

**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP  
HELD ON MONDAY, 16 APRIL 2018  
IN COMMITTEE ROOM 2, CIVIC OFFICES, HIGH STREET, EPPING  
AT 7.00 - 8.40 PM**

**Members Present:** M McEwen (Chairman), M Sartin (Vice-Chairman), D Dorrell, L Hughes, S Kane (Safer, Greener & Transport Portfolio Holder), C C Pond, C P Pond, D Stallan (Chairman of the Council) and J H Whitehouse

**Other members present:** None.

**Apologies for Absence:** J Philip (Planning and Governance Portfolio Holder) and S Tautz (Democratic Services Manager)

**Officers Present** S Hill (Assistant Director (Governance)), N Richardson (Assistant Director (Development Management)) and V Messenger (Democratic Services Officer)

**20. SUBSTITUTE MEMBERS**

There were no substitute members at the meeting.

**21. NOTES OF PREVIOUS MEETING**

**RESOLVED:**

That the notes of the last meeting of the Working Group held on 20 February 2018 be agreed as a correct record.

**22. TERMS OF REFERENCE & WORK PROGRAMME**

- (a) The Terms of Reference were noted.
- (b) Work Programme
  - (i) Item (3) Committee systems for members considering planning applications – this would be reviewed at the next scheduled meeting in September 2018.
  - (ii) Item (8) Gifts and hospitality advice – this outstanding item had been rescheduled into the 2018/19 meetings cycle.

**23. CONSTITUTION - REVISIONS & AMENDMENTS**

It was noted that a revised version of the Constitution was published on 26 February 2018, details of which were also published in the Council Bulletin on 28 February. This had included revisions to the following elements of the Scheme of Delegation (Part 3), owing to changes in the Council's senior management structure, which had been agreed by the Council on 22 February 2018:

- Appendix 3 – Delegation of Officers from Full Council; and

- Appendix 5 – Delegation to Officers from the Executive.

The latest version of the Constitution also incorporated the following:

- Members' Allowance Scheme for 2018/19 municipal year, which had been agreed by the Council on 21 December 2017; and
- Procurement Rules, revised and agreed by the Council on 22 February 2018.

#### **24. PLANNING PROCESS REVIEW 2017/18 - DELEGATION, OBJECTIONS AND COMMITTEE SYSTEMS**

The Assistant Director (Governance) advised members that in the previous two meetings of the Working Group in January and February 2018 they had looked at officer delegations. Both he and the Assistant Director (Development Management) with the help of planning officers had developed the 'Replacement Planning Delegations' scheme, shown in Appendix 1 of the agenda. The Town and Country Planning Act 1990, in particular, and other planning legislation made it challenging to keep protocols up to date. Officers had tried to come up with a scheme to reflect members' comments and to keep it as simplified as much as possible to reduce errors or misinterpretation. Another objective was to give the planning committees more time for determining applications for larger sites. Planning had already started to employ an Implementation Team in preparedness for a greater influx of planning applications, particularly those for Local Plan (LP) sites.

As the next scheduled meeting of this Working Group was not until September 2018, this extra meeting today had been agreed with the Chairman. A letter to members and local councils had been circulated before Easter, via email. Four members had replied that the timescale of the consultation was not long enough and only one local council had declined to comment on the basis the consultation period was too short. The Council was not statutorily required to consult with local councils but had chosen this route following members' support at the Local Councils' Liaison Committee (LCLC) in March 2018. Much of the LP work, would be well under way by the next Working Group meeting in September. Also the Assistant Director (Governance) would soon unveil the induction training and planning courses for new and existing councillors after the May 2018 elections.

The Assistant Director (Governance) summarised the responses he had received from six members and fourteen local councils, most of which had been published in two supplementary agendas.

There was a mixed reaction to A(1) because only applications for residential developments consisting of 10 or more dwellings on unallocated sites or 25 or more dwellings on allocated sites would go to committee. Where this was felt to be unacceptable it was because even 5 dwellings might have an 'adverse impact' on a neighbourhood or village setting.

On A(2) (Council applications for developments on its own land or disposal of assets) while some local councils considered the District Development Management Committee (DDMC) should only determine these applications others considered the area sub-committees also should, to ensure local input.

A(3) about the number of objections required to be received for the sub-committees to determine, there were various comments received. While some supported the

proposals given in Appendix 1, there was concern that local councils would not know, for instance, if they were the only objector. Others that 5 objections was too much in rural areas. Also there should be training for parish/town councillors. The Assistant Director (Governance) clarified that local councils were not statutory consultees in the planning process as some thought, but that the Council had agreed to consult with them. There was a list of statutory consultees who, depending on the type of application, did have a right further along in the consultation process to refer an application to the Government but not the planning committees. He added that over the last two years out of over 200 local councillors only around 25 had attended its training sessions, despite these being publicised to all the local councils. The Council was proposing that if the only objection (with material planning merits) was received from a local council then a representative from that council should attend and speak at that area sub-committee, if they wished it referred to members.

A(4), to do with members 'calling in', the proposal was to change the wording to 'any' member from 'ward' member. Some responses had commented that the deadline for written requests for referral by members within four weeks of the relevant weekly list was too short, but no change had been made here.

A(5) for applications made within 12 months of refusal of a similar development, where a recommendation for approval contradicted a previous decision of the committee, responses had indicated that this should be increased, e.g. to 24 months. Alternatively, members might want to remove this clause entirely, but use the 'call in' procedure.

A(6) concerning applications by members, senior officers or a relevant person, were normally dealt with by the DDMC. Representations had been made that if a parish councillor made an application then this should also go the sub-committees.

B(3) on enforcement was a matter for the DDMC and not the sub-committees. Sub-committees could ask for enforcement action, but could not resolve to take enforcement action.

The Assistant Director (Governance) said that members could decide to review this protocol on an annual basis. He had received some strange comments from local councils, such as this was a 'power grab', which he rejected as this was not what the Council was trying to achieve. Comments had also been received that junior planning officers were inconsistent in their advice. The Assistant Director (Development Management) emphasised that every application was signed off by a senior planning officer. He added that planning legislation had relaxed over time and the National Planning Policy Framework had allowed a presumption in favour of development and therefore more recommendations for granting of permission.

The Assistant Director (Governance) asked the Working Group to consider the comments received, look at where they were now, and asked if they wanted to go for a further consultation with members and local councils owing to the previous short consultation period. Otherwise, were they ready to make a recommendation to Full Council in April? The following meeting would be held on 31 July 2018, a response to Annual Council was not appropriate.

The following issues were raised by the Working Group members during discussion.

Councillor D Stallan said he did have concerns at the quality and information given in Plans East reports, but did not agree that proposals were a 'power grab'. He agreed with the proposed representation requirements but acknowledged that 5 objections

for isolated sites might be hard. He also commented that he had previously called in an application, which had not been material to a planning merit to allow a wider debate by the sub-committee. On proposal A(5) who would make the decision what was 'similar' or not. If planning applications by members were handled by the sub-committees, rather than the DDMC, there would be more chance that a member could be involved with fellow councillors, so these should go to the DDMC. The Assistant Director (Governance) replied that members should speak to planning officers and state what their planning concerns were. Councillor C C Pond added, or procedural. There was no right of appeal if a planning officer did not agree the concern was not a material consideration. The Chairman, Councillor M McEwen, commented that it was not always possible to read the planning officers' reports before the 4-week call in period had expired.

On proposal A(5) there was discussion on what constituted 'similar' development. An application for a flat development could be turned down, then another application could be submitted for flats, but this should not automatically come back to committee.

Councillor J H Whitehouse asked how people could find out how many objections had been received, to which the Assistant Director (Development Management) replied that members or the public would need to phone up Planning.

The Chairman said that on A(3) the criteria for consulting was in question, as sometimes only two neighbours might be consulted.

Councillor C C Pond said that on A(1) 'or 25 or more dwellings on allocated sites' should be removed. The Assistant Director (Governance) commented this clause concerned sites in relation to the density of adjacent properties.

Councillor M Sartin thought the consultation period had been far too short, especially for local councils.

Councillor C C Pond suggested the Working Group could carry out a review after 12 or 18 months, and members might consider not taking this to Council in April but in July because of the short consultation period and the delay to the submission of the LP. He was happy with Appendix 1 subject to:

A(1) – 'or 25 or more dwellings on allocated sites' being removed;

A(4b) – 'applications' should have an apostrophe to read, 'application's';

A(5) – could be removed completely; and

A(6) – 'Head of Service' should be defined and the term aligned with the new Council structure, which was currently under review.

The Assistant Director (Development Management) added that B(1a) should read – 'Tree Preservation Order consent applications other than where tree felling is proposed'.

Councillor D Stallan agreed with taking this to Council in July, which was supported by other members, but added that a lot of local councils had not attended the LCLC's March meeting when this item was discussed.

Councillor D Dorrell remarked that a reference was made that parish councillors were volunteers but so too were District councillors. He did not think it necessary that a planning reason had to be correct.

Councillor S Kane asked members if A(3b) and A(3c) could be covered if local councils went through the District councillor to call in an application. If this was the case, then it was the responsibility of the District councillor to be able to call in and to give a reason for doing so. Councillor M Sartin did not think this would work in one-member wards.

Councillor J H Whitehouse agreed with A(3a) that at least 5 objections were received. Councillors were there to support residents, and that this should be their primary focus, rather than losing this focus by needing to free up councillors' time to become involved in larger, masterplan sites. Regarding the changes to restructure the Council to focus on customers, it was important for residents to come to planning committees.

The Assistant Director (Governance) said that for Planning services, their clients were also the applicants / agents. When applications went to committee for determination this caused months or weeks of delay to clients' applications, and did not meet the statutory time limit. Planning officers would negotiate with the applicants / agents to extend these deadlines. Planning officers assessed applications and did refuse them. However, of the applications going to committee, 86 per cent were approved and he advised that the days when committees had the time to determine small / minor applications was numbered. Development Management had a Customer Services team and Technical Services team. Its business processes were going to be reviewed and the customer service element would move to the Council's centralised Customer Services.

Councillor D Stallan said that councillors had to support residents, but also had to make decisions on applications as a Local Planning Authority representative. The silent majority supported applications. Also regarding a further consultation, local councils should be advised that the Council strongly refuted comments, such as 'power grab', to minimise these unhelpful remarks.

Councillor S Kane asked if the changes proposed would allow members to do what was required as the Council was not dealing with applications fast enough. He cited an example where five applications had been referred by a local council to a Plans West Committee, but it had not attended that meeting.

The Assistant Director (Governance) summarised what the Working Group had achieved at this meeting.

**Agreed:**

- (1) That the proposed amendments be made to the replacement delegation scheme:
  - (i) A(1) delete 'or 25 or more dwellings on allocated sites';
  - (ii) A(4b) add an apostrophe to 'applications' to read, 'application's';
  - (iii) A(5) remove entire clause; and
  - (iv) 'Head of Service' should be defined and the term aligned with the new Council structure, which was currently under review.
  - (v) B(1a) to read, 'Tree Preservation Order consent applications other than where tree felling is proposed';
- (2) Offer local councils and all members of the Council a further opportunity to comment on this scheme, taking into account the amendments above.

- (3) This second consultation would be carried out by letter, the wording of which would be agreed with the Chairman, with a response deadline by early June.
- (4) After the elections, the Assistant Director (Governance) to contact the chairmen of the planning committees to see if they wanted to hold a meeting to consider this scheme, which he would attend.
- (5) Arrange a further meeting of the Constitution Working Group before the end of June 2018 to agree / make any recommendations to Council for the meeting on 31 July 2018, if appropriate. This would also allow officers time to understand any concerns raised.

## **25. REVIEW OF AUDIT AND GOVERNANCE AND STANDARDS COMMITTEES**

The Council on 26 April 2016 had not adopted the proposal to merge the Audit and Governance Committee with the Standards Committee, but instead required the Working Group to review the proposal within two years. The Standards Committee had not been in favour of a merger, as under the proposal the current nine members available to consider Standards issues would reduce to three, which it did not consider was sufficient.

The Assistant Director (Governance) advised members that this review should be deferred, as the structure of the Council's departments was changing significantly. A report would be going to Cabinet in June on the Council's new structure, which would replace the old directorates. There would be more matrix working. In addition, the overview and scrutiny structure currently focussed on the four directorates. The structure of the overview and scrutiny committees might be required to change, to reflect this new directorate structure. He therefore suggested that this review be revisited towards the end of the 2018/19 municipal year, and that when it was brought back, there would be a further report on where the Council was with its structural changes and Audit and Governance.

Councillor D Stallan proposed that the Working Group wait to review this merger once the Council's new structure was much clearer.

### **Agreed:**

That the Working Group defer its review of the merger of the Audit and Governance and Standards Committees, until the Constitution Working Group meeting in March 2019.

## **26. DATE OF NEXT MEETING**

The Working Group agreed to a further meeting towards the end of June, which was arranged with the Chairman to held at 7pm on 25 June 2018.