

# Supplementary Council Agenda



**Epping Forest  
District Council**

## **Council Tuesday, 14th December, 2010**

**Place:** Civic Offices, High Street, Epping  
**Room:** Council Chamber  
**Time:** 7.30 pm  
**Committee Secretary:** Council Secretary: Ian Willett  
Tel: 01992 564243 Email: [iwillett@eppingforestdc.gov.uk](mailto:iwillett@eppingforestdc.gov.uk)

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**11. REPORT OF THE CABINET - REVIEW OF EXECUTIVE CONSTITUTION (Pages 3 - 18)**

To consider the attached report.

**12. REPORT OF THE CABINET - WEST ESSEX COUNCILS' GROUP (Pages 19 - 22)**

To consider the attached report.

**17. REPORT OF PLANNING SERVICES SCRUTINY PANEL - NEW HOMES BONUS CONSULTATION (Pages 23 - 36)**

To consider the attached report.

**19. RODING VALLEY RECREATION AREA COMMITTEE (Pages 37 - 38)**

**Recommendations:**

**(1) That the Council determine the category of appointments (Executive/Local/Pro-rata) to be made to the Roding Valley Recreation Area Committee; and**

**(2) That, two members be appointed to the Roding Valley Recreation Area Committee**

(Assistant to the Chief Executive) Arrangements have been concluded between this Council, Loughton Town Council and Buckhurst Hill Parish Council to establish a Roding Valley Recreation Area Committee under the terms of the tripartite lease agreement.

The District Council is entitled to appoint two councillors. The constitution of the

Committee will specifically exclude councillors from representing more than one Council. Thus, if a member of this Council is appointed as one of its two representatives, he or she cannot also be appointed as a Parish/Town Council representative.

Addendum attached.

## ***Report to the Council***

**Committee:** Cabinet

**Date:** 14 December 2010

**Chairman:** Councillor D Collins  
Leader of the Council

**Item:** 11

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### **1. LOCAL GOVERNMENT ETC ACT 2007 (SECTION 33) – PUBLIC CONSULTATION ON EXECUTIVE CONSTITUTION**

#### **Recommending:**

**(1) That the Council notes the results of the consultation under Section 33 of the 2007 Act, namely that 108 persons responded, 56 of whom were in favour of the Elected Mayor and Cabinet option and 52 in favour of the current Leader and Cabinet option;**

**(2) That the Council notes that 108 respondents is a very small percentage of the total population of the District and this, along with the balanced number of votes for the two options, does not present a case for pursuing the Elected Mayor and Cabinet option as this is an insufficient measure of public opinion to justify a costly referendum on a system which the Government intends to change;**

**(3) That, for the reasons set out below, the Council resolves to continue the present Leader and Cabinet system from May 2011 because it is not convinced that the Elected Mayor and Cabinet option will achieve enhanced economy, effectiveness and efficiency in the provision of Council services for the following reasons:**

**(a) a referendum now would be based on an Elected Mayor option which may be superseded under new legislation;**

**(b) the cost of holding a referendum now (up to a maximum of £160,000) would not be an efficient use of Council resources in advance of the new legislation;**

**(c) that any referendum on an Elected Mayor based on new options would be more effective in gauging public opinion and more efficient in the use of Council resources;**

**(d) that the present Leader and Cabinet system is the only option which will enable the Council to manage services with minimum disruption in the difficult financial circumstances facing the Authority;**

**(e) that a change to an Elected Mayor system might divert attention from the Council's ability to achieve greater economy in service provision which the Government's Comprehensive Spending Review will require; and**

**(4) That the Council notes that if a verified petition for a mayoral referendum with the correct number of signatures is received, the Authority will be obliged to hold a referendum under the provisions of the 2007 Act.**

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1. The Council is required by Sections 33A-0 of the Local Government Act 2000 (as amended by the Local Government etc Act 2007) to consult the public about the form of executive constitution which the Authority intends to operate from the Annual Council meeting in May 2011.

2. The Council is required to pass a resolution by 31 December 2010 giving effect to its choice of executive constitution. In considering the results of the consultation the Council is required to consider:

“the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the local authority’s functions are exercised in regard to a combination of economy, efficiency and effectiveness”.

3. The Act also specifies the way in which the consultation is to be conducted. The Government has, however, given further advice on this aspect of the legal requirements (see below).

**Ministerial Guidance:**

4. A copy of a letter dated 7 July 2010 from Mr Grant Shapps MP, the Minister for Housing and Local Government, is attached as Appendix 1. In this letter, he draws attention to the following:

(a) that the Government plans to introduce new proposals as part of its Localism Bill, including provisions regarding the terms of office of Leaders, an option to revert to the Committee system and on elected mayors;

(b) that this new legislation will mean that any Executive Constitution agreed with effect from May 2011 may be altered within “a year or two”;

(c) that, in view of (a) and (b) above, the cost of advertising should be kept to a minimum

**Consultation Undertaken:**

5. A copy of the consultation material produced is attached as Appendix 2. In accordance with the Government’s wishes, this was published on the Council’s website and placed on deposit at the Council’s information centres. Public notices in the press were avoided on grounds of cost and instead the website statement was supplemented by 3 press releases during the process.

6. The consultation period (which is required to be of 3 months duration under the Act) opened on 15 August 2010 and closed on 16 November 2010.

**Results of Consultation:**

7. These are set out in Appendix 3, which is divided into separate schedules: one detailing responses which favour the elected mayor and a second showing those responses where there is support for the continuation of the present Leader and Cabinet system. In summary, 52 persons voted for the continuation of the Leader and Cabinet constitution, whilst 56 voted in favour of the Elected Mayor option. The total number of respondents was 108.

**What the Authority Has to Do Now:**

8. We have considered which form of constitution the Council should adopt, namely:

- (a) the Leader and Cabinet option; OR
- (b) the Elected Mayor and Cabinet option

9. If the Council wishes to pursue option (b) above, the Authority cannot pass the resolution without a referendum which confirms support for that proposal.

10. Our views are set out in the recommendation at the commencement of this report. We hope this is self explanatory and the Council will accept our view that a continuation of the Leader and the Cabinet best meets the Council's requirements.

**The Effect of a Petition for an Elected Mayor:**

11. We have been advised that if a petition for a mayoral referendum were to be received, the signatures would have to be verified against the electoral register. The current total required is approximately 4,800. From the date of receipt, the petition must be validated within one month.

12. Once verified, a referendum would be held 6 months after the date of receipt of the petition. A mayoral election would take place at least three months after a positive referendum vote (in May or October in the relevant year).

13. We recommend as set out at the commencement of this report.

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Leaders of Non-Metropolitan District Councils  
in England

**The Rt Hon Grant Shapps MP**  
*Minister for Housing and Local Government*

**Department for Communities and Local  
Government**

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7 July 2010

Dear Leader

### **Requirement to consult under the Local Government and Public Involvement in Health Act 2007**

I am writing to you about the requirements on your council to adopt a new governance model from May 2011, and before doing so to consult your local electorate and interested parties in the area. Whilst it is for each council to decide how it will meet these requirements, I would wish to highlight the Government's view that councils need not incur any significant expenditure on these requirements, and our expectation in today's circumstances that all councils will pursue this at minimal cost.

These requirements are in the Local Government and Public Involvement in Health Act 2007 and necessarily remain in force unless or until that Act is repealed by fresh primary legislation. It is our intention to do this. For your council the requirements mean that you must resolve by 31 December 2010 to move to either the new leader and cabinet model or mayor and cabinet model, and before so resolving you must take reasonable steps to consult the local electorate and other interested parties in your council's area.

In considering how to approach these requirements you will wish to have regard to the circumstances of today, including both the priority of cutting out all wasteful spending and the Government's commitments to allow councils to return to the committee system, should they wish to, and on elected mayors. We also intend to remove the necessity to elect a leader for four years. We intend to provide for these commitments in our Localism Bill to be introduced later in this Parliamentary session. This may mean that any governance model you adopt in May 2011 may be further changed within a year or so. Your decisions about consultation will also be taken in the context of the greater transparency and openness agenda which I am confident you will be putting in place throughout your council.

Accordingly, the case is strong for any consultation now about future governance arrangements to be the minimal cost option. It will be for each council to decide, but in our view no more than a small newspaper advert/article or press release on your website may be proportionate and right in these circumstances.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Grant Shapps', written in a cursive style.

**GRANT SHAPPS MP**



**CONSULTATION ON NEW CABINET MODEL**

In accordance with the Local Government and Public Involvement in Health Act 2007, Epping Forest District Council is required to consult on its arrangements for the governance of its Executive Body with effect from the District Council elections in May 2011. The Council must decide which of two prescribed options it favours in this regard and is asking the community for their views in order to help it to make a final decision.

**Options available**

**Option 1 (Leader and Cabinet)**

The Leader is elected by the members of Epping Forest District Council for a term of up to four years until he or she ceases to be a councillor or is removed as Leader by a resolution of the Council.

The Leader appoints up to nine councillors to the Executive (or Cabinet) and decides which areas of responsibility (portfolios) they should have. The Leader can dismiss members of the Cabinet or change their portfolios at any time.

When first elected the Leader holds all the powers and responsibilities of the Executive but he or she can decide to delegate some or all of those powers, to the Cabinet, to a committee, to individual members or to officers.

**Option 2 (Elected Mayor and Cabinet)**

Electors in the District vote to decide who should be elected as Mayor to run the Council.

The Mayor is elected for four years unless he or she resigns or becomes disqualified. That person need not be a member of the Council but if a serving councillor is elected as Mayor his or her seat on the Council automatically becomes vacant.

The Mayor initially holds all the Council's executive powers (except for those reserved to the Council by its Constitution).

He or she appoints between two and nine members of the Council to the Executive and decides what, if any, executive powers they will exercise. The Mayor may dismiss any executive member at any time and appoint a replacement.

The Mayor appoints one of those executive members as Deputy Mayor and that person will exercise the powers of the Mayor in his or her absence or if he or she no longer holds office.

The Mayor's budget proposals can be overturned only by a two thirds majority of the Council.

**What is the Executive Body?**

The Executive Body is known as the Cabinet and may consist of no less than three and no more than ten councillors. One of those councillors must be elected by the full Council as Leader. The Cabinet is responsible for a wide range of Council activities and only the members of the Cabinet are allowed to vote on those matters. However the Cabinet operates within a financial and policy framework set by the Council (ie all 58 Councillors).

However, provided the Cabinet keeps within the budget and policy set by the Council it has discretion on how services are to be administered.

**Are there any services which are not exclusively the responsibility of the Cabinet?**

Yes. Certain activities (known as regulatory functions) are not the responsibility of the Cabinet e.g. Planning, Enforcement, Licensing. Some matters may be considered by the Cabinet but must be submitted to the full Council for approval e.g. the budget, the Council Tax levy, the strategic planning framework and other specified policy documents.

**What is the timescale?**

Consultation on and adoption of executive arrangements is a requirement of the Local Government and Public Involvement in Health Act 2007 and the Council must make a decision on the two governance options set out in the consultation by 31 December 2010 and have the new executive arrangements adopted from May 2011.

The new Government has said it intends to repeal this Act at some point but has made it clear that Councils need to carry out this consultation and the adoption process to comply with the present law. The Government points out, however, that as a result of new legislation the Council may need to reconsider their governance system again some time soon. A copy of the letter to the Leader of Epping Forest District Council from the Government Minister Mr Grant Shapps MP setting out the situation is enclosed.

**How does Epping Forest District Council currently run its Executive Body?**

The Council currently has a Cabinet which consists of nine members including a Leader of Council and a Deputy Leader. Each of the Cabinet members has a portfolio which represents a grouping of Cabinet services for which they are personally responsible. Currently the Leader of Council appoints those Cabinet members and determines the content of each of the portfolios. Portfolios are akin to ministerial responsibilities in the Government. For further details see the Council's Website.

**Other factors – Petition for an Elected Mayor Referendum**

The District Council is aware that a petition for a referendum to be held on an elected mayor for the District is being collected. This petition, which would have to be signed and verified in respect of 5% of the local electorate. A successful petition would lead to a referendum on whether an elected mayor should be introduced in the future. Respondents to this consultation should be aware that by indicating on the return form that they favour the elected mayor option, they can still sign the petition if one is presented to them.

**Closing Date for Consultation**

This is 16 November 2010



# CONSULTATION ON EXECUTIVE GOVERNANCE MODEL

**THE CLOSING DATE FOR CONSULTATION  
RESPONSES IS 16 November 2010**

## **Please tick one box**

- I support the continuation of
- Epping Forest District Council's  
Leader and Cabinet system
- I support the change to an Elected  
Mayor and Cabinet system

**Any other comments**

**Name**

**Address**

**Postcode**

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Reset

Submit

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Those who said yes to Mayor

Case	Comment	Address
1	I work in the District	Hainault Ilford*
2	I feel that this is a democratic system which reflects the communities wishes	North Weald
3		North Weald
4	This is a far more democratic process with both visibility and accountability which we have seen most recently with the London Mayor. A much better approach as the leader is almost anonymous now to the public in this area.	Buckhurst Hill
5	I also feel that the Mayor's Cabinet appointments must be subject to a 2/3rds majority vote of the whole District Council & that the Mayor may recommend to the District Council the suspension or dismissal of a Cabinet member for misdemeanour, & that the Electorate-especially in the Ward of the Councillor-be informed & given the chance to protest at the suspension/dismissal.	Loughton
6		North Weald
7	Is there a box for the referendum?	Loughton
8		Epping
9	More open democracy can only be good for the area - make the council more accountable and make citizens feel more involved in local government.	Chigwell
10		Ongar
11		Buckhurst Hill
12		Loughton
13		Woodford Green*
14	I would appreciate you emailing me the result of the conmsultation.	North Weald
15		Theydon Bois
16		Theydon Bois
17		Theydon Bois
18	I believe it is important for the head of the council to be elected by the residents and not by council members. This is the basis of our democratic society. Electing a Leader through an internal process is open to question and does not necessarily reflect the wishes of the people.	Theydon Bois
19		Theydon Bois
20		Theydon Bois
21		Theydon Bois
22		Theydon Bois
23		Not given
24		Not given
25		Theydon Bois
26		Theydon Bois
27	Remuneration and expenses should be limited to a combined total of £25000. This proviso to ensure the post encourages persons committed to serving the local community.	Epping
28		Theydon Bois
29		Theydon Bois
30		Theydon Bois
31		Theydon Bois
32		Theydon Bois,
33	This consultation has not been widely enough advertised. More use should be made of public notices in the street. Not everyone buys the local paper regularly or has regular (if any) access to the internet.	Theydon Bois

Those who said yes to Mayor

34		North Weald
35	The Leader Of Council is an important position to often resulting in a small in-crowd deciding who should be leader. An Elected major would result in better and less politically motivated leader.	Loughton
36		Not given
37		Theydon Bois
38		Theydon Bois
39		Theydon Bois
40		Theydon Bois
41		Theydon Bois
42		Waltham Abbey
43		Epping
44		Ongar
45		Moreton, Ongar
46		Not given
47		Stapleford Abbotts
48	This would lead to a more democratically run council	Theydon Bois
49		Epping
50		Loughton
51	I wasn't even aware of this consultation	Loughton
52	Its about time democracy became real by giving residents the power to vote in either a leader or major and vote in the members of cabinet. Why should a major or leader be given the automatic right to decide who runs the council? Until things are fairer and residents are considered, then its no wonder only 100 people have replied out of how many 1,000's?	Nazeing
53	An Elected Major with an Elected Cabinet is real democracy.	Nazeing
54	We need somebody who can manage the processes effectively, particularly financial, within the Council and who will not be controlled by ECC and who will remain independent of local politics.	Epping
55	I would like to know why all our children of school age and the ones that go to college have to pay full pay on the buses and in London you can travel free we need free transport for our kids so they too are able to travel on the bus not be charged the earth unless you buy a years saver for £10 and 16years or over £70 and you still get charged the earth	Ongar
56	I think one of the reasons for the poor response is that no one appears to know about the consultation and not many think it will be listen to it's a bit like the parking review for Buckhurst Hill and Epping, if you don't get the answer you want 'bury it'	Loughton

Those who said yes to Leader

<b>Cases</b>	<b>Comment</b>	<b>Address</b>
1		Not given
2	It would cost a lot to hold an election, Elected Mayor cannot be removed.	Loughton
3		Epping
4	Until and unless a Mayor can be recalled by the voters there should be no separately elected role	Epping
5		Chigwell
6		Loughton
7	The cost of an elected mayor cannot be justified in these times. Also with a leader and cabinet there is a change every year, but with an elected mayor we have one for a fixed period and this is not good.	North Weald.
8	Regret there is no option to discontinue the cabinet system, but feel on balance the existing leader and cabinet system is more accountable to the public/electorate. I would not want to see money wasted changing to a mayoral system that has few discernible advantages.	Ongar
9	In a relatively geographically and demographically scattered area such as Epping Forest district, it is important for electors to maintain a close relationship with their local ward councillors who can respond to often very local needs. Moving to a Mayor and Cabinet system removes a great deal of influence away from ward councillors to a smaller group of individuals who may not appreciate so well the fine grain of residents' concerns. I am also concerned that focusing political attention on a single mayoral figure may result in Epping doing a "Doncaster" where an inexperienced figure can win election on a wave of short-term populism or revulsion of national political issues, doing damage to the area through that inexperience and inability to use the political and administrative tools at their disposal. The current system, despite its flaws, works best for the longer-term interests of residents, businesses and the area.	Epping
10	I believe the councillors are better placed to select an appropriate leader than the electorate at large, due to their knowledge of the candidates.	Loughton
11		Epping
12	Why are we considering wasting money on this? Surely with the way money is at the moment this is a waste of time and money.	Loughton
13		Loughton
14		Loughton
15		Not given
16	Electing a mayor may result in someone who does not have the support of the majority party which would cause friction and lead to difficulties in decision making. Whatever ones views are on the majority party, since they represent the views of most of the electorate following a democratic vote their policy should in the main prevail.	Theydon Bois
17		
18		
19	I think the current system is more democratic and that the Mayoral system leads to more idiosyncratic local government and less accountability. I am very firmly opposed to changing to a mayoral system!	Theydon Bois

Those who said yes to Leader

<b>Cases</b>	<b>Comment</b>	<b>Address</b>
20	I consider the existing system quite satisfactory and the introduction of a mayor would simply be another expense on the council taxpayer to fund another election of another person to start a new gravy train	Loughton
21		Epping
22		
23		
24		Theydon Bois
25	Don't want one person having too much power	Theydon Bois
26		
27		Waltham Abbey
28		Theydon Bois
29		
30		Buckhurst Hill
31		
32	I think that the change to a Cabinet system will mean that decisions take a lot longer to make, and the alteration of the existing system and referendum etc. will cost the local authority a significant amount of money, which is not sensible in the current financial climate.	Epping
33	Additional layer government, more support staff, more expenses, not democratic. "All power corrupts, absolute power corrupts absolutely" (Lord Maitland).	Theydon Bois
34		
35		
36		
37		North Weald
38		Epping Green
39	I feel the leader and cabinet system has more accountability to the full council. If the majority on the council felt the leader was not up to the job, they could change her. An elected mayor would have too much power, tipping the balance away from the council chamber. It also leads to the dominance of personality politics, which I don't think is helpful in politics and detracts from real issues. Experience suggests that lines of accountability largely depend on the attitude of the mayor rather than the system itself. Hence, Hartlepool's mayor is widely popular and praised as an effective leader, whereas Doncaster has had a miserable experience with two successive mayors who do not have the confidence of the council chamber leading to a state of conflict that prevents business running smoothly. The political crises in Doncaster would not have arisen under a leader and cabinet system.	Loughton
40	No change required. Cost of election and implementing new system can not be justified.	Hastingwood
41		Epping
42		Waltham Abbey
43	My choice as above is guided by the poor response you have had to this consultation so far by the same people who you would look to to elect a Mayor.	Coopersale, Epping
44	I think having a leader is a fairer system	Working in the District*
45		Epping
46		Buckhurst Hill,
47	The current system works very well	Waltham Abbey



Those who said yes to Leader

<b>Cases</b>	<b>Comment</b>	<b>Address</b>
48		Loughton
49	I read in the local paper that you are looking for views on the idea of electing a mayor - don't even go there. A complete waste of time and money. the existing system we have works well, what we do not need is another layer of local government as per Boris or the Hartlepool monkey.	
50		Loughton
51		Loughton
52	It is unacceptable to set a deadline of 16th Nov 2010 when Grant Shapps MP states that the council must resolve by 31st December 2010. This is not allowing residents full consultation time. I believe that a deadline date of late December would be more appropriate.	Buckhurst Hill

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## ***Report to the Council***

**Committee:** Cabinet

**Date:** 14 December 2010

**Subject:** West Essex District Councils' Group – Memorandum of Understanding

**Chairman:** Councillor D Collins – Leader of the Council

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### **Recommending:**

**(a) That the Council endorses the underlying principles and the outcomes contained in the Memorandum of Understanding prepared by the West Essex District Councils' Group (Appendix 1); and**

**(b) That the Council formally approves the agreement and authorises the Leader of Council to sign on behalf of the Council.**

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### **Report:**

1. We have considered the history of partnership working between the District, County, and Town and Parish Councils in Essex, which has evolved in a largely non-strategic fashion, as opportunities have arisen to work on projects of mutual benefit or submit joint funding bids.

2. However, with the impact of the recession and the necessary wholesale reductions in public expenditure, arising from the comprehensive spending review, there has been a much greater focus on the need to reduce costs. There is a general acceptance that services will need to be provided differently if this is to be achieved.

3. We are aware that, in Essex, a number of shared service initiatives have been implemented and a number of others are under consideration. However, to date these have largely been around specific attempts to reduce expenditure on the provision of common "back office" support services. An example of this type of initiative is the insurance claim handling arrangements that Epping Forest District Council provide to Uttlesford District Council, for a fee.

4. Given the scale of the financial difficulties, we note that most authorities in Essex are facing, a number of efficiency measures are being explored to include joint procurement, co-location of services, rationalisation of buildings and assets, joint senior management arrangements and where feasible, a shared approach to the delivery of services.

5. As a result of the ongoing dialogue across the County and as evidenced by a number of feasibility studies that have been undertaken, we consider that it is proving difficult to implement change at the pace required, on a Pan-Essex basis. Therefore, a number of sub-regional clusters of authorities, operating largely on the basis of partnerships of the willing, have started to emerge. There are a number of common opportunities and challenges where we feel it would make sense to operate on this basis across West Essex.

6. The new Local Enterprise Partnership (LEP) arrangements, identify West Essex as a sub-region, of the emerging Essex/Kent/East Sussex LEP. This would appear to reaffirm the M11 corridor as having a natural synergy with respect to economic development and regeneration. Similarly, with the pressure to provide affordable housing, the Homes and

Communities Agency, in conjunction with the three West Essex Authorities, have developed a joint Local Housing Investment Plan.

7. Other issues such as improved transport arrangements to tackle congestion and the ability to respond to the significant change driven by the Health White Paper, with respect to the abolition of Primary Care Trusts and the formation of G.P led consortia, again, may well, in our view, be better addressed on an area basis.

9. We have been briefed on discussions which have taken place between the respective Leaders of Epping Forest, Harlow and Uttlesford Councils within the context of dialogue between the Leaders of all the Essex Authorities. We note that a proposal for a Memorandum of Understanding for the West Essex District Councils has been put forward as part of those discussions. This is attached for consideration at Appendix 1.

10. An underpinning principle of the Memorandum is, that each Council will retain its own sovereignty and character, which each other partner will recognise and respect. In effect, the Memorandum is a statement of intent to work together where it is in the mutual interest. However, it does not compromise any Authorities political or financial independence.

11. It is envisaged that where collaborative working takes place in future, for example, to procure or jointly deliver services, it will be on the basis that any savings are shared and specifically, that no degree of subsidy is provided by one Council to another. The relative financial strength of Epping Forest District Council will therefore be protected. Indeed, there may well be opportunities to offer our expertise in certain areas, to the other Councils on a quasi-commercial basis.

12. In considering the draft memorandum we have added reference to best value, best outcome and value for money in the final section because our belief is that working arrangements of this kind should have these three objectives as the cornerstone for future discussions between the three Councils. We have asked the Acting Chief Executive and the Leader to raise this additional wording with their equivalents in the other two Councils and an oral report will be made at the meeting on the outcome of this discussion.

12. Finally, we recognise that it may not always be appropriate to confine partnership arrangements to the West Essex District Council's Group and, as such, the Memorandum recognises that it may be necessary to look beyond West Essex for a solution to a problem affecting any individual Council.

## **The West Essex District Councils' Group - A Memorandum of Understanding**

Epping Forest, Harlow and Uttlesford District Councils when acting together agree to be known as the West Essex Councils Group.

Whilst each Council has its own sovereignty and characteristics, which each partner will continue to recognize and respect, they are committed to working together to promote the interests of West Essex and to improve their organisational economy, efficiency and effectiveness.

### The Councils collectively recognise:

- The need to promote and to protect the interests of West Essex.
- The need to work together to develop ways to improve their value for money, the performance of their services and their responsiveness to the needs of their communities.
- That significant and continuing constraints on public sector resources mean that there is an increasing need to work collaboratively as the West Essex Councils with each other and with other public, voluntary and private sector organisations to achieve economies and efficiencies.
- The need to maintain their individual roles as community leaders but to work together to develop strategic responses to pan West Essex, sub-regional and national issues.
- Individually, where appropriate, they may need to look beyond West Essex for a solution to a problem affecting their area.

### The Councils agree to:

- Jointly provide a strong West Essex voice to ensure that its interests are heard at the highest level and that the resource investments and the commissioning of services by others meet the needs of its communities.

- Work jointly on strategic issues where it is appropriate and will benefit the residents and businesses of, and visitors to, the communities of West Essex.
- Develop opportunities to achieve economies of scale, improved efficiency and improved effectiveness through partnership working together.

The Councils therefore undertake to:

- Always look first to a West Essex Councils Group approach to the influencing, commissioning and delivery of services for the benefit of the communities they serve wherever it would facilitate best practice, best outcome and value for money.

## ***Report to the Council***

**Committee:** Planning Services Standing Scrutiny Panel

**Date:** 14 December 2010

**Chairman:** Councillor J Philip

**Item:** 17

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### **1. NEW HOMES BONUS – GOVERNMENT CONSULTATION DOCUMENT**

#### **Recommendations:**

... **See enclosed annotated version of the report to the Panel on 2 December 2010 by the Director of Planning and Economic Development.**

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1. At our meeting on 2 December 2010, we considered a report of the Director of Planning and Economic Development regarding a Government Consultation on the “New Homes Bonus” Scheme.
2. We have been authorised by the Overview and Scrutiny Committee to report to the Council direct because comments can only be made on the consultation document by 24 December 2010. We have taken the slightly unusual step of annotating the report to our meeting with our suggested responses and recommendations on comments to be made.
- ... 3. We recommend as set out in the attached document.

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# **Report to Planning Services Scrutiny Standing Panel**

**Date of meeting: 2<sup>nd</sup> December 2010**

**Portfolio: Planning and Economic Development;  
Housing; Finance and ICT**

**Subject: New Homes Bonus Consultation**

**Officer contact for further information: Ian White**

**Committee Secretary: Mark Jenkins**



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## **Recommendations/Decisions Required:**

To consider the consultation questions and other issues raised by the principle of the bonus scheme and report direct to Council on 14<sup>th</sup> December.

### **Comments from Panel**

- (a) To give the New Homes Bonus a cautious welcome;**
- (b) To agree, nevertheless, that the period of consultation has been far too short;**
- (c) That the council which permits the housing should retain the New Homes Bonus for the full six-year period, irrespective of any subsequent local authority boundary changes;**
- (d) That “affordable rented” housing, as introduced in the Comprehensive Spending Review, be included in the definition of affordable housing;**
- (e) That the 2005 advice from Government about Planning Principles will require significant amendment; and**
- (f) To copy Council responses to the three Epping Forest M.P.s**

## **Report:**

1. This is a Department for Communities & Local Government (DCLG) consultation on the New Homes Bonus (NHB) – the coalition government’s approach to incentivise local authorities to increase their housing supply. The consultation runs from 12<sup>th</sup> November to 24<sup>th</sup> December, the period being restricted to 6 weeks (rather than the more normal 12) so that the final scheme can be announced alongside the local government finance settlement early in the new year.

### **Comments from Panel**

**The timescale of the consultation is ludicrously short. The scheme is to be introduced on 1<sup>st</sup> April 2011, and it is also difficult to see how CLG can take on board all the consultation responses in that period of time.**

**The full financial implications of the scheme cannot be calculated because the reduction in Revenue Support Grant (RSG) is not known. Draft settlements for next year’s RSG should already have been sent out, but this has not happened, so it is not**

***yet possible to prepare a budget for next year. More information is needed about floors and ceilings etc regarding the RSG. At present it would appear that those authorities with higher than average levels of housing will benefit from the bonus system, while those with lower than average levels (eg in areas of growth restraint such as Green Belts) will receive less money than at present. There is a need for transitional arrangements to be in place.***

2. There are 16 questions which deal with (a) the level of bonus; (b) enhancement for affordable homes, and extension of definition; (c) bringing empty homes back into use; (d) split of bonus between local authority tiers; (e) basis of calculation; and (f) additional issues. Further comments are also welcomed.

#### **Level of bonus**

3. For each new home built in a specified period of a year, the Council will receive the “Bonus”, equal to the national average for the appropriate council tax band. This will be paid for each new property for the following six years as an unringfenced grant. The use of the national average is intended to make allowance for the relative value of properties, and not to penalise prudent authorities which have maintained lower council tax levels. The first consultation question therefore is:

- Do you agree with DCLG’s proposal to link the level of grant for each additional dwelling to the national average of the council tax band?

#### **Issues to consider**

4. There are many other current and complex changes underway to local government financing which will lead to a reduction in Revenue Support Grant (RSG). The Housing and Planning Delivery Grant has also been abolished so, unless new housing is built, the Council will be receiving significantly less money from central government. Conversely, any local authorities that allocate significant land for housing through the LDF could receive much more than otherwise. The implications for the protection of the Green Belt are discussed in section 8(a) below. Other than assisting with growth around Harlow, the Council has not had much appetite for significant housing growth in the district, and it is therefore possible that the Council will lose out financially if the bonus scheme is introduced. The degree to which the Council would gain or lose out would be dependent on its rate of housing growth relative to other authorities. Members will need to give careful consideration to the effect of the NHB when potential housing targets are considered as part of the Issues and Options consultation on the Core Planning Strategy.
5. In the last 5 years an annual average of 158 new houses have been built in the district – the Council Tax banding of these is not known.
6. Officers believe that there are pluses and minuses to linking the level of grant to particular tax bands. On one hand a larger bonus should be received for larger properties, because they inevitably mean a lower density of development. But this approach to the calculation of the bonus could potentially raise some of the problems outlined in 8(b) below.

#### **Comments from Panel**

***Will there be a maximum amount of bonus that can be paid to a Council in any one year?***

***Will the scheme be retrospective when it starts?***

***Officers were requested to prepare scenarios of different annual building numbers to give Members some feeling for the potential financial implications. (Appendix 1 to this***

***report uses information from the previous six years' Council Tax Base forms to calculate the Bonus. There are elements of simplification regarding the calculation – the year on year change in the number of dwellings on the Valuation List is assumed to be the net number of new houses built in that year, and the average Council Tax figure for a Band D property (from the consultation document) has been used to calculate the potential bonus). There was some discussion about whether this request could fetter the discretion of Members, but it was concluded that this was not the case.***

### **Affordable housing enhancement**

7. The document proposes an additional £350 for each of the six years for every new affordable unit. This is described as “about 25% of the current average Band D council tax”. The second question therefore asks:

- What do you think the enhancement should be?

Issues to consider

8. An annual average of 43 new affordable houses were built in the last 5 years.
9. Since this Council recognises the importance of, and need for, affordable housing, it is felt that an enhancement will be beneficial. Permission for 80-100% affordable housing on some Green Belt sites has been granted for very special reasons in recent years.

### ***Comments from Panel***

***The enhancement should be a percentage rather than a flat fee.***

### **Definition of affordable housing**

10. The definition in Appendix B of PPS3 is proposed – ie to include social rented and intermediate housing. In addition, pitches on Gypsy and Traveller sites in public ownership (ie owned and managed by local authorities or registered social landlords) are considered to contribute to the supply of affordable homes. While this Council has made significant progress in increasing the number of authorised pitches in the last couple of years, these have all been on privately owned sites. Any further provision in the district is most likely to be on non-public land, so, with this definition of “affordable”, the Council would not gain any NHB enhancement from increased number of Gypsy and Traveller pitches.

11. The third question asks:

- Do you agree to use PPS3 and publicly owned G & T sites to define affordable homes?

Issues to consider

12. It is reasonable to use the PPS3 definitions for affordable housing. However, as part of the Comprehensive Spending Review, the Government announced its proposed introduction of “affordable rented” properties to replace the social rented tenure of new housing association homes. These will be at rents of up to 80% of private rents, with regular reviews to consider if the terms of the tenancy should continue (ie no longer tenancies/homes for life).

13. It is therefore strongly recommended that the definition of “affordable housing” for the NHB includes “affordable rented properties” – these are not currently covered by the PPS3 definition.

### **Comments from Panel**

***There was a lot of discussion about the reasoning behind the distinction between public and private G & T sites. The Panel concluded that it was appropriate for the Bonus to apply to each new pitch, but that the enhancement should not apply, as these sites were not considered to be affordable housing in the normal sense of the word. The Director of Planning advised the Panel that, with the recent decision by the Secretary of State not to call in the Holmesfield Nursery decision (the site is in the Lee Valley Regional Park), the total number of pitches granted planning permission since 2008 now stands at 34 – the target for 2011 set in the East of England Plan Single Issue Review.***

***The Panel agreed that the definition of “affordable housing” should include affordable rented housing as introduced in the recent Comprehensive Spending Review.***

### **Empty homes**

14. The document is not entirely specific about the details, merely saying that (the Government) “proposes to reward local authorities for bringing empty properties back into use through the NHB”. There are 2 questions associated with this:

- Do you agree with the proposal of reward;
- Are there any practical constraints?

Issues to consider

15. While any initiatives to incentivise and reward local authorities for bringing empty properties back into use would generally be welcomed, the consultation document is not sufficiently detailed to assess how the NHB would work – eg how long would a property have to be empty before it qualified; when and how would it be judged to be occupied such that the bonus would be paid; would it be when Council Tax was collected, or would it have to be assessed as reaching a certain standard (eg Decent Homes) first; how would Council Tax bases be used; is there a case for payment of enhancement in particular situations, for instance when a severely dilapidated property has been repaired so that it can again be occupied.

### **Comments from Panel**

***The Panel supported the principle of reward but agreed that there was insufficient information in the consultation document, and that the questions raised by officers needed a response from Government. The Panel assumed that the reward would also apply to house sub-divisions, but this again needs more clarity. The issue of Houses in Multiple Occupation was also discussed, but no firm conclusions were drawn.***

### **Tier split of bonus**

16. The document recognises that “for the incentive to be most powerful, it must be strongest where the planning decision sits”, ie with the district rather than the county council. It therefore proposes an 80:20 split “as a starting point for local negotiation”. There is also discussion of the pooling of funding with other local service providers, and with Local Enterprise Partnerships, but these cases will depend upon individual circumstances, and the Government states again that “local authorities are best placed to negotiate (the tier split) to meet the needs of local neighbourhoods and communities”. Two questions flow from this proposal:

- Do you agree to the 80:20 split between lower and higher tier authorities, as a starting point for local negotiation?;
- If not, what would the appropriate split be, and why?

Issues to consider

17. Local authorities will be free to spend the grant in line with community wishes – this is obviously in line with the localism agenda, and the consultation makes it clear that this is seen as a local and not a central government issue. But could this lead to disagreement between local communities – eg those which have new housing developments expecting all that particular bonus to be allocated to their locality, rather than to other district or district-wide schemes. (And the same would apply to the County Council where, if Members agree to the proposed 80:20 split, there is no guarantee that the County would apportion the “20” to this district). It is likely to be even harder for local communities to accept some pooling of funding at LEP level for, eg, a strategic infrastructure project, if there is little or no sign of direct benefit to those communities.
18. As RSG will be reduced to help fund the NHB, officers believe that RSGs to upper tier authorities should be similarly reduced. They also propose that, for the avoidance of doubt, the final guidance should make it clear that, if there are no infrastructure costs to upper tier authorities, the proportion of NHB should be nil.

#### ***Comments from Panel***

***The Panel asked who would be the arbiter if there was disagreement between the district and county councils about the split of the bonus.***

***Members felt that the split should be prescribed in legislation and should not be a matter of local negotiation. Some Members proposed that the split should be 90:10 in favour of the district council.***

***Members also suggested that there should be a Memorandum of Understanding with the County Council to ensure that the bonus is spent within the district.***

#### **Basis of calculation**

19. This section discusses sources of data (including affordable housing and demolitions), minimising additional burdens on authorities and the timing of grant allocations and payments. Six questions are posed:
  - Do you agree to use data collected on the Council Tax Base form as at October to track net additions and empty homes?
  - Do you agree with one annual allocation, based on the previous year’s Council Tax Base form, and paid the following April?
  - Do you agree that allocations should be announced alongside the local government finance timetable?
  - Do you agree that local authorities should be rewarded for affordable homes using data reported through the official statistics on gross additional affordable supply?
  - How significant are demolitions?

- Is there a proportionate method of collecting demolitions data at local authority level?

Issues to consider

20. Officers agree with the first four questions with the proviso that the definition of affordable homes (question 4) should be expanded as described in section 3 above.
21. Demolitions are not considered to be significant in this district, and the information is already collected as part of the Annual Monitoring Report for the LDF. There may be a minor amount of work needed to cover the period from October to October, rather than the financial year.

### ***Comments from Panel***

***The Panel asked that the issue of local authority boundary changes should be brought up in the response to the consultation.***

### **Additional issues**

22. This covers equalities impacts and “consultation stage impact assessment”. DCLG’s view is that the NHB is fair as all relevant local authorities are able to access the scheme funds. The bonus is not ringfenced, so authorities can spend the grant as they see fit – and they will be subject to equality legislation in making those decisions.
23. Two questions are asked:
  - Do you think the proposed scheme will impact any groups with protected characteristics?
  - Do you agree with the methodology used in the impact assessment?.

Issues to consider

24. The first question raises potentially controversial issues, and is addressed in 8(b) below.
25. In the time available to write this report, officers did not have the opportunity to assess the second issue (impact assessment) of this section.

### ***Comments from Panel***

***The Panel asked that their concern about the shortness of the consultation period should form part of the response. It was also suggested that “transitional arrangements” were needed as enough was not known at this stage about the impact on local government financing.***

### **Wider Views**

26. The document asks for other comments, particularly where there are issues that have not been addressed. Officers wish to raise the following issues for Members’ consideration:
  - (a) The district is entirely within the Green Belt, with only the towns and larger villages being excluded by tightly drawn boundaries. How will “incentivisation” sit with the strategic aim of growth restraint, and with the Government committed to the continuing protection of the Green Belt? The localism agenda is bound to highlight the local community’s strong support for continued protection;

### **Comments from Panel**

**Members were sceptical about the following statement on “Rural Proofing” in the “Specific Impact Tests” section of Appendix E of the consultation document: “There could be concern that with a potential increase in development, there could be adverse impacts on development in rural areas and of Greenfield land. However, the risks are mitigated given that local authorities determine the quantity, type and location of housing development. Furthermore, Green Belt (PPG2) protection will remain and locally-led plans will provide a framework for where development should go following the abolition of regional spatial strategies (giving local communities greater control over where units are delivered). Therefore, it is not anticipated that there will be any adverse impacts on rural areas.”**

- (b) It is unclear how the existence of the bonus should be treated in considering the planning merits of such schemes. There must be a concern that some residents or other observers will argue that some permissions have been “sold”, or that more expensive properties have been permitted to maximise the bonus, when dwellings of a smaller size would have been more appropriate for proven need. Whatever the facts of individual cases, there could be lingering problems of bad publicity and suspicion;

### **Comments from Panel**

**The Members were advised of the following from “The Planning System: General Principles” ODPM (2005) – para 23: “The use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.” The introduction of the Bonus scheme will, at the very least, require modification to this advice, and the Government will have to explain what level of consideration needs to be given to the Bonus in reaching a planning decision about an application.**

- (c) Similar problems could arise with permissions granted on appeal – will Inspectors have guidelines on how to assess planning merits in the era of the bonus. Officers would like confirmation that the bonus will still apply if a permission is granted contrary to the wishes of the Council;
- (d) The relationship between NHB, S106 Agreements, the Community Infrastructure Levy (CIL) and Tax Increment Financing is currently unclear. The Government will be reforming CIL and issued the following guidance on 18th November:
- The levy will be passed directly to local neighbourhoods, either by contributing to larger projects funded by the council, or funding smaller local projects like park improvements, playgrounds and cycle paths;
  - Levy rates will be set in consultation with local communities so developers will know upfront exactly how much they will be expected to pay towards infrastructure;
  - Independent examiners will monitor the levies, but councils will control the detail of what type of levy rate is charged, including what rates are set for specific areas and types of development;
  - All but the very smallest building projects will contribute to the levy, although affordable and social housing projects as well as charity developments will be exempt;
  - Section 106 Agreements will continue to fund affordable housing, and will remain scaled back so they directly relate to the proposed development.

### **Comments from Panel**

***One Member felt that the new system would be more transparent than the current procedures regarding Section 106 Agreements.***

- (e) The Government intends that the scheme will become a permanent feature of local government funding – ie that it will therefore continue beyond the initial six-year cycle. What medium and long-term effects will this have on settlements such as Harlow which, within their current boundaries, have very little land left for new housing? Could this lead to increased pressure for boundary reviews and loss of Green Belt land within the district?
- (f) Similar issues would apply to any urban extensions to Harlow, most or all of which could be in this district. This could increase pressure for early boundary changes which could also mean this Council losing nomination rights for any affordable housing included in such schemes. Officers believe that the council which permits the housing should retain the NHB, irrespective of any subsequent boundary changes;

### **Comments from Panel**

***It is hoped that other authorities will pick up this point – the relationship between Harlow and its neighbouring rural councils is far from unique. The example of Church Langley was discussed where permission was granted when the land was within Epping Forest, but a boundary change means that all the housing is now in Harlow. The latter could argue that the NHB should rightly be paid to the authority which is picking up the service costs created by the households.***

- (g) The consultation period has not permitted officers to gauge the public response to the principle of the bonus scheme, and it is proposed that an item is placed on the Council's website, coupled with an item for the local press. This will allow some feedback to be considered at Council on 14th December;
- (h) The Core Strategy will not be adopted until 2014, but it does not specifically identify sites. That is the function of further Development Plan Documents which may not be adopted until 2015 or 2016, so there will be a significant time lag in this district before new housing sites are identified through the planning process.
- (i) Developers will only build houses if there is a market for them.

### **Reason for decision:**

The CLG consultation requires a response by 24<sup>th</sup> December 2010.

### **Options considered and rejected:**

Not to respond to the consultation, but the proposed scheme has potentially fundamental implications for planning decisions and local government financing, so it is important that the Council makes its views known.

### **Consultation undertaken:**

Management Board

### **Resource implications:**

Budget provision: Potentially very significant but currently unclear.

Personnel:



Land: As with budget provision

Community Plan/BVPP reference:

Relevant statutory powers:

Background papers:

Appendix 1 to this report

Letter of 12<sup>th</sup> November from the Minister for Housing and Local Government:

<http://www.communities.gov.uk/documents/housing/pdf/1768303.pdf>

New Homes Bonus consultation November 2010:

<http://www.communities.gov.uk/publications/housing/newhomesbonusconsult>

CLG press item 18<sup>th</sup> November 2010 "Communities to share in the advantages of development"

<http://www.communities.gov.uk/news/planningandbuilding/1772640>

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Key Decision reference: (if required)

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## New Homes Bonus

### Indicative Calculations

#### Appendix to New Homes Bonus item for Council meeting on 20th December

Year	Housing stock at start of year	Built this year	Money accrued from houses built in...						TOTAL monies accrued
			2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	
2004/05	52,507	232	£333,848						<b>£333,848</b>
2005/06	52,739	330	£333,848	£474,870					<b>£808,718</b>
2006/07	53,069	141	£333,848	£474,870	£202,899				<b>£1,011,617</b>
2007/08	53,210	189	£333,848	£474,870	£202,899	£271,971			<b>£1,283,588</b>
2008/09	53,399	240	£333,848	£474,870	£202,899	£271,971	£345,360		<b>£1,628,948</b>
2009/10	53,639	299	£333,848	£474,870	£202,899	£271,971	£345,360	£430,261	<b>£2,059,209</b>
<b>Average built each year</b>		<b>238</b>							

Year	EFDC Share of NHB (80%)	Block Grant Received
2004/05	£267,078	£7,091,444
2005/06	£646,974	£7,299,226
2006/07	£809,294	£8,627,408
2007/08	£1,026,870	£9,161,106
2008/09	£1,303,158	£9,321,680
2009/10	£1,647,367	£9,368,289

The tables above show the total New Homes Bonus (NHB) that would have been payable if the scheme had been in operation from 2004/05 (the figures have been calculated using the key assumptions in the consultation). The NHB is funded by taking money from the Block Grant pot that would otherwise be allocated to local authorities. This means the figures shown for Block Grant in the table above would have been lower if NHB had been in place, although it is not possible to predict accurately how much lower. The figures are given for Block Grant to illustrate how significant NHB is likely to be as a funding stream. If a 28% reduction in Block Grant had taken place over the period the grant for 2009/10 would have been £6.75 million and so NHB at £1.65 million would have represented 20% of grant income.

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## **COUNCIL MEETING (14.12.10) - ITEM 19 (RODING VALLEY RECREATION AREA)**

### **ADDENDUM:**

The Council is asked to note that since the agenda for this meeting was despatched, representations have been made on behalf of Buckhurst Hill Parish Council, namely that the Parish Council has not yet been able reach a decision on being party to the agreement or on joining the new Committee to manage the Recreation Area.

Thus this Council has two options as to how to proceed -

- (a) to establish the Committee with representatives from Loughton Town Council and this Council only with the Buckhurst Hill Parish Council joining in as and when the Parish Council has made those decisions; or
- (b) to defer the establishment of the Committee until Buckhurst Hill Parish Council has resolved to join.

Item (a) would comply with the terms of the proposed agreement.

It is understood that Loughton Town Council will shortly be appointing its representatives.

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