

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF GOVERNANCE SELECT COMMITTEE
HELD ON TUESDAY, 27 NOVEMBER 2018
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.15 - 7.55 PM**

Members Present: D Dorrell (Vice-Chairman), L Burrows, L Hughes, S Jones, H Kauffman, M McEwen, M Sartin, H Whitbread, J M Whitehouse and D Wixley

Other members present: J Philip

Apologies for Absence: R Brookes, R Gadsby (Vice-Chairman of Council) and J Share-Bernia

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

22. CHAIRMAN'S APOLOGIES

In the absence of the Chairman Councillor Chambers, the Vice-Chairman Councillor Dorrell presided over the meeting.

23. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was reported that no substitute members had been appointed for the meeting.

24. NOTES OF PREVIOUS MEETING

RESOLVED:

That the notes of the previous meeting of the Select Committee held on 23 October 2018 were agreed as a correct record.

25. DECLARATIONS OF INTEREST

No interests were declared by members of the Select Committee in any item on the agenda for the meeting, pursuant to the Council's Code of Conduct.

26. TERMS OF REFERENCE & WORK PROGRAMME

RESOLVED:

That the Select Committee noted their terms of reference and work programme for the current municipal year.

27. CORPORATE PLAN 2018-2023 - PERFORMANCE REPORT Q1 & Q2 2018/19

The Service Director (Governance and Members Services) presented a report to the Committee he advised that the Corporate Plan 2018-2023 was the authority's key strategic planning document. A corporate specification (previously called the Key Action Plan) for each year was being delivered through operational objectives, which in turn were linked to annual Service business plans. The previous regular

performance reports that had covered the annual Corporate Plan Key Action Plan, Key Performance Indicators and Transformation Highlight Report had now been superseded by this single integrated performance report.

The success of the Corporate Plan was being assessed through the achievement of a set of benefits, each measured through one or more performance indicators. This provided the Council the opportunity to focus on what could be achieved for its customers – on how specific improvements would be addressed, opportunities exploited and better outcomes delivered. The Corporate Plan when viewed as a set of benefits maps had one map for each of the ten corporate aims. A benefit was a measurable improvement from an outcome that was perceived as an advantage, and contributed to an organisational objective(s). All benefits from individual corporate objectives connected back to four key benefits, which were:

- K1 Improved customer value – recognising what customers' value about our services and placing them as the heart of everything we do;
- K2 Increased efficiency – focussing on our speed of delivery and getting things right first time;
- K3 Increased agility – reducing red tape, simplifying how we work through joined up services; and
- K4 Increased savings and income – delivery of resource savings and income generation, to keep Council Tax low.

The Service Director went through some of the objectives for the current municipal year:

8.1.1 Gain approval for the electoral review

Approval for the electoral review had been due by 31 March 2019. It was now likely that a report would be brought to members in the 2019/20 municipal year.

8.1.3 Delegated authorities review within the Constitution Working Group

The Constitution Working Group had reported to Council in July 2019 on proposals to amend officer delegation in respect of planning matters. This was anticipated to increase delegation by 5-10%. A further review of the implementation will be held in the 2019/20 municipal year.

M8.1 Cabinet Structure

Members had received an email communication informing them of the changes to the Cabinet. There were 9 members of the Cabinet, Leader, Strategic Projects and 7 Cabinet Members which had been aligned to the Service Directors' areas of responsibility.

M8.3 Number of Governance meetings

There was a typographical error under the heading 2018/19, the base line figure read 61 but should read 16.

M8.4 Cost of Governance meetings

This indicator will 'go-live' in the 2019/20 municipal year and would look at how many meetings there were and how much they cost. Data for this indicator was being collected as a baseline for performance reporting from 2019/20.

M8.6 Delegated authorities for officers

This measure had been discussed under 8.1.3. above.

RESOLVED:

That the progress of the Corporate Plan Performance Report for 2018/19, Quarters 1 and 2 in relation to its areas of responsibility be noted.

28. REVIEW OF THE LOCAL ENFORCEMENT PLAN

The Select Committee received a report from the Service Director (Planning Services) regarding a review of the Local Enforcement Plan. He advised that the Council formally adopted the Local Enforcement Plan (LEP) on 16 October 2013 with an addendum on 11 December 2013. This was in accordance with the suggestion under Section 207 of the National Planning Policy Framework (NPPF) that such a plan should be adopted by Councils.

The LEP clarified the authority's policy for taking effective action when justified on the evidence gathered by Officers. The Plan sets out the principles of good enforcement and investigation, it explained what would and what would not be investigated. The Plan sets out the priorities for responses to complaints and clarified the timescales for response by Officers. The Planning Enforcement Team receive a high number of allegations of breaches of planning control, and it was impossible to investigate all of these allegations with equal priority. Resources were limited, therefore the LEP made clear what breaches were and the prioritisation involved.

A review of the LEP was scheduled for 2018, five years after its adoption, there had been no significant change to planning legislation (in respect of enforcement).

All District Councillors, Town and Parish Councils were consulted as part of the review process. Comments were received from Theydon Bois and Nazeing Parish Councils, their comments are summarised below.

Theydon BoisParagraph 2.8

The Parish Council noted paragraph 2.8 of the LEP stated that 'a site visit should be carried out within 14 working days' and asked if it would not be more reasonable for a visit to occur within 7 days rather than 14 days as building works could advance significantly in 2 weeks.

Paragraph 3.13

The Parish Council noted paragraph 3.13 of the LEP and asked if there were requests consistently made for formal applications for Certificates for Lawful Development (CLD). A number of examples of building works have not had a CLD made. How then was an assessment made, and by whom, as to whether the development was lawful.

The Parish Council also questioned whether the review period for the LEP should be every 3 years.

Nazeing

Paragraphs 2.8, 3.7, 3.8 and 3.1

The Parish Council stated that paragraphs 2.8 and 3.7 set out timescales for site visits. Paragraph 3.8 provided that if these timescales could not be met then the Officer would notify the complainant. This was completely open ended and was not satisfactory. Provision should be made to extend the timescale by e.g. 7 days.

Paragraph 3.1 provided that enforcement action would be taken if an acceptable solution was not negotiated within a reasonable time. The question would arise as to what was reasonable and accordingly a maximum time should be specified.

i) – Time limits for visits. Officers currently visit 99% of all sites well within the time limits laid out in the LEP. Those sites where there are ongoing building works are already prioritised by officers for visits for the reasons laid out by Theydon Bois PC. Regarding the Nazeing PC point some sites may take longer to gain access and to set a maximum time for a site visit would not be practical in such cases, and could constrain the ability of officers to engage with site owners and occupiers efficiently.

ii) – Requirement for CLDs to be made. In cases where a CLD was required the Enforcement Section request such an application by email or letter. However, if no such application was forthcoming (and there was no mechanism in the Planning legislation to force a person to make such an application), the Officers examine the available evidence (which may include speaking to the Parish Council) and if that proves on the balance of probabilities that the use/building was lawful then no further action would be taken. If the evidence does not exist then the relevant enforcement action will be commenced.

iii) – Maximum time limit to take enforcement action. This was not practical. Each case was unique and some are closed within days and others can continue for years. We have to act in a proportionate and expedient manner in investigating breaches of planning and to work to an inflexible laid down time table would leave us vulnerable to challenges at both Court and in appeals with a significant risk of awards of costs against us.

iv) – Review Period. Due to the relative stability of the enforcement regime and legislation it was considered that a five-year period was realistic and proportionate. Should major changes to the legislation occur then a review could be brought forward as required.

It was considered that the comments of the two Parish Councils should be noted but did not need to be incorporated into the revised LEP for reasons as set out above.

Councillor Sartin asked if Certificates of Lawful Development were of any benefit to the homeowner/developer of the property.

The Planning Service Director advised that Certificates of Lawful Development were of benefit, although they could not be enforced, when the property was sold the certificate showed that the work had been undertaken and completed lawfully.

Members suggested minor amendments to the LED. The Chairman asked how the

Committee would like to proceed with a further draft, should it come back to the next meeting of this Select Committee or be emailed to Members. Members agreed that it should be emailed.

The Service Director (Governance and Member Services) advised that retrospective planning applications should reflect the change to the planning delegation for officers whereby members now had the right to request officers to consider enforcement action on sites where they had refused a retrospective planning application.

Councillor Philip advised that that adoption of the Local Plan would impact on the Council's enforcement policy and recommended that the Local Enforcement Plan be reviewed every 5 years. Members agreed that the LED should be reviewed every 5 years.

RESOLVED:

- (1) That the Local Enforcement Plan be adopted subject to amendments made to the document and circulated to Members of the Select Committee;
- (2) That Members now had the right to ask officers to consider enforcement action on sites where they had refused retrospective planning applications; and
- (3) That the Local Enforcement Plan would be reviewed and updated every 5 years.

29. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW & SCRUTINY COMMITTEE

There were no reports to be made to the next Overview and Scrutiny Committee on the 18 December 2018.

30. FUTURE MEETINGS

It was noted that the next meeting of the Governance Select Committee would be held on 5 February 2019 at 7.15pm.