

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP
HELD ON MONDAY, 3 DECEMBER 2018
IN COMMITTEE ROOM 2, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.00 - 8.15 PM**

Members Present: M McEwen (Chairman), M Sartin (Vice-Chairman), D Dorrell, S Heap, L Hughes, S Jones, J Philip (Planning Services Portfolio Holder), C C Pond, C P Pond, J Share-Bernia and J H Whitehouse

Other members present: None.

Apologies for Absence: None.

Officers Present S Hill (Service Director (Governance & Member Services)), N Richardson (Service Director (Planning Services)) and V Messenger (Democratic Services Officer)

8. SUBSTITUTE MEMBERS

It was noted that there were no substitute members for this meeting.

9. NOTES OF PREVIOUS MEETING

RESOLVED:

That the notes of the last meeting of the Working Group held on 25 June 2018 be agreed as a correct record, subject to the addition of "*before being referred to District Development Management Committee*", as amended below:

Planning Process Review 2017/18 Delegations to Planning Officers, Replacement Planning Delegations – CLD2 Replacement, 2. Applications made by the Council on land and / or property in its ownership which are for disposal, in accordance with the size of application set out in Article 10 of the Constitution (Min no 6) – *Councillor C C Pond asked if all Council land applications could go to the Area Planning Sub-Committees, before being referred to District Development Management Committee.*

10. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor C C Pond declared a non-pecuniary interest in the following item of the agenda by virtue of being the Chairman of the Epping Forest Branch of the Association of Local Councils, and would remain in the meeting:

- Planning Process Review

11. TERMS OF REFERENCE & WORK PROGRAMME

(a) The Terms of Reference were noted.

(b) Work Programme

- (i) The Service Director (Governance and Member Services) advised that the Working Group would review the site visit arrangements of the Area Planning Sub-Committees (item 5) at the March 2019 meeting. The trial where members could request formal site visits prior to determination of an application had commenced on 30 May 2018.
- (ii) The review of the Audit and Governance and Standards Committees (item 6) would be secondary to the completion of the current review of the Overview and Scrutiny committees' framework, which should be in place for the new municipal year, 2019/20.
- (iii) Gifts and hospitality advice (item 8) was still outstanding and might have to be rescheduled for the next municipal year 2019/20.
- (iv) Whether to update the Financial Regulations (item 9) would be on the recommendation of the 151 Officer. Any review would not be undertaken until the new level 2 managers in the Council's management restructure were implemented.

12. CONSTITUTION - REVISIONS & AMENDMENTS

The Service Director (Governance and Members Services) reported that he had been asked by the Chief Executive to undertake revisions and amendments to the Constitution in relation to the:

- realignment of the Cabinet Portfolio Holder responsibilities to their new respective service directors; and
- changes to the statutory roles of the Monitoring Officer and Returning Officer and realignment to the new service director structure.

These amendments to the Constitution would be reported at Council on 20 December 2018, as the statutory positions needed to be preserved. The Monitoring Officer would be asked to bring the Constitution up to date, which would be ongoing.

13. PLANNING PROCESS REVIEW

The Service Director (Governance and Member Services), S Hill, reminded the Working Group that it had looked at the existing arrangements by which planning applications were considered at the Area Planning Sub-Committee. This report dealt with issues that had arisen as a result of the updated Scheme of Delegation, Appendix 3, CLD2 for the Service Director (Planning Services). In particular, 3 (a) *"Applications recommended for approval where an objection from a Local Council, material to the planning merits of the proposal is received and confirming in writing their intention to attend and speak at the meeting where the proposal will be considered"*.

Democratic Services officers had been monitoring the non-attendance of local councils at the Area Planning Sub-Committees in relation to 3(a) above and since 26 September 2018, ten applications had come before members. On four occasions local councils had not turned up to meetings, one of which only had two items on the agenda solely because of two local councils objecting, who had indicated they would attend, but this had not happened. The meeting had been very short as members

had agreed these applications should be referred to the Service Director (Planning Services) to be dealt with under delegated powers, but the meeting could have been cancelled. As the Monitoring Officer, S Hill, had not wanted items withdrawn from agendas in these instances once they had been published, the Working Group was requested to consider the following options to address this unforeseen situation:

- (a) that relevant applications be automatically referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination in accordance with the Scheme of Delegation; or
- (b) that the Area Plans Sub-Committees be authorised to consider and determine relevant applications on the basis of the information set out in the report of the Service Director (Planning Services) and presented at the meeting by the Principal Planning Officer (and external speakers where relevant).

There was general consensus in favour of option (a), but discussion between the Working Group raised the following points.

- Local councils had raised their concerns at the Local Councils' Liaison Committee because when they had made their objections to Planning Services they would not have been aware they were the only objector.
- It was frustrating when a local council read out the same objection that had been published in the agenda report.
- Parish councils were not clear about what they should be doing, and were not putting an objection forwards because they did not want to address a planning committee.
- A local council could object but if it did not intend to register to speak then delegation 3(b) should hold sway, in that the local council objection would have to be *"supported by at least one non-councillor resident, with material planning reasons"*.
- Option (b) wasn't the intended outcome.
- If (a) was the preferred option that words to the effect of 'but stand referred to officers on the non-attendance of that local council at an Area Planning Sub-Committee' be added.
- Local councils should be informed by the Service Director (Governance and Member Services) when this delegation scheme had been updated.

RESOLVED:

- (i) That option (a) below be recommended to Council for approval at the meeting on 20 December 2018 to clarify and resolve the non-attendance of local councils at 3 (b) of the Scheme of Delegation CLD 2, relevant to the Service Director (Planning Services):
 - (a) that relevant applications be automatically referred (without any consideration of the merits of the development proposal) to the

Service Director (Planning Services) for determination in accordance with the Scheme of Delegation;

- (ii) That the Service Director (Governance and Member Services) would also update the Council Rules in the Constitution to reflect (i) above; and
- (iii) That the Service Director (Governance and Member Services) write and advise local councils of the latest updates to the Constitution, especially the Scheme of Delegation CLD2, upon adoption by Council.

14. PETITION SCHEME

The Council's Petition Scheme, adopted on 14 December 2010 in accordance with the requirements of the Local Democracy, Economic Development and Construction Act 2009 as part of a duty to promote democracy, was reviewed by the Governance Select Committee (GSC) on 23 October 2018. Feedback from neighbouring local authorities on the handling of petitions and signature thresholds used suggested that generally a low number of petitions were received. Therefore, no changes were made to the current threshold levels.

The existing guidance for the Petition Scheme was also reviewed to ensure it was clear and consistent with the revised scheme that had incorporated previous separate guidance on the creation of e-petitions. However, as a result that many of the petitions received related to services provided by other authorities, e.g. Essex County Council (highway issues) and North Essex Parking Partnership (parking enforcement), which would not meet some of the acceptance criteria, the revised scheme also included a list of the main functions of local authorities and was appended to the agenda.

The Service Director (Governance and Member Services) indicated that a petition on a matter that was the responsibility of another statutory provider might be accepted if it sought the District to put pressure on that authority, in terms of its community leadership role. He also advised of a further amendment to the Petition Scheme at 2.1 'that the proper officer for petitions should state the *Service Manager (Governance)*' to replace Service Director (Governance and Member Services), as he would be leaving the Council at the end of December 2018, which was agreed.

Once agreed, the revised Petition Scheme would be publicised on the Council's website to increase public, member and officer awareness, since Democratic Services often received these indirectly from ward members or other officers.

Members raised the following points about the Petition Scheme, which were agreed:

- Header at (4), Exceptions to Petitions, would be better described as 'Areas on which Petitions will not be excepted' or 'Petitions can only be accepted on...'
- (4c) appeared cumbersome and it would be better to put the section in brackets at the end of the sentence, possibly without the brackets.
- At (3.2), (5.1) and (6.), perhaps use 'lead petitioner' in these sentences as that would be aimed at the person submitting the petition.

- At (6.6) a full stop was required in the opening sentence after 'days'.
- A request that (6.8) was observed and petitions went into the Council Bulletin to keep members informed and that Portfolio Holders would also report as shown at (7).
- That the Democratic Services Manager, S Tautz, be informed of these amendments.

RESOLVED:

That the Council be requested to adopt the revised version of the Petition Scheme for inclusion within the Constitution.

15. APPOINTMENT OF HONORARY ALDERMEN AND ALDERWOMEN

Following a motion moved by Councillor J Philip and seconded by Councillor C Whitbread, which was adopted by Council on 1 November 2018, the Working Group was asked to consider a proposed scheme to confer the title of Honorary Alderman or Alderwoman.

The Service Director (Governance and Member Services) reported that there was currently no formal method of recognising past eminent or notable service. Presently the only formal method of recognising the past service of a former councillor was by length of service and the issuing of a lapel badge when a member stood down or was not elected. The issuing criteria was used below:

- Bronze lapel badge for 10 years' service;
- Silver lapel badge for 15 years' service; and
- Gold lapel badge for 20 years' service.

The Local Government Act 1972, under section 249, allowed the Council to confer the title of Honorary Alderman (or Alderwoman) on persons who had, in the opinion of Council, rendered 'eminent services' to the Authority as past members of the Authority but who were not then members of the Authority.

It was a Council decision to confer the title which had to be passed at a meeting specially convened for the purpose (i.e. an extraordinary meeting) and approved by vote by not less than two-thirds of the members present. An Honorary Alderman could attend and take part in such civic ceremonies as the authority might from time to time decide but, as such, had no right to:

- (i) attend meetings of Council, Cabinet or Committee other than as a member of the public,
- (ii) receive any of the allowances or other payments to which Councillors were entitled.

Section 249(2) provided that such an honour could only be held by someone who was not a serving Councillor of the Council. As such, were a recipient to be re-elected or co-opted back onto the Council, they would lose the title bestowed.

Members might wish to add further criteria, but the suggestion was that there should be some criteria by which an application could be judged, which were listed below:

- (i) No longer a serving Councillor; **and**
- (ii) To have served at least five consecutive terms of office (i.e. above the level of Gold service); **or**
- (iii) Had held a significant position of public responsibility within the Council, for a minimum period of one year; **or**
- (iv) Had provided demonstrable eminent service to the Council throughout a long and distinguished period of public service; **and**
- (iv) The proposed recipient must be willing to accept their nomination.

The recipient would need to be willing to accept the honorary title before Council. It was an honour to receive this title and should therefore not become a political matter. Appropriate consultations with Group Leaders on nominations would be required. The Alderman / Alderwoman would be presented with a Badge of Office and their name entered into the Roll of Honour, which would be maintained by the proper officer.

Honorary Aldermen were entitled to wear the badge of 'Honorary Alderman' at Civic events within the District, but only at civic events outside the District at the specific request of the organiser. Those elected to the Roll of Honorary Alderman/ Alderwoman were entitled to use the title of 'Honorary Alderman of the District of Epping Forest'.

Following notification of the death of an Honorary Alderman/Alderwoman, the District flag would be flown at half-mast over the Civic Offices on the day after the date of notification of death and on the date of the funeral.

Officers had also suggested a mechanism where the award could be removed from a former member. The law required its suspension should the member come back onto the Council.

The Council, had approached Fattorinis', Birmingham, and two options (using the existing Council design) were shown in the agenda report and the costs this would involve. It was recommended that the Council be asked to approve a DDF sum of £3,500 to purchase the initial stock of badges. However, any costs would only be applied when the stock was used.

The honorary scheme was, overall, favourably received by the Working Group and the following points were raised:

- Five terms or 20 years was generally considered a long time, even though that mirrored the gold service length, but it was noted this was not the sole criteria that could be used.
- Essex County Council had reduced its length of service from 20 years to 15 years. This might have been because people were becoming councillors later on in life and it should not just be about length of service. A councillor's research into other authorities' schemes had shown the average service length was between 12 – 15 years.
- The removal of 'consecutive' was proposed, that four terms or 16 years in office was more appropriate, and use of 'years' instead of terms'.

- If the Council was to merit eminent service then 20 years was out of kilter with modern trends and a reduction on length of service was favoured.
- The use of 'eminent service' was in the legislation, but it should be left to the proposer and seconder to give the information to qualify this.
- To have held a significant position of public responsibility within the Council for a minimum period of one year was considered too short by some, but specifying a minimum period seemed sensible.
- A proposal that the badge was retained by the family in the event of the death of a recipient.
- A suggestion was made that perhaps the Group Leaders could be involved in the initial checking of nominations received that they met the criteria, rather than by the Chairman and Leader.
- A flag flown at half mast following the death of an honorary alderman the day after the 'notification of death until the funeral had taken place' could become a lengthy time, which was agreed. The Council observed the national flag protocol on when and which flags could be flown.
- As the Council only used chairman and not chairwoman was there a requirement to use alderwoman. It was noted that the use of alderwoman was added subsequently to the LGA 1972 Act s249, but recipients could be asked what they wanted to be called.
- The use of 'suspend' rather than 'remove' the honorary award was suggested, but it was noted that the Act specified that an alderman / alderwoman could not also be a serving councillor.

It was agreed that the Service Director would redraft the terms of the scheme incorporating the above points.

RESOLVED:

- (i) That the Working Group support the motion referred from Council on the establishment of a scheme to confer the title of Honorary Alderman or Alderwoman.
- (ii) That the proposed terms of such a scheme be approved, subject to suggested alterations made at the meeting.
- (iii) That the amended scheme be recommended for adoption by Council on 20 December 2018.
- (iv) That a DDF budget sum of £3,500 be recommended to Council to fund the implementation of the scheme, purchase a supply of badges of Office and a Roll of Honour Book.

16. DATE OF NEXT MEETING

It was noted that the next meeting of the Working Group would be held on 28 March 2019 at 7pm.