

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF GOVERNANCE SELECT COMMITTEE
HELD ON TUESDAY, 6 OCTOBER 2015
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.30 - 8.55 PM**

Members Present: Councillors T Church (Chairman), Y Knight (Vice-Chairman), D Dorrell, L Hughes, H Kauffman, M McEwen, S Watson, J M Whitehouse, D Wixley, J Knapman and A Lion (Technology and Support Services Portfolio Holder)

Other members present: Councillor J Philip (Governance & Development Portfolio Holder)

Apologies for Absence: Councillors S Jones and B Sandler

Officers Present N Richardson (Assistant Director (Development Management)), B Copson (Senior Performance Improvement Officer), S Tautz (Democratic Services Manager)

9. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

The Director of Governance reported that Councillor A. Lion was substituting for Councillor S. Jones at the meeting, and that Councillor J. Knapman was in attendance as substitute for Councillor B. Sandler.

10. DECLARATIONS OF INTEREST

There were no declarations of interest made by members of the Select Committee pursuant to the Council's Code of Member Conduct.

11. NOTES OF PREVIOUS MEETING (7.7.15)

The notes of the meeting of the Select Committee held on 7 July 2015 were agreed as a correct record, subject to the inclusion within the Committee's work programme for 2015/16, of a review of the Council's approach to pre-application workload and activity in relation to development management issues, and the identification of opportunities for greater member involvement in local pre-application processes (Note 6 – 7.7.15).

12. TERMS OF REFERENCE & WORK PROGRAMME 2015/16

The Select Committee noted its terms of reference that had been agreed by the Overview and Scrutiny Committee at its meeting on 21 July 2015.

Members noted the current position with regard to progress against the work programme for the Select Committee for 2015/16, a number of items from which had either already been completed or were included in the agenda for consideration at the meeting.

The Assistant Director of Governance (Development Management) suggested that, with regard to item (6) (Planning Appeals Performance) of the work programme, a report be brought to the next meeting to review lessons learned from a sample of recent appeal decisions where the views of the Planning Inspectorate had been both

significantly at odds with the original decision of the Council in respect of specific planning applications, and also where the views of the Inspectorate had been broadly in line with the Council's decision on particular applications.

13. SECTION 106 AGREEMENTS - MONITORING REPORT 2014/15

The Assistant Director of Governance (Development Management) presented a report setting out all Section 106 Agreements entered into during 2014/15, and details of the benefits realised throughout the year from previous agreements, including monies received where development had commenced. Members noted that an annual report in this respect had previously been made to the former Planning Services Scrutiny Panel.

The Select Committee was reminded that Section 106 of the Town and Country Planning Act 1990 allowed a local planning authority to enter into a legally-binding agreement or planning obligation (known as a Section 106 Agreement or a developer contribution, planning contribution or planning agreement) with a land owner/developer in relation to an issue related to the grant of planning consent for particular development. Members were advised that Section 106 Agreements often took considerable time to conclude, particularly where intended benefits were of a complex nature or when the enforcing of provisions needed to be especially robust.

Members noted that Section 106 Agreements acted as the main instrument for placing restrictions on development, often requiring the mitigation of site specific impacts. Agreements could be sought in situations where planning conditions were inappropriate to ensure or enhance the quality of development and to enable proposals that might otherwise have been refused planning permission to proceed in a sustainable manner. Members were reminded that Section 106 Agreements must always be relevant to and proportionate to the scale and kind of related development and could be used to deliver:

- (a) affordable housing;
- (b) necessary highway works;
- (c) public open space;
- (d) the restoration of listed buildings; and
- (e) off-site infrastructure.

The Assistant Director of Governance emphasised that agreements could not be used simply to generate monetary resources for the public purse, as this might result in accusation that the Council was 'selling' planning permission, and that agreements could also not be used to secure benefit unrelated to specific development. Members noted that Section 106 Agreements could therefore only be applied to meet the following tests:

- (a) be necessary to make development acceptable in planning terms;
- (b) be directly related to the proposed development; and
- (c) be fairly and reasonably related in scale and kind to the proposed development.

The Select Committee was concerned that the report presented by the Assistant Director of Governance did not illustrate any backlog of Section 106 Agreements that were currently still requiring completion, particularly as some of the benefits achieved in the last year actually related to agreements that had been concluded over twelve years previously. Members considered that, without a complete overview of the progress of all agreements currently in preparation, they were unable to give proper scrutiny to the process. Several members also expressed the view that effective

scrutiny of Section 106 arrangements required a thorough understanding of how and where monies arising from agreements were intended to be spent and appropriate timescales for the collection of relevant monies and the realisation of the associated benefits.

The Assistant Director of Governance (Development Management) reported that the Council had not returned any monies arising from completed Section 106 Agreements, where this had yet to be spent, and that no requests in such respect had ever been received from developers. The Assistant Director advised the Select Committee that the eligibility criteria for Section 106 contributions secured through the planning system were set out in the Community Infrastructure Levy (CIL) Regulations 2010 and National Planning Policy Framework, which were intended to address any local infrastructure 'gap' and that the need for Section 106 Agreements to be entered into should become less, if the Council were to adopt a local approach to the CIL.

RECOMMENDED:

That in view of the concerns expressed by the Select Committee with regard to its ability to undertake full and effective end-to-end scrutiny of the Section 106 Agreement process, it be recommended to the Overview and Scrutiny Committee that all annual reports detailing agreements entered into and completed during each year, be made in future to the District Development Management Committee.

14. KEY PERFORMANCE INDICATORS 2015/16 - QUARTER 1 PERFORMANCE

The Select Committee was reminded that a range of Key Performance Indicators (KPI) for 2015/16 had been adopted by the Finance and Performance Management Cabinet Committee in March 2015. The KPI were important to the improvement of the Council's services, and comprised a combination of former statutory indicators and locally determined performance measures. The aim of the KPIs was to direct improvement effort towards local services and national priorities. Members noted that progress in respect of each of the KPIs was reviewed by the relevant Portfolio Holder, Management Board, and the relevant select committee at the conclusion of each quarter.

The Senior Performance Improvement Officer introduced a first-quarter performance summary in respect of each of the KPI falling within the Select Committee's areas of responsibility, together with details of the specific three-month performance for each indicator. The Senior Performance Improvement Officer, reported that, in response to feedback previously received from the former scrutiny panels, the indicator dashboards now included additional performance to enable enhanced member scrutiny of performance. The improvement plans for the suite of indicators for 2015/16 were also presented to the Select Committee.

Members noted that the overall position with regard to the achievement of target performance for the KPI within the responsibilities of the Select Committee at the end of the first quarter of the year, was:

- (a) 3 (60%) indicators achieved had achieved the first quarter target;
- (b) 2 (40%) indicators had not achieved the first quarter target; and
- (c) 1 (20%) indicator had performed within its tolerated performance margin.

The Senior Performance Improvement Officer reported that overall, 22 (61%) of the Council's total suite of KPI had achieved target performance at the end of the first quarter of the year. The Select Committee requested that appropriate context be provided for the reporting of target achievement in future quarters, to provide an indication of whether the level of achievement was actually considered to be satisfactory performance, given the challenges presented by the social, economic and environmental context of the district.

The Assistant Director of Governance (Development Management) advised the Select Committee that new provisions allowing an extension of time to be agreed for the determination of planning applications, were beginning to bed in, and also helped to achieve the determination of applications in accordance with the cycle of Area Plans Sub-Committee meetings. Members expressed concern however, that extensive use of these new provisions could have the effect of masking unacceptable performance against the determination of applications within the normal statutory eight and thirteen-week timescales. The Assistant Director of Governance was requested to address the concerns of the Select Committee when reporting performance against the relevant KPI in future quarter periods.

The Select Committee was advised that KPI GOV004 (Major Planning Applications) had achieved target performance for the first quarter of the year. The Assistant Director of Governance reported that it was anticipated that performance against the remaining KPI related to the timely determination of planning applications (GOV005 (Minor Applications) and GOV006 (Other Applications)) would have improved by the end of the second quarter of the year, and that the available resources within the Development Management Section were currently considered appropriate. Members requested that the Assistant Director of Governance undertake an analysis of a sample of reasons for the deferral of applications from consideration by the Area Plans Sub-Committees, which were not always considered to be at the instigation of the Council, to support the achievement of improvement in respect of KPI GOV005 and GOV006.

It was reported that first quarter performance against KPI GOV007 and GOV008 (Planning Appeals) was also satisfactory, but that appeal decisions appeared not to be always being issued on a timely basis by the Planning Inspectorate at the present time.

RESOLVED:

That performance for the first quarter of 2015/16 in relation to the Key Performance Indicators within the areas of responsibility of the Select Committee, be noted.

15. PUBLIC SECTOR EQUALITY DUTY - EQUALITY INFORMATION REPORT 2015/16

The Select Committee was advised that the Equality Act 2010 required that all authorities subject to the Public Sector Equality Duty (PSED), must publish equality information annually to demonstrate compliance with the duty.

The broad purpose of the PSED required the Council to integrate consideration of equality and good relations into its day-to-day business, positively contribute to the advancement of equality and fairness, and to reflect equality considerations into the design of policies and the delivery of services. The Senior Performance Improvement Officer reported that the review and monitoring of performance against

the equality duty helped the authority to comply with its legal requirement; and to provide inclusive services.

Members noted that the Council had published its last equality information report in July 2014, and considered a draft report for 2015/16 setting out the progress made over the last year to improve its services and employment practices for people with protected characteristics. The Senior Performance Improvement Officer reminded members that the Council's progress against the PSED was monitored on a bi-annual basis by Management Board and the Select Committee to ensure compliance and drive improvement in performance, and that a new suite of corporate equality objectives was currently being developed for 2016 to 2020.

The Select Committee congratulated the Senior Performance Improvement Officer on the development of the equality information report for 2015/16, which set out the Council's many initiatives and achievements in a clear and extremely effective way. Members also suggested a number of areas for possible inclusion in the report going forward, including the provision of services for young people and individuals leaving local authority care. Several members also expressed support and encouragement for participation in the equality-related programmes offered to councillors as part of the annual member training and development programme.

RESOLVED:

That the Council's Equality Information Report for 2015/16 be agreed.

16. DATE OF NEXT MEETING

Members noted that further meetings of the Select Committee would be held on the following dates during the remainder of the current municipal year:

1 December 2015;
2 February 2016; and
5 April 2016.

The Select Committee agreed that the meeting to be held on 1 December 2015 would commence at 7.00pm.