



## Public Document Pack

North Devon Council  
Brynsworthy Environment Centre  
Barnstaple  
North Devon EX31 3NP

K. Miles  
Chief Executive.

To: All Members of the Council  
and Chief Officers

**NOTE: PLEASE NOTE THAT PRAYERS WILL BE SAID AT 6.25 P.M. PRIOR TO THE COUNCIL MEETING FOR ANY MEMBER WHO WISHES TO ATTEND**

### **COUNCIL MEETING**

**YOU ARE HEREBY SUMMONED** to attend a meeting of **NORTH DEVON COUNCIL** to be held in the G107, 1st Floor, South West Institute Development Building, Petroc, Barnstaple - Petroc College on **WEDNESDAY, 17TH JANUARY, 2024 at 6.30 pm.**

A handwritten signature in black ink, appearing to read 'K. Miles', is written over a light blue horizontal line.

**Chief Executive**

### **AGENDA**

16. Update to Part 4 of the Constitution (Pages 7 - 14)  
Updated Report by Senior Solicitor and Monitoring Officer and appendices 3 and 4 (attached).

**If you have any enquiries about this agenda, please contact Corporate and Community Services, telephone 01271 388253**

9.01.24

## **GUIDANCE NOTES FOR RULES OF DEBATE AT MEETINGS OF COUNCIL**

### Part 4, Council Procedure Rules of the Constitution

#### **The basics**

At a meeting of Full Council, Members shall stand when speaking unless unable to do so and shall address the Chair.

While a Member is speaking, other Members shall remain seated unless rising for a point of order, a point of information or in personal explanation.

No speeches may be made after the mover had moved a proposal and explained the purpose of it until the motion has been seconded.

Unless notice of motion has already been given, the Chair may require it to be written down and handed to him before it is discussed.

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

Speeches must be directed to the question under discussion or to be personal explanation or point of order.

A speech by the mover of a motion may not exceed 5 minutes without the consent of the Chair.

Speeches by other Members may not exceed 3 minutes without the consent of the Chair, unless when the Council's annual budget is under discussion, the leader of each political group on the Council may speak for up to 5 minutes or such longer period as the Chair shall allow.

#### **The rules of Question Time**

At a meeting of the Council, other than the Annual meeting, a Member of the Council may ask the Leader or the chair of a committee any question without notice upon an item of the report of a committee when that item is being received or under consideration by the Council.



### **North Devon Council protocol on recording/filming at Council meetings**

The Council is committed to openness and transparency in its decision-making. Recording is permitted at Council meetings that are open to the public. Members of the public that attend meetings must be aware that these meetings are open to the public and so therefore both individuals and the Council itself have the right to record the meeting. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chair of the meeting will make sure any request not to be filmed is respected.

The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chair of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
3. We will ask for recording to stop if the meeting goes into 'part B' where the public is excluded for confidentiality reasons. In such a case, the person recording should leave the room ensuring all recording equipment is switched off.
4. Any member of the public has the right not to be filmed. We ensure that agendas for, and signage at, Council meetings make it clear that recording can take place – anyone not wishing to be filmed must advise the Chair at the earliest opportunity to allow them to be directed to an area in the room where they will not be caught on camera. Subject to paragraphs 1, 2 and 3 above, audio recordings shall be permitted at all times during public meetings.
5. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.

#### **Notes for guidance:**

Please contact either our Corporate and Community Services team or our Communications team in advance of the meeting you wish to record at so we can make all the necessary arrangements for you on the day.

For more information contact the Corporate and Community Services team on **01271 388253** or email [memberservices@northdevon.gov.uk](mailto:memberservices@northdevon.gov.uk) or the Communications Team on **01271 388278**, email [communications@northdevon.gov.uk](mailto:communications@northdevon.gov.uk).

Room G107 is located on the first floor of the South West Institute Development building at Petroc, Old Sticklepath Hill, Barnstaple, Devon EX31 2BQ. A lift is available to the first floor.

The following page shows a location plan of Petroc.

G Block on the plan indicates the South West Institute Development building.

### **Parking**

Point 5 on the plan indicates the short stay car park which is located adjacent to the South West Institute Development building which is free to park after 5.00 p.m.

### **Cycle Racks**

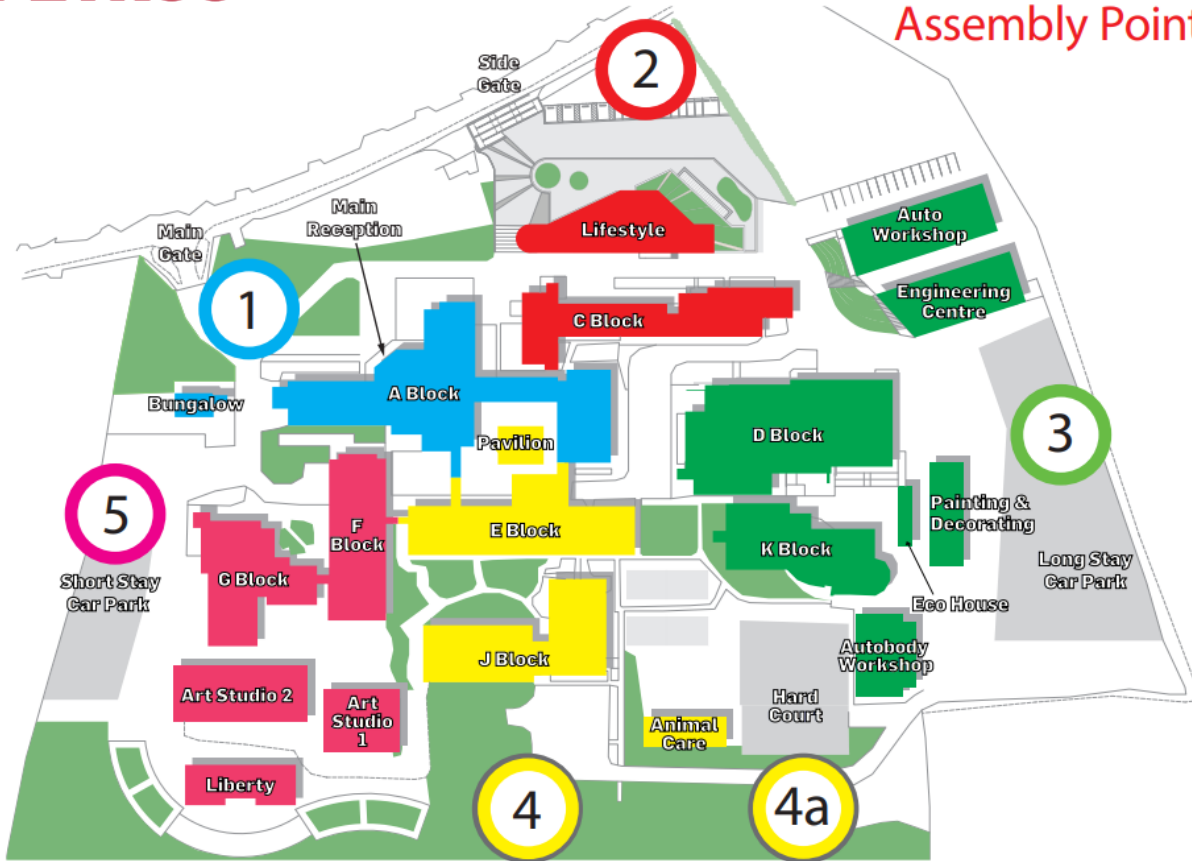
Covered cycle racks are located on the grassed area opposite Petroc's main reception, before the Lifestyle building.

### **Bus Routes**

Stops in **Sticklepath Hill** (East bound) bus service 310  
Wrey Arms (West bound) bus services 5B, 21, 21A, 21C, 62C, 322, 386, 646, 815, 821, 903, 921  
([Sticklepath, Barnstaple – Bus Times](#))

### **Fire evacuation procedures**

Fire evacuation procedures - Upon hearing a constant 2-tone alarm, please leave the building via your nearest marked fire exit and make your way to the nearest assembly point which is the short stay car park (Point 5 on the map). Lifts are not to be used. Please do not take time to pick up personal belongings and leave the building promptly.





## **North Devon Council**

Report Date: Wednesday, 17 January 2024

Topic: Update to Part 4 of the Constitution

Report by: Simon Fuller, Senior Solicitor and Monitoring Officer

### **1. INTRODUCTION**

1.1. Following the departure of the Council's Procurement Officer at the end of December 2023, it is proposed that the Council reviews and updates its Contract Procedure Rules to streamline procurement and bring these rules up to date.

1.2. It has been noted that there is an apparent error in delegated powers for the Head of Planning Housing and Health as regards which applications need to be referred to Planning Committee in relation to land owned or occupied by the Council or where the Council is submitting an application.

### **2. RECOMMENDATIONS**

2.1. The Council varies the Contract Procedure Rules in Part 4 of the Constitution as at Appendix 1 to this report

2.2. The Council varies paragraph 5.25 to Part 3 Annex 2 of the Constitution as at Appendix 3 to this report.

### **3. REASONS FOR RECOMMENDATIONS**

3.1. Given changes in prices and market rates the financial thresholds for quotes and tenders are out of date and should be updated to be in keeping with other Devon local authorities.

3.2. To provide a more efficient means of procuring lower value contracts and provide for potential joint working on procurement in the future.

3.3. To correct an apparent error so that simple procedural planning matters relating land owned or occupied by the Council, or where the Council is submitting an application, are no longer excluded from the delegated powers of the Head of Planning Housing and Health.

### **4. REPORT**

4.1. The Council's Contract Procedure Rules in the Constitution sets out the rules pursuant to which the Council procures contracts for the goods, works and services that it enters into.

4.2. The departure of the Council's Procurement Officer at the end of December 2023 has demanded that the Council reconsider the methods by which it procures such contracts. The Council is currently considering joint working with another local authority for procurement and so rationalising its procurement rules at this point is an appropriate move.



- 4.3. Included with this report is Appendix 1 which shows the Contract Procedure Rules with all changes incorporated for the Council to adopt in line with the recommendation at 2.1 above and Appendix 2 which shows a tracked changes version of the Contract Procedure Rules to allow councillors to see the proposed changes from the version of the Constitution as currently published.
- 4.4. The changes proposed are as follows:
- 4.4.1. Procurement thresholds are increased so that officers must:
- 4.4.1.1. seek at least three quotes before awarding a contract where the value of the contract is estimated to be equal to or more than £12,000 (inc VAT) (this was formerly £5,000 (ex VAT));
- 4.4.1.2. run an open tendering process before awarding a contract where the value of the contract is estimated to be equal to or more than £120,000 (inc VAT) (this was formerly £75,000 (ex VAT));
- Councillors will note that values are now inclusive of VAT, this is in line with how the Cabinet Office values contracts at a national level and sets financial thresholds in procurement law since leaving the European Union.
- 4.4.2. A general requirement to ensure compliance with the Best Value duty has been added in to acknowledge that this is taken into account given the higher value needed before quotes are sought.
- 4.4.3. The requirement to run quotes via the Council's online procurement portal has been removed. This is to reduce workload on staff involved with procurement and enable officers to receive quotes via correspondence (e.g. email or letter) albeit with the requirement remaining that an appropriate contract is still entered into and the reports continue to be made to Legal Services to ensure that details of contracts are uploaded onto the Council's Contract Register in line with the Local Government Transparency Code 2015.
- 4.4.4. The contract awarded pursuant to quotes no longer needs to be awarded to the lowest value supplier and other quality aspects can be considered provided quotes are considered on a like for like basis on an evaluation criteria set before quotes are requested.
- 4.4.5. Typographical errors corrected and new defined terms added to improve how the document is drafted.
- 4.5. Included with this report is Appendix 3 which shows paragraph 5.25 of Annexe 2 to Part 3 of the Constitution with all changes incorporated for the Council to adopt in line with the recommendation at 2.2 above and Appendix 4 which shows a tracked changes version of paragraph 5.25 to allow councillors to see the proposed changes from the wording in the Constitution as currently published.
- 4.6. In paragraph 5.25 of Annexe 2 to Part 3 of the Constitution the Head of Planning Housing and Health has general powers to consider and determine





applications submitted pursuant to planning legislation. This is subject to certain exclusions as provided in paragraph 5.25(a), (b) and (c) of Annex 2 to Part 3 of the Constitution.

- 4.7. As a result of the increase in planning applications being made by the Council through major projects such as the Future High Street Fund or the Seven Brethren redevelopment, it has been noted that the restrictions on the delegated power of the Head of Planning Housing and Health has been preventing progress due to the most minor adjustments necessitating an application having to await consideration by the Planning Committee. This includes applications such as non-material amendments under section 96A or discharge of conditions under section 74A Town and Country Planning Act 1990. While it is entirely appropriate for an application for planning permission by the Council or on Council owned or occupied land to be excluded from an officer's delegated power and go via Planning Committee it is considered excessive for these minor procedural/administrative tasks to have to take this route.
- 4.8. Accordingly it is proposed in recommendation 2.2 that the exclusions on the delegated power to the Head of Planning Housing and Health be limited, in relation to Council owned or occupied land and applications made by the Council only, to applications for outline permission, reserved permission, full permission or is for the development of land without compliance with conditions under section 73 of the Town and County Planning Act 1990. This will allow decisions on minor matters such as those identified in paragraph 4.7 above, to be processed at delegated officer level.
- 4.9. It is worth Members being aware that officers will be required to consider these minor applications in line with the Planning Code of Conduct which provides that "proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers". It is considered that this change is in line with this, namely that the Council's own applications are not being treated differently to those of private developers and not making this change will overly encumber the Council's own developments on minor issues.

## 5. RESOURCE IMPLICATIONS

5.1. None

## 6. EQUALITIES ASSESSMENT

6.1. There are no equalities implications anticipated as a result of this report.



## 7. ENVIRONMENTAL ASSESSMENT

7.1. There are no environmental implications arising from the proposals in this report.

## 8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: None

8.1.2. Improving customer focus: Updates to the Contract Procedure Rules should allow efficiencies in procurement and provide for an improved process for officers and prospective suppliers while still maintaining compliance.

8.1.3. Regeneration or economic development: None

## 9. CONSTITUTIONAL CONTEXT

9.1. The decision in respect of the recommendations in this report can be made pursuant to Article 4.5.1 of the Constitution.

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report:  
The Constitution and Contract Procedure Rules of neighbouring local authorities

(The background papers are available for inspection and kept by the author of the report).

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Simon Fuller, Senior Solicitor and Monitoring Officer

## Planning

5.25 To consider and determine any application (without prejudice to limitations on this power as provided by law or as provided elsewhere in the Constitution) submitted pursuant to the Planning Acts or any regulations or orders made pursuant to the Planning Acts (as revoked and replaced or amended from time to time) excluding an application:

(a) which in the opinion of the Head of Planning Housing and Health:

(i) is in conflict with the adopted Development Plan (as may be reviewed and/or amended from time to time); and

(ii) is of sub-regional or district wide significance; or

(iii) is for outline permission, reserved permission, full permission or is for the development of land without compliance with conditions under section 73 of the Town and County Planning Act 1990 and is on the Council's own land, on land occupied by the Council or has been submitted by the Council; or,

(iv) has been submitted by:

a. a Member (or their partner) or where the Member (or their partner) has submitted an application on behalf of another acting pursuant to their employment, trade, profession or vocation (or have otherwise been formally contracted in connection with such application); or

b. an Officer (or their partner) who at the time of submitting the application is part of the Planning Service (or, in the opinion of the Head of Planning Housing and Health, is in a role that is close to the planning process in respect of the application or otherwise exerts influence over that process), save that the Head of Planning Housing and Health may still determine the application so long as he has previously consulted with the Monitoring Officer and the Officer concerned does not participate in the processing or determination of the application; or

(b) which in the opinion of the Head of Planning Housing and Health, save otherwise provided for herein, ought to be determined by the Planning Committee (provided that in such

a case, at the absolute discretion of the Head of Planning Housing and Health, the application may be first referred to a site inspection Committee after consultation with the Chairman of the Planning Committee and the Ward Member(s) for the ward in which the application site is situated; or

- (c) in respect of which the Head of Planning Housing and Health receives within 28 days, unless agreed otherwise with the Head of Planning Housing and Health, of an application being registered, a written representation from a Member(s) containing sound planning reasons for the application to go to Planning Committee for decision. Should the Head of Planning Housing and Health be minded to refuse the request to suspend delegation they must consult with the Chair of Planning Committee. If the Head of Planning Housing and Health and Chair (or Vice-Chair if the application is called in by the Chair) of the Planning Committee cannot reach an agreement after consultation then the application will be brought to the Planning Committee for consideration. Factors to be weighed by the Head of Planning Housing and Health include the extent of public interest (recognising that this in of itself does not constitute material planning grounds), the wider community impact, the decision is a finally balanced one and/or the planning matters under consideration are of broad significance.

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