

<b>Council</b>	
<b>Meeting Date</b>	7 October 2020
<b>Report Title</b>	<b>Constitutional amends: anti-idling legislation and conservation areas</b>
<b>Cabinet Member</b>	Cllr Mike Baldock, Deputy Leader and Cabinet Member for Planning
<b>SMT Lead</b>	David Clifford, Head of Policy, Communications and Customer Services (Monitoring Officer)
<b>Head of Service</b>	
<b>Lead Officer</b>	Jo Millard, Senior Democratic Services Officer
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<p>Council is recommended to:</p> <ol style="list-style-type: none"> <li>1. <b>Amend the Constitution</b> so that responsibility for agreeing Conservation Area statements and action plans becomes an executive function (Appendix I).</li> <li>2. <b>Amend the Constitution</b> to update the scheme of officer delegations to reflect the cabinet decision on anti-idling legislation (Appendix II).</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report sets out amendments to the Constitution which General Purposes Committee has recommended to Council.

## 2 Background

- 2.1 Papers are attached as appendices on the following:
- Appendix I: Amending the Planning Committee's functions so that the designation of Conservation Areas becomes an executive function.
  - Appendix II: Updating the scheme of officer delegations to reflect the cabinet decision on anti-idling legislation.
- 2.2 These proposals were agreed by General Purposes Committee on 1 October.

## 3 Proposals

- 3.1 The Committee is asked to recommend the constitutional amends described in the appendices to Council.

## 4 Alternative Options

### ***Planning Committee functions regarding Conservation Areas***

Council could decide to keep the existing rules as they are. However, this would maintain the anomalous position of Conservation Area designation being a matter for the Planning Committee, which more properly determines individual applications against Council policy rather than makes Council policy. Conservation area delegations are executive matters in most councils. This option is therefore not recommended.

### ***Scheme of officer delegations – anti-idling legislation***

In view of the cabinet decision already taken there are no reasonable alternative options than to make the constitutional amends proposed.

## 5 Consultation Undertaken or Proposed

These proposals were considered and agreed by General Purposes Committee on 1 October.

## 6 Implications

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Having an up to date Constitution is important for good governance and decision making and is relevant to all the priorities in the emerging Corporate Plan.
Financial, Resource and Property	None identified at this stage.
Legal, Statutory and Procurement	Any changes to the Constitution will need to be agreed by Full Council. The legal team are in agreement that designation of Conservation Areas is more properly an executive matter than one for Planning Committee.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	The aim is to reduce emission from idling vehicles which will lead to improvements in air quality. This supports both Swale Borough Council's Air Quality Action Plan and the declared Climate Change and Ecological Emergency.
Health and Wellbeing	Reduced emissions from idling vehicles will lead to improvements in air quality.
Risk Management and Health and	None identified at this stage.

Safety	
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

## **7 Appendices**

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Designation of Conservation Areas as executive function.
  - Appendix II: Amends to scheme of officer delegation in furtherance of cabinet decision on anti-idling legislation.

## **8 Background Papers**

- 8.1 Report and minutes of 18 March Cabinet decision to recommend delegation to enforce anti-idling legislation is available [here](#).

**Designation of Conservation Areas as executive function**

1. Conservation areas are planning policy designations, and conservation area statements and action plans are, in effect, Supplementary Planning Documents (SPDs). These therefore sit more naturally with Cabinet to agree as policy or guidance than with the Planning Committee, whose role is to determine planning applications in accordance with agreed policy and guidance.
2. It is therefore proposed that the following function of the Planning Committee be deleted from section 3.2.1 of the constitution:  
*(t) To resolve to designate a Conservation Area and to review existing designations.*
3. This will have the effect of making this an executive function, which in practice will mean that the Local Plan Panel will make relevant recommendations to Cabinet. Given that the Local Plan Panel's functions are not currently listed out in detail in the constitution, it does not seem necessary to amend the list explicitly to include this.

### **Amends to scheme of officer delegation in furtherance of cabinet decision on anti-idling legislation**

1. Cabinet resolved in March (minute number 640) to implement and enforce provisions relating to anti-idling as laid down by the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002.
2. Cabinet further resolved to give delegated authority to the Chief Financial Officer and the Head of Commissioning, Environment and Leisure to authorise relevant officers or persons to stop the commission of stationary idling offences and issue fixed penalty notices (FPNs) in respect of such offences, in accordance with Regulation 6(3) of the 2002 Regulations.
3. These new delegations now need to be included in the scheme of officer delegations, and General Purposes Committee is asked to recommend to Council that this be done.