

Committee Agenda



**Epping Forest
District Council**

CONSTITUTION WORKING GROUP Thursday, 21st April, 2022

You are invited to attend the next meeting of **Constitution Working Group**, which will be held as a:

**Virtual Meeting on Zoom
on Thursday, 21st April, 2022
at 7.00 pm.**

**Georgina Blakemore
Chief Executive**

**Democratic Services
Officer:**

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Members:

Councillors S Rackham (Chairman), M Sartin (Vice-Chairman), D Dorrell, S Heap, S Jones, H Kauffman, J Mclvor, J Philip, C C Pond, J Share-Bernia and J H Whitehouse

1. APOLOGIES FOR ABSENCE

To be announced at the meeting.

To report non-attendance before the meeting, please use the Members Portal webpage <https://eppingforestdc-self.achieveservice.com/service/Member>Contact> to ensure your query is properly logged.

Alternatively, you can access the Members portal from the front page of the Council's website, at the bottom under 'Contact Us'
<https://www.eppingforestdc.gov.uk/your-council/members-portal/>

2. SUBSTITUTE MEMBERS

To report the appointment of any substitute members for the meeting.

3. NOTES OF PREVIOUS MEETING (Pages 5 - 10)

To agree the notes of the meeting of the Working Group held on 3 February 2022.

4. TERMS OF REFERENCE & WORK PROGRAMME (Pages 11 - 14)

To review the terms of reference and progress with the achievement of the current work programme for the Working Group.

5. CONSTITUTION - REVISIONS & AMENDMENTS

(Monitoring Officer) To note that the Working Group's Report to Council in respect of recommendations from its meeting on 23 November 2021 on Article 4, The Full Council Terms of Reference, sub-paragraph 1(c), was approved by Council on 5 April 2022.

The next Constitution Update on 22 April 2022 will include the approved recommendations with the addition two further amendments for Article 4, sub-paragraph 1(c), as below:

1. The addition of the Anti-Fraud and Corruption Strategy, which Council also approved on 5 April 2022.
2. The correction of 'statue' to 'statute', to read:
Other plans which it decides, as a matter of local choice, should be the responsibility of the Council to adopt or are otherwise of required by statute.

6. JOINT MEETING OF DEVELOPMENT MANAGEMENT CHAIRMEN AND VICE-CHAIRMEN - COMPOSITION AND FUNCTION (NOTE NO 24 - 3 FEB 2022)

As the joint meeting did not have a Terms of Reference, nor did one exist in the Constitution, Councillor C C Pond has proposed the following recommendation for the Working Group to consider:

Recommendation:

- (1) That the following terms of reference for the Joint Meeting of Development Management Chairmen and Vice-Chairmen be agreed and added to the Constitution under Article 10.**

The Joint Meeting of Development Management Chairmen and Vice-Chairmen has existed for a number of years to discuss any issues that have arisen during meetings of the Area Plans Sub-Committees and District Development Management Committee. Invites to attend have always been extended to the Chairmen and Vice-Chairmen of the four planning committees, as well as the Planning Portfolio Holder.

As this is a forum to discuss the governance of planning meetings, it has been suggested that any political group not represented by one of the Chairman or Vice-Chairman roles should also be invited to send a representative to take part in the discussions.

There is no formal Terms of Reference for the Joint Meeting of Development Management Chairmen and Vice-Chairmen, and it is recommended that the following draft Terms of Reference be discussed by the Working Group, amended if necessary and recommended to the Council for inclusion in the Constitution in Article 10 – District Development Management Committee and Area Plans Sub-Committees.

Joint Meeting of Development Management Chairmen and Vice-Chairmen

Terms of Reference:

- (1) To consider matters relating to the conduct and good governance of planning meetings and the means of considering planning applications, as well as considering the process of the development management system more generally, and to make recommendations to Council for any changes when necessary.
- (2) To consider any current and future requirements for member training necessary to support the effective operation of the Council's development management function and responsibilities.
- (3) The Committee shall ordinarily meet twice a year.
- (4) The Committee shall comprise the Chairmen and Vice-Chairmen of each planning committee and sub-committee, the Cabinet Member responsible for Planning Policy matters, plus a Councillor nominated by the Leader of any political group not otherwise represented on the Committee, and shall have the assistance of the officer in charge of the Development Management system, or her/his nominee.
- (5) The Committee shall be chaired by the Chairman of the District Development Management Committee, and in her/his absence, by the Vice-Chairman thereof.

7. CONSTITUTION - REVIEW OF ARTICLE 4 THE FULL COUNCIL TERMS OF REFERENCE - ROLE OF COUNCIL APPOINTEES TO OUTSIDE BODIES

To discuss and review the role of Council appointees to outside bodies. This is detailed in the Terms of Reference for Full Council Article 4 – sub-paragraph 2(b) Ordinary meetings, (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations.

8. DATE OF NEXT MEETING

To note that the next meeting of the Working Group will be held on 30 June 2022 at 19.00.

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**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP
HELD ON THURSDAY, 3 FEBRUARY 2022
IN VIRTUAL MEETING ON ZOOM
AT 7.00 - 8.00 PM**

Members Present: S Rackham (Chairman), M Sartin (Vice-Chairman), N Bedford, D Dorrell, S Heap, H Kauffman, C C Pond and J H Whitehouse

Apologies for Absence: J Mclvor, J Philip and J Share-Bernia

Officers Present: N Boateng (Service Manager (Legal) & Monitoring Officer), N Richardson (Service Director (Planning Services)), A Marx (Development Manager Service Manager (Planning)), G Courtney (Planning Applications and Appeals Manager (Development Management)), G Woodhall (Team Manager - Democratic & Electoral Services) and V Messenger (Democratic Services Officer)

19. SUBSTITUTE MEMBERS

The Working Group noted that Councillor N Bedford was appointed as substitute for Councillor J Philip.

20. NOTES OF PREVIOUS MEETING

RESOLVED:

That the notes of the Working Group held on 23 November 2021 be agreed as a correct record, subject to the amendment of 'and' to 'had' at Minute no 17 (a), (viii) Economic Development Strategy, second sentence, to read: "The town centre regeneration reports had gone to Overview and Scrutiny Committee [8 June 2021] and then to Cabinet [21 June 2021], which was a better process."

21. TERMS OF REFERENCE & WORK PROGRAMME

(a) Terms of Reference

The Working Group noted the Terms of Reference.

(b) Work Programme

It was agreed that item (7), Article 4 – The Full Council Terms of Reference, sub-paragraph 2(b), in relation to reviewing the role of Council appointees to outside bodies, would go to the next Working Group meeting on 7 April 2022.

22. CONSTITUTION - REVISIONS & AMENDMENTS

The Working Group noted that its Report to Council was deferred on 16 December 2021 to Council's next meeting on 24 February 2022. Therefore, its recommendations from 23 November 2021 meeting regarding Article 4, The Full Council Terms of Reference, sub-paragraph 1(c) had yet to be approved by Council.

23. PART 3 - SCHEME OF DELEGATION - APPENDIX 3 - DELEGATION TO OFFICERS FROM FULL COUNCIL

The CLD2 delegations covered Development Management and were revised about four years ago. N Richardson (Planning Service Director) advised it allowed the service director, or a level 2 or 1 officer nominated by him, to deal with planning applications under delegated powers. Planning application determinations were dependent on various thresholds and CLD2 listed applications that would need to go to a planning committee. It also detailed the criteria for objections (material to the planning merits) received from parish and town councils, and members of the public (see: (A) 3(a) to 3(c)). A member (whose ward was within the Plans Sub-Committee Area) was also allowed to request an application be referred to committee for consideration subject to a written request received within four weeks of its notification in the Weekly List (see: (A) 3(d)).

Councillor S Heap had proposed this item for the work programme and commented that for applicants, a lot of planning cases were taking far too long to determine, which also included enforcement cases, as the process was lengthy. The Epping Forest Special Area of Conservation (SAC) might have caused delays and officers might well be following procedures but control needed to be reinstated. Also, some of the officer reports and plans were inaccurate.

N Richardson and A Marx (Development Management Service Manager) defended the work of their planning colleagues. There had been substantial delays to the SAC applications, but officers were working through the backlog. Planning Services was required to turn around an application as quickly as possible and officers worked to statutory deadlines but if the applicant had to be asked for an extension, this would obviously add to the delay. With between 3,000 to 4,000 applications a year, mistakes were made sometimes, but officers did their best to look at all the drawings. Members needed to trust officers. The site plan in the case officer's report was not part of the application but, if it would help, officers could put a 'dot' to mark the site on this plan. Officers could not influence any decision. It would also be very helpful if planning committee members could warn officers before the meeting about questions they wanted to raise, as it was quite difficult to assess a query properly during a meeting and come up with an answer.

Councillor M Sartin reminded members that the Working Group was only concerned with the Constitution and procedures put in place. Thus, the points raised by Councillor S Heap were more appropriate for discussions at the Joint Meeting of Development Chairmen and Vice-Chairmen, which was agreed. Councillor C C Pond commented that in his opinion the CLD2 delegation system worked satisfactorily as members could always call-in an application and therefore, supported the existing process.

The Working Group raised the following queries on the CLD2 delegations.

- (a) (A) To determine – (6) Any other application which the Head of Planning considered appropriate to be determined by members in relation to applications made by the Council.**

Clarification was sought in relation to when the Council submitted an application. N Richardson replied that the Terms of Reference for District Development Management Committee and the Area Plans Sub-Committees were detailed in Article 10 of the Constitution. If an application was made by a Council officer, such as from Housing, for more minor alterations to Council properties, this would likely be

determined by Planning officers under delegated powers. However, members could call-in an application within four weeks of it being published in the Weekly List, which was the way forward.

- (b) (A) To determine – (3c) An objection from a Local Council, material to the planning merits of the proposal is received and confirming in writing their intention to attend and speak at the meeting where the proposal will be considered. Should the relevant Local Council fail to register to speak, [or attend following registration,] the application be referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination in accordance with Rule P2 (2) (Planning Applications) set out in Part 4 of the Constitution**

Councillor N Bedford replied that to prevent members having to consider an application when the local council failed to speak, the inclusion in the second sentence of, '*or attend following registration,*' (shown in italics above), would clarify this, so an application could be referred back to officers for delegation without further delay at a meeting. A Marx replied that when officers knew a local council had not registered to speak, the application would usually be withdrawn from the agenda and be determined under delegated authority. Sometimes though there might still be an objection(s) from the public, but he thought it was for members to decide whether to debate in that instance.

The Working Group agreed for N Boateng (Legal Services Manager/Solicitor and Monitoring Officer) to look at the wording in the Constitution at (3c), and to make a suitable minor amendment, which would be reported to the Working Group at the next meeting on 7 April 2022.

- (c) (B) To Determine – (2a) Planning and related procedures – Finalising the conditions or reasons for refusal, which appear on decision notices.**

How could members view the decision notices especially the reasons for refusal? N Richardson replied that the decisions were published in the minutes of the planning committees. It was noted that when applications were refused, members would come up with as close to the exact wording as planning officers needed to defend an application if it was appealed. Also, refused applications could not always be delegated back to an officer.

- (d) (B) To Determine – (2b) The preparation of legal agreements, in consultation with the Service Manager (Legal Services)/Solicitor to the Council within the terms of any relevant Committee resolution.**

Did the Council compile an annual list of Section 106 agreements and were ward councillors notified of these? N Richardson, Planning Service Director, replied that heads of terms and requirement for S106 agreements were included in the officers' reports published in the meeting agendas. No further requirements or terms were added into a legal agreement afterwards that had not been published in the officer's report. Members were advised to contact the planning officer before the scheduled meeting with any queries or ideally earlier in the process when the application first appeared in the Members Bulletin, otherwise the application might be delayed and deferred to another meeting. Although not part of the CLD2 Scheme of Delegation, the updated Infrastructure Delivery Plan Schedule was approved in September 2020 and listed the infrastructure delivery schedule requirements for a potential S106, broken down by settlement, that would be sourced from developer contributions to

deliver the upgrades required by Local Plan development growth. For further information on this, please see the weblink below:

<http://www.efdclocalplan.org/wp-content/uploads/2020/11/EFDC-IDP-Update-Part-B-2020.pdf>

Although not for the Working Group' meeting, the following points were raised, which N Richardson and A Marx noted:

- Keeping a red line around the site in the plan accompanying the officer report would be helpful; and
- Naming a few more roads on this site plan would help members identify a site's location.

RESOLVED:

- (1) That the Working Group reviewed Part 3, Scheme of Delegation, Appendix 3, CLD2;
- (2) That N Boateng (Legal Services Manager/Solicitor and Monitoring Officer) suitably amend the Scheme of Delegation CLD2 wording at (A) To determine (3c), as suggested above (in italics) and report to the Working Group at the next meeting; and
- (3) That other comments raised by members, which were not relevant to the CLD2 delegations, should be discussed by the Joint Meeting of the Development Management Chairmen and Vice-Chairmen.

24. JOINT MEETING OF DEVELOPMENT MANAGEMENT CHAIRMEN AND VICE-CHAIRMEN - COMPOSITION AND FUNCTION

Councillor C C Pond introduced the report and commented that as tonight's meeting had shown, there was not a simple way to raise issues on planning in an informal way. It was not a question of scrutiny as planning determination was a statutory function. The joint meeting was there to encourage smooth conduct of meetings, to troubleshoot problems that had occurred, to consider new matters (e.g. of national policy) that had arisen, and generally to facilitate the process by which members considered those planning applications where delegated decision by officers was precluded. Currently the chairmen and vice-chairmen of the planning committees were appointed at the Annual Council Meeting entirely on political lines but there needed to be a means where issues could be discussed outside of the planning committees. A slightly enlarged committee to include other group members at the joint meeting would add value in highlighting any issues. If the majority group was worried about being outvoted, then such members could be there on a non-voting basis. Their presence would be solely to facilitate good governance of the consideration of planning applications. For example, the necessity to update the Briefing Note had to be raised during a planning sub-committee last autumn. Also, how planning objections in officers' reports were condensed was another issue. Therefore, it was a question of practicalities.

There were also ongoing problems encountered in the chamber which included:

- Sound inconsistencies between those in the chamber and virtual participants on Zoom;

- Difficulties in hearing certain planning officers virtually when physically in the chamber; and
- Lighting levels in the chamber were too bright when on full power

The majority of the Working Group was in support of enlarging the joint meeting membership to include other group members, except Councillor N Bedford who thought there was no need for change and that the Working Group was a good place to discuss such issues.

After discussion, it was agreed that the proposal was not fully formed because more information was needed on the number of other group members that should be allowed to sit on the joint meeting of the Development Management Chairmen and Vice-Chairmen and what the scheme was about.

Councillor C C Pond commented that there was nothing in the Constitution on the membership of the joint meeting and if other group members were merely invited to be present at the joint meeting, then he did not think it needed to be.

N Boateng (Legal Services Manager/Solicitor) advised that a proposal to change the membership would have to be approved by Full Council.

Councillor N Bedford preferred that one additional member could be nominated by their respective Group Leader, but they should be non-voting members.

As the chairmen and vice-chairmen of the planning committees were automatically members of the joint meeting, G Woodhall (Democratic and Electoral Services Team Manager) advised looking at the Terms of Reference of the joint meeting to see if a change could be incorporated, if required.

AGREED:

- (1) That Councillor C C Pond would expand on the initial report draft, which would be circulated to the Working Group for further discussion at the next meeting on 7 April 2022; and
- (2) That the Terms of Reference of the joint meeting be circulated in the next agenda for 7 April.

(Post meeting update: G Woodhall advised that he had been unable to find a Terms of Reference and neither did one exist in the Constitution. As this item would be continued at the next Working Group meeting, he would liaise with Councillor C C Pond and a further report would be published in the next agenda).

25. DATE OF NEXT MEETING

It was noted that the next meeting of the Working Group would be held virtually on 7 April 2022 at 19.00.

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CONSTITUTION WORKING GROUP

TERMS OF REFERENCE

Title: Constitution Working Group

Status: Working Group

Terms of Reference:

- (1) To review any aspect of the authority's constitutional arrangements as requested by the Council;
- (2) To undertake general reviews of specific elements of the Constitution in order to ensure that the authority's constitutional arrangements complement current legislative requirements and decisions made by the Council; and
- (3) To consider any proposals of the Monitoring Officer for necessary revision to any element of the Constitution.

Reporting:

The Working Group shall report directly to the Council in connection with its Terms of Reference and the achievement of its work programme.

Chairman: Cllr S Rackham

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**Constitution Working Group
(Chairman – Councillor S Rackham)
Work Programme 2021/22**

Item	Timescale	Progress	Officer / owner
(1) Constitution	Ongoing	To consider the ongoing review of the Constitution to ensure alignment with the Council's management structure.	N Boateng
(2) Procurement Rules 2021	27 July 2021 2 September 2021	Completed To consider the new Procurement Rules (agreed by Cabinet Dec 2020); and Continued from July 2021 meeting.	J Warwick / S McNamara
(5) Statutory Statement of Accounts – change of delegated authority for approving	2 September 2021	Completed Change of delegated authority for approving Statutory Statement of Accounts from Council to Audit & Governance Committee (Council (Minute no 27) recommendation made to Constitution Working Group at 29.07.21 meeting).	A Small / N Boateng
(3) Article 4 – The Full Council Terms of Reference	23 November 2021	Completed To review Article 4 – The Full Council Terms of Reference sub-paragraph 1 (c).	N Boateng
(4) Part 3 – Scheme of Delegation – Appendix 3 – Delegation to Officers from Full Council	3 February 2022	Completed To discuss the CLD2 delegated powers in relation to Planning Officers.	N Boateng (to incl. N Richardson, A Marx)
(6) Joint Meeting of Development Management Chairmen and Vice-Chairmen	3 February 2022	To reconsider the composition and function of the twice annual Joint Meeting of Development Management Chairmen and Vice-Chairmen (see CWG Minute no 4).	Cllr C C Pond (to incl. N Boateng, N Richardson, A Marx)
	21 April 2022	To continue from previous meeting.	
(7) Article 4 – The Full Council Terms of Reference	21 April 2022	To discuss and review the role of Council appointees to outside bodies sub-paragraph 2(b) Ordinary meetings, (ix) receive reports about and receive questions and answers on the business of joint arrangements and external organisations).	N Boateng

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