

Report to the Constitution Working Group



**Epping Forest
District Council**

Date of meeting: 16 April 2018

Subject: Planning Process Review 2017/18 – Delegations to Planning Officers

Responsible Officer: Simon Hill (01992 564249)

Democratic Services Officer: Vivienne Messenger (01992 564265)

The responses received to this review from local councils and members are detailed below.

Responses received from Local Councils:

Epping Upland Parish Council

Dear Simon

Thank you for the email and opportunity to comment.
Please see below comments from Epping Upland Parish Council -
It is recognised that changes may need to be made to EFDC's planning decision process.

A. To determine (e) and (f)

Concern that in order to maintain the integrity of Listed Buildings and Conservation Areas there should be stringent criteria for making decisions on Listed Building Consent and Demolition in Conservation Areas.

A. To determine exception 3

How would the Local Council be notified that they would be required to attend a committee or not?

It would be not be reasonable to put the onus on the Local Council to establish this and the information may either not be known or not be available when the application is debated by the Local Council. (Most Local Councils encourage resident participation and seek to inform them about Planning through their own publications.)

It appears that Neighbour comments are not put online.

How is it intended to inform residents of the changes?

The current consultation letter is not clear as to the current impact on residents and the number of properties consulted on for an application has been markedly reduced sometimes less than 5.

General

The period given for responding to the Consultation was very short (less than 2 weeks) and did not allow proper time for the full council of the Local Council to consider the proposed

changes which could have a significant impact on residents and the way that Local Councils operate.

Any new process related to Planning Officer Delegations is reviewed desirably within 6 months of commencement and no later than 1 year with direct input from Local Councils. As there is clearly pressure on EFDC to process applications quickly and there are already developments taking place without planning permission being obtained would suggest that there should be rigorous penalties for planning breaches rather than just, for example, the presumed application in retrospect which is invariably granted.

If we can assist further please do not hesitate to contact me.

Best regards

Val Evans

Mrs Val Evans – Parish Clerk – Epping Upland Parish Council

Loughton Town Council

Dear Simon

Further to your email regarding the above, please find below the comments of the Town Council, as requested:

Planning Process Review 2017/18 – Delegation: Objections and Committee Systems

The Committee AGREED the following response for this consultation:

Loughton Town Council strongly objects to any proposal to withdraw the area planning sub-committees – the input of local ward members was invaluable – this was localism at its finest.

Whilst noting the planning time constraints set by government, the process should not be unduly rushed by removing this stage.

Regarding the specific CLD2 Replacement Planning Delegations:

1. The Town Council objects to the proposal to increase the minimum size of residential developments referred to sub-committees from 5 to 10 or more dwellings. This was because of the potential adverse impact on the neighbourhood of any development of 5 or more properties.
2. All applications for District Council-owned land should continue to be considered by the area planning sub-committees before referral to the District Development Management Committee to ensure local input.
3. The Town Council supports the exceptions as listed in 3. a, b, and c.

Kind regards

Debra Paris
Planning and Licensing Committee Clerk
Loughton Town Council

Waltham Abbey Town Council (1)

Dear Simon,

Thank you for your e-mail dated 29th March, opened on the 3rd April.

It was requested at the Local Councils Liaison Committee, and our subsequent letter to Cllr Philip that a consultation be held with the local councils before firm proposals were formed. Unfortunately, as per your e-mail, proposals have now been put forward for this vital consultation. The period of time given for such a consultation is far too brief. In light of the Easter break, you have given us less than two weeks to formulate our response.

We are disappointed in the lack of consideration for the way Councils work, and we are concerned that because of the short time available to comment, you will not receive the responses you should do to these proposals.

In light of this, we request that you extend the time available for comments on this very important subject.

Kathryn

Mrs K Richmond BA(Hons) FSLCC CMC
Town Clerk
Waltham Abbey Town Council

Waltham Abbey Town Council (2)

Dear Simon

Thank you for your e-mail pertaining to the proposals for changes to the planning protocol in light of the potential increase in applications with the emergence of the new Local Plan.

We would reiterate that less than two weeks for a consultation with parish and town councils is not really sufficient time, especially with a bank holiday making up part of that time to have meaningful and agreed responses. It was also understood from the Local Councils Liaison meeting that consideration would be given to talking to the local councils before any firm proposals were made. It is a shame that this opportunity was not taken, to bring the local councils on-board to face these new problems together.

After consultation with senior members, the Town Council has serious concerns, therefore would like to make the following comments regarding the proposals:

Waltham Abbey Town Council appreciates that there will be an increase in applications over the next few years, and that there are quite tight timescales introduced by Government for the decision-making process. This does not mean, however, that local democracy should be pushed to the side-lines in the decision-making process. Democracy takes time and effort, but it is essential in today's society.

Because of these pressures, it is even more important that there is local input to these decisions. A desk-top exercise conducted by officers, who perhaps do not know the locale at all, may not come up with the right conclusion. It also means that junior officers, without any prior knowledge of the area, are making decisions that may well adversely affect the local residents. This may well lead to situations where consistency in decision-making could be an issue.

Waltham Abbey Town Council would request that consideration is given to delaying any decisions until a full consultation can be arranged. Local democracy should not be compromised for administrative convenience.

Please would you confirm that our response will be put before the Working Group for their attention.

Thank you

Kathryn

Mrs K Richmond BA(Hons) FSLCC CMC
Town Clerk
Waltham Abbey Town Council

Willingale Parish Council

Dear Simon,

Your E Mail dated 29th March addressed to our Clerk has been passed to me for comment as Chair of Willingale Parish Council.

Firstly let me say that at a time when there is increasing pressure from Central Government to deliver new housing, I can fully understand the desire to streamline and simplify some aspects of the Planning Application decision process. However, I do have serious reservations about some of the content in the "Replacement Planning Delegations" document.

Specifically I am very concerned with Section A3 which states ("Assistant Director Development Management to Determine all.....except the following.....") :

3. Applications recommended for approval where either of the following have been received:
 - a. At least 5 expressions of objections material to the planning merits of the proposal are received; or
 - b. An objection is received from a local council, **supported by at least one non-councillor resident**, with material planning reasons; or
 - c. 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.

This amendment seems to significantly "downplay" the input of Parish Councils, as a Statutory Consultees in the decision process, and seems to undermine the partnership working that should be the essence of Parish/District Council relationships. Parish Councillors are volunteers as you know, often with busy day jobs, and point C will add a layer of unnecessary paperwork, and time commitment which will only discourage PCs to fulfil their local duties.

Point B seems to go against the fundamental principle of having the Parish Council as representing local opinion, and having the intimate local knowledge that would be impossible for District based officers to maintain. The need to supplement the PC objection with written non-Councillor residential involvement seems destined to present further obstacles in the PC being able to fulfil its Statutory role.

Speaking for Willingale PC, we take our responsibilities very seriously and would always have fundamental reasons for raising an objection (as our track record will show) and it then rightly adds a proper level of further scrutiny for such applications to then be heard in Committee.

So rather than change this aspect of the delegations to make it easier for the LPA to dilute the PC's views, perhaps an alternative approach would be to invest in some training of Parish Councillors, perhaps targeting those Councils who might be judged to raise spurious or frivolous objections to planning applications.

Many thanks for providing the opportunity to give feedback.

Kind regards

David Stokes

Chair of Willingale Parish Council

Buckhurst Hill Parish Council

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Simon Hill
Monitoring Officer, AD Governance
Epping Forest District Council
Civic Offices,
323 High Street,
Epping,
Essex CM16 4BZ

April 11th, 2018

Dear Simon,

We thank you for your email of March 29th regarding proposed changes to the Planning Protocols and affording us the opportunity of commenting on them.

We also appreciate the task at hand and the hard work of the District Council Constitution Working Group. However, in common with most local Parish and Town Councils, we do have some significant concerns and I have been asked to provide below the comments that Buckhurst Hill Parish Council would hope the Working Group will take cognisance of.

Para. 9(d) – Our view is that any “local plan sites” should be treated as any other development, whatever the size and especially those sites owned by EFDC.

Para. 9(e) – Our view is that EFDC should refer its own applications in the interests of openness and transparency.

Para. 9(f) – Our view is that there is scope for the threshold for the number of objections to be increased (householder and “other” applications aside) but the right to be referred to the relevant Area Plans Sub-Committee (APSC) should categorically be retained.

Para. 9(h) – Our view is that the Ward restriction should continue.

Para. 11 to 15 incl., - Our view is that “Householder” applications have a real effect on residents lives and consequently they must be given the opportunity of voicing their objections and receiving the proper scrutiny by Councillors.

Para. 17 to 22 incl., - We have no general comment on the number or composition of APSCs. Speaking for BHPC and other Parish and Town Councils alike, we endeavour only to put forward sensible objections to applications. Consequently, our view would be that if the workload is considered to be too great then the number of APSCs and timing of meetings needs to be amended as appropriate.

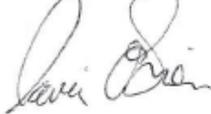
Para. 23 – Our view is that if the District Development Management Committee (DDMC) meetings suffer from lack of business, then it would be better to refer some types of application automatically to them for decision e.g. all schemes on Council land and larger development schemes. Further, in

the interests of openness and transparency, all District Councillor applications (and/or those of their spouse/partner) automatically be referred to DDMC. In a similar way, all applications from Parish or Town Councillors (and/or those of their spouse/partner) should automatically be referred to the relevant APSC.

Under the current Delegations (appendix 1), there appears to be no reference to any objection by a Town or Parish Council being referred automatically to the relevant APSC, although the Replacement Planning Delegations (3b) state "an objection is received from a local council, supported by at least one non-Councillor resident, ...". This would change our automatic "call-in" when recommending refusal of a planning application and, in our view, will be a retrograde step; adversely impacting on local views, representation and democracy.

We sincerely hope that you will take due consideration of our comments as well as those of other Parish and Town Councils and look forward to hearing from you in the near future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kevin O'Brien', written in a cursive style.

Kevin O'Brien, BSc(Econ)Hons
Clerk to the Parish Council

Cc: Cllr M McEwan

Responses from District Members:

Councillor H Brady

Dear Simon,

I wish to register my disapproval of plans to wholesale change the local planning system by vesting far greater power in officers than at present.

As I see the situation the new Local Plan will introduce vast amounts of new building into the District which makes it paramount to give each application as much time and thought as we do at present. To weaken Members' input could lead to poor planning decisions arrived at by officers who perhaps do not have such vested interests in the local environment. It is my experience in planning meetings that a large number of applications which are recommended for approval by Officers get refused by Members. If the applicants go to Appeal the Inspector often upholds the refusal. Likewise, applications recommended for refusal by Officers often are approved.

If this necessitates the employment of more planning officers then it will be "money well spent".

I accept that minor planning issues such as crossovers, shop facias and tree pruning etc. could and should be dealt with under Officer Powers.

The question of the size of the committees and the number of applications that each one deals with should be addressed. I think I agree with 24 b), c), and definitely d). i.e. the district dev. committee could handle many more including all the large applications.

FINALLY AND MOST IMPORTANTLY I THINK THESE PROPOSED CHANGES TO THE LOCAL PLANNING SYSTEM SHOULD BE SENT OUT IN HARD COPY TO EACH COUNCILLOR FOR PROPER COGITATION AND PLENTY OF TIME GIVEN FOR DISCUSSION. I THINK DEMOCRATIC SERVICES SHOULD ARRANGE SOME MEETINGS TO THRASH THESE IDEAS OUT PROPERLY IN ORDER TO REFINE THE PLANNING PROCESS. PERHAPS PARISH AND TOWN COUNCILS COULD ALSO BE INVITED .
cLLR hEATHER bRADY(PASSINGFORD)

Councillor G Chambers

Dear Mr Hill,

I certainly agree that there needs to be some Changes to how we decide upon planning applications.

However I feel there have been no Chairman and Vice Chairman meeting and also the two weeks consultation period over Easter is not acceptable for us to make a decision at the next full Council meeting.

Something so important needs a more robust scrutiny .

Regards

Cllr Gavin Chambers
(Buckhurst hill west and current Chairman of Plan South)

Councillor P Keska

Replacement Planning Delegations

My response to the proposals are as follows:

1. The time scale included in Simon Hill's email of the 29th March is unacceptable. The email arrived the day before the Easter holiday, 2 week school holiday and the District elections.
2. When this matter was raised at Plans east on 4th April it was clear that most members were unaware of the proposals. There was no time to discuss them and there will not be another planning meeting before 16th April.
3. It is completely unreasonable to expect councillors to vote on these proposals at full Council on the 24th.

Detailed objections and unresolved queries;

A search of the EFDC website under 'Planning Delegations CLD2' produced 9800 results!

Our residents value their right to be heard at planning meetings which are in public. The more decisions that are decided by unelected officers in private undermines the democratic rights of our residents. I am aware that most uncontroversial applications are decided by officers.

A (a) & (b)

1. Removal of the committees right to hear applications for 1 – 9 houses for unallocated sites and 1 – 24 houses on allocated sites recommended for approval by officers would not be acceptable.

3a,b,c

Who decides what is 'material to the planning merits' of an application?

Who decides what is 'material planning reasons' of an application?

If only 1 or 2 objections are received that have an substantial impact on adjoining properties this could unfairly mitigate against householders in rural areas of our district.

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It is the case that some objections take longer to be submitted than we would wish but to remove all flexibility in this matter is unreasonable.

Town & Parish councils arrange for their councillors to speak at planning meetings but there are times when this is not possible. If no councillor turns up at a planning meeting is it proposed that the committee cannot hear the application?

[Representations have already been made by Waltham Abbey and Ongar Town Councils regarding the loss of their statutory consultation rights if the unreasonably short consultation period is adhered to]

A (a) & (b) 4a

Who is to decide what constitutes a 'planning reason'? If officers then what response can elected councillors give to their residents if their 'call in' is rejected, again in private and by unelected officers?

B 3 (a)

At Plans East the committee has on a limited number of occasions asked for officers to take enforcement action. Does this mean that the planning committees would have no such rights?

Paul Keska

Vice chairman, Plans east

Councillor E Webster

I wish to respond to the above.

Firstly, the time scale given to respond is unacceptable we have had less than two weeks to reply. Under the circumstances a detailed response is impossible.

I appreciate that there will be an increase in planning applications over the next few years, and the time is right to review the current arrangements for delegated powers to the Officers, however, because of the importance of this step I feel strongly that the matter requires an in depth scrutiny, so we make the right decisions.

After reading the current proposals set out in the Constitution Panel agenda, I consider that there are still further points to be discussed and decided upon.

Bearing my comments in mind I feel it would be premature to take this to next full Council on the 24th April.

Cllr Liz Webster.

Vice Chairman Plans West.