

# REPORT OF THE HEAD OF DEMOCRATIC SERVICES

*Reporting Officer: Head of Democratic Services*

## 6.1 MEMBERS ALLOWANCES 2023/24

### 1. Background

- 1.1 At the meeting of the Council held on 23 February 2023 the Scheme of Members' Allowances was approved for 2023/24 and the Head of Democratic Services was given delegated authority to increase the level of the Basic Allowance paid to Members in line with any subsequent annual pay award to staff for 2023/24.
- 1.2 Although the pay award for the current year has yet to be finally determined, the National Employers have offered a 'full and final' pay deal which equates to between 3.88% and 9.42%, depending on an individual member of staff's pay grade. Staff above spinal point 43 have been offered a flat 3.88% increase.

**RECOMMENDATION: That the Head of Democratic Services be authorised to increase the level of the Basic Allowance paid to elected Members by 3.88% to £12,480 pa, backdated to 1 April 2023 (subject to the final agreement of the annual pay award to staff).**

### 1. Proposal

- 1.1 Although the Employers' offer equates to different percentage level rises for staff, dependent on their current salaries, it is recommended that, for ease of implementation and administration, the increase of 3.88% be applied to the Member Basic Allowance.
- 1.2 No change is proposed to the level of Special Responsibility Allowances which will have remained at their current level for three years in a row,.

### 3. Financial Implications

The proposed increase in the Basic Allowance will be met from existing budgets.

### 4. Legal Implications

Under the terms of the Constitution, the determination and / or amendment of the Scheme of Allowances is a matter for Full Council.

BACKGROUND PAPERS: Nil

## 6.2 WAIVER OF 6 MONTH COUNCILLOR ATTENDANCE RULE.

### Introduction

1. Section 85 (1) of the Local Government Act 1972 requires a Member of a Local Authority to attend at least one meeting of that Authority within a six-month consecutive period, to avoid being disqualified as a Councillor. This requirement can be waived, and the time limit extended if any failure to attend was due to a reason approved by the Authority, in advance of the six-month period expiring.
2. Unfortunately, Councillor Rita Judge has not been able to attend any Council or Committee meetings since the Annual Council meeting on 11 May 2023 and, due to illness, will be unable to attend any meetings before the end of the six-month period.
3. A formal request has therefore been made for an extension to the six-month rule to be approved in his respect.

**RECOMMENDATION: That, pursuant to Section 85(1) of the Local Government Act 1972, Councillor Judge's non-attendance at meetings of the authority due to ill health, be approved for a period ending on 31 December 2023.**

### Background

4. The Head of Democratic Services has received a request for the Council to consider approving an extension to the usual six-month attendance rule enabling Councillor Judge to remain in office until she is able to resume normal duties.
5. Council can only consider approval of any reasons for non-attendance before the end of the relevant six-month period, which will be 11 November 2023. This is the final Council meeting at which approval could be sought for an extension of the time limit. If approval to any extension is not therefore agreed at this meeting, Councillor Judge would, under Section 85 (1) of the Local Government Act 1972 be disqualified from office as a councillor.
6. Once a Member loses office, through failure to attend for the six-month period, the disqualification cannot be overcome by the Member subsequently resuming attendance nor can retrospective approval of the Council be sought for an extension in time.
7. Councillor Judge was elected to the Council in May 2022 and represents Yeading Ward.

### FINANCIAL IMPLICATIONS

None associated with this report.

## LEGAL IMPLICATIONS

Section 85 (1) of the Local Government Act 1972 states that, *“if a Member of a Local Authority fails, throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Authority they will, unless the failure was due to some good reason approved by the Authority before the expiry of that period, cease to be a Member of the Authority.”*

BACKGROUND PAPERS: None

### 6.3 ANNUAL REPORT OF THE AUDIT COMMITTEE 2022/23

#### 1. Background

- 1.1 The annual report of the Audit Committee 2022/23 contains information to be presented to Council, so that it can be assured that the Audit Committee is acting appropriately on its behalf.
- 1.2 The annual report also provides an opportunity for Council to review the work of the Audit Committee and comment on its contribution and performance. The terms of reference of the Committee are detailed in the report.

**RECOMMENDATION: That the annual report of the Audit Committee 2022/23, attached at Appendix B, be noted.**

#### 2. Supporting Information

- 2.1 This report summarises, for the Council, the work of the Audit Committee during 2022/23 and how it has undertaken its responsibilities for reviewing the key areas within its remit. Specifically, these include:
  - Internal Audit (including internal controls);
  - Risk Management;
  - Corporate Governance;
  - External Audit;
  - Counter Fraud; and
  - Financial reporting process of the Statement of Accounts.
- 2.2 The Committee membership during the 2022/23 Municipal Year is shown below. They have a wide range of skills and bring both technical and professional experience to the role.
  - Mr John Chesshire - Independent Chairman – Appointed 02.11.17
  - Councillor Richard Lewis
  - Councillor Naser Abby
  - Councillor Tony Burles
  - Councillor Reeta Chamdal
  - Councillor Nick Denys

The current Independent Chairman has approximately 20 years' experience in the public and private sector working in the internal audit, risk management, business improvement and governance fields.

- 2.3 During the course of meetings Members are briefed on relevant issues in relation to local government accounts, External Audit, Internal Audit, Use of Resources, Anti-Fraud arrangements, and Risk Management.
- 2.4 The role delegated by the Council to the Audit Committee is to provide independent assurance over the governance, risk management and the system of internal control in operation at the Council. The Audit Committee has fulfilled this role by undertaking the key activities including:
- Oversight of Internal Audit
  - Oversight of External Audit
  - Prevention and Detection of Fraud and Corruption
  - Oversight of Risk Management
  - Approval of Financial Accounts
  - Corporate Governance

Further information about these key activities are detailed in the report.

- 2.5 The Audit Committee considers that it has continued to make a significant contribution to ensuring that the key elements of the governance framework are given proper consideration and are appropriately challenged. It will continue to develop this role and contribute to strengthen internal control, risk management and governance throughout the authority.
- 2.6 Accordingly, in compliance with the Accounts and Audit (Amendment) Regulations 2021, the Audit Committee has reviewed the effectiveness of the systems of internal control by receiving regular reports from these areas above that contribute to the control framework.

### **3. Financial and Legal Implications**

None arising from this report.

Background papers: Nil

## 6.4 HILLINGDON PLANNING COMMITTEE

### 1. Proposal

- 1.1 Following a recent review of the efficiency and effectiveness of the planning application process, it is proposed to rationalise the work of the current two planning committees (Borough and Majors) and merge them into a single, borough-wide, Hillingdon Planning Committee.
- 1.2 The new Planning Committee will meet once a month with the same size membership (7 – four Conservative and three Labour) and will consider applications from across the Borough. The Committee will utilise the existing dates for the current Borough Planning Committee with the first meeting being on 1 November with subsequent meetings on:
  - 6 December
  - 17 January
  - 14 February
  - 14 March
  - 11 April and
  - 15 May.
- 1.3 To support the merger of the planning committees, changes to the Planning Scheme of Delegations are proposed which will ensure that the most controversial and significant planning applications are always put before the Planning Committee, whilst enabling all other applications to be determined by officers.
- 1.4 In summary the changes proposed to the Scheme of Delegations are as follows:
  - to remove the requirement for minor applications with a valid petition or 20 or more written representations to be submitted to the committee where the desired outcome of the petition or written representations accords with the officer's recommendation, and in such circumstances public speaking rights would not apply. However, applications may still be referred to Committee via a different criterion if applicable, e.g., Ward Councillor Call-in.
  - to remove the requirement for inappropriate developments in the Green Belt of more than 200m<sup>2</sup> to be submitted to the Committee. Applications over 1,000m<sup>2</sup> are required to be submitted to the Committee for consideration as major applications, and it is anticipated that controversial applications will trigger one or more of the other criteria,
  - to allow Tree Preservation orders with objections to be considered and determined by officers and
  - to reduce the types of HS2 applications presented at the Committee due to the limited scope for changes and to reflect that most operational development has now been approved.
- 1.5 Other minor updates to the Petition Scheme have been made, to clarify existing practices and procedures.

1.6 The proposed changes will come into effect from 12 October 2023 and all applications and petitions submitted after that date will be dealt with in accordance with these changes.

1.7 Accordingly, Council is asked:

- i) to delete the two existing planning committees and appoint a single committee with the following membership:
  - Conservative: Councillors Higgins (proposed Chairman), Bennett (proposed Vice-Chairman), Roy Chamdal and Davies.
  - Labour: Councillors Garelick, Mand and Singh.
- ii) amend Chapter 7 of the Constitution as shown in the appendix to this report along with other references to the existing two planning committees as they occur elsewhere in the Constitution.

**RECOMMENDATIONS: That:**

- a) **w.e.f 12 October 2023, the Borough Planning Committee and the Major Applications Planning Committee cease to exist, and a single Hillingdon Planning Committee be appointed with membership as shown above and Terms of Reference as detailed in Appendix A, and**
- b) **that the Head of Democratic Services be authorised to make the consequential necessary changes to Chapter 7 of the Constitution, including the Petition Scheme, as detailed in Appendix A and any other amendments required as they occur elsewhere in the Constitution.**

**2. Financial Implications**

The reduction in the number of meetings and the deletion of one committee will result in a consequential saving to the cost of democracy in the region of £24k.

**3. Legal Implications**

- 3.1 Under the terms of the Constitution, the appointment of appropriate Committees and their membership to undertake Council business is a matter for Full Council.
- 3.2 The proposals do not affect the overall political balance of the Council and comply with sections 101 and 102 of the Local Government Act 1972 which relate to the discharge of functions by the Council.

BACKGROUND PAPERS: Nil

## Chapter 7 - Planning Decisions

The London Borough of Hillingdon is a Local Planning Authority and determines planning matters permitted in law. All matters relating to town and country planning functions as set out in the Town and Country Planning Act and related acts, including The High Speed 2 (HS2) Act, are delegated to the Chief Planning Officer **for determination**, with the exception of the matters listed below which are for determination by the **Hillingdon Planning** relevant Committee.

### Definition of Planning Applications

References to 'Planning Applications' in this document include the following application types:

- Applications for full planning permission **including householder applications**,
- Applications for outline planning permission and reserved matters,
- Applications under S73 of the Town and Country Planning Act (1990) (as amended),
- Applications for permission in principle and technical details consent.

For the avoidance of doubt, the following application types are excluded from the definition of 'Planning Applications' in this document:

- Applications for prior notification/approval,
- Applications for tree works,
- Applications for non-material amendments to a planning permission,
- Applications to discharge a condition(s) pursuant to a planning permission,
- Applications for listed building consent,
- Applications for advertisement consent,
- Applications for certificates of lawfulness.
- **Applications for permission under the HS2 Act.**

### Hillingdon Planning Committees

<b>Matters to be Determined by the <del>Major Applications</del> Committee</b>	
<i>Planning Applications meeting the following criteria:</i>	
1.	Planning applications relating to 'Major' development as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) where the recommendation is for approval. Except that Planning Applications to vary an existing planning permission or associated legal agreement are delegated to the Chief Planning Officer (unless the variation results in a reduction of affordable housing provision).
2.	Any ' <del>Major</del> ' planning application <del>as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)</del> where a Ward Councillor requests, in writing to the Chief Planning Officer, Head of Development Management <b>and Building Control</b> or <b>Area Planning Service Managers</b> within 21 days of the publication of the relevant weekly list of applications received by the Council, that it be determined by a Committee.  The Ward Councillor must include a valid planning reason for the request.

	<p>Determination of what constitutes a valid planning reason will be made by the Chief Planning Officer or their sub-delegates, <del>in consultation with the Planning Committee Chair.</del> In exceptional circumstances, as determined by the Chief Planning Officer, Head of Development Management <b>and Building Control</b> or <b>Area</b> Planning Service Managers, the 21-day rule may be waived.</p> <p>Should the desired outcome subsequently be in accordance with the 'Officer's Recommendation' or the call-in request be withdrawn, then the application will not be referred to Committee.</p>
<i>Applications under the High Speed 2 Act meeting the following criteria:</i>	
3.	<del>Schedule 17(2) – Condition relating to building works where the footprint is above 500m<sup>2</sup>.</del>
4.	<del>Proposals under Schedule 17(3) Table: (2): Earthworks - where the works involve land of more than 1 hectare.</del>
5.	<del>Schedule 17(6) – Condition relating to road transport proposals for the movement of large goods vehicles (over 7.5 tonnes) of more than 24 movements a day (12 in, 12 out).</del>
6.	<del>Schedule 17(7 and 8) - Conditions relating to waste and soil disposal and excavation where the works affect an area of more than 1 hectare.</del>
7.	<del>Schedule 17(9) – Conditions on bringing scheduled works and depots into use where the scheduled work is more than 500m<sup>2</sup>.</del>
8.	<del>Schedule 17(12) – Condition relating to site restoration where the proposals affect an area of more than 1 hectare.</del>
9.	<del>Schedule 16(5) – Condition relating to site restoration where the proposals affect an area of more than 1 hectare.</del>
<i>Other matters meeting the following criteria:</i>	
10	<del>Applications for listed building consent for which there is a corresponding Major Planning Application which meets the criteria set out in 1 or 2 above.</del>

<b>Matters to be Determined by the Borough Planning Committee</b>	
The Borough Planning Committee will determine all other (non-major) planning applications which involve:	
11 3.	Planning applications for which <b>a</b> petitions of 20 or more valid signatures <b>has been received</b> , or 20 or more separate written responses have been received <b>and the 'officer's recommendation' does not accord with the desired outcome of the petition.</b> Where a petition has been received on a householder application and the desired outcome of the petition accords with the 'Officer's recommendation' then the application will not be reported to Committee.
4.	<b>Planning applications for which 20 or more separate written objections have been received, and the 'officer's recommendation' is for approval.</b>
5.	<b>Planning applications for which 20 or more separate written representations of support have been received, and the 'officer's recommendation' is for refusal.</b>
12 6.	<del>Non-major-</del> All planning applications where the Council is the applicant or has a financial liability.
3 7.	Planning applications submitted by or on behalf of a Councillor, Chief Officer or by or on behalf of any officer directly involved in the processing of planning applications.
4	<del>Planning applications for inappropriate development in the Greenbelt (excluding</del>



	<del>householder or other development proposing less than 200sqm additional floorspace) where the recommendation is to grant planning permission.</del>
8.	<del>Applications for listed building consent for which there is a corresponding planning application which meets the criteria for referral to committee.</del>
5	<del>To confirm and modify Tree Preservation Orders where objections have been received and not withdrawn.</del>
6	<p><del>Any non-major planning application where a Ward Councillor requests, in writing to the Chief Planning Officer, Head of Development Management or Planning Service Manager within 21 days of the publication of the relevant weekly list of applications received by the Council, that it be determined by a committee. The Ward Councillor must include in their request the valid planning reasons why they wish the application to be determined by Committee and their desired outcome for the application.</del></p> <p><del>Determination of what constitutes a valid planning reason, and thus a valid referral, will be made by the Chief Planning Officer, Head of Development Management or Planning Service Manager in consultation with the relevant Planning Committee Chairman. In exceptional circumstances, as determined by the Chief Planning Officer, Head of Development Management or Planning Service Manager the 21-day rule may be waived.</del></p> <p><del>Should the desired outcome subsequently be in accordance with the 'Officer's Recommendation' then the application will not be referred to Committee.</del></p>
	<i>Applications under the High Speed 2 Act meeting the following criteria:</i>
9.	<del>Schedule 17(12) – Condition relating to site restoration where the proposals affect an area of more than 1 hectare.</del>
10.	<del>Schedule 16(5) – Condition relating to site restoration where the proposals affect an area of more than 1 hectare.</del>

### **Other Cases**

~~Additionally, the Chief Planning Officer in consultation with the appropriate Cabinet Member, may refer applications which by virtue of the level of public interest or by virtue of the economic / regeneration impacts of the proposals are felt to warrant consideration at the Borough or Major Applications Planning Committee.~~

### **Planning Committee Membership, Training & Conduct**

The Planning Committees will be politically balanced, and membership determined by the Full Council. Mandatory training in planning is required for new committee members and all members of the planning committees should observe the Planning Code of Conduct set out in Part 3 of the Constitution.

### **Planning Committee Quorum**

No business shall be transacted at a meeting of **the a** Planning Committee unless there is present at least one third of the whole number of Members of the body concerned or 3 Members of the Committee, whichever is the greater.

## **Decisions made by Planning Officers**

### **Delegated Decisions**

The Council has delegated the determination of all other planning decisions to the Chief Planning Officer in accordance with S101 of the Local Government Act 1972.

The Chief Planning Officer is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers, subject to maintaining a written record.

### **Referral to Committee**

Additionally, the Chief Planning Officer, in consultation with the appropriate Cabinet Member may refer applications which by virtue of the level of public interest, importance and/ or the economic or regeneration impacts of the proposals, are felt to warrant consideration at Planning Committee.

### **Decisions on High Speed 2 (HS2)**

HS2 is a major national infrastructure rail project impacting the Borough and requires additional, albeit temporary, decision-making delegations to ensure the Council can respond to the development effectively.

More significant decisions are taken by the ~~Major Applications~~ Planning Committee as set out above in this Chapter.

All other High Speed 2 Act Schedule 17 applications and Schedule 16[5] [land restoration schemes] applications from HS2 Ltd to the London Borough of Hillingdon requiring approval are delegated to the Chief Planning Officer in consultation with the relevant Cabinet Member.

## Chapter 3 - Resident participation

### Planning Petitions & Speaking Rights

#### a. Where public speaking rights apply

Public speaking rights to the Planning Committee will only apply where:

1. a valid petition is received on a planning application as defined in Chapter 7 – Planning Decisions - of the Council's Constitution, and
2. a valid petition's desired outcome is not in accordance with the planning officers' recommendation. ~~will entitle the lead petitioner to speak directly to the relevant Planning Committee considering the application.~~

Note: in cases where a valid petition's desired outcome accords with the planning officer's recommendation on the planning application, the planning officer may determine the application without referral to the Planning Committee. In all such cases, the lead petitioner will be notified by the planning officer of the outcome when the decision is made.

#### b. Speaking rights in relation to petitions by the lead petitioner, applicant/agent.

Where a lead petitioner is invited to ~~the~~ a Planning Committee to speak, they will be contacted a week before ~~the~~ date of the relevant Planning Committee meeting about participating in the democratic process.

The petitioner~~r~~ organiser (or their nominated representative) will be invited to attend and speak for up to 5 minutes in relation to that matter at the meeting at which the application will be considered.

The applicant (or their agent) will also get the opportunity to speak for 5 minutes where a valid petition has been accepted by the Council in relation to their application.

Notification of the intention to speak and the name of the speaker must be supplied to the Head of Democratic Services at least 24 hours before the meeting.

Members of the Committee will also be able to ask questions of the petitioners. ~~Statements made by members of the public speaking will be broadcast and in the public domain.~~

#### c. Ward Councillors and other speaking rights

Ward Councillors will be permitted to speak for up to 3 minutes in relation to an application if they have notified their intention to do so in advance to the Committee Chairman. Additionally, under general committee speaking rules in this Constitution, any Councillor may also speak at a committee meeting, but only with the permission of the Chairman.

When a proposed development falling within a Conservation Area is considered by ~~the~~ a Planning Committee, a representative of the relevant Area Panel will be entitled to

attend and address the committee for a maximum of five minutes. Notification of the intention to speak and the name of the speaker must be supplied to the Head of Democratic Services **48 hours** prior to the meeting.

d. Chairman's discretion on speaking times

The Committee Chairman reserves the right to vary all speaking time limits if there is more than one petition in relation to one issue.

e. Where speaking rights do not apply

~~Speaking rights do not apply where a petition or Councillor request has been received requesting refusal of a householder application and where the officer recommendation is to refuse consent and the reasons for refusal align with those requested by the petition or Councillor. For 42-day and 56-day prior approval applications, petitions may not necessarily be referred to a planning committee enabling speaking rights and instead may be considered by the relevant planning officer instead. However, speaking rights will be permitted if time constraints allow for a referral to the committee and the petitioner's request is contrary to the officer recommendation on the application. More detailed rules on this are set out in Part 2, Chapter 7 – Planning Decisions, of this Constitution.~~

e. Receipt of petitions

**Petitions should be received during the consultation period on the planning application if possible and must be received before a decision is made on the application.**

**Where a planning application is scheduled to be considered at the Planning Committee and already on the published agenda, any valid, or further valid petitions in relation to it, Planning Committees should be received by the Head of Democratic Services no later than 48 hours prior to the meeting. Discretion to allow petitions after this deadline can only be approved by the Chairman of the relevant Planning Committee, in exceptional circumstances.**

f. Supplementary information submitted.

Any supplementary information to be presented by **anyone entitled to speak** ~~the petitioner, applicant or agent~~ at the meeting should be provided to Democratic Services no later than 48 hours prior to the meeting, unless the Chairman of the Committee agrees otherwise in exceptional circumstances.

g. Second opportunity to speak

If the organiser of a petition, having exercised their right to speak at a planning committee, would like to address a second or subsequent meeting which is to consider the issue which gave rise to their petition (e.g. if the matter is deferred), they will need to organise a new valid petition.

h. Written representations in lieu of speaking

~~A Planning Committee may resolve for~~ Any person entitled to speak ~~at a Planning Committee may opt to~~ instead ~~to~~ submit a written representation to be read out. This would be in lieu of speaking directly to the committee. ~~The~~ Planning Committees may ~~jointly~~ agree a local protocol for this and, similarly, any ~~such~~ written representation ~~and~~ ~~or~~ supplementary supporting information should be received ~~no later than~~ 48 hours prior to the meeting. ~~Statements read out will be broadcast and on the public record.~~