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.	Head of Policy, Communications and Governance
<b>Risk Management</b>	Limited risk.	Head of Policy, Communications and Governance
<b>Financial</b>	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Head of Policy, Communications and Governance
<b>Legal</b>	Acting on the recommendations is within the Council's powers.	
<b>Privacy and Data Protection</b>	If the recommendation is carried at full council to change the name systems across the council will need to be updated, the volume of data will not be increased and the activity will not be high risk in relation to data protection	[Legal Team]
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Head of Policy, Communications and Governance

	We will ensure our communications reach all residents, including hard to reach groups.	
<b>Crime and Disorder</b>	N/A	Head of Policy, Communications and Governance
<b>Procurement</b>	N/A	Head of Policy, Communications and Governance

## **8. REPORT APPENDICES**

Appendix A – Comments received in response to consultation

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## **9. BACKGROUND PAPERS**

None

**Comments received in response to consultation on Barming Ward Name Change**

- It would be informative for newcomers to both villages.
- No problem.
- Approved and support the renaming of the ward to Barming and Teston ward.
- Would have been helpful to include a map to show the reason for the name change.
- None.
- Our borough councillor already represents Barming and Teston (we believe).
- This seems obvious to me
- If I lived in Teston I would like the name of the ward to reflect my area. So this proposed name change is a very reasonable proposition
- If Teston is included in the ward then should be in the name.
- This makes good sense as the ward covers both villages geographically.
- None.
- Our wards are so close combining them could make us stronger at debates and future elections
- Wholly appropriate and long overdue
- Makes sense as it better describes the ward
- A sensible idea
- Have no opinion either way as long as service continues to be good
- No if it's going to cost more. Yes if it doesn't change the present situation.
- Sounds good.
- None
- Having spoken to many people, they are not aware that Teston and Barming are already in the same ward for local elections. It was not made clear in your letter.
- Excellent idea identifies us more as a village and country area. Great to be connected or identified with Teston.
- Don't mind either way, but if Teston wants it ok.
- Fine as far as I am concerned.
- It would be good to have Teston recognised in the ward name.
- None.
- We strongly support the change of name to Barming and Teston Eard to recognise the extent of the ward and its component parts.
- I feel it is important that Teston retains its own identity.
- Yes because we are a distinct and separate village and should not be disregarded and lost or seen as a part of Barming.
- Overdue.
- Perhaps living in Teston I am greatly in favour of our village being named in the ward – long overdue.
- Yes we prefer the new ward name. Thank you.
- About time too.

- I think it is a good idea and I fully support it.
- About time!!!
- Nice idea!
- No comments I'm happy with it☺.
- Providing there is no change to council charges unless a reduction is available.
- A very good proposal.
- Excellent idea. Recognition that Teston exists.
- We fully support the reason given for the proposed change.
- We both agree that this is a good thing to do for the benefit of Teston.
- "firstly I resent the first line of your hand delivered letter:- following requests from residents in the area.....how many people have actually asked for this.....possibly just a handful, but it suits the council for the change of name. We who live in Barming wish to stay IN BARMING, WE DO NOT WANT TO BE LUMPED WITH TESTON, the next village along. I have lived in Barming for 53 years, in three different houses, two of which I own and DO NOT wish to live in any other village. We came to Barming because it was a village set on it's own. In the so called wisdom of the council (who by the way I do not trust, I've sat in your meetings and many councillors went to sleep) it suits yourself to lump us with Teston. This will enable you to build more house between Barming and Teston and you won't have to do any changes of name. This will enable you to build yet more houses. How very convenient for the council. It's not what the residents want it's what the council wants.....More houses which we and many others have contested against over the years will mean our village, at the moment, is just an extension of Maidstone Town, getting nearer and nearer to Tonbridge. There should be a public meeting regarding the changes of name, not a letter to sent out late on a Saturday night by hand about a decision o be discussed at a special meeting on 15 November....is this a public meeting? Can I attend? If so then I wish to attend, tell me where it will be held because your letter does not give this information."
- With reference to the prosed renaming of the ward I feel contrary to the assertion that it would reflect the community identity of the area, ity would have the reverse effect. In the first place, the locations of Barming and Teston are very separate and one only has to travel from the junction of North Street westwards to understand that there is a considerable distance between the two areas. With the frenetic construction of housing within the Barming area, this will become obvious and the fact that Barming is becoming an increasingly suburban area as opposed to a rural entity is ignoring reality. A more logical link would be between Teston and Wateringbury! I somewhat sceptical as to the reasons behind the proposition. How many residents asked for this change? Were they hopeful election candidates whose location of permanent residencies disqualifies this from standing.
- The proposal to rename Barmign Ward is a classic example fo Council waste at time of economic stringency.
- Not sure if going to make ward bigger and disrupt it then no.
- All my records and papers use "Barming etc" only without the addition of anything else. As long as this does not involve my having to alter countless records. I remain totally unmoved.
- Why change something that is already established

- There is no evidence from your letter that the residents have followed any formal petitioning process when approaching MBC and set out proper reasons for wanting the change (“better reflects the community identity of the area” is no reason at all. It tells me nothing.) and How the alteration could in the long terms affect the status of the two parish councils. The parish precept and the numbers of members representing both villages. My own view is that the 2”community identity of the area” is best described by reference to two separate villages. Both are still geographically discrete units being separated by fields, a walk of some 45 minutes, two churches, two/three village halls. Currently there are more points of distinction than similarity in that the “area” is not one amorphous housing mass where it would be difficult to assess where one begins and ends.
- Would prefer to keep Barming as it is now with no outsider additions which might affect the current status.
- Don’t see any reason or advantage in change of name. It suits us as it is!
- Changing a name will only cause an increase in expenditure re-printing forms etc etc etc what a waste of money!!!! Councils waste enough already.
- Each area is separated by a boundary.
- If its not broke don’t fix it. You should be more worried about the extra housing and hermitage lane fiasco.
- Why would we?
- Teston is to far way and has a substantial rural area between boundaries.
- With the public purse strings under real strain this consultation strikes me as a frivolous use of money.
- I have lived here since 1973 – in all that time I have not been aware or considered that the VILLAGE of Teston is part of Barming community or even part of Maidstone Borough – except the letter in name/administration only. I would expect the residents of Teston consider they live within a VILLAGE – not a suburb of Maidstone. As I consider this to be so I am not aware of residents to Barming and Teston taking joint part in any regulation annual activities. Or is this merely pre-empting the time in the not to distant....future when all the green fields and woodlands between are approved for development making each identity one.
- This seems to be a waste of money – distributing all these leaflets what gain could there be by changing the name. Also would Teston residents have a say in Barming? Why?
- I would be interested how many requests you had for thus change NO ONE I know, has even heard or discussed this matter.
- Another waste of time, money and bureaucracy!!
- You don’t say who requested the change and why is it necessary. The lower end of Hermitage lane comes under Tonbridge and Malling, look at the chaos there. We have always been a village with our own well kept church and well attended also good school. Please sort out the traffic coming through Barming especially Heath road. Open up the heath for those who live there.
- Barming and Teston are separate villages and should have separate identities. Barming’s village identity is already being destroyed by Maidstone Borough Council’s ill considered unsustainable and disastrous for future generations planning policy. Our air quality is poor, the road infrastructure is at breaking point, health and social care services overstretched.

Barming and Teston are villages (or in Barming's case was) not suburbs of Maidstone. Is there an ulterior motive for the council merging the two?? I.e. once every bit of green space in Barming is engulfed by houses will Teston in turn lose its identity and become part of the giant housing estate that Barming now is as well??

- Our village names are what makes this country unique.
- Why change the name after all these years – what is the benefit or could it be our suspicious minds thinking its motives are extra house building in the area.
- There is no connection between the two parishes. And I see no point in the proposed new ward name, Barming should keep its identity.
- We have lived in Barming since Jan 1966 and wish to remain in Barming Ward.
- Barming and Teston are separate villages.
- We do not think this is a good idea because joining the two into one ward could be used as a reason to develop the land between Barming and Teston by developers and government bodies looking at ways of and reasons for such development.
- Not enough details on implications of proposal.
- Cannot see the point
- I don't live in Teston – I live in Barming and therefore current name adequately reflects that.
- There is a need to maintain the individuality of both wards. There is a need to maintain the physical gap between them to prevent overdevelopment alongside the A26 Tonbridge Rd.
- We do not agree the name change for the ward and do not accept that it better reflects the community identity of the area. They are significant distance apart and do not have any social interaction or common interests.
- Barming is a unique parish and should not be slowly assimilated into other parts.
- Absolutely not to the proposed change of ward name.
- Pointless! Why?
- We're nearly 2 miles from Teston.
- Unnecessary and unwelcome change.
- Cannot see any benefit in the proposed change. Possible this would cost money our parish could ill afford.
- Maidstone Borough Council appears to be pushing up towards Tonbridge and Malling Council. They didn't have common sense to get hermitage lane with enough at the London road end, and only now trying to correct their mistake. Perhaps Tonbridge and Malling council and Maidstone borough council don't communicate with each other.
- Cannot even think of a reason why this is being considered. Is it because Heath road becomes full of incoming and outgoing traffic weekdays??? We already have Heath Road being used to avoid Tonbridge Road (which is the main road to get to hermitage lane (a hospital) ) Would the name Barming and Teston be an excuse for motorists to use Heath road and more readily. Or even used as an excuse to get from one place to another. When is the council; going to reduce council taxes for us residents? The state of Heath Road is currently a disgrace because of the way the road works carried out have made the road bumpy not very comfortable to drive on and in my case quite damaging to me chronic disease of my spine. My apology for being negative but please be assured that the traffic in

Heath Road is quite worrying. At times I've noticed cars speeding along this road. How safe is the road to residents and school children??

- There is currently a clear divide between the Barming and Teston and green fields space the two areas – combining the names may be first step to combining development.
- No explanation given for the change. We are two separate villages/wards so don't understand how the proposed change would better reflect the community identity.
- Barming is far bigger than Teston, therefore it should remain Barming ward.
- I cannot agree on the change I would like Barming ward to protect its uniqueness.
- I fail to see any real benefit or affect and would regard this as potentially a waste of public funding.
- I don't really see the point of this. We already pay extra on our council tax for the "privilege" of living in Barming – will it cost us more? We still won't get our paths and roads taken care of.
- Pointless.
- Cannot see any gain in a name change, surely the money could be spent more wisely on infrastructure of Maidstone.
- We feel it would be a waste of council money for this minor change or just the title.
- We need to know what this is all about what the advantages etc are.
- Waste of money and time
- Teston is a lovely village, Barming isn't why change it we don't consider the reason given would not reflect a better identity to the area.
- Teston is a village please keep it that way. That why we live here.
- We should prefer Teston to remain as a separate ward. We feel it has very different characteristics to Barming and is easily recognisable as a village in its own right.
- How will a change of name help the residents of Teston or Barming???
- We would like to stay as a village in our own right. If we are joined with Barming our views will not count as they are a bigger ward.
- I can't see the point and a change would cost money! (as does this survey)
- Concerned that large scale housing development in Barming could eventually extend to Teston.
- There is no reason to change the name of the village. Teston has it's own attractions with many visitors each year. Please leave it as it is. Thank you.

## Democracy Committee

**15 November 2017**

### Amendments to the Constitution

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service/Lead Director</b>	Patricia Narebor, Head of Legal Services Partnership and Monitoring Officer
<b>Lead Officer and Report Author</b>	Donna Price, Interim Deputy Head of Legal Services Partnership
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### Executive Summary

The report sets out the proposed amendments to the Council Procedure Rules within the Constitution in order to facilitate the Council and its Officers to effectively carry out their duties and remove any potential ambiguity in decisions made by the Council.

#### This report makes the following recommendations to this Committee:

1. To consider and recommend to Council for approval the proposed amendment to the Council Procedure Rules to insert the 'six month rule' with regards to motions as set out in paragraph 1.8 of the report and to agree the number of members required to sign the notice of motion.
2. To consider and recommend to Council for approval the proposed amendment to the Council Procedure Rules with regards to the submission of amendments to the budget decision meeting of Council as set out in paragraph 1.13 of the report.
3. To consider and agree whether or not the business conducted should be limited in any way at a budget decision meeting and to make recommendations to Council.
4. To recommend to Council that the Monitoring Officer be instructed to make the agreed changes to the Constitution.

#### Timetable

<b>Meeting</b>	<b>Date</b>
Democracy Committee	15 November 2017
Council	6 December 2017

# Amendments to the Constitution

## 1. INTRODUCTION AND BACKGROUND

- 1.1 As the Constitution is a living document it is necessary to keep it under continuous review so that amendments can be made as and when necessary to ensure the document is kept up to date.
- 1.2 A full review of the effectiveness of the Constitution was carried out in January/February 2016 and the recommended amendments were agreed in April 2016. Following this review the Constitution has worked well and as such it has not been necessary to carry out a full review, however, as necessary amendments have been identified they have been brought forward for adoption by Council.
- 1.3 In March of this year it was necessary to bring forward a report to Democracy Committee as changes were required to officer delegations and the functions and responsibilities of the Heritage, Culture and Leisure Committee. Such changes were recommended to Council and subsequently approved.

### 'Six Month Rule'

- 1.4 As part of the report to Democracy Committee in March it was also recommended that the Council Procedure Rules be amended to insert the six month rule with regards to motions as it was believed to have been omitted as part of the redraft of the Constitution. Whilst members were generally in support of the provision concerns were raised over the number of members required to move the motion, therefore the item was deferred so that the provision accurately reflected what was previously in the Constitution.
- 1.5 Following the Democracy Committee meeting it came to light that the provision had actually been omitted from previous versions of the Constitution therefore it was not the case that it was a drafting error when the new Constitution was adopted in 2016.
- 1.6 The 'six month rule' provision prevents a motion or amendment to rescind a decision made at a meeting of Council, or to bring forward a motion of amendment in similar terms to one that has been rejected a meeting of the Council, within a period of six months unless the notice of motion is signed by a minimum number of members. The purpose of the provision is to ensure stability in decision making for a set period and avoid any unnecessary duplication or ambiguity.
- 1.7 Having reviewed the Constitution of other local authorities in Kent, including our partner authorities, they have all adopted the provision.

- 1.8 It is therefore recommended that the Council Procedure Rules be amended to insert the following provisions taken from the DCLG Model Constitution for Local Authorities:

**“Previous Decisions and Motions**

• **Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of Motion is signed by at least *[insert number]* of the whole number of the Council.

• **Motion similar to one previously rejected**

A Motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of Motion or amendment is signed by at least *[insert number]* of the whole number of the Council Members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.”

- 1.9 Should Democracy Committee be minded to recommend adoption of the provision to Council there is a decision to be made as to the number of members needed to move the notice of Motion. In order to assist members a comparison of numbers adopted by other Kent authorities is set out in the table below:

Authority	Total number of Councillors	Number of Councillors needed to move the notice of motion
Ashford Borough Council	43	16
Canterbury City Council	39	8
Dartford Borough Council	44	Third of all members
Dover District Council	45	Third of all members
Gravesham Borough Council	44	11
Shepway District Council	32	9
Swale Borough Council	47	Third of all members
Tunbridge Wells Borough Council	48	10

**Budget Decision Meeting**

- 1.10 The Council has a statutory duty under the Local Government and Finance Act 1992 to agree a balanced budget and in times of austerity this is becoming increasingly difficult for all local authorities.
- 1.11 The budget decision meeting usually takes place in March each year and at present members are able to move amendments to the budget proposals at the actual Council meeting which could result in an inability to balance the budget if the proposals are agreed or for the need to adjourn the meeting.

1.12 Any counter proposals submitted to the budget must achieve the statutory objective of a balanced budget, therefore sufficient time is needed to enable officers to consider the implications of any alternative amendment and to present sufficient detail at the Council meeting. All members will then be fully aware of the impact of such proposed amendments when making their decision at the meeting.

1.13 It is therefore recommended that the Council Procedure Rules be amended to include provision that all proposed amendments are provided in writing in advance of the meeting to give sufficient time for officers to ensure a balanced budget can be achieved if such amendments are agreed, and that no further amendment to the budget can be made at the budget decision meeting. Proposed amended wording is set out below:

“Amendments to the budget are to be made in writing and delivered to the Proper Officer by 5pm on the Monday before the meeting. In proposing any changes to the budget any amendment must ensure that the proposal achieves a balanced budget.”

1.14 Due to the importance of the budget decision meeting and to allow sufficient time for discussion to take place, members may be minded to amend the Council Procedure Rules to consider limiting what business can be undertaken at that meeting. The business of an Ordinary Meeting of Council is set out in Appendix I to this report and members of the Committee are asked to consider whether they wish to amend this for budget decision meetings.

## **2. AVAILABLE OPTIONS**

2.1 The first option is to “do nothing”. The Committee could decide not to accept the proposed amendments at this time. The Constitution has worked quite well since it was adopted. However the proposed amendments will facilitate the Council and its Officers to effectively carry out their duties.

2.2 The second option – which this report recommends – is to consider and accept the proposed amendments and recommend that Council adopts them.

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## **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

3.1 It is recommended that the Committee adopts the second option in paragraph 2.2 above and accepts the recommendations and proposes the amendments to Council at its meeting on 6 December. The amendments to the Constitution can then be made by the Monitoring Officer.

3.2 The proposed amendments will facilitate the Council and its Officers to effectively carry out their duties and remove any potential ambiguity in decisions made by the Council. In addition, it is essential that the Constitution should be reviewed and amended regularly to reflect the changing demands of the Council and the public.

**4. RISK**

- 4.1 The insertion of the six month rule will mitigate any risks associated with the amendment of decisions that have been or are in the process of being implemented without a reasonable period of time elapsing.
- 4.2 The proposed procedure for the submission of amendments to the budget will provide a further safeguard against the possible risks associated with not being able to achieve a balanced budget.

**5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The Democracy Committee previously considered the implementation of the six month rule and this report addresses the concerns raised. Discussions have also taken place with the Chief Executive regarding the proposed amendments to budget decision meetings.

**6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 If approved, the amendments to the Constitution will be presented to Council on 6 December with the recommendation that it adopts the revisions to take immediate effect.

**7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, a clear and effective Constitution supports all corporate priorities. Reviewing the Constitution regularly ensures that it most effectively meets the needs of the Council and the public.	Interim Deputy Head of Legal Partnership
<b>Risk Management</b>	The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council’s Risk Management Framework. The changes proposed are to ensure the	Interim Deputy Head of Legal Partnership

	effective running of the council, when deciding whether to approve the changes the committee will need to consider the risk of not making amendments.	
<b>Financial</b>	The recommendations do not have any direct financial implications, however, they assist with the Council's statutory duty under the Local Government and Finance Act 1992 to achieve a balanced budget	Interim Deputy Head of Legal Partnership
<b>Staffing</b>	None identified in this report.	Interim Deputy Head of Legal Partnership
<b>Legal</b>	The legal implications are set out in the body of the report.	Interim Deputy Head of Legal Partnership
<b>Privacy and Data Protection</b>	None identified in this report.	Interim Deputy Head of Legal Partnership
<b>Equalities</b>	None identified in this report.	Interim Deputy Head of Legal Partnership
<b>Crime and Disorder</b>	None identified in this report.	Interim Deputy Head of Legal Partnership
<b>Procurement</b>	None identified in this report.	Interim Deputy Head of Legal Partnership

## 8. REPORT APPENDICES

Appendix I – Extract from Council Procedure Rules

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## 9. BACKGROUND PAPERS

None

**Extract from Council Procedure Rules – Part 3.1 of Constitution****ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with an agreed calendar of meetings. Ordinary meetings will:

- (a) elect a person to preside if the Mayor or Deputy Mayor is not present;
- (b) receive any declarations of interest from Councillors and officers and deal with any applications for dispensations;
- (c) receive any disclosures of lobbying by Councillors;
- (d) consider whether any items should be taken in private because of the likely disclosure of confidential or exempt information;
- (e) approve and sign the minutes of the last meeting;
- (f) receive any announcements from the Mayor;
- (g) receive any petitions or deputations;
- (h) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the Council;
- (i) allow any member of the public to speak in accordance with the rule on Public Speaking;
- (j) the following will receive and respond to questions from Councillors in chronological order of receipt:
  - Chairmen of Committees; and
  - Other spokespersons nominated by the relevant Chairman.
- (k) receive the Leader's Report on Current Issues and the Group Leaders' responses;
- (l) deal with any business from the last Council meeting;
- (m) receive reports from the Council's Committees where there are recommendations for the Council to take a decision;
- (n) receive reports about the business of joint arrangements and external organisations which include matters for decision;
- (o) consider motions in the order in which notice has been received;
- (p) consider any other business specified in the summons to the meeting, including consideration of proposals from officers for debate; and
- (q) consider matters where confidential or exempt information may be revealed.

# Agenda Item 13

**DEMOCRACY COMMITTEE**

**15 November 2017**

## **Review of Outside Bodies - Update**

<b>Final Decision-Maker</b>	Democracy Committee
<b>Lead Head of Service</b>	Angela Woodhouse – Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Caroline Matthews – Democratic Services Officer
<b>Classification</b>	Public
<b>Wards affected</b>	All

### **Executive Summary**

The report sets out the progress made on the issues that the Committee had requested further information on. It also provides information on another outside body that has come to light recently.

### **This report makes the following recommendations to this Committee:**

That **it be recommended to Council** that:-

1. That the following outside bodies be added to those to be retained but appointed by the relevant Committees as listed:-

Kent and Medway Civilian-Military Partnership Board – Chairman of Policy and Resources Committee automatically appointed

Kent Downs AONB Joint Advisory Committee – Strategic Planning, Sustainability and Transportation Committee

2. That the following organisation be added to the list of those to be deleted from the Council's list of outside bodies:-

Maidstone MIND

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy Committee	15 November 2017
Council	6 December 2017

# Review of Outside Bodies - Update

## 1. INTRODUCTION AND BACKGROUND

- 1.1 At its meeting held on 6 September 2017 the Committee considered the results of the Review of Outside Bodies carried out by the Working Group.
- 1.2 Members considered that the outside bodies should be reviewed under the following criterion:-
  1. Is this an appointment to a strategic body and/or is there a statutory requirement?
  2. Does the Council provide funding to this body – is it of a significant level, is a member appointment essential to oversee the funding?
  3. Is there a legal requirement for a council appointment if a charitable trust?

However, there were two outside bodies that Members asked for further information on before making a decision. These were for Maidstone MIND and the Kent Downs AONB Joint Advisory Committee.

**Maidstone MIND** – the Council does not provide any funding to this organisation and it is not classed as a statutory body. If the Council were to require any work to be undertaken on mental health issues, it would go through Involve so based on the criterion above, the proposal is that this organisation be deleted from the Council's official list of Outside Bodies.

**Kent Downs AONB Joint Advisory Committee** – the Council has a statutory responsibility under the Countryside and Rights of Way Act 2000 and this organisation supports that role and receives funding from the Council of £4,138 per annum. Therefore based on the criterion above, the proposal is that this organisation be retained on the Council's official list of Outside Bodies.

In addition a Visiting Member raised his concern that the Mid Kent Downs Countryside Project had recently been advised that their funding of £10,000 had been removed. The Committee requested that the Strategic Planning, Sustainability and Transportation Committee be asked to reconsider the funding.

However, when Officers investigated this further, it appeared that the funding mechanism for this organisation did not form part of the Medium Term Financial Strategy report that was taken to the SPS&T Committee. Instead it formed part of the departmental budget under the Head of Planning and Development. After discussions with the Head of Planning and Development it was made clear that this was a discretionary payment and savings had to be made. Therefore there was no scope for this project to be supported any further, other than funding for any small projects that the

Council may request from time to time.

However, Officers have asked the Head of Housing and Community Services (in view of the service level agreements for voluntary organisations under his responsibilities) and the Head of Environment and Public Realm (with open space under her responsibilities) if they would be prepared to submit a budget proposal request. An update on this will be given at the Committee meeting.

This report also provides information relating to an additional outside body that has come to light but does not currently appear on the Council's list of official Outside Bodies but should be considered.

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## **2 AVAILABLE OPTIONS**

- 2.1 The Committee is asked to consider the outside bodies mentioned above in view of the further information.
- 2.2 The Committee could decide that no action be taken but this could be considered a backward step in view of the Committee's commitment to review the Council's representation on all the outside bodies.

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## **3 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.1 The recommendations reflect the criterion previously applied. Therefore:-
  1. **Kent and Medway Civilian-Military Partnership Board** – Chairman of Policy and Resources Committee automatic appointment – there is a statutory requirement to ensure that the Chairman of Policy and Resources Committee represents the Council on regional and national bodies as appropriate. The Board's terms of reference are attached as Appendix A to this report.
  2. **Kent Downs AONB Joint Advisory Committee** – the Council has a statutory responsibility under the Countryside and Rights of Way Act 2000 and this organisation supports that role and receives funding from the Council of £4,138 per annum.
  3. **Maidstone MIND** – the Council does not provide any funding to this organisation and it is not classed as a statutory body. If the Council were to require any work to be undertaken on mental health issues, it would go through Involve.
  4. **Funding for Mid Kent Downs Countryside Project** – the funding for this did not come from Strategic Planning, Sustainability and Transportation Committee's budget, it came from the Development Control's budget head. The Head of Planning and Development was of the opinion that he could no longer provide funding for a discretionary service in the current economic climate. However, the

Head of Housing and Community Services and the Head of Environment and Public Realm have been asked to consider submitting a budget proposal to fund the project but an update would be given at the Committee meeting.

#### **4 RISK**

- 4.1 There is a reputational risk associated with any decision to cease support of an outside body.

#### **5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The outside bodies have been reviewed by the Outside Bodies Working Group.

#### **6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 If the recommendations are agreed by this Committee and put forward to Council for final implementation then the relevant outside bodies would be contacted and advised of the decision made.
- 6.2 Nominations would also be sought for any vacancies on the outside bodies.

#### **7 CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	The link to corporate priorities should be considered as part of the review of nominations.	Head of Policy, Communications and Governance
<b>Risk Management</b>	Covered in Section 4.	Head of Policy, Communications and Governance
<b>Financial</b>	There are no financial implications arising out of this report.	[Section 151 Officer & Finance Team]
<b>Staffing</b>	There are no staffing implications arising out of this report.	Head of Policy, Communications and Governance
<b>Legal</b>	A Councillor who is appointed to an Outside Body acts as a representative of the Council. However, dependent upon the	Head of Policy, Communications and Governance

	nature of the arrangement, it is likely that their main responsibility would be to the organisation to which they have been appointed.	
<b>Privacy and Data Protection</b>	There are no privacy or data protection implications to this decision.	Head of Policy, Communications and Governance
<b>Equalities</b>	The recommendations do not propose a change in service therefore do not require an equalities impact assessment.	Policy & Information Manager
<b>Crime and Disorder</b>	Not applicable	Head of Policy, Communications and Governance
<b>Procurement</b>	Not applicable	Head of Policy, Communications and Governance

## **8 REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

Appendix A: Terms of Reference of Kent and Medway Civilian-Military Partnership Board

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## **9 BACKGROUND PAPERS**

None

## Kent & Medway Civilian Military Partnership Board

The overall purpose of the Board is to implement the Kent & Medway Community Covenant. It will do this through overseeing the work of five sub-groups which each focus on particular themes within the Covenant. The Board will meet bi-annually to receive reports and progress updates from each of the sub-groups, thus having a strategic overview of all activity and the ability to steer the implementation of sub-group work.

The terms of reference are as follows:

- **To address countywide issues relating to the Kent Community Covenant.**
- **To review the Kent Community Covenant annually and propose amendments where necessary.**
- **To filter and endorse applications of strategic significance for the Ministry of Defence Community Covenant Grant Scheme.**
- **To oversee, and take responsibility for, administering such Community Covenant Grant Scheme grants.**
- **To ensure that evidence is collected for audit purposes.**
- **To provide a forum for the exchange of information between the civilian and military authorities**
- **To widen understanding of military and veteran issues, including those relating to families of current or ex-service men and women.**

The members of the Kent & Medway Civilian Military Partnership Board are:

**Leyland Ridings** CO-CHAIR (Armed Forces Champion for KCC)  
**Brigadier Chris Claydon** CO-CHAIR (2 SE Brigade)  
**Mike O'Brien** (Armed Forces Champion for Medway)  
**David Bowen** (SSO 1 REME Regiment)  
**Stephen Oxlade** (South East Reserve Forces' and Cadets' Association)  
**Sandra Fruish** (Royal British Legion)  
**Steve Sherry** (Royal British Legion Industries)  
**Jo Gunnell** (Soldiers, Sailors, Airmen & Families Association)  
**Alison Broom** (Invicta Chamber of Commerce / Maidstone Borough Council)  
**Tony Finch/Tracy Evans** (2 Brigade South-East)  
**Debra Exall/Tim Woolmer** (Kent County Council)

The five Sub-Groups are:

- **Recognise and Remember Sub-Group**
- **Integration Sub-Group** (*covering children and young people, and stronger, safer communities*)
- **Joint Policy & Planning Board for Housing Service Personnel Sub-Group**
- **Health and Wellbeing Sub-Group**
- **Employment, Economy and Skills Sub-Group**