



Meeting	Council
Date and Time	Wednesday, 6th November, 2019 at 7.00 pm.
Venue	King Alfred Conference Chamber, Guildhall, Winchester

NOTICE IS HEREBY GIVEN that an Ordinary Meeting of the Council will be held at 7.00 pm on Wednesday, 6th November, 2019 in the King Alfred Conference Chamber, Guildhall, Winchester and all Members of the Council are summoned to attend.

AGENDA

- 1. To confirm the Minutes of the Ordinary Meeting of the Council held on 25 September 2019 (Pages 5 - 14)**
- 2. Disclosure of Interests**
To receive any disclosure of interests from Members or Officers in matters to be discussed.
Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, personal and/or prejudicial interests in accordance with the Council's Code of Conduct.
- 3. To receive any communications from the Mayor, Leader or Chief Executive.**
- 4. To answer questions (if any) from the Public pursuant to Procedural Rule 15.1**
- 5. To consider and determine the following Recommended Minutes: (Pages 15 - 22)**



a) PLANNING COMMITTEE – 23 OCTOBER 2019
Changes to the process for confirming new Tree Preservation Orders
which receive 5 objections or less
(Report PDC1150 refers)

RECOMMENDED:

1. That it be recommended to Council that an amendment be made to the Constitution as follows:
 - a. Increase the number of objections received from separate households where they raise relevant considerations, which trigger referral of a decision to make a Tree Preservation Orders by Planning Committee from 1 objection to 6.
 - b. Delegate to the Service Lead - Environmental Services and Service Lead – Built Environment determination of the decision to make a Tree Preservation Order on which 1 to 5 objections are received by the Council.
 - c. Representations made by Members or Parish Councils will continue to be heard by the Planning Committee.

6. **The making or termination of appointments to bodies set up by the Council.**

7. **To answer questions from members of the council pursuant to Procedure Rule 15.3.**

LAURA TAYLOR
Chief Executive

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29 October 2019

Agenda Contact: David Blakemore, Democratic Services Team Manager
Tel: 01962 848217 Email: dblakemore@winchester.gov.uk

Quorum = 12 members

PUBLIC PARTICIPATION

Members of the public may ask questions of the Leader, Cabinet Members and Committee Chairs at Ordinary Meetings of the Council. The total time allocated for questions by the public shall normally be limited to 20 minutes.

A question may only be asked if notice has been given by delivering it in writing to Democratic Services no later than 5 working days preceding the Council meeting. For example, if the Council meeting is being held at 7pm on a Wednesday then the question would need to be received by noon on the preceding Wednesday. Please email to democracy@winchester.gov.uk.

FILMING AND BROADCAST NOTIFICATION

This meeting may be recorded and broadcast live on the Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Access to Information Procedure Rules within the Council's Constitution for further information, which is available to view on the [Council's website](#).

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Public Document Pack Agenda Item 1

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COUNCIL

Wednesday, 25 September 2019

Attendance:

Councillors Present

Bell (Chairperson)

Achwal	Hutchison
Becker	Laming
Bentote	Learney
Bronk	Lumby
Brook	Mather
Clear	McLean
Clementson	Miller
Cook	Murphy
Craske	Pearson
Cunningham	Porter
Cutler	Power
Evans	Prince
Ferguson	Read
Fern	Ruffell
Gemmell	Rutter
Godfrey	Scott
Gordon-Smith	Thompson
Gottlieb	Tod
Green	Weir
Hiscock	Weston
Horrill	Williams
Humby	

Apologies for Absence:

Councillors Griffiths

1. **MINUTES**

RESOLVED:

That the minutes of the Ordinary Meeting of the Council held on 26 June 2019 be approved and adopted.

2. **DISCLOSURE OF INTERESTS**

Councillor Humby declared a personal (but not prejudicial) interest in respect of agenda item 5 (b) (Station Approach Proposals for Delivery and Further Public Realm Development, Report CAB3172 refers) as he was the Hampshire County Council Executive Member for Economy, Transport and Environment and also sat on the Local Enterprise Board. Therefore, as he had a material conflict of interest with regard to this item, he left the room during its consideration. Councillor Humby also stated that he would leave the room during consideration of both Notices of Motion at agenda items 8 (a) and 8 (b) due to his role as Hampshire County Council Executive Member and he having a material conflict of interest.

Councillors Hiscock, Porter and Tod declared personal (but not prejudicial) interests in relation to agenda items due to their role as County Councillors.

3. **ANNOUNCEMENTS FROM THE MAYOR, LEADER AND CHIEF EXECUTIVE**

The Mayor announced that further to former Prime Minister Theresa May's resignation honours list, she would be writing to George Hollingbery, Member of Parliament for Meon Valley and former Minister of State for Trade Policy and Parliamentary Private Secretary to the Prime Minister to congratulate him on having been honoured with a knighthood.

The Mayor then announced that she had hosted a lunch on 17 September 2019 in Abbey House in honour of Professor Martin Biddle where he was presented with an Honorary Freeman Badge in recognition of his eminent services and ongoing support with regard to archaeology in Winchester and the district.

The Mayor reported on other recent events. These included the Mayors for Peace and Hiroshima Peace Day held in Abbey House on 8 August 2019 which had been very well attended. In addition, the annual Heritage Open Day event at Abbey House had also been very successful. The Mayor had attended the 'Sounding of the Retreat' event at the new Logistics, Policing and Administration building at the Worthy Down defence college. This was a full military parade including the household cavalry and blues and royals. The incoming brigadier of Worthy Down reiterated that the military would like to continue to cement its relationship with the Council. The Mayor then reported that she had officially opened a New Homes development at Knowle. She thanked the New Homes team and the previous administration for bringing forward a very high standard scheme.

The Mayor then referred to her recent charity events which had included the very successful annual bowls match and the Mayor thanked former councillor Richard Izard for organising and for officers for taking part. Finally, there was to be a skittles evening in the Phoenix Inn at Twyford and the Mayor thanked Councillors Bronk and Cook for their assistance with the arrangements.

The Leader then made a number of announcements. Firstly, the Council was pressing ahead with changes to improve its openness and transparency. This meeting of the Council was the first where it was receiving questions from the public. The meeting was also the first to be audio recorded which was to allow for

technical testing to take place before live broadcasting takes place. The Leader was also looking forward to equipment being installed in the Walton Suite to allow for full webcasting of meetings to take place in due course. The Leader was also pleased to have observed that the public gallery at recent Cabinet meetings had been full which demonstrated that many residents wanted to be involved with decision making.

The Chief Executive announced apologies for the meeting.

The Chief Executive then reported that David Griffiths and Ross Shepherd from Council's Animal Welfare Team had won two Gold RSPCA awards: one for Animal Licensing and one for work with stray dogs. The Chief Executive reiterated that there were only five Gold awards in total nationally and Members congratulated the team for their securing two Awards with applause.

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

20 written questions had been received of which eight were presented by members of the public at the meeting along with associated supplementary questions. All questions and responses were subsequently set out in full on the Council's website.

5. **TO CONSIDER AND DETERMINE THE FOLLOWING RECOMMENDED MINUTES:**

a) CABINET - 18 SEPTEMBER 2019
Establishing the Winchester Housing Company
 (Report CAB3160 refers)

The Recommended Minute of Cabinet of 18 September had not been notified for inclusion on the agenda within the statutory deadline. The Mayor agreed to accept this item onto the agenda as a matter requiring urgent consideration in order that regard be had to their content in reaching its decision.

Councillor Learney, Cabinet Member for Housing and Asset Management, moved that the Recommended Minute (5 and 6) be approved and adopted (seconded by Councillor Thompson, Leader).

Council proceeded to ask questions and debate the matters in the Report and Recommended Minute.

During questions, clarification was sought with regard to the membership of the Housing New Build Panel. The Strategic Director Services (Interim) confirmed that would include the Cabinet member for Housing and the Strategic Directors for Services and Resources. The Strategic Director (Place) would not be involved in the Panel whilst he was formally appointed as a Company Director. Furthermore, an error at paragraph 13.2 should be corrected so that reference to the Housing Scrutiny Panel should read "New Build Panel".

Council agreed that nominations to the Housing Company Scrutiny Panel should all be in proportion to the political make-up of the Council (two Liberal Democrat and one Conservative) and that Group Managers advise the Strategic Director accordingly

RESOLVED:

That the Recommended Minute of the Cabinet held 18 September 2019 (as follows) be approved and adopted:

- (1) That Council gives permission to establish a company limited by shares and wholly owned by the Council to deliver and manage units for sub-market rent, shared ownership accommodation and units for outright sale.
- (2) That the Council approves the establishment of the Housing Company Scrutiny Panel and nominates three Members to sit on the Panel.

The meeting adjourned for a comfort break between 8.15pm and 8.35pm.

b) CABINET - 28 AUGUST 2019

Station Approach Proposals for Delivery and Further Public Realm Development

(Report CAB3172, less exempt Appendices 4a, 4b and 9 refer)

Councillor Humby was not present for this item.

Councillor Green left the meeting before consideration of this item.

Councillor Weir, Cabinet Member for Local Economy, moved that the Recommended Minute be approved and adopted (seconded by Councillor Learney, Cabinet Member for Housing and Asset Management).

Council proceeded to ask questions and debate the matters in the Report and Recommended Minute.

Members were reminded that the only matters that required its decision in Recommended Minutes of Cabinet were with regard to the Local Enterprise Funding.

AMENDMENT (1) Councillor Lumby (2) Councillor Godfrey

Addition of the following words (**in bold**) at the end of Recommendation 16

“Approval to incur capital expenditure in stages totalling £5m to be funded from the LEP grant recognising the terms and conditions attached to the grant agreement. Such expenditure will be subject to payback to the LEP should the scheme not progress and achieve the grant objectives. **This**

approval is subject to the Council requiring that any proposed disposal of the site should be structured so far as possible to ensure a high likelihood of the scheme proceeding within the required period to avoid clawback of the LEP monies.”

The Mayor allowed for an adjournment of the meeting between 9.15pm and 9.30pm so that Cabinet could informally consider the Amendment.

Upon the Mayor reconvening the meeting, Councillor Weir (Cabinet Member for Local Economy) advised that she would be pleased to invite Councillor Lumby to join a team currently producing a report to be considered at Cabinet in October setting out the detail of the evaluation process against criteria for the disposal of the site to a purchaser. Councillor Weir hoped that, on this basis, Councillor Lumby would reconsider his Amendment.

On the basis of the Cabinet Member’s statement, the proposer and seconder of the amendment (Councillors Lumby and Godfrey respectively) agreed to withdraw their amendment.

As it was the will of five members present at the meeting, a recorded vote was taken on the Motion to approve the Recommended Minute.

Division Lists

The following Members voted in favour of the motion:

Councillors Achwal, Becker, Bell, Bentote, Brook, Clear, Clementson, Cook, Craske, Cunningham, Cutler, Evans, Gemmell, Godfrey, Gordon-Smith, Hiscock, Horrill, Hutchison, Learney, Lumby, Mather, McLean, Miller, Murphy, Pearson, Porter, Power, Read, Ruffell, Scott, Thompson, Tod, Weir, Weston, Williams.

The following Members voted against the motion:

Councillors Gottlieb.

The following Members abstained:

Councillors Bronk, Fern, Ferguson, Laming, Prince, Rutter.

Motion carried.

RESOLVED:

That the Recommended Minute of the Cabinet held 28 August 2019 (as follows) be approved and adopted:

- (1) Approval to agree and to enter into the LEP grant agreement for a total sum of £5m based on the Heads of Terms (appendix 6 of

Report CAB3172), with final amendments to be delegated to the Strategic Director: Place in consultation with the Cabinet Member for Local Economy.

- (2) Approval to incur capital expenditure in stages totalling £5m to be funded from the LEP grant recognising the terms and conditions attached to the grant agreement and that such expenditure will be subject to payback to the LEP should the scheme not progress and achieve the grant objectives

7. **SCRUTINY COMMITTEE – 4 JULY 2019**

Draft Annual Scrutiny Report

(Report SC004 refers)

Councillor Brook, Chairman of the Scrutiny Committee, moved that the Recommended Minute be approved and adopted (seconded by Councillor Learney, Cabinet Member for Housing and Asset Management).

RESOLVED:

That the Recommended Minute of the Scrutiny Committee held 4 July 2019 (as follows) be approved and adopted:

That Council note the Annual Scrutiny Report for 2018/19

9. **CHANGES TO THE CONSTITUTION**

(CL146 refers)

Councillors Becker and Williams left the meeting during consideration of this item

Councillor Thompson, Leader, moved that the Recommendations in Report CL146 be approved and adopted (seconded by Councillor Cutler, Deputy Leader and Cabinet Member for Finance and Risk), subject to inclusion of the following.

AMENDMENT (1) Councillor Thompson (2) Councillor Cutler

Addition of the following words **(in bold)**

“That to facilitate the introduction of Cabinet Member Decisions days, Council agree to the changes to the Constitution, as set out at Appendix A to the report, **and delegate any further and final amendments to facilitate the introduction of Decision Days to the Monitoring Officer in consultation with the Leader.**”

Council proceeded to ask a number of detailed questions and debate the matters in the Report and the Recommendations (as amended).

MOTION (1) Councillor Hiscock (2) Councillor Tod

That Council Procedure Rule 17 – Rules of Debate – Closure Motions –

“That the question now be put.”

Motion carried

Recommendation in Report CL146, as amended above, carried.

RESOLVED:

That the Recommendation in Report CL146, as amended, be approved and adopted.

10. **APPOINTMENT OF SECTION 151 OFFICER**

(CL147 refers)

The Strategic Director Services (Interim) was not present for this item.

Councillor Bronk left the meeting before consideration of this item.

Councillor Thompson, Leader, moved that the Recommendations in Report CL147 be approved and adopted (seconded by Councillor Cutler, Deputy Leader and Cabinet Member for Finance and Risk)

RESOLVED:

That the Recommendation in Report CL147 be approved and adopted.

11. **NOTICES OF MOTION**

(a) **The following Motion had been submitted by Councillor Godfrey:**

“This Council supports the declaration of a Climate Emergency and confirms its commitment to reducing waste and pollution through its own activities and to continue to support residents in the Winchester District to make the same commitment. In support of this commitment, this Council agrees not to introduce any charge for Winchester residents for the collection of garden waste and to lobby other neighbouring authorities to keep the collection of garden waste free of charge.”

Councillor Humby was not present for this item.

Councillor Godfrey introduced the Motion, which was seconded by Councillor Brook, and during the debate which followed, the following points were raised:

- Charging for the collection of garden waste in rural areas (where the scheme was currently very popular) would result in less efficient collection rates and also create an environment which may potentially attract vermin.
- Other Hampshire councils charged for garden waste collection and this council also charged for the second and third bags issued.

- Rather than lobby other councils with regard to free garden waste collection, it would be preferable to work with other Hampshire authorities to consider the proposed changes by the County Council as to how it funded waste recycling services.
- Councillor Murphy, Cabinet Member for Environment, advised that the Council was unable to make a decision with regard to whether to levy a charge on garden waste collection at this time as the Council was currently awaiting the outcome of the tender for the waste and recycling contract and would also need to consider the impact of the County Council's proposals with regard to the funding of waste recycling services. Furthermore, the Council was awaiting the details of the Government's Waste Strategy. Therefore Councillor Murphy indicated that she could not support the motion and the matter would be brought back to Council (via Cabinet) through the budget setting process, by which time this information would have been properly considered.
- A view was expressed that there had been increased fly tipping following the introduction of changes to what was able to be taken to household recycling centres. Any charges for garden waste would further exacerbate this.
- Residents should be provided with advice with regard to recycling and reducing waste. Any charge for garden waste collection would be against the objectives of achieving carbon neutrality. The Council should support the County Council's proposals with regard to reducing contamination of recyclable waste.
- Councillor Cutler, Cabinet Member for Finance and Risk, supported Councillor Murphy, in bringing the motion back to Council as part of the budget setting process as the most appropriate response.

The Mayor outlined and reiterated the response and proposal put forward by Councillor Murphy, supported by Councillor Cutler.

RESOLVED:

That the matters in Councillor Godfrey's Motion be brought back to Council through the budget setting process.

(b) The following Motion is to be moved by Councillor Horrill:

"The City of Winchester Movement Strategy has been developed following input from almost 3,000 people and adopted by Hampshire County Council and Winchester City Council and sets out an agreed vision and long term priorities for travel and transport improvements in Winchester over the next 20-30 years. The Strategy is accompanied by an Action Plan that considers what needs to happen when, in order to deliver the Strategy. To this end the 2019/20 budget provided £500,000 towards the first stages of delivering the plan.

This project, its progress and deliverables are not currently visible to residents or Councillors. In support of this key initiative and commitment to residents this Council agrees to set up a cross party committee to regularly monitor and review progress, and to be involved in key decisions ongoing and for these meetings to

be open to the public"

Councillor Humby was not present for this item.

Councillor Horrill introduced the Motion, which was seconded by Councillor Cunningham, and during the debate which followed, the following points were raised:

- The Movement Strategy should relate to previous work undertaken by the Council with regard to air quality and also carbon neutrality in response to the Council's declaration of the Climate Emergency.
- There must be consideration of the scope of any new committee, which should drive forward the work of both the County Council and this Council. Walking and cycling (across the whole district) must feature in the Movement Strategy. The County Council should have involvement in the governance of the new committee.
- The Strategy was always going to be expensive to support and to deliver. It should also have regard to not just movement around the city, but also from those coming into Winchester.
- Councillor Murphy, Cabinet Member for Environment, advised that the Strategy was important to ensure the Council met the demands of the climate emergency, balanced with needs of the local economy. The Movement Strategy had already been identified by the Council as a key project and so progress was therefore already reported quarterly and updated to the Scrutiny Committee. The Committee could also ask for more detailed updates and therefore a separate committee for this purpose was unnecessary.

Council proceeded to vote on the Motion.

RESOLVED:

That the Motion is not carried.

14. **CHANGES TO COMMITTEE MEMBERSHIPS**

There were no changes to committees required to be made.

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

MOTION (1) Councillor Learney (2) Councillor Hiscock

"That Council Procedure Rule 17 – Rules of Debate – Closure Motions – that Council proceed to next business"

Motion carried.

It was noted that 15 written questions had been received. All questions were set out on the Council's website, together with responses from the relevant Cabinet Member.

16. **EXEMPT BUSINESS**

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2. That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
17	Station Approach Proposals for Delivery and Further Public Realm – (Report CAB3160) Exempt Appendices 4a, 4b, 9) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Para 3 Schedule 12A refers)

17. **CABINET - 28 AUGUST 2019****Station Approach Proposals for Delivery and Further Public Realm Development**

(Exempt Appendices 4a, 4b and 9, Report CAB3160 refers)

RESOLVED:

That the exempt appendices be noted.

The meeting commenced at 7.00 pm, adjourned between 8.15pm and 8.35pm and between 9.15pm and 9.30pm and concluded at 11.30pm

The Mayor

EXTRACT OF MINUTES

PLANNING COMMITTEE

23 OCTOBER 2019

1. **CHANGES TO THE PROCESS FOR CONFIRMING NEW TREE PRESERVATION ORDERS WHICH RECEIVE 5 OBJECTIONS OR LESS**
(PDC1150)

At the invitation of the Chair, Councillor Porter provided background information on the historical context for the present referral of some Tree Preservation Order to the Planning Committee for confirmation and the reasons for the proposed procedural changes.

RECOMMENDED:

1. THAT AN AMENDMENT BE MADE TO THE CONSTITUTION AS FOLLOWS:

A. INCREASE THE NUMBER OF OBJECTIONS RECEIVED FROM SEPARATE HOUSEHOLDS WHERE THEY RAISE RELEVANT CONSIDERATIONS, WHICH TRIGGER REFERRAL OF A DECISION TO MAKE A TREE PRESERVATION ORDERS BY PLANNING COMMITTEE FROM 1 OBJECTION TO 6.

B. DELEGATE TO THE SERVICE LEAD - ENVIRONMENTAL SERVICES AND SERVICE LEAD – BUILT ENVIRONMENT DETERMINATION OF THE DECISION TO MAKE A TREE PRESERVATION ORDER ON WHICH 1 TO 5 OBJECTIONS ARE RECEIVED BY THE COUNCIL

C. REPRESENTATIONS MADE BY MEMBERS OR PARISH COUNCILS WILL CONTINUE TO BE HEARD BY THE PLANNING COMMITTEE

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REPORT TITLE: CHANGES TO THE PROCESS FOR CONFIRMING NEW TREE PRESERVATION ORDERS WHICH RECEIVE 5 OBJECTIONS OR LESS.

23 OCTOBER 2019

REPORT OF CABINET MEMBER: Cllr Jackie Porter Cabinet Member for Built Environment and Wellbeing

Contact Officer: Susan Croker Tel No: 01962 848419 Email scroker@winchester.gov.uk

WARD(S): ALL

PURPOSE

To seek approval to request amendments to the Constitution which increase the number of objections required to trigger a referral of the decision to make a Tree Preservation Order (TPO) to Planning Committee, from 1 objection to 6.

To delegate the responsibility for the decision to confirm a Tree Preservation Order for which 5 or less objections are received from separate households (where they raise relevant considerations) to the Service Lead - Environmental Services or Service Lead – Built Environment.

RECOMMENDATIONS:

1. That it be recommended to Council that an amendment be made to the Constitution as follows:
 - a. Increase the number of objections received from separate households where they raise relevant considerations, which trigger referral of a decision to make a Tree Preservation Orders by Planning Committee from 1 objection to 6.
 - b. Delegate to the Service Lead - Environmental Services and Service Lead – Built Environment determination of the decision to make a Tree Preservation Order on which 1 to 5 objections are received by the Council.
 - c. Representations made by Members or Parish Councils will continue to be heard by the Planning Committee.

IMPLICATIONS:1 COUNCIL STRATEGY OUTCOME

- 1.1 Agreeing the recommendation outlined above will help deliver Objective Four of the Council Strategy – Improving the quality of the District’s environment. Trees are a crucial component of the District’s environment, providing a number of key benefits including landscape, biodiversity, pollution filtering and mitigating the effects of climate change and weather. By adopting an effective and appropriate method of identifying trees in need of protection through Tree Preservation Orders, the City Council will be ensuring key trees and the benefits they provided are retained.

2 FINANCIAL IMPLICATIONS

- 2.1 No implications identified.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The report requests amendments to the Constitution to increase efficiencies to the Planning Committee’s considerations. The key areas of law relating to the Tree Preservation Order determinations are:-

- a) Part VIII of the Town and Country Planning Act 1990 as amended;
- b) The Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6 April 2012.
- c) Section 192 of the Planning Act 2008 made further amendments to the 1990 Act which allowed for the transfer of provisions from within existing Tree Preservation Orders to regulations.
- d) Part 6 of the Localism Act 2011 amended section 210 of the Town and Country Planning Act 1990 concerning time limits for proceedings in regard to non-compliance with Tree Preservation Order Regulations.

- 3.2 Central government guidance is clear that anyone with an interest must be given the opportunity to object to, or comment on, a new Tree Preservation Order. The local authority must take into account all duly made objections and representations. Central government guidance continues to state that authorities should bear in mind that, since they are responsible for making and confirming Orders, they are in effect both proposer and judge.

- 3.3 Human rights considerations require that decisions are determined at both the “making” and “confirmation” of an order with a degree of separation of the decision makers and that such decision occurs in a transparent, even-handed and open manner.

- 3.4 A challenge may occur to the actual steps undertaken in the process, for example, a failure to take appropriate account of objections; and /or to the

Council’s procedure, for example, a lack of transparency or separation. The recommended procedure will entail the Tree Officers and Landscape and Open Spaces Manager determining the “making” of an Order and the Service Lead the “confirmation” of an Order.

3.5 If the recommendation is accepted, there will need to be a change to the Constitution by Full Council.

4 WORKFORCE IMPLICATIONS

4.1 The recommended procedural amendment will enable the Planning Committee to focus on the determination of planning applications which are core to the heads of terms of the Committee, currently increasing the time constraints on Officers and Members.

5 PROPERTY AND ASSET IMPLICATIONS

5.1 None

6 CONSULTATION AND COMMUNICATION

6.1 None

7 ENVIRONMENTAL CONSIDERATIONS

7.1 Trees are a crucial component of the District’s environment, providing a number of key benefits including landscape, biodiversity, pollution filtering and mitigating the effects of climate change and weather. By adopting an effective and appropriate method of identifying trees in need of protection through a Tree Preservation Order, the City Council will be ensuring key trees and the benefits they provided are retained and protected.

8 EQUALITY IMPACT ASSESSEMENT

8.1 None

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None required.

10 RISK MANAGEMENT

10.1 Not applicable

Risk	Mitigation	Opportunities
<i>Property</i>	N/A	N/A
<i>Community Support</i>	N/A	N/A
<i>Timescales</i>	N/A	Ensure the timely confirmation of TPO’s.

<i>Project capacity</i>	N/A	N/A
<i>Financial / VfM</i>	N/A	N/A
<i>Legal</i>	Ensuring the opportunity for an internal review and secondary determination by a separate Officer decrease the risk of a challenge to the decision.	N/A
<i>Innovation</i>	N/A	N/A
<i>Reputation</i>	By ensuring that a separate officer considers the original TPO and confirmation if objections are received, reduces the risk to reputation.	
<i>Other</i>		

11 SUPPORTING INFORMATION:

11.1 Back ground

11.2 A Tree Preservation Order (TPO) is made by Winchester City Council where it considers it expedient and in the interests of amenity to protect specific trees, groups of trees, areas of trees or woodlands. The order prohibits a range of work including cutting down, lopping, topping or wilful damage. However, once a TPO has been confirmed, an application for works on the tree can be made to the City Council for consideration.

11.3 When making an Order, the City Council is required to consider what 'amenity' and 'expedient' means in practice and how to assess amenity value. As 'amenity' is not defined in law, the City Council exercises its judgement accordingly when deciding whether it is within its power to make an Order.

11.4 When the City Council considers it expedient to make a provisional Order, it is required to serve notice on anyone who has an interest in the land, inviting representations about any of the trees covered by the Order. A copy of the Order is also made available for public inspection. It is a statutory requirement that people are given the opportunity to object to, or comment on a provisional TPO before it is decided. When deciding whether to confirm an Order, the City Council must take into account all 'duly made' objections and representations that have not been withdrawn.

11.5 Current procedure for confirming a TPO

11.6 When the City Council receives 1 or more objections to a provisional TPO, the decision as to whether the Order is confirmed and made permanent is made by the Planning Committee. This is not in line with other planning applications which require 6 objections or more (from separate households) before they are referred to the Planning Committee for a decision.

- 11.7 Ward Members and Parish Councils can also request that a TPO confirmation is made by the Planning Committee. In accordance with the current procedure for planning applications, they are required to complete a standard form setting out their reasons for a Committee determination.
- 11.8 Request for a change in procedures for confirming a provisional TPO
- 11.9 Members of the Planning Committee have requested that the existing procedure be changed in line with other planning applications and that TPO's should only be put before Planning Committee where they receive 6 objections or more (from separate households), or where there is a request from a Ward Member and/or Parish Council via a standard form.
- 11.10 Where there are between 1 and 5 objections received, the decision as to whether a new Order should be confirmed or not will be delegated to officers for a decision. To ensure transparency, the officer who considers the objections (Service Lead – Built Environment or Service Lead – Environmental Services) will not be the officer who approved and signed off the provisional Order (Landscape and Open Spaces Manager).
- 11.11 If the owner of a tree protected by a provisional TPO which has been newly confirmed and made permanent, considers it to be unfair and unjust following their original objection, they are within their rights to submit an application to carry out works (including felling) to the protected tree. Any fresh application will be considered on its merits but will likely be refused unless adequate supporting information is submitted to justify the proposed works. At this point the applicant has the right to appeal against the Council's decision in line with other planning applications, and that appeal would be decided by a Government appointed Inspector.
- 11.12 The decision as to whether a provisional Order should be confirmed where there are 6 objections or more (from separate households) will continue to be heard by the Planning Committee.
- 11.13 Representations made by Ward Members or Parish Councils will continue to be heard by the Planning Committee. In accordance with the current procedure, they will be required to complete a standard form setting out their reasons for a Committee determination.
- 11.14 Implications
- 11.15 This change in procedure is anticipated to result in a significant reduction in TPO's being heard at Planning Committee as the majority receive less than 5 objections.

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 None

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

None

Other Background Documents:-

None

APPENDICES:

None