

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP
HELD ON TUESDAY, 24 SEPTEMBER 2019
IN COMMITTEE ROOM 2, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.00 - 7.50 PM**

Members Present: S Jones (Chairman), M Sartin (Vice-Chairman), D Dorrell, C C Pond, C P Pond, S Rackham and J H Whitehouse

Other members present: None.

Apologies for Absence: S Heap, M McEwen, J Philip and J Share-Bernia

Officers Present S Tautz (Democratic Services Manager) and V Messenger (Democratic Services Officer)

9. SUBSTITUTE MEMBERS

It was noted that there were no substitute members for this meeting.

10. NOTES OF PREVIOUS MEETING

RESOLVED:

That the notes of the meeting of the Working Group held on 26 June 2019 be agreed as a correct record, subject to the following amendments:

- (1) Member Guidance on Gifts and Hospitality (Min no 5), paragraph 14, the replacement of 'Councillor C C Pond' with 'A Member', to read:
A member asked if members could try and refuse gifts/hospitality.
- (2) Paperless Working and Digital Rollout (Min no 7), paragraph 10, the replacement of 'and had also refused' with 'but used', to read:
'He had refused a device from Essex County Council but used the Outlook web app (OWA) Windows XP.'

11. TERMS OF REFERENCE & WORK PROGRAMME

- (a) Terms of Reference

The Working Group noted the Terms of Reference.

- (b) Work Programme

The following updates were noted:

- That item (1) Constitution was an ongoing revision process;
- That items (5) Section 106 and Section 278 Agreements, (6) Site Visits and (7) Public Speaking were on this meeting's agenda;

- That items (8) Disciplinary Arrangements for Relevant Officers, (9) Audit and Governance and Standards Committees and (10) Financial Regulations were scheduled for the next meeting in March 2020; and
- That item (11) Planning Process Review would be scheduled for the next municipal year 2020/21.

Councillor J H Whitehouse asked why a review of the possible combination of the Audit and Governance and Standards Committees was necessary. The Democratic Services Manager replied that every time this had been looked at previously, a review after a certain period of time had been requested.

Councillor S Jones, Chairman, asked if the review time could be looked at when this item came back? The Democratic Services Manager replied that it was a matter for Council to decide or determine when to review. The Standards Committee also met infrequently. It also depended on what the nature and outcome of that review was.

Councillor J H Whitehouse said that she did not want this review now. The Democratic Services Manager replied that he would look at the terms of the review and what the Working Group was committed to in this review.

Councillor S Rackham asked about progress on item (3) Member Champions that was completed at the last meeting. The Democratic Services Manager replied that in the Working Group's Report to Council on 30 July 2019, the Member Champions Protocol, as set out in Appendix 2 of that report, was agreed. It was also in the Constitution.

RESOLVED:

- (1) That the report be noted; and
- (2) That a report be made to the next meeting of the Working Group, setting out the requirements for the review of the possible combination of the Audit and Governance Committee and the Standards Committee.

12. CONSTITUTION - REVISIONS & AMENDMENTS

There had been two recent revisions to the Constitution on 28 June and 12 August 2019. Under delegated authority, the Monitoring Officer had made revisions in June to the scheme of delegation to reflect the Council's new management structure and members were advised through the Council Bulletin on 5 July 2019.

As agreed by Council on 30 July 2019, the August update of the Constitution included:

- a revision to member guidance on gifts and hospitality;
- the authority for the Council to appoint Member Champions in accordance with the protocol;
- revisions to the Scheme of Delegation (Delegation of Executive Functions) to enable efficient operation of the Council's Estate Management function; and

- under delegated authority, the Monitoring Officer made revisions to the Scheme of Delegation (Local Choice Functions) to reflect the Council's management structure.

Members were advised through the Council Bulletin on 16 August 2019.

Councillor M Sartin asked if the Constitution was getting larger again. The Democratic Services Manager replied no, because it mainly involved swapping one title for another title except the Member Champions Protocol.

RESOLVED:

That the report be noted.

13. COUNCIL MEETINGS - PUBLIC SPEAKING ON PLANNING APPLICATIONS & SITE VISITS

The Working Group agreed to bring forward this item, as the Planning Services Portfolio Holder and the Interim Assistant Director (Planning Policy and Implementation) had been delayed by another meeting.

Council had agreed on 25 April 2019 to the recommendations made by the Working Group on 28 March 2019 that the trial arrangement for site visits at the Area Plans Sub-Committees be approved, and extended to the District Development Management Committee.

Council had also asked the Working Group to review:

- (a) existing public speaking arrangements within the Constitution when planning applications referred to Council for determination were not generally subject to arrangements for public speaking; and
- (b) possible arrangements for formal site visits to be held when planning applications were referred to Council for determination.

(a) Public Speaking

Arrangements for public speaking at the Area Plans Sub-Committees and the District Development Management Committee (DDMC) had well-established procedures to allow an applicant/agent, objector and a local council representative to register to speak at meetings. If planning applications were referred by constitutional requirement or minority reference from DDMC to Council for determination, current public speaking arrangements did not allow speakers to make further representations. The only exception was if a planning application was referred straight to Council. However, in the last five years no planning applications had been submitted directly to Council without prior consideration by one or more of the planning committees.

There was consensus that public speaking arrangements at Council should be consistent with DDMC and the Area Plans Sub-Committees, but discussion by the Working Group raised the following points:

- Very interested in larger controversial builds going forward, and it would be more inclusive for residents if they were allowed to speak;

- The reality with the Local Plan was that larger more interesting applications, and their effect on a wider area of the District would occur, so there might be a movement towards planning applications going to Council; and
- A previous DDMC chairman had been known for referring planning applications to Council on a split vote, to avoid using a casting vote.

The Democratic Services Manager clarified that there was no legislative or constitutional requirement for planning applications to go before Council.

Discussion turned to parish meetings and that these could become very hostile for residents. Also, some local councils required speakers to register, while others just let residents turn up.

The Democratic Services Manager commented that all councils allowed public speaking in some way. Regarding benchmarking with some other local authorities, all those at local planning authority level allowed public speaking. He would be surprised if public speaking wasn't encouraged.

When the Working Group was asked if priority should be given to those speakers who had registered previously at DDMC to speak at Council, this was thought to be unwise.

It was recommended that public speaking arrangements at Council should be consistent with DDMC and the Area Plans Sub-Committees. There was consensus that speakers at Council should be registered on a 'first come, first served' basis as happened currently on all the planning committees.

(b) Site Visits

The Council's protocol for the management of site visits was set out in the Constitution at Appendix 2 of Article 10 (District Development Management Committee and Area Plans Sub-Committees). However, there were no such arrangements in place for members of the Council to hold site visits.

The Working Group was asked to consider the following:

- (i) When a formal site visit for an application had taken place for members of DDMC, if a further site visit should be arranged for members of Council prior to its determination? and
- (ii) When a planning application was submitted directly to Council, if a site visit should be arranged as a matter of routine?

Only five planning applications had been referred to Council from DDMC in the last five years. Logistically it would be difficult to organise a site visit for all members, both on finding a convenient date and to accommodate members especially at a small site.

Discussion by the Working Group raised the following points:

- To organise a site visit for a large number of councillors could be a nightmare, but at a recent DDMC site visit only three members had turned up;

- Site visits tended to be for well-known sites;
- Certain sites might only be well-known to the members of the relevant Area Plans Sub-Committee, but not to others;
- Members could visit a site on their own if no formal site visit had been arranged;
- Google Earth could be useful to view a site;
- Southend Borough Council apparently organised a visit to every planning application site. When an application for the Gunpowder Factory site, Waltham Abbey, was referred up to Council, the precedent was to have a site visit before the meeting which was very well attended, although the site could not be seen from the road;
- If an officer thought a site visit would be useful this could be arranged, but not to make it mandatory to have a site visit for an application that went to Council for determination;
- To ask members if they wanted a site visit?
- Ultimately it was up to the Chairman of Council who would agree to a site visit;
- If DDMC had a site visit then to definitely have a site visit for Council;
- If DDMC had a site visit then the assumption would be that Council would too, but it was better to wait for a planning officer or member to request.
- Site visits were good to attend but you had to stop yourself pre-determining an application;

The Democratic Services Manager summed up that there was a protocol in the Constitution for site visits to advise members. Site visits were useful especially where they needed to be seen in their context. However, as it was not really practical to ask 58 members if they wanted a site visit, this would therefore be organised when a request was made.

RESOLVED:

That a report be made to the Council, recommending:

- (a) That existing arrangements for public speaking in respect of planning applications that currently only apply to meetings of the District Development Management Committee and the Area Plans Sub-Committees, be extended to all planning applications considered by the full Council;
- (b) That any proposal for the holding of a formal site visit for all members with regard to any planning application to be considered by the full Council, be approved by the Chairman of the Council on the recommendation of the Service Director (Planning Services); and
- (c) That pursuant to Recommendations (a) and (b) above, the Monitoring Officer be authorised to make necessary revisions to the Council's Constitution to give effect to the adoption of arrangements for public speaking and the holding of member site visits, with regard to all planning applications considered by the full Council.

14. DELIVERING INFRASTRUCTURE IN THE DISTRICT: DEVELOPER CONTRIBUTIONS STRATEGY

The Working Group received a copy of a report recently made to the Cabinet by the Planning Services Portfolio Holder.

Councillor C C Pond said the developer contributions strategy was more to do with the Local Plan. The question was how there should be a developer contribution strategy. The reference from Council was for more minor sites to have developer contributions, as moved by Councillor H Kauffman. There should be involvement of ward member(s). Officers should not have delegation to move S106 contributions. There should also be a recommendation that larger infrastructure contributions were made by major developments.

The Working Group agreed that this item be deferred to the next meeting as the Planning Services Portfolio Holder and Interim Assistant Director (Planning Policy and Implementation) had been delayed by another meeting and were unable to attend.

15. DATE OF NEXT MEETING

It was noted that the next meeting of the Working Group would be held on 12 March 2020 at 7.00pm.