EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF GOVERNANCE SELECT COMMITTEE
HELD ON TUESDAY, 5 APRIL 2016
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.25 - 8.50 PM

Members Present:	T Church (Chairman), Y Knight (Vice-Chairman), D Dorrell, L Hughes, S Jones, M McEwen, C P Pond, J M Whitehouse and D Wixley
Other members present:	J Philip
Apologies for Absence:	H Kauffman and B Sandler
Officers Present	N Richardson (Assistant Director (Development Management)), S G Hill (Assistant Director (Governance & Performance Management)), B Copson (Senior Performance Improvement Officer) and M Jenkins (Democratic Services Officer)

35. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was advised that Councillor C Pond was substituting for Councillor H Kauffman.

36. DECLARATIONS OF INTEREST

There were no declarations of interest made pursuant to the Member's Code of Conduct.

37. NOTES OF PREVIOUS MEETING

RESOLVED:

That the notes of the last meeting of the select committee held on 2 February 2016 be agreed.

38. TERMS OF REFERENCE/WORK PROGRAMME

The select committee's Terms of Reference and Work Programme were noted.

39. KEY PERFORMANCE INDICATORS 2016/17 - REVIEW AND TARGETS

The Governance Select Committee received a report from the Performance Improvement Officer regarding Key Performance Indicators 2016/17 – Review and Targets.

The adoption of challenging KPIs each year was an important element of the Council's Performance Management Framework, the KPIs set was reviewed annually by the Management Board to ensure the indicators and their targets were appropriate to provide challenge in the Council's key areas and to meet its objectives.

A recent annual review had considered that the current indicator set was appropriate, a number of changes to targets had been identified for the coming year and one indicator had been split enabling greater focus and evaluation.

The provisional target for each indicator had been identified by service directors and relevant portfolio holders based on third quarter performance for the current year. Management Board would review the provisional targets against outturn data for 2015/16 when this became available.

The review of the KPIs which fell within the areas of responsibility of the Governance Select Committee had resulted in no change to the indicator set. However, there would be slight changes to the indicators.

Improvement plans would be developed for each KPI for 2016/17, identifying actions to achieve target performance. The plans would be considered and agreed by Management Board and submitted to the relevant select committees along with the 2016/17 first quarter performance submission. The select committee was requested to consider the proposed KPIs and targets for 2016/17 which fell within its areas of responsibility.

RECOMMENDED:

That the Key Performance Indicators 2016/17 – Review and Targets be recommended to the Finance and Performance Management Cabinet Committee for approval.

40. PROPOSED EQUALITY OBJECTIVES 2016-2020

The select committee received a report from the Performance Improvement Officer regarding Equality Objectives 2016-2020.

In March 2012 the Council published its first set of equality objectives designed to provide focus for the Council's work in delivering its public sector equality duty and thereby advancing equality for service users and employees. The duty required public authorities to have due regard for the following three aims:

(a) Eliminating unlawful discrimination, harassment and victimisation;

(b) Advancing equality of opportunity between different groups; and

(c) Fostering good relations between different groups.

This first set of four objectives targeted:

(i) Equality intelligence gathering and the use of this intelligence in service planning;

(ii) Development of equality ownership;

(iii) Improving engagement activities; and

(iv) Working to allow for a balanced workforce profile.

An action plan for delivering the objectives was adopted and progress of work for delivering the action plan had been co-ordinated by the Corporate Equality Working Group (CEWG) which was chaired by the Director of Governance and reported to both Management Board and the Governance Select Committee at 6 monthly

intervals. The lifespan of these objectives came to an end in March 2016 with considerable progress having been made and the objectives largely achieved.

Over the last year the CEWG had been engaged in the development of a new set of objectives taking the Council forward until March 2020. This new set of objectives addressed the challenges still faced by the Council in embedding equality into all its activities and built upon the progress already achieved. The CEWG had consulted with directorates and four objectives were proposed which were set out below together with a brief outline of the reasons for their proposal:

Objective 1: To integrate the Council's public sector equality duty into our partnership working.

The public sector equality duty was relevant across the full range of its activity including its work through partnerships, the duty also applied to its public sector partners. Under Objective 1 in regard to Ref 4, officers confirmed that the number of work experience apprentices in the District Council was 3 per directorate. In respect of Ref 5 concerning the reducing of isolation in rural locations for older people, officers confirmed that isolation could take place anywhere, particularly in urban areas and they would look at extending the action to cover these areas.

Objective 2: To apply robust equality requirements in commissioning, procurement and contract management.

Procurement by local authorities was identified by the Government as a key area for the development of equality and had the potential of improving the lives of people. Whilst it was evident there was some consideration of equality in our procurement practices, procurement had not been a focus for equality work to date and integration was required if the duty was fully met.

Objective 3: To develop our capacity so that our employees have the knowledge, skills and confidence to deliver our plans.

Employee understanding of Council requirements remained important. Whilst some progress had been made in the course of the current set of objectives, the CEWG considered there was the potential to refine and refocus training for employees to reflect the Council's current position.

Objective 4: To improve and develop equality in our business activities.

This included projects and reviews along with Objectives 1 and 2 which sought to build on progress already made in integrating equality into service planning and delivery.

The Council published equality information annually to show progress against the public sector equality duty and progress against the equality objectives action plan. There was also a requirement to understand the impact of services and activities on people from the protected groups and a separate programme of analysis alongside would inform the work contained in this action plan.

Whilst there was no obligation to produce an equality scheme, CEWG considered it a useful way of communicating the Council's intentions and approach to this area of work.

The Cabinet was requested to consider and agree the proposed equality objectives 2016-2020 and action plan to deliver them subject to the views of the Overview and Scrutiny Committee.

RECOMMENDED:

That the Council's Equality Objectives 2016-2020 be recommended to the Cabinet for approval.

41. TECHNICAL CONSULTATION ON IMPLEMENTATION OF PLANNING CHANGES

The select committee received a report from the Assistant Director Development Management regarding response to "Technical Consultation on Implementation of Planning Changes" Consultation. The Government was setting out proposals in the following areas:

(a) Changes to Planning Application Fees;

(b) Permission in principle;

(c) Brownfield Register;

(d) Small Sites Register;

(e) Neighbourhood Planning;

(f) Local Plans;

(g) Expanding the approach to planning performance;

(h) Testing competition in the processing of planning applications;

(i) Information about financial benefits;

(j) Section 106 dispute resolution;

(k) Permitted Development Rights for state funded schools; and

(l) Changes to statutory consultation on planning applications.

The consultation period commenced on 18 February 2016 and concluded on 15 April 2016, it ran to 12 chapters containing 77 questions in all. However, only those questions relevant to the select committee's terms of reference were submitted to the meeting.

Changes to Planning Application Fees

Q1.1: Do you agree with our proposal to adjust planning fees in line with inflation, but only in areas where the local planning authority is performing well? If not what alternative would you suggest?

Response: Planning fees should at the least be altered in line with inflation, which would ensure that local authorities continued to deliver effective planning functions given reductions to grant funding. However current inflation rates were so small that there would be no incentive for local planning authorities.

It was felt that planning fee increases should not be withheld on the basis of performance. Measuring performance alone did not show how effective Development Management was as a whole, this measure could easily be manipulated by the extension of time procedure. As a Green Belt authority the district had few major applications, therefore a small number being delayed could mean fee increases withheld despite meeting targets for minor and other category applications.

Q1.2: Do you agree that national fee charges should not apply where a local planning authority is designated as under performing, or would you propose an alternative means of linking fees to performance? And should there be a delay before any change of this type is applied?

Response: Similarly to the last question, the Council believed that fee increases should not be linked to performance. If this was introduced there should be a time opportunity for Councils effected in this way so they could make adequate arrangements because resource and system changes did not happen rapidly and required member decision making.

Q1.3: Do you agree that additional flexibility over planning application fees should be allowed through deals, in return for higher standards of service or radical proposals for reform?

Response: The Council provided a duty officer system with agents informing the authority that they considered availability and ease of contacting the planning case officer as qualities of service. Planning also provided different levels of pre-application services from a written response through to a series of more detailed meetings and discussions. This service worked effectively in ensuring better applications and supporting information were provided as well as speeding up decision making once an application was submitted.

However, a rapid turn round in the processing and determination of an application did not necessarily provide value for money, particularly if this was a refusal. It did not take account of positive and pro-active working with an applicant in achieving a better quality development which took longer than the “fast track” route proposed by the Government was proposing. It was not clear how the Government expected local planning authorities to have the time and resources to process and determine applications quickly that applicants had paid an extra fee for. It was advised that many applicants would be prepared to pay a higher fee for receiving this fast track service which could divert resources away from major applications and the Government’s aim of increasing the supply of housing. This would result in an inequality of service that rewarded those with the financial resources to pay. It was noted that fast track services at other authorities had not been working well and it was felt that any service speeded up would negatively effect other services.

Q1.4: Do you have a view on how any fast track services could best operate, or on other options for radical service improvement?

Response: Any fast track service would operate in a way that did not impact on the timescales taken for all other applications, as such the fees would need setting at a level that the local authority thought was sufficient to maintain its services and should not be capped or limited in any way by the Government.

A national validation requirement for submitting planning applications could speed up the service and therefore be controllable at the point of submission. A further

requirement that details should be submitted at the submission stage would limit the number of conditions subsequently attached to a planning permission for further approval.

Q1.5: Do you have any other comments on these proposals, including the impact on business and other users of the system?

Response: No, but would welcome a substantially increased fee beyond inflation, for retrospective applications where development/use had blatantly commenced without the approval of any planning permission.

Permission in Principle

Q2.1: Do you agree that the above should be qualifying documents capable of granting permission in principle?

Response: Local Plans, its related documents and Neighbourhood Plans allowed for the allocation of sites for development and they would be appropriate documents through which to use the permission in principle. The Brownfield Register may also be appropriate.

Q2.2: Do you agree that permission in principle on applications should be available to minor development?

Response: No. The concept of a "permission in principle" virtually duplicated available processes for accessing the principle of a development, an example would be outline applications and pre-application advice. Removing the outline process could work if only the principle was a viable alternative. This was making the process complicated and confusing as to the differences.

The consultation claimed that "developers of small sites can struggle to get access to timely pre-application advice," it was felt that there was no supporting evidence for this. It was noted that this service was routinely offered by local planning authorities. Finally, the time period for determining "Permission in Principle" and "Technical details Consent" were shorter than major (13 weeks) and minor (8 weeks) applications, the suggested shorter weeks would put more strain on resources to deliver when there was little difference in a matter of a few weeks.

The Council did not have the facility to hold more planning committees and, in support of "Localism," abolishing area planning committees would affect local residents views and representations.

Q2.3: Do you agree that location, uses and amount of residential development should constitute "in principle matters" that must be included in a "permission in principle?" Do you think any other matter should be included?

Response: The amount of development needed some indication of scale, vehicular access, protected habitat impact, flooding, contamination, setting of listed buildings, conservation areas and amount of affordable housing. It was felt that the in principle seemed too narrow a set of matters.

Q2.4: Do you have views on how best to ensure that the parameters of the technical details that need to be agreed are described at the permission in principle stage?

Response: this was best achieved through a list of planning conditions which set out the necessary parameters.

Q2.5: Do you have views on our suggested approach to (a) Environmental Impact Assessment (b) Habitats Directive or (c) Other Sensitive Sites?

Response: The appropriate mitigation required in relation to such sites was clearly set out as part of the permission in principle and processed in accordance with the appropriate regulations.

Q2.6: Do you agree with our proposals for community and other involvement?

Response: It was imperative that local consultation should not be reduced in the process of decision making and therefore, consultation with neighbours at the technical stage should take place.

Q2.7: Do you agree with our proposals for information requirements?

Response: It was considered that the minimum amount of information submitted with the application meant that the permission in principle would be meaningless. This was because further information could be required to assess whether the principle of development was acceptable. It was unclear as to how such applications would stand in terms of Environmental Impact Assessment (EIAs), protected habitats, flooding or land contamination.

Q2.8: Do you have any views about the fee that should be set for: (a) permission in principle application, and (b) technical consent application?

Response: Increasing the fee so that the Council could cover the Development Management service. However the in principle fee was likely to be lower which represented less return for the local planning authority. The technical detail fee should be the same as a reserved matters application which questioned the need for this process when it would be virtually duplicating existing ones.

Q2.9: Do you agree with our proposals for the expiry of permission in principle on allocation and application? Do you have any views about whether we should allow for local variation to the duration of permission in principle?

Response: Assuming the time limit was set at 3 years, it reinforced the case that this was duplication of existing mechanisms. If set at 1 year, then this could force development to go ahead with planning permission and deliver much needed housing. Locally set expirations could lead to confusion when Local Planning Authorities (LPAs) set different time limits compared to other nearby authorities.

Q2.10: Do you agree with our proposals for the maximum determination periods for (a) permission in principle minor applications and (b) technical details consent for minor and major sites?

Response: No. The determination periods were too short for allowing statutory consultations and neighbour notifications to be carried out, as well as allowing decision making where necessary at planning committee given the short period to determination.

Brownfield Register

Q3.1: Do you agree with our proposals for identifying potential sites? Are there other sources of information that we should highlight?

Response: There were concerns with the Technical Consultation's representation of the Brownfield Register in terms of its preparation and implementation. There would be resource implications for the Council in preparing such a register, the process would be much like that involved with the SHLAA and was a duplication of development plan work which undermined the primacy of the development plan. The SHLAA formed the most appropriate approach to identifying potential sites for inclusion in a Brownfield Register.

Q3.2: Do you agree with our proposed criteria for assessing suitable sites? Are there other factors which you think should be considered?

Response: Yes. It was similar to criteria used for the inclusion of sites within the authorities SHLAA and the assessment of the 5 year housing land supply.

Q3.3: Do you have any views on our suggested approach for addressing the requirements of Environmental Impact Assessments and Habitats Directives?

Response: The suggested approach seemed acceptable.

Q3.4: Do you agree with our views on the application of the Strategic Environment Assessment Directive? Could the Department provide assistance in order to make any applicable requirements easier to meet?

Response: No comment.

Small Sites Register

Q4.1: Do you agree that for the small sites register, small sites should be between one and four plots in size?

Response: The Council considered this figure to be appropriate.

Q4.2: Do you agree that sites should just be entered on the small sites register when a local authority is aware of them without any need for a suitability assessment?

Response: No. Whilst this would be additional work, some assessment of suitability should be required for inclusion on the register. Otherwise, it created a sense of expectation that the site was developable and free from mitigation.

Q4.3: Are there any categories of land which we should automatically exclude from the register? If so what are they?

Response: Sites in the curtilage of a listed building, scheduled ancient monuments and Greenfield sites within the Green Belt.

Q4.4: Do you agree that location, size and contact details will be sufficient to make the small sites register useful? If not what additional information should be required?

Response: Any constraints on the site that would require mitigation, such as flood risk category, contamination etc should be included in the site details.

Expanding the approach to planning performance

Q7.1: Do you agree that the threshold for designations involving applications for non-major development should be set initially at between 60-70% of decisions made on time, and between 10-20% of decisions overturned at appeal? If so what specific thresholds would you suggest?

Response: Epping Forest District Council was performing well above both the 50% targets for major applications. In respect of non-major applications the consultation document was suggesting a performance criteria of 60-70% decisions made on time. Epping Forest was performing above this and the suggested threshold was generally reasonable. There was clear customer expectation tat minor applications, determined under delegated powers, should be able to pass through the planning system in a timely manner given that the planning issues were less significant.

Q7.2: Do you agree that the threshold for designations based on the quality of decisions on applications for major development should be reduced to 10% of decisions overturned at appeal?

Response: Members felt no objection to this measure.

Q7.3: Do you agree with our proposed approach to designation and de-designation and in particular:

(a) That the general approach should be the same for applications involving major and non-major development?

Response: Yes – a 2 year rolling period still including extension of time agreements and planning performance agreements.

(b) Performance in handling applications for major and non-major development should be assessed separately?

Response: Yes

(c) In considering exceptional circumstances, we should take into account the extent to which any appeals involve decisions which authorises considered to be in line with an up to date plan, prior to confirming any designations based on the quality of decisions?

Response: It was felt that this last question needed clarification.

Q7.4: Do you agree that the option to apply directly to the Secretary of State should not apply to applications for householder developments?

Response: There was no doubt that the Planning Inspectorate would not be able to cope as it would experience a high volume of casework due to the amending of thresholds for minor and major applications. If the Government's concern was about processes, then why should they hold back from including householder applications. It was felt that by answering yes to this question, it would result in too great an administrative and decision making burden for the Planning Inspectorate if all the existing neighbours and other consultation requirements were to be carried out by them.

Testing competition in the processing of planning applications.

Q8.1: Who should be able to compete for the processing of planning applications and which applications could they compete for?

Response: The select committee felt strongly that this would not work without:

(a) A threat of abusing the system such as outsourcing to a private company who may have regular clients putting in planning applications or clients using numerous architects, therefore these individuals could become the planning application assessor.

(b) Ensuring local representations were taken into consideration.

(c) Varying the qualities of assessment of planning applications and a need for wide knowledge of different authorities' local plan policies between the providers.

(d) Ensuring who dealt with pre-application advice, conditions approved and appeals.

(e) Arranging who would deal with complaints, the local government ombudsman could become busier on planning investigations.

(f) The other providers being liable for designation if the turnaround planning application performance was not met.

(g) This proposal being a threat to the democratic process and undermined fundamental planning issues.

(h) There being an incentive for the provider to refuse planning application where there was justification in doing so.

The processing of planning applications should be restricted to local planning authorities. The application types that slowed progress involved the discharge of conditions. Passing these to private providers would free up Council planning officers allowing them to concentrate on dealing with planning applications. There was no evidence that costs would be driven down and performance improved through outsourcing the processing of planning applications. In addition the planning system and building regulation system were not the same in terms of consultation need, policy adherence or decision making.

Q8.2: How should fee setting in competition test areas operate?

Response: Fees should cover the cost of processing applications, however this should be set and applied to the Local Planning Authority as well as the provider. It should only operate in areas where the LPAs were designated.

Q8.3: What should applicants, approved providers and local planning authorities in test areas be able to?

Response: A longer period of time was needed for making a decision after the processing had taken place. Taking a decision in 1-2 weeks after the report was received could not be a committee decision. What would occur if the local planning

authority disagreed or wanted further information, extra conditions or further consultation? How would appeals be dealt with? It was felt that the provider should at least have local knowledge and be from the area concerned.

Q8.4: Do you have a view on how we could maintain appropriate high standards and performance during the testing of competition?

Response: Standardisation and validation of planning application requirements should be the same across all providers.

Q8.5: What information would need to be shared between approved providers and local planning authorities and what safeguards are needed to protect information?

Response: The main information would be validation requirements, planning history, constraint layers on Geographic Information Software (GIS), planning policies, details of internal consultations, any pre-application advise given, newspapers circulating in the local area for statutory adverts and the purchaser of this service and negotiations of S106 contribution requirements.

Q8.6: Do you have any other comments on these proposals, including the impact on businesses and other users of the system?

Response: It made the decision making of planning applications less transparent. Full details of the pilot exercise should be shared with all local planning authorities. It was felt that this proposal was not thought through and was less locally accountable. The approved providers should be non-profit making in line with the Council.

Information about financial benefits.

Q9.1: Do you agree with these proposals for the range of benefits to be listed in planning reports?

Response: If included, they would inevitably be a factor in the determination of planning applications, if included, they should be at the end of the report in a section headed “non-planning matters of interest should the planning be granted.” Officers would waste time and effort in defending the increase in complaints from angry objectors who would believe this had influenced the final decision.

Q9.2: Do you agree with these proposals for the information to be recorded, and are there any other matters that we should consider when preparing regulations to implement this measure?

Response: No.

Section 106 Dispute Resolution

Q10.1: Do you agree that the dispute resolution procedure should be able to apply to any planning application?

Response: The Council operated an effective pre-application service that identified areas of concern prior to the planning application being considered. This allowed consideration of S106 contributions and where necessary viability issues relating to affordable housing delivery, education and health service improvements to be considered early and a negotiated resolution achieved. The process being

proposed by the Government would add additional time and cost to the planning decision making process and the Council therefore disagreed with its implementation.

Q10.2 to 10.14: Responses here were covered by the answers to Q10.1.

Permitted development rights for state funded schools

Q11.1: Do you have any views on our proposals to extend permitted development rights for state funded schools, or whether other changes should be made? For example, should changes be made to the thresholds within which school buildings can be extended?

Response: We have not had an example yet of a temporary state funded school opening with the benefit of permitted development. However this was not supported as these changes approved of encouraging students to be in temporary accommodation longer than was necessary.

Q11.2: Do you consider that the existing prior approval provisions are adequate? Do you consider that other local impacts arise which should be considered in designing the right?

Response: In addition to highway, noise and contamination impacts that were currently required, another prior notification included flooding. A change of use may have altered the flood risk category of the building if used as a state funded school or be in a high flood risk zone and therefore placed its occupants at an inappropriate risk unless effective mitigation was put in place.

Changes to statutory consultation on planning applications.

Q12.1: What are the benefits and/or risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond with comments to a planning application?

Response: If a further period of time to respond was needed, it was because they had resource issues and the Government should assist through providing sufficient funds to ensure that the Environment Agency and other services worked more easily. What would happen if they did not comment in time?

Q12.2: Where an extension of time to respond is requested by a statutory consultee, what do you consider should be the maximum additional time allowed? Please provide details.

Response: Irrespective of the comments in Q12.1, an extra 14 days beyond the current 21 days did not appear a reasonable time period in which to respond.

The Assistant Director of Development Management said that he would take the Member's comments and submit them to the Government before the deadline.

RESOLVED:

That the draft responses to the Technical Consultation on Implementation of Planning Charges be submitted to the Government.

42. ITEMS OF BUSINESS FOR NEXT YEAR

The Assistant Director of Development Management advised members that the select committee would be requiring new items for next year's work programme. The following was suggested:

(a) A further report on planning appeals, particularly those concerning Gypsies and Travellers

(b) Special meeting of the select committee to discuss representations made by Essex County Council Highways on planning applications. This would be a single item agenda with invites extended to all councillors and held in the Council Chamber.

(c) Reports would be submitted regarding the process of the May elections and EU Referendum to be held in June.

(d) Presentation on Building Control.

(e) The work of the Public Relations Team.

43. DATE OF NEXT MEETING

The next meeting of the select committee would be held on Tuesday 5 July 2016 at 7.15p.m. in Committee Room 1.

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