

EPPING FOREST DISTRICT COUNCIL OVERVIEW AND SCRUTINY MINUTES

Committee: Overview and Scrutiny Committee **Date:** Thursday, 8 November 2007

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.30 - 9.15 pm

Members Present: Councillors R Morgan (Chairman) K Angold-Stephens (Vice-Chairman) R Church, M Colling, Mrs A Haigh, Mrs H Harding, J Hart, D Kelly, G Mohindra, K Chana and B Rolfe

Other Councillors: Councillors P House, J Markham, S Murray, Mrs C Pond, D Stallan, Ms S Stavrou, Mrs L Wagland, C Whitbread and Mrs J H Whitehouse

Apologies: Councillors D Bateman, R D'Souza and Mrs P Richardson

Officers Present: D Macnab (Deputy Chief Executive), I Willett (Assistant to the Chief Executive), A Mitchell (Assistant Head of Legal, Administration and Estates (Legal)), A Hendry (Democratic Services Officer), P Tredgett (Information Assistant) and Z Folley (Democratic Services Assistant)

36. WEBCASTING INTRODUCTION

The Chairman made a short address to remind all present that the meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings. The Committee noted the Council's Protocol for Webcasting of Council and other meetings.

37. SUBSTITUTE MEMBERS

It was reported that Councillor K Chana was substituting for Councillor D Bateman and Councillor B Rolfe was substituting for Councillor R D'Souza.

38. DECLARATIONS OF INTEREST

No declarations of interest were reported pursuant to the Councils Code of Conduct.

39. MINUTES

RESOLVED:

That the minutes of the meeting held on the 4 October 2007 be taken as read and signed by the Chairman as a correct record.

40. RELEASE OF RESTRICTIVE COVENANT - LOUGHTON HALL, EPPING FOREST COLLEGE, LOUGHTON - CALL-IN

The Committee were asked to consider the call-in of a cabinet decision of 8 October 2007 (C/059/2007-08) regarding the release of a restrictive covenant to enable a provisionally arranged sale of Loughton Hall for use as a residential care home to proceed and that Council would not exercise its right of pre-emption to purchase Loughton Hall and/or the library site adjoining Epping Forest College. The Cabinet approved the College's application and agreed that the restrictive covenant affecting Loughton Hall, within the grounds of Epping Forest College, be released and new covenants be imposed.

In accordance with the Overview and Scrutiny Procedure rules, the representative of the Councillors calling-in the decision, Councillor P House, outlined their concerns, which were summarised in the call-in notification. He pointed that there was an alternative option for a Music Academy; that the hall had been in community use for some time; that it was not the most tranquil place for elderly people and that the Music Academy would bring a cultural uplift to the local community. He also added that he had been barred from contacting the governors of the college.

The Portfolio Holder for Finance, Performance Management and Corporate Support Services, Councillor C Whitbread in reply noted that it would be unlikely that the Council could defend themselves legally in regards to the covenant. He pointed out that the residential care home would be a private enterprise scheme, as would the Music Academy, both have equal merit. The residential home had been considered and passed by the then Area Plans Sub-committee 'A'. He thought that it was a sensible recommendation from the Cabinet as it tried to maintain some sort public access.

The Assistant Head of Legal Services informed the committee on the history and nature of the covenant in question. She indicated that it could be discharged by the Lands Tribunal. On advice from counsel it was noted that the covenant could be discharged on the grounds of it being obsolete or impedes some reasonable use of the land.

The meeting was then opened up for a general discussion on the call-in.

Councillor Kelly was not aware that a covenant could become obsolete. The Assistant Head of Legal Services replied that a covenant could become obsolete because of changes to the area and its needs. Over time these needs could be met from elsewhere. Councillor Kelly said that was to do with education, the education establishment had changed over time but there was an absence of musical education in the area. This academy would be a cultural asset to the area.

Councillor Whitbread replied that the college had originally received an offer from the nursing home. The offer from the musical academy came later. These offers are a process for the College to deal with. They came to us to about the covenant. It is not in our remit to deal with the offers made.

Councillor Hart asked Councillor House for more details of the investor bidding for the musical academy. Councillor House said that he was one of the residents in his ward and went on to give details of his background. Near retirement, he wishes to spend the rest of his life in a philanthropic role and teach music. He has undertaken to top the best bid and refurbish the hall back to it original condition.

Councillor Hart replied that the Hall was in dreadful state of repair, it was not known how much it would cost to put right. Was Councillor House certain that he would make good his offer of refurbishment? Councillor House replied that he had toured the building with an architect to establish the approximate cost for the refurbishment.

Councillor Mrs Haigh said that we needed to keep this facility for the use of the people – there is a need for a music academy.

The Assistant Head of Legal Services said there were some concerns about allowing the sale to take place with the covenant in place. Therefore whoever buys it can apply to the Lands Tribunal to have the current one disbanded and thus sidestep the council altogether.

Councillor Angold-Stephens commented that it was stated that the land should be used for education and/or health. This would have meant at the time the covenant was set up that it should be used for state education or the national health service, neither of which would have any interest in the hall today. It would be appropriate to have a new covenant that would prohibit use of the hall other than for leisure, health or education purposes, and to prohibit the use as a residence other than for a caretaker. The Assistant Head of Legal Services explained that the only way to change a covenant would be with the agreement of the College and if the Council withholds its consent the Lands Tribunal could award costs against the Council.

Councillor Harding was not convinced that an elite music school would be used. If a philanthropist wanted to support music there are many other ways to do this. The district needs to make provisions for its elderly population. Any use of the building would mean it would have to be changed to meet the needs of that establishment.

Councillor Murray observed that the building played an important role in the community over the years. The College has neglected the upkeep of the hall, it used to be one of the hubs of the community. We need a stronger covenant and should be in the driving seat. He was disturbed to hear that Councillor House was not allowed direct access to the College governors. Sometimes we have to stand up and bear the costs for things we take responsibility for.

Councillor Mrs Whitehouse noted that members seemed to be agreed that the covenant be updated, this proposed use does not meet the original intentions of the covenant. We need a new covenant for educational and health purposes.

Councillor Mrs Wagland confirmed that covenants could be removed but it would take a long time to do so, she had recently done one that took in the order of three and a half years to complete.

Councillor House commented that the refurbishment for a nursing home would necessarily take more invasive refurbishment than a music academy. There is a degree of trust involved if the hall was bought with the current covenant intact the investor would come back to the Council to agree a new covenant.

Councillor Kelly said that Councillor Angold–Stephen put forward a proposition, and that he seconded it. The College has been very remiss in looking after Loughton Hall.

Councillor Hart said that Area Planning Committee ‘A’ considered this application a year ago and that Councillors Angold-Stephens and Markham voted for it – he was now confused. Councillor Markham agreed that they had voted for it but it was the only offer that was to be had at that time, things change. Councillor Angold-Stephens agreed. He added that he had spoken to Mr Butler and to E15 acting school – both agreed that the principal of having a music school there was a brilliant idea and they could all work together. The Music Academy would also offer the E15 acting school some space in the hall.

The lead member responsible for the call-in (Councillor House) and the Portfolio Holder (Councillor Whitbread) were then asked to sum up the debate.

Councillor House summed up his position by saying that it was a responsibility that sat heavily on him to get this hall back into community use. It is complicated legally and we have had advice about this. We should leave it to the college and see if they take it to the wire and let it be their responsibility.

Councillor Whitbread summed up saying this was not a money tree for the college; the money will go towards improving the educational facilities locally. The planning application has been passed for an elderly residential home. Both proposed schemes are for private use, both are to make money. A challenge is likely to be successful and the covenant removed.

The Music Academy offered to equal the price after the event, but the nursing home has already gone through a bidding process.

It would cost millions to refurbish the hall. However, this is what we can do now, without living in the past.

Councillor Angold-Stephens proposed altering recommendation 3(i) and (ii). This was earlier seconded by Councillor Kelly. The altered recommendations to read:

“The cabinet approves the College’s application and agrees that the restrictive covenant affecting Loughton Hall, within the grounds of Epping Forest College, be released and new covenants be imposed:

- (i) prohibiting the use of the Hall for any purpose other than community, education, leisure or health purposes; and
- (ii) specifically prohibiting the use for any residential purpose other than for a live-in caretaker or manager.”

The call-in with the proposed changes as noted above was then put to the vote.

RESOLVED:

That the Call-in regarding Cabinet decision C/059/2007-08 not be pursued and the decision be implemented with immediate effect.

41. TERMS OF REFERENCE - PROVISION OF VALUE FOR MONEY IN PLANNING SERVICES TASK AND FINISH PANEL

The Committee considered the draft terms of reference for the Provision of Value for Money in Planning Services Task and Finish.

RESOLVED:

That the terms of reference for the Provision of Value for Money in Planning Services Task and Finish Panel be endorsed by the Committee.

42. OVERVIEW AND SCRUTINY REVIEW SEMINAR - 18 SEPTEMBER 2007

The Chairman of the Constitution and Member Services Scrutiny Panel introduced the report resulting from the recent informal review session reviewing current Overview and Scrutiny arrangements.

The Committee also discussed current arrangements for the call-in procedure and agreed that before a call-in meeting the Chairman and officers of the Overview and Scrutiny Committee should meet with the lead Councillor on the call-in and the relevant Portfolio Holder to discuss the order of proceedings to be followed at the meeting.

RESOLVED:

(1) That the following proposals from the Overview and Scrutiny Review Seminar on 18 September 2007 be adopted:

(a) Panel Chairmen Briefings

Written copies of Chairmen's briefings should, where necessary, be circulated with the agenda to give all members advance notice of the issues to be discussed and to enable non-members of the Committee to receive the information;

(b) External Attendees

The Overview and Scrutiny Committee should request the presentations by the Directors/key officer for the service under scrutiny so that the officers present would have the knowledge necessary to answer questions and provide full answers to questions at meetings.

(c) Written Replies

Deadlines be agreed in advance in respect of any written replies sought as a result of presentations at a meeting of Overview and Scrutiny Committee;

(d) Visiting Speakers - Introductions

The Chairman of the Committee to ensure that all speakers are introduced to the Committee before presentations are given; and

(2) That a further review session on Overview and Scrutiny be held in January 2009 at a date to be agreed.

43. REVIEW OF PROTOCOL ON OUTSIDE ORGANISATIONS

The Chairman of the Constitution and Member Services Scrutiny Panel introduced the report resulting from the recent review carried out by the Panel session reviewing the current protocol on outside bodies. The protocol was introduced about two years ago to give guidance on a range of issues which can arise for members who serve as the Council's representative on outside bodies and partnerships. The Panel sought to bring this document up to date in relation to the new Code of Conduct, to tidy up the wording and to deal with representatives who are not Councillors.

The Panel also made recommendations on how to make better use of the information the Council receives on these bodies, including providing copies of details of the organisation to new members and supplying copies of reports from representatives and organisations to political groups to assist them at Annual Council time.

RESOLVED:

That a report be submitted to the Council recommending the revisions to the protocol on partnerships and other external organisations to be approved as part of the Constitution.

44. DECISION MAKING IN EMERGENCIES

The Chairman of the Constitution and Member Services Scrutiny Panel introduced the report resulting from the recent review carried out by the Panel on decision making in emergencies. The Panel undertook the task of making provision in the Council's constitution for emergencies where there could be many members and officers unavailable through illness etc. This arose from an emergency planning seminar held earlier in the year on how the district would cope with Pandemic flu or a similar event. There appears to be very few examples of this kind of document elsewhere so it may be that the Council is breaking new ground.

The new rules deal with two kinds of situations:

- a) a national emergency (like Pandemic flu) in which the decision making must focus on following Government guidance; and
- b) local situations where involvement by Councillors is appropriate.

The Committee noted that:

- the Leader of the Council is necessarily the focus of procedures;
- The Leader would be able to suspend or modify normal decision making dependant on the advice received;
- Procedures for declaration of emergencies, extending the period for special measures and for ending them had been included;
- Some Chief Officers held statutory designations (e.g. Head of Paid Services etc.). The Panel queried if there were deputies available and were advised that all Chief Officers and the statutory positions are covered by appointed deputies.

The Committee asked that the Chairman or Vice Chairman also be referred to in the review and the Assistant to the Chief Executive agreed to review the report before it went to full Council with this in mind.

RESOLVED:

- (1) That a report be submitted to the Council recommending that the draft appendix to the Executive Procedure Rules relating to Council decision-making in emergency situations be approved and published as part of the Council's Constitution;
- (2) That the Chief Executive consider resilience arrangements for statutory officers and Services Directors in the event of emergencies occurring; and
- (3) That the Chairman or Vice Chairman be included in the procedure rules where appropriate.

45. WORK PROGRAMME MONITORING

The Committee reviewed and noted the work programme for the Overview and Scrutiny Committee and it's standing panels.

The Committee agreed that the Constitution and Member's Service Standing Scrutiny Panel could add a review of the Area Planning Sub-Committees to their work programme.

The Chairman brought the attention of the Committee to the recent offer by the Princess Alexandra Hospital to attend a council meeting to give a presentation on their bid to achieve Foundation Trust status. The Committee agreed to invite the Hospital Trust to their next meeting (13 December 2007) to present their case. They also agreed to invite the PCT, the West Essex PPI and the local County Councillors to this meeting for the presentation.

46. MEMBERSHIP OF THE OS PANELS

The Committee noted that the Liberal Democrat Group have given notice of proposed changes to their membership of the OS Panels.

RESOLVED:

The Committee approved the following changes:

- (1) That Councillor Mrs P Brooks be replaced by Councillor Mrs A Haigh on the Housing Standing Panel;
- (2) That Councillor Mrs P Brooks be replaced by Councillor D Jacobs on the Constitution and Member Services Standing Panel; and
- (3) That Councillor Mrs P Brooks be taken off the Leisure Task and Finish Panel, because of having a full workload as a local Town Councillor.

47. CABINET REVIEW

The Committee considered the Cabinet agenda for its meeting on 12 November 2007.

The Vice Chairman (due to the unavailability of the Chairman on 12 November) undertook to report the following decisions to the Cabinet meeting:

- (a) the consideration and result of the call-in on the Cabinet's decision to release the restrictive covenant on Loughton Hall, Epping Forest College; and
- (b) to accept a presentation from the Chairman of the Princess Alexandra Hospital on their bid for Foundation Status.

CHAIRMAN