

Overview and Scrutiny Committee Thursday, 3rd September, 2009

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.30 pm

Democratic Services Officer: Simon Hill, Senior Democratic Services Officer, The Office of the Chief Executive
email: shill@eppingforestdc.gov.uk Tel: 01992 564249

Members:

Councillors R Morgan (Chairman), K Angold-Stephens (Vice-Chairman), M Colling, A Green, Mrs A Grigg, Mrs A Haigh, D Jacobs, J Knapman, R Law, G Mohindra and Mrs L Wagland

PLEASE NOTE THAT THIS MEETING IS OPEN TO ALL MEMBERS TO ATTEND

WEBCASTING NOTICE

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

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1. WEBCASTING INTRODUCTION

1. This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking.
2. The Chief Executive will read the following announcement:

“This meeting will be webcast live to the Internet and will be archived for later viewing. Copies of recordings may be made available on request.

By entering the chamber’s lower seating area you consenting to becoming part of the webcast.

If you wish to avoid being filmed you should move to the public gallery or speak to the webcasting officer”

2. APOLOGIES FOR ABSENCE

3. SUBSTITUTE MEMBERS

(Assistant to the Chief Executive). To report the appointment of any substitute members for the meeting.

4. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

5. MINUTES (Pages 7 - 14)

Decisions required:

To confirm the minutes of the meetings of the Committee held on 9 July 2009.

6. CALL IN - THE BROADWAY, LOUGHTON - RENT DEFERMENT SCHEME (Pages 15 - 34)

To consider a call-in of the Legal and Estates Portfolio Holder’s report to Cabinet on the consideration of rent deferment scheme for shops in Loughton Broadway. (C-014-2009/10). Call-in papers and report are attached.

This report was called-in separately by two sets of Councillors, both call-in papers are attached.

7. CALL IN - PROVISION OF SPORTS HALL - WALTHAM ABBEY SWIMMING POOL (Pages 35 - 50)

To consider a call-in of the Leisure and Wellbeing Portfolio Holder's report to Cabinet on the feasibility study on the construction of a new sports hall at the site of the Waltham Abbey Swimming Pool (C-012-2009/10). Call-in papers and report are attached.

8. ELECTIONS 4 JUNE 2009 - REVIEW (Pages 51 - 58)

(Councillor Mrs M. McEwen) To consider a report of the Constitution & Member Services Standing Scrutiny Panel.

9. DELEGATION TO OFFICERS - PLANNING APPLICATIONS (Pages 59 - 60)

(Councillor Mrs M. McEwen) To consider a report of the Constitution & Member Services Standing Scrutiny Panel on officer delegation in respect of planning applications which are the subject of representations by Parish and Town Councils

10. APPOINTMENT OF MEMBER AND CHAIRMAN TO THE SAFER CLEANER GREENER STANDING PANEL

RECOMMENDATION:

- 1. That two Conservative members be appointed to the Safer Cleaner Greener Standing Panel; and**
- 2. That a new Chairman be appointed for the Safer Cleaner Greener Scrutiny Standing Panel.**

Two vacancies have occurred following the resignation of Councillor B Rolfe from the Safer Cleaner Greener Standing Panel and the death of Councillor Bateman. Due to the pro-rata requirements, these vacancies falls within the membership of the Conservative group.

As Councillor Rolfe was also the Chairman of this Panel, a new Chairman should also be appointed by this Committee to the SCG Standing Panel.

It should be noted that nominations to Chairman (and Vice Chairman) of these Panels are excluded from the calculation required under the Council's protocol regarding allocation of Chairman and Vice-Chairman positions between the political groups.

11. PITT REVIEW ON FLOODING TASK AND FINISH PANEL - TERMS OF REFERENCE (Pages 61 - 62)

Recommendation:

To endorse the terms of reference for the Pitt Review on Flooding Task and Finish Panel.

The Committee is asked to consider and endorse the terms of references for the new Pitt Review Task and Finish Panel considered at their first meeting.

12. WORK PROGRAMME MONITORING (Pages 63 - 76)

- (a) To consider the attached Work Programme

The current Overview and Scrutiny work programme is attached for information.

- (b) Reserve Programme

A reserve list of scrutiny topics is required to ensure that the work flow of OSC is continuous.

OSC will 'pull out' items from the list and allocate them accordingly once space becomes available in the work plan following the completion of existing reviews.

Members can put forward any further suggestions for inclusion in the reserve list either during the meeting or at a later date.

Existing review items will be dealt with first, then time will be allocated to the items contained in the reserve work plan.

- (c) Referral from Cabinet: Sustainable Communities Act 2007

RECOMMENDATIONS:

To consider how to this Committee wishes to handle the cabinet proposal to consider the Sustainable Communities Act 2007. The Committee can:

- (1) Add it to their work programme;
- (2) Add it one of the Standing Panel's work programmes;
- (3) Create a Task and Finish Panel to consider the issues and report back; or
- (4) Create a sub-committee of this Committee to consider the issues.

The Cabinet at their meeting on 13 July 2009 had asked that the Overview and Scrutiny Committee consider the report (attached) on Sustainable Communities Act 2007. They would like this Committee to consider how schemes are to be found and what arrangements are to be made for setting up relevant panels of affected people. This item of work would, by its nature, cut across a lot of the established Standings Panel's terms of reference.

13. CABINET REVIEW

RECOMMENDATION:

To consider any items to be raised by the Chairman at the Cabinet meeting on 7 September 2009.

(Assistant to the Chief Executive). Under the Overview and Scrutiny rules the Committee is required to scrutinise proposed decisions of the Executive. The

Chairman is also required to report on such discussions to the Cabinet.

The Committee is asked to consider the 7 September 2009 Cabinet agenda (previously circulated) to see whether there are any items that they wished to be raised at the Cabinet meeting.

14. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Paragraph Number	Information
Nil	Nil	Nil	

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer

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responsible for the item.

EPPING FOREST DISTRICT COUNCIL OVERVIEW AND SCRUTINY MINUTES

Committee:	Overview and Scrutiny Committee	Date:	Thursday, 9 July 2009
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) M Colling, Mrs A Grigg, Mrs A Haigh, D Jacobs, J Knapman, G Mohindra, Mrs L Wagland and Philip		
Other Councillors:	Councillors Mrs D Collins, Mrs M Sartin, D Stallan, C Whitbread, J M Whitehouse, D Wixley and A Boyce		
Apologies:	Councillors A Green and R Law		
Officers Present:	D Macnab (Deputy Chief Executive), J Gilbert (Director of Environment and Street Scene), S G Hill (Senior Democratic Services Officer), K Durrani (Assistant Director Technical Services), S Mitchell (PR Website Editor), A Hendry (Democratic Services Officer) and M Jenkins (Democratic Services Assistant)		
By Invitation:	Ms L VanClay (Essex County Council) and N Varnam (Essex County Council)		

11. WEBCASTING INTRODUCTION

The Chairman reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

12. SUBSTITUTE MEMBERS

It was noted that Councillor J Philip had substituted for Councillor A Green.

13. DECLARATIONS OF INTEREST

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

14. MINUTES

RESOLVED:

That the minutes of the meeting held on 2 June 2009 be taken as read and signed by the Chairman as a correct record.

15. PROVISION OF YOUTH SERVICES WITHIN THE DISTRICT

The Chairman welcomed Lonica Vanclay, the County Officer responsible for the commissioning side of youth provisioning. She was accompanied by Nigel Varnam,

who was now responsible the co-ordination of youth provision in the district area; trying to ensure the provision has spread out across the district. A background paper was tabled for information and this is attached to these minutes.

It was noted that range of the provisions needed to be publicised across the district. Schools were actively involved in working together and collaboration between the schools and county had improved over the last year.

Mr Varnam said he was managing integrated use of services such as the princes trust team. He was also working with the district youth council. Across Essex there were two mobiles services visiting a number of areas within the district. The County had advisors working at all secondary schools. They also had small teams of targeted work advisors who also work closely with the police and offenders.

Councillor Jacobs asked why, of the four key indicators used in the Youth Service District Hotspot Analysis on of the areas listed, was Buckhurst Hill West. Did they not mean Buckhurst Hill East? Mr Varnam replied that might well be east, he would check.

Councillor Mrs Haigh said if it was Buckhurst Hill East, then the only facility they had was an acting group, which was not a county provision. She felt they were not addressing their needs, as a vast majority of activity was provided by outside organisations. Ms Vanclay said that they provided more of a commissioning approach and were concentrating efforts in Limes Farm, Ongar and Loughton.

Councillor Mrs Sartin asked why there were more contacts last year (2008/09) than in the coming year. Ms Vanclay said they did very well last year; the targets were based on the proportion of young people that ECC provided services to. The mobile has a high target and the u-project was more intensive with a low amount of people.

Councillor Jon Whitehouse commented that is was important that the voluntary sector should have support and advice from County. What was available? Ms Vanclay replied that they had full time lead youth workers in the task teams who played an important role in the activities and provided support. They were also developing links to the Children's and Young People's Strategic Partnership. The committee noted that there were no requirements to set up youth clubs, but they were developing guidelines for people to set up their own. They would also offer advice and training. There were also strong links between youth activities and a reduction in anti-social behaviour and they were looking to reduce the number of young people going through the youth justice system.

Councillor Mohindra asked why wards with greatest needs were identified as being in Waltham Abbey and not in Limes Farm. Ms Vanclay said that in their planning for areas they had Waltham Abbey and Limes Farm on an equal provision of activities.

Councillor Knapman asked if the information in the tables provided to the Committee were combined with the District and the County Council. Ms Vanclay said that liked to build up comprehensive listings as not everything was done by the County Council, but they had just begun this process and if councillors knew of other things to be added then they should let them know. Mr Varnam added that it did not show a lot of the uniformed organisations or the youth football teams.

Councillor Knapman wondered if they were getting the balance right such as the activities at the Murray Centre (not the Loughton Youth Centre). Ms Vanclay said that there were finite resources and there was the challenge in securing the staffing resources for these places.

Councillor Philip asked how they let people know about their activities, especially the Parish and Town Councils. Mr Varnam said that their colleagues were in contact with the local councils and would also send out flyers. They tried to involve the local councils although they were not as good in liaising with us.

The Chairman thanked Ms Vanclay and Mr Varnam for their time and effort in coming to talk to the committee that evening and he looked forward to them coming back to some future meeting.

16. SAFER CLEANER GREENER STRATEGY

The Director of Environment and Street Scene, Mr Gilbert, introduced the Safer Cleaner Greener Strategy document. The 'Safer Cleaner Greener' (SCG) initiative was adopted by Cabinet in November 2007, which, alongside the corporate restructure, resulted in the formation of the Environment and Street Scene Directorate. As part of this, a new Environmental Response Unit was formed and an enlarged Safer Communities Unit was established. The Audit Commission undertook an inspection of the Council's waste services in April 2008. One of their recommendations was that there should be some formal documentation and associated action plan to demonstrate intent. This need for a formal strategy was formally recognised.

The resulting strategy had initially gone to the Safer Cleaner Greener Standing Panel who had agreed it with some minor amendments. He noted that the strategy still had some typing errors and that some of the abbreviations had to be set out in full.

The committee noted that it contained useful and clear overview of what the SCG strategy was all about, it also included an information and action plan. The Committee noted that the action plan was still work in progress and needed some more work. If the Committee endorsed the strategy it would then go to the Cabinet in September, for their formal adoption.

Councillor Angold-Stephens commented under 'safer' on page 8, officers should add a reference to 'diversionary strategies'. Mr Gilbert was happy to do so.

Councillor Knapman said officers were to be congratulated on the document. It contained a lot of common sense. But he was not keen on the recommendation to just 'receive the strategy'. They were not there just to 'rubber stamp' the work brought to them.

Councillor Jon Whitehouse commented that most of the 'strategy action plan' section of the document would have been implemented by the time it went to the Cabinet in September. It would also be useful to have telephone numbers listed and to see the targets; but it did not say in what circumstances they would be implemented. Mr Gilbert said it was an overarching document; and that officers had struggled to identify what to include and what to exclude. However, he accepted that they needed to make that page more straightforward, perhaps take a different approach.

Councillor Mrs Grigg asked that the size of the font be made larger to make it more easily readable. She also asked about dog fouling, what if the parish council would not undertake a fouling system, would the District continue to enforce it. Mr Gilbert replied that the Council would continue to do what it did now; but, they would also help parish councils to make their own rules for their local area. They would also use a larger font for the strategy document.

Councillor Philip noted that the council had already adopted a climate change strategy.

RESOLVED:

That the Committee endorsed the Safer Cleaner Greener Strategy subject to the comments raised and recommended it to the Cabinet.

17. ENFORCEMENT POLICY

The Director of Environment and Street Scene, Mr Gilbert, introduced the Environment and Street Scene Directorate's updated Enforcement Policy document.

Councillor Mrs Wagland commented that there was a 'not' missing under the paragraphs on 'acceptable behaviour'. Also that the first half of the document was written in the impersonal while the second half referred to people as 'you'. It should be sorted out who the document was being aimed at. She thought it was better in the third person. Councillor Mrs Wagland also undertook to review the document and provide some guidance to officers on the presentation of its content.

RESOLVED:

That the Committee endorsed the updated version of the Environment and Street Scene Directorate Enforcement Policy subject to any revisions put forward by Councillors.

18. FLOOD AND WATER MANAGEMENT BILL

The Assistant Director of Environment and Street Scene (Technical), Kim Durrani, introduced the report on the draft Flood and Water Management Bill. He gave the Committee a short presentation on the background of this item. The Government were asking for comments on this draft which emerged from the recent Pitt Review on flooding and made 92 recommendations. The Flood and Water Management Bill was the government's response to this review and they are now circulating this to councils as a draft for their comments. Mr Durrani tabled the draft Flood and Water Management Bill with the councils draft responses for the information.

The Committee noted the following key issues in the Bill:

- The Environment agency to manage all inland flood risks;
- Local Authority (Tier 1 – counties and unitaries) to adopt leadership role in flood risk;
- Local Authority (Tier 1) to provide scrutiny role in flood risk;
- Prior to flooding:
 - Better knowledge of drainage infrastructure/mapping system
 - Databases/surface water management plans
 - Flood plan/emergency response plan, drainage policy
- During flooding:
 - Local Authority take lead role in local flooding, share information, emergency response, demountable defences etc
- After flooding: support and response, data collection, review.
- All funding Control will rest with the Environmental Agency;
- In our case Essex County Council will be the Local Authority;
- It was unclear how the Local Authority would provide the scrutiny role;
- Not enough emphasis on forming local agreements and frameworks with Districts that have local knowledge.

The draft Bill had 188 questions in total, 163 of them for England; the submission date was 24 July 2009. Officers asked Overview and Scrutiny to agree that officers prepare a response that seeks the most environmentally and economically favourable outcome for the residents of the district.

Councillor Jacobs said his experience of the Environment agency was not so good as they were spread thinly around the country. Are we confident that they could carry out the job properly; and what about finances? Mr Durrani replied that they were well funded and had adequate resources to deal with flooding. Officers were not clear on finances, they know it would be split but were unsure how it would be spread out. Currently they have to make bids to DeFRA. They would put this query in the return.

Councillor Jacobs then commented that as scrutiny would be done by the County Council, how could the District affect this? Mr Durrani said they were currently in discussions with other authorities. The Bill said there should be stronger frameworks and co-operation agreements and officers would ask for this in their return. There was also an element of local responsibility.

Councillor Mrs Haigh said that when she was on the County Council about five years ago they were looking at flood relief then. A lot of money went to the North of the County instead of the eastern seaboard. She felt it was important that the District had a presence with the County. Mr Durrani said it was a valid point. The oversight role of the Environment Agency was to even out planning and resourcing for the country as a whole and would enforce joined up working.

Councillor Bassett commented that there was concern about all water courses and drains etc; there was some confusion on who maintained them. Does the Bill clear this up? Also, British Waterways, would they get involved, as there was a lot of confusion about who was responsible for what. Mr Durrani said that Landowners who live adjacent to a watercourse were responsible. Main rivers were the Environment Agency's responsibility. The District has powers on land drainage. They are trying to involve water companies as there were issues for the utilities. There will be a change in legislation to make people aware of their responsibilities.

Councillor Angold-Stephens was concerned that whatever we do we would need a rapid response team of our own. The Environmental Agency can be slow to respond. Mr Durrani replied that the District currently has its own teams in place, which it had funded and set up. Emergency response was a District function and if the County Council was set up as a Tier 1 authority, it would probably be given back. Councillor Knapman asked that the point be made officially that we would like our own rapid response unit. Mr Durrani said we could recommend that we have a stronger agreement framework with the Tier 1 authority.

Councillor Mrs Wagland was surprised that we could not mention things in detail; we have a good example, of a rapid response unit, that we should put down in the consulting document. Mr Durrani said they could do so.

Councillor Jacobs said that a lot of drainage ditches run parallel to the A414, who was responsible for these. Mr Durrani said that it was the landowners adjoining the ditches and the highways authority (i.e. Essex County Council).

RESOLVED:

- (1) That the local knowledge and expertise that exists within the Council be used to make a comprehensive response to the consultation and where possible seek the best outcome for the residents of the District.

- (2) That the newly formed Pitt Review Task and Finish Panel look into the impact of this Bill on the Council.

19. HEALTH OVERVIEW AND SCRUTINY COMMITTEE

The Committee noted that there had been some changes to the way GP care was being provided in Waltham Abbey following the sudden retirement of one of the local GPs.

Following this a request came in from the ECC Health Overview and Scrutiny Committee to appoint a District representative to a working group of the West Area Forum set up to scrutinise the impact of changes and the provision of additional capacity to meet local needs and would like the forum to make recommendations which could help develop protocols to ensure that similar situations were handled better in the future.

RESOLVED:

That the Committee recommend to Council that Councillor Mrs Gadsby be appointed as a representative to attend future meetings of the working group of the West Area Forum.

20. CHANGE IN LEISURE PORTFOLIO HOLDER

Councillor Mrs Collins informed the Committee of Councillor Mrs Harding's resignation from the Cabinet with immediate effect. The portfolio had been offered to Councillor B Rolfe who had accepted.

The Committee noted that Councillor Rolfe would now have to relinquish his membership and chairmanship of the Safer Cleaner Greener Standing Panel.

21. WORK PROGRAMME MONITORING

The Senior Democratic Services officer, Simon Hill, took the Committee through their work programme. The Committee noted that:

Item 6 – '*West Essex PCT – proposal for a Joint Scrutiny Review*'. Noted that under a previous item on the agenda how the County was now dealing with health scrutiny, that forums will get a greater role on health matters, it may that the Committee may not wish to pursue this item any longer.

Item 14 – '*Presentation from the Fire and Rescue Services*'. Noted that it had now moved to the September meeting.

Item 15 – '*Debt Management Review*'. Noted that it was now due to go to the September meeting.

Future Work Programme:

1. Councillor Mrs Wagland asked if a topic could be added on 'Health inequalities' our figures seemed to be adrift on hip fractures for over 65's and we need to know why that was. The Deputy Chief Executive said that they had previously had Alison Cowie (Director of Public Health for the West Essex PCT) to talk about health inequalities. There was now an LSP sub-group looking at health

matters in the district. We could ask them to come to this meeting to talk about hip fractures.

AGREED: To speak to colleagues at the PCT to get some information and see if they could address a future meeting.

2. Councillor Knapman said that the Deputy Portfolio Holder for Education and the Olympics was from our district. Could the Committee look at secondary and primary provision and standards in our District as it would be relatively easy to get someone here to answer our questions. Councillor Mrs Haigh added that the Audit Commission would like to focus on education and deprivation in the District. The Deputy Chief Executive said they could put the two items together and ask the appropriate Portfolio Holder to come and address the committee.

AGREED: To ask the appropriate Portfolio Holder to attend a future meeting of the committee to address primary and secondary school provision and standards in the district and the link between education and deprivation.

3. Councillor Mrs Haigh said that if London Underground was to come in September, she would like the committee to have a pre-meeting to identify what they wanted to ask. This was agreed.

AGREED: to hold a pre-meeting before the London Underground presentation in September.

Standing Panels:

Councillor Jacobs then updated the Committee on the topics raised and discussed at the last Finance and Performance Standing Panel meeting.

22. CABINET REVIEW

Councillor Knapman wanted to comment on the proposal going to the Cabinet on rent deferment for shops in the Broadway. He commented that he understood the difficulties presently upon traders and the council but understood that whilst this scheme may not be approved other support had been made available to those tenants most in need.

The Committee agreed with this sentiment and wished it passed onto the Cabinet at their next meeting.

CHAIRMAN

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Report to Overview & Scrutiny Committee

Date of meeting: 3 September 2009

Portfolio: Legal and Estates.

Subject: Consideration of Rent Deferment Scheme for Shops in Loughton Broadway



Officer contact for further information: Adrian Hendry / Chris Pasterfield

Committee Secretary: Adrian Hendry – Ext 4246

Recommendations/Decisions Required:

To consider the call – in of Legal and Estates Portfolio Holder's Cabinet report, C-014-2009/10, regarding consideration of a rent deferment scheme for tenants of the shops at Broadway, Loughton.

Report:

1. In accordance with rule 20 of the Overview and Scrutiny Rules, two sets of 5 members have called in a Cabinet decision, taken on 13 July 2009 and published on 20 July 2009. This decision relates to the Cabinet's decision regarding the referral of a motion by full Council for the Cabinet to consider a rent deferment scheme for tenants of the shops at the Broadway, Loughton and to consider providing assistance to all tenants of shops and commercial premises during the recession. The report also assessed the implications for the Council should Cabinet wish to adopt the motion.
2. The Chairman of the Overview and Scrutiny Committee determined that consideration of the call should be referred to this meeting of the Overview and Scrutiny Committee.
3. Attached to this report are:
 - (a) Copies of all documentation submitted to the Portfolio Holder on which the decision was based;
 - (b) A copy of the written notification of the call in including the names of the relevant Councillors who requested the call in and their grounds for so doing; and
 - (c) A copy of an extract of the Council's procedures for dealing with call-ins.

Consideration of the Call – in

4. In accordance with the Council's Protocol (attached) the consideration of call-ins by the Committee should be considered in the following manner:
 - (a) the representative of the Councillors calling in the decision shall describe their concerns;
 - (b) the Portfolio Holder shall then respond;

- (c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately, or
 - (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
 - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's / Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

5. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) in attached, refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.


6. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.

7. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

8. The Committee is asked to consider the decision taken by the Cabinet and report accordingly.

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Recd 11.40 am -

27/7. 


EPHING FOREST DISTRICT COUNCIL

**Notification Of Call – In Of Cabinet Or Portfolio Holder Decision Under Rule 20 (8)
(Page J13 of the Constitution) Of The Overview And Scrutiny Rules**

This form must be signed and completed and the original returned to the proper officer in person no later than the 5th working day following publication of the decision

Decision to be called-in:	CONSIDERATION OF A RENT DEFERMENT SCHEME FOR SHOPS
Decision reference:	IN LOUGHTON BROADWAY 16
Portfolio:	CABINET (FINANCE & ECONOMIC DEVELOPMENT PFH)
Description of Decision:	<p>(1) THAT NO RENT DEFERRAL SCHEME BE UNDERTAKEN AT THE CURRENT TIME FOR COUNCIL TENANTS IN THE SHOPS AT LOUGHTON BROADWAY.</p> <p>(2) THAT EVERY POSSIBLE HELP BE EXTENDED TO TENANTS OF THE COUNCIL'S COMMERCIAL AND INDUSTRIAL PROPERTIES BY THE ESTATES SECTION DURING THE CURRENT ECONOMIC DOWNTURN, INCLUDING THE FACILITY TO MAKE WEEKLY OR MONTHLY RENTAL PAYMENTS</p>
Reason for Call – in	<p>DECISION (2) IS IMPRECISE AND DOES NOT ADDRESS THE REAL HARDSHIPS EXPERIENCED BY THE TRADERS WHILST THE BROADWAY WAS CLOSED TO TRAFFIC, WHICH WAS OVER AND ABOVE THE PROBLEMS ALL TRADERS EXPERIENCED DURING THE ECONOMIC DOWNTURN.</p>

Members requesting call – in
(3 members of the Overview and Scrutiny Committee or 5 other members)

Members Name:	Signed:
Lead member:	
KEN ANSOLD-STEPHENS	
JOHN MARKHATT	
David Mixley	
CAROLINE FORD	
STEPHEN MURRAY	
Office Use Only: Date Received:	

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Rec'd 27/7
@ 17.00 RB

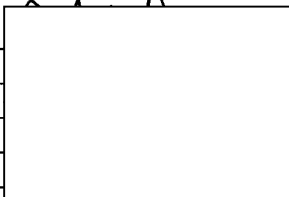
EPHING FOREST DISTRICT COUNCIL

**Notification Of Call – In Of Cabinet Or Portfolio Holder Decision Under Rule 20 (8)
(Page J13 of the Constitution) Of The Overview And Scrutiny Rules**

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Decision to be called-in: CONSIDERATION OF LOWT DEFERRMENT SCHEMES FOR TWO SHOPS IN LAUGHTON BROADWAY
Decision reference: ITEM 16 1+2 of 17/7/09
Portfolio:
Description of Decision: 1. NO LOWT DEFERRAL DUE TO POTENTIAL LOSS OF COUNCIL INCOME 2. HOLD EXTENDED BY ESTATES SECTION, FOR WORKING OR Monthly Payments. (opposed)
Reason for Call – in 1. Potential Council loss against actual losses incurred by shops, during period of works to Broadway. Potential for UNWANTED GHOST TOWN SHOPPING AREA. 2. THIS SO CALLED HOLD WILL NOT REVERSE LOSSES ALREADY INCURRED, ONE CANNOT CREATE SOMETHING FROM NOTHING.

Members requesting call – in
(3 members of the Overview and Scrutiny Committee or 5 other members)

Members Name:	Signed:
Lead member:	
MR P. RICHARDSON	
ROD LAW	
CLER SUE CHAPP	
CLER A. COOPER	
CLER P. TUMBU	
Office Use Only: Date Received:	

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Report to the Cabinet

Report reference: C-014-2009/10

Date of meeting: 13 July 2009



**Epping Forest
District Council**

Portfolio: Legal and Estates.

Subject: Consideration of Rent Deferment for the Shops in Loughton Broadway.

Responsible Officer: Chris Pasterfield (01992 564124).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

(1) To consider what action to take in response to the request by Full Council to look at a rent deferment scheme for Council tenants in the shops at the Broadway Loughton until the Town Centre Enhancement Scheme is completed.

(2) To consider what action to take in response to a request by Full Council to consider the possibility helping all Council tenants in shops and commercial premises during the recession.

Executive Summary:

This report follows the referral of a motion by full Council for the Cabinet to consider a rent deferment scheme for tenants of the shops at the Broadway Loughton and to consider providing assistance to all tenants of shops and commercial premises during the recession. The report also assesses the implications for the Council should Cabinet wish to adopt the motion.

Reasons for Proposed Decision:

To ensure that tenants at The Broadway Loughton are assisted during the Town Centre Enhancement Works and all tenants are assisted where possible during the recession and to remain viable until trade improves.

Other Options for Action:

To continue with the procedures adopted within Corporate Support Services (Estates Section) and Finance Directorates to monitor individual tenants who are having payment difficulties and to enter into stage payments to assist with cash flow.

Report:

1. Following consideration of a motion in relation to Council tenants of shops in the Broadway Loughton the Council at its meeting on 28 May 2009 resolved as follows:

(a) notes the trading difficulties currently being experienced by the shop traders at the Broadway, Loughton due firstly to the effect of necessary works being carried out to improve the infrastructure and secondly the exceptional challenges of the current economic climate;

(b) recognises that the Leader and Portfolio Holder have tried to support the traders through a difficult time;

(c) agrees that the Cabinet look at a rent deferment scheme for Council tenants in the shops in the Broadway to the value of 8 weeks rent during the period until the Town Centre Enhancement Scheme is completed with the deferred rent being paid back within the following 9 months;

(d) asks the Cabinet to review these arrangements after 6 months;

(e) notes that any tenants already in difficulties are able to pay their rent monthly on application to the Council;

(f) asks the Cabinet at its next meeting to look at the possibilities of helping all the Council's tenants in shops and commercial premises during the recession.

2. The Town Centre Enhancement works at the Broadway are scheduled for completion by 24 July 2009 after which only minor snagging works will be carried out.

3. There are currently 60 shop tenants in the Broadway of which 20 are currently in arrears or have arrangements to make monthly or weekly rental payments and of these 20, 6 are struggling and have been given further time to pay.

4. If all 60 tenants at the Broadway accepted the offer of an 8 week rent deferment it would total in the region of £156,219.25 being deferred to be paid back over the following nine months in addition to the rent due for the 3 quarters in question. This would obviously have an impact on revenue income for the Council until all arrears had been repaid.

5. The Council currently has a total of 76 shops in the portfolio (excluding The Broadway) with a total rent roll of £620,504. An 8 week deferment for the total would therefore be £95,462.

6. The Council has 24 industrial units at Brooker Road and Oakwood Hill which are rack rented and have an annual rent roll of £223,472. An 8 week deferment for the total would therefore be £34,380.

7. Ground rent commercial tenants have not been included in this exercise as they are only paying the Council a small percentage of the open market rent.

8. It is likely that deferring rent for some tenants will complicate their arrears situation and may affect their ability to repay the debt which could result in the Council losing rent if they ultimately default.

9. The rent invoice administrative resource is currently part time at four days per week and amending invoices will be a time consuming process as each one will have to be done individually and monitored for future collection.

10. Tenants will be eligible this year for the Business Rates Deferral Scheme which allows for 60% of the 5% increase to be deferred over two years on application from the rate payer. Regulations for administration are scheduled for publication in July 09.

Resource Implications:

Reduction in cash flow during the period of any deferment scheme.

It should be noted that all shops are held in the HRA Fund and that the industrial units are held in the General Fund.

Legal and Governance Implications:

The Council will not be able to take action against tenants for arrears during the period of deferment.

Safer, Cleaner and Greener Implications:

No implications.

Consultation Undertaken:

None.

Background Papers:

Nil.

Impact Assessments:

There are no equalities issues.

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Item 31 - Consideration of a Rent Deferment scheme for the Shops in Loughton Broadway

In the absence of the Legal & Estates Portfolio Holder, the Deputy Leader presented a report concerning the consideration of a rent deferment scheme for the shops in Loughton Broadway. A motion of Council had been referred to the Cabinet to consider a rent deferment scheme for tenants of the shops at the Broadway in Loughton and to consider providing assistance to all of the Council's shops and commercial premises tenants during the recession.

The Deputy Leader felt that a deferment scheme was not the right solution for both the Council and its tenants. There was the potential risk for loss of income to the Council and that such a scheme would not necessarily alleviate the cash flow difficulties of tenants. It would only prolong the problem as the rent would have to be paid at some point in the future. The suggested scheme had a considerable cost attached to it and the option already existed for businesses to pay their rent on a monthly basis to assist with their cash flows.

The Performance Management Portfolio Holder agreed that the Council would be exposed if rent payments were deferred, and highlighted that a weekly payment option was also available for tenants. It was felt that it would be better to help tenants in this way, although it was accepted that each case should be judged on its merits.

The Housing Portfolio Holder was in favour of such a scheme and had supported the original motion at Council, whilst it was pointed out to the Cabinet by a ward member that the Housing Revenue Account was currently in a very healthy state and therefore the Council was in a position to help those traders in Loughton Broadway that had suffered during the Town Centre Enhancement scheme.

The Deputy Leader emphasised that the Estates section was doing everything possible to help businesses in Loughton Broadway, and that the Council would continue to listen and provide further assistance as it would be more difficult to fill empty units at the current time.

Decision:

- (1) That no rent deferral scheme be undertaken at the current time for Council tenants in the shops at Loughton Broadway, due to the potential risk for loss of income to the Council and such a scheme would not necessarily be the best solution for tenants to alleviate cash flow difficulties; and
- (2) That every possible help be extended to tenants of the Council's commercial and industrial properties by the Estates section during the current economic downturn, including the facility to make weekly or monthly rent payments.

Reasons for Decision:

To continue with the current procedures adopted within the Corporate Support Services (Estates Section) and Finance Directorates to monitor individual tenants who were having payment difficulties and to enter into staged payments to assist with any cash flow problems.

Other Options Considered and Rejected:

To assist all tenants to remain viable until trade improves where possible during the recession via a rent deferment scheme, however there was a potential loss of income to the Council from such a scheme and it would not necessarily be the best solution to alleviate the problems of tenants.

**PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS
CALLED IN BY OVERVIEW AND SCRUTINY****1. Purpose of Protocol**

- (a) To codify how the Overview and Scrutiny Committee or delegated Panel should deal with "call in" items.
- (b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

2. Validation of "Call In"

- 2.1 All "call in" requests shall be made in writing in accordance with the Council's constitution. "Call in" requests shall only be made by members of the Council who are not members of the Executive. The "call in" shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of the constitution.

3. Consideration of "Call In" Items by Overview and Scrutiny Committee

- 3.1 Consideration of Call-ins shall be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker. "Call in" items shall be referred to the next available date for the Overview and Scrutiny Committee or delegated Panel. The provisions of the Overview and Scrutiny Rules in the Council's constitution will apply to "call in" requests which need to be dealt with more quickly.
- 3.2 At its meeting, the Overview and Scrutiny Committee or delegated Panel will receive:
 - (a) copies of all documentation submitted to the Executive on which the decision was based;
 - (b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and
 - (c) any other relevant documentation.
- 3.3 The relevant Executive Portfolio Holder and at least one of the members who activated the "call in" and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee or delegated Panel meeting.
- 3.4 The "call in" decision shall be considered in the following manner:
 - (a) the representative of the Councillors calling in the decision shall describe their concerns;
 - (b) the Portfolio Holder shall then respond

- (c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately, or
 - (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
 - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

4. Consideration of Reports on "Call In" Items by the Executive

- 4.1 The report of an Overview and Scrutiny Committee or delegated Panel will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.
- 4.2 If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he or she shall consider the written proposals of the Overview and Scrutiny Committee or delegated Panel, must consult the Overview and Scrutiny Committee and delegated Panel Chairmen if he or she is minded to accept or reject them. In doing so the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.
- 4.3 If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee or delegated Panel and refer them, with his or her written response, to the decision making body concerned.
- 4.4 At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:
- (a) the agreed report of the Overview and Scrutiny Committee or delegated Panel and any other supporting documents considered by it;
 - (b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee or delegated Panel, indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and
 - (c) any other information.
- 4.5 The Executive or Committee of the Executive shall consider the matter as follows:
- (a) the Chairman of the Overview and Scrutiny Committee or delegated Panel shall present the views and recommendations of the Committee/Panel based on the report of the relevant OSC meeting and respond to questions, make general comments and respond to new proposals as appropriate;
 - (b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee or delegated Panel;
 - (c) the Executive (or Committee thereof) shall then consider the original decision, the views of the Overview and Scrutiny Committee or delegated Panel and any proposals by the Portfolio Holder; and
 - (d) the Executive (or Executive Committee) will then make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.
- 4.6 Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

5. Implementation of Decisions When Cabinet Control or Membership Changes

- 5.1 Notwithstanding the provisions of paragraphs 3.4(g) and (h) above, where political control of the Cabinet or Cabinet membership changes following the Annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee or delegated Panel following a "call-in" but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

6. Consideration of "Call In" Reports of Overview and Scrutiny Committees made to the Full Council

- 6.1 In some circumstances, the Overview and Scrutiny Committee or delegated Panel may choose to refer the results of their consideration of "call in" items to the full Council, rather than the Executive in those instances set out in paragraph 3.4 (d) (iii) above and 6.2 below. With any necessary modification the "call in" shall be dealt with at the Council meeting in accordance with paragraphs 4.1 - 4.5 above.
- 6.2 In considering whether to report to the full Council, the Overview and Scrutiny Committee or delegated Panel shall take account of the advice of the proper officer on:
- (a) whether the Council may properly determine the matter if the function is delegated to the Executive;
 - (b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;
 - (c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and
 - (d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

7. Restriction on "Call In"

- 7.1 The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to "call in".
- 7.2 The "call in" procedure shall also not apply to any recommendation by the Cabinet to the full Council.

8. Definitions

8.1 For the purpose of this Protocol, the following definitions shall apply:

(a) "Executive"

This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.

(b) "Decision"

Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.

(c) "Decision Taker"

This means the Cabinet, a Cabinet Committee or an individual Portfolio Holder who made the original decision.

9. Review of Protocol

9.1 This Protocol will be reviewed by the Council as part of its constitution as and when appropriate.

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Report to Overview & Scrutiny Committee

Date of meeting: 03 September 2009

Portfolio: Leisure and Wellbeing.

Subject: Feasibility Study on the Construction of a new sports hall at the site of the Waltham Abbey Swimming Pool.



Officer contact for further information: Adrian Hendry /

Committee Secretary: Adrian Hendry – Ext 4246

Recommendations/Decisions Required:

To consider the call – in of Leisure and Wellbeing Portfolio Holder's report to Cabinet, C-012-2009/10 regarding the feasibility study on the construction of a new Sports Hall at the site of the Waltham Abbey Swimming Pool..

Report:

In accordance with rule 20 of the Overview and Scrutiny Rules 5 members have called in the Cabinet's decision, taken on 13 July 2009 and published on 20 July 2009. This decision relates to the Cabinet's decision to withdraw from the Joint Use Agreement between the Council and the King Harold School in respect of the management of the sports centre at Waltham Abbey. The Leisure Task & Finish Panel was charged with considering the feasibility of constructing a replacement sports hall as part of the existing leisure complex at the Waltham Abbey Swimming Pool. The Task & Finish Panel agreed the recommendations and passed them on for consideration by the Overview & Scrutiny Committee and Cabinet. At its meeting on the 2 June 2009, Overview & Scrutiny accepted the Panel's recommendations and referred the matter onwards to Cabinet and Council to seek the appropriate capital provision in the Council's capital programme. The Cabinet considered and agreed the report on 13 July 2009.

2. The Chairman of the Overview and Scrutiny Committee determined that consideration of the call should be referred to this meeting of the Overview and Scrutiny Committee.

3. Attached to this report are:

(a) Copies of all documentation submitted to the Portfolio Holder on which the decision was based;

(b) A copy of the written notification of the call in including the names of the relevant Councillors who requested the call in and their grounds for so doing; and

(c) A copy of an extract of the Council's procedures for dealing with call-ins.

Consideration of the Call – in

4. In accordance with the Council's Protocol (attached) the consideration of call-ins by the Committee should be considered in the following manner:

(a) the representative of the Councillors calling in the decision shall describe their

concerns;

(b) the Portfolio Holder shall then respond;

(c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;

(d) The Overview and Scrutiny Committee or delegated Panel has the following options:

(i) confirm the decision, which may then be implemented immediately, or

(ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or

(iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.

(e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;

(f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;

(g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;

(h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;

(i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker

(j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's / Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and

(k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.

(l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

5. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) in attached , refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.

6. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no power to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.

7. If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

8. The Committee are asked to consider the decision taken by the Cabinet and report accordingly.

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Rec'd 27/7
@ 11.05pm / RH

EPHING FOREST DISTRICT COUNCIL

**Notification Of Call – In Of Cabinet Or Portfolio Holder Decision Under Rule 20 (8)
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Decision to be called-in:	PROVISION OF SPORTS HALL - WALTHAM ABBEY SWIMMING POOL - PARAS (B) & (R)
Decision reference:	14(6) & 14(7)
Portfolio:	LEISURE & WELL-BEING
Description of Decision:	SEE DECISIONS DOCUMENT PAGE 5
Reason for Call – in	SEE ATTACHED

Members requesting call – in
(3 members of the Overview and Scrutiny Committee or 5 other members)

Members Name:	Signed:
Lead member:	
PAT BROOKS	
PETER SPENCER	
JUL SUTCLIFFE	
CHRIS HAYDEN	
JON WHITEHOUSE	
Office Use Only: Date Received:	
JANET WHITEHOUSE	

CALL-IN OF CABINET DECISION

Provision of Sports Hall – Waltham Abbey Swimming Pool
Decision nos. 14 (6) and 14 (7)

Reason for call-in

These decisions have been called in because of the lack of justification given for decision 14 (6) given that EFDC is already expected to make net savings of over £200,000 each year following the council's withdrawal from the Joint Use agreement and also to identify steps that can be taken to mitigate any gap in service following the closure of Waltham Abbey Sports Centre.

These reasons are set out in further detail below.

- 1) To enable proper consideration of decision 14 (6) in the light of:
 - i) The absence of any justification for this decision in the portfolio holder's report (C-012-2009/10)
 - ii) The fact that the recommendation was tabled at the meeting with no advance notice, thus giving members not at the meeting (including ward members and other Waltham Abbey members) no opportunity to express their views
 - iii) The failure to take fully into account the fact that withdrawal from the Waltham Abbey Sports Centre Joint Use Agreement is expected to save the council £270,000 of CSB expenditure per year and that net savings after the reprovision of the Sports Hall at Waltham Abbey Swimming Pool are expected to amount to c£206,000
 - iv) The absence of full information on the implications of the decision for the Waltham Abbey Swimming Pool management agreement
 - v) Inadequate consideration of the potential implications of the decision with regard to health inequalities in Waltham Abbey, which have been identified as an issue requiring action by Overview and Scrutiny and the Cabinet

- 2) To enable consideration be given to the time period between the cessation of the Joint use Agreement with the Governors of King Harold School in January 2010 and the earliest likely date of opening of any new facility in the Summer of 2011, in particular:
 - i) What steps will be taken to assist current users of the Sports Centre to continue to pursue their activities, either at King Harold School or elsewhere
 - ii) What steps Epping Forest DC working where necessary with SLM and other partners, will take to minimise the impact of any gap in services.

Report to the Cabinet

Report reference: C-012-2009/10

Date of meeting: 13 July 2009



**Epping Forest
District Council**

Portfolio: Leisure and Wellbeing

Subject: Provision of Sports Hall - Waltham Abbey Swimming Pool

Responsible Officer: John Gilbert (01992 564062).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To note that the Overview & Scrutiny Committee endorsed the recommendations of the Leisure Task & Finish Panel;**
- (2) That the proposals for the provision of a new sports hall be further developed to enable:**
 - (a) a planning pre-application submission to be made; and**
 - (b) subject to the satisfactory consideration of the pre-application a full planning application to be made;**
- (3) That the proposal be progressed to the pre-planning application stage at an estimated cost of £41,000 and that contract standing orders be set aside to enable the appointment of Stace to undertake this work;**
- (4) That subject to recommendation (2) to recommend to Council at its September meeting a supplementary capital estimate of £1.721 million; and**
- (5) That the indicative time frame for the project be noted and that consideration be given to the time period between the cessation of the Joint use Agreement with the Governors of King Harold School in January 2010 and the earliest likely date of opening of any new facility in the Summer of 2011.**

Executive Summary:

Following Cabinet's decision to withdraw from the Joint Use Agreement between the Council and the King Harold School in respect of the management of the sports centre at Waltham Abbey, the Leisure Task & Finish Panel was charged with considering the feasibility of constructing a replacement sports hall as part of the existing leisure complex at the Waltham Abbey Swimming Pool.

Having received and considered that feasibility study, the Task & Finish Panel accepted the recommendation that the proposal should be recommended for consideration by the Overview & Scrutiny Committee and Cabinet. At its meeting on the 2 June 2009, Overview & Scrutiny accepted the Panel's recommendation and referred the matter onwards to Cabinet and Council to seek the appropriate capital provision in the Council's capital programme.

This is a key decision.

“A safe, healthy & attractive place” – “Address leisure need”

Council Plan 2006-2010 *“Fit for Life” – “Residents of the district having access to effective, high quality leisure & cultural services”* (FL1, 2 & 3)

Cabinet Key Priority 2009/10 – *“Subject to the outcome of the feasibility study, to commence the construction of a sports hall and changing rooms at the Waltham Abbey Swimming Pool”*

Reasons for Proposed Decision:

To provide a replacement sports hall facility for the community of Waltham Abbey following the cessation of the Joint Use Agreement with the governing body of the King Harold School in January 2010. Although the cessation of the Joint Use Agreement does not preclude the school governing body from enabling continued community use of the sports centre, there has to date been no indication by the governing body of its future intentions. There can therefore be no certainty that community use will be possible after January 2010.

Waltham Abbey has been identified as having one of the worst health outcomes of any area within the District and a new facility such as is proposed could greatly benefit the fitness of, and the longer term health outcomes of, the local community.

Other Options for Action:

To not proceed with the proposed new sports hall; or

To defer consideration until a later date.

Report:

1. The report to the Leisure Task & Finish Panel of 18 May 2009 is attached to this agenda. The full feasibility study on the proposal is available as a background paper.
2. The recommendations of the Leisure Task & Finish Panel were accepted in full by the Overview & Scrutiny Committee and these now stand referred to this Cabinet meeting for further consideration.
3. Cabinet’s attention is drawn to the following particular issues:
 - (i) the overall timetable for the project decision making, noting in particular that the timetable has been constructed to align with the early stages of the Council’s 2010/11 budget setting arrangements;
 - (ii) the estimated revenue consequences associated with the project, arising from:
 - the use of the £1.72 million of capital; and
 - the operation/management of the new facility;
 - (iii) the recommendation to set aside contract standing orders to enable Stace to undertake the pre-planning application exercise;
 - (iv) the cessation of the Joint Use Agreement in mid-January 2010 which could result in community access to the existing facilities at the Waltham Abbey Sports Centre being curtailed or withdrawn in full; and
 - (v) that, even if the proposal is agreed at this meeting, the new facility would not be

available for use until the summer of 2011.

4. All other details on the proposal are set out in detail in the reports to the Leisure Task & Finish Panel and Overview & Scrutiny Committee.

Resource Implications:

(a) Capital

Item	Est. capital cost £
Develop proposal to planning stage (RIBA stage D)	130,000
Develop and oversee proposal to completion	130,000
Main construction costs	1,133,000
Other costs – sports equipment	46,250
sub station	100,000
EFDC officer costs (estimated)	25,000
Total construction related costs	1,564,250
Contingency @ 10%	156,425
Total project cost	1,720,675

(b) Revenue

Item	Est. revenue cost £
Use of £1.721 million of capital at 2%	34,420
Additional SLM management fee	15,350
Estimated NNDR	10,500
Estimated annual building costs	4,000
Total	£64,270

The report to Cabinet in December 2008 identified revenue savings of £270,000 per annum, from 2010/11 onwards, arising from the cessation of the joint use agreement with King Harold School in January 2010. The revenue expenditure identified above will therefore reduce those CSB savings to £205,730 per annum.

Legal and Governance Implications:

The Council can undertake this proposal using its general community wellbeing powers. SLM, the Council's contracted leisure providers have expressed a considerable interest in and a willingness to incorporate the management of the new facility into the existing leisure contract, but to enable this to happen formal amendments to current contract documentation will need to be made and agreed.

Safer, Cleaner and Greener Implications:

No direct issue at this stage although the decision whether to proceed or not with the development may have an impact on communities in and around Waltham Abbey through

improved or restricted access to modern sporting facilities.

Consultation Undertaken:

Initial discussions with SLM regarding impact on present contractual arrangements – no adverse issues at this time (see legal & governance implications).

Governing body of King Harold School are aware of the cessation of the Joint Use Agreement and its potential implications but no formal response has yet been received.

Background Papers:

Cabinet meeting November 2008
Leisure Task & Finish meetings
Overview & Scrutiny Committee
Feasibility study

Impact Assessments:

- (i) Financial risk associated with the use of £47,000 of capital (feasibility plus pre-planning application) having to revert to revenue (DDF) in the event that the project did not or was unable to advance beyond the planning pre-application stage.
- (ii) The Council's risk register has highlighted as a risk the use of significant amounts of capital receipts if they are not to be utilised for revenue generation purposes.
- (iii) Potential adverse effects upon the local community (health, social cohesion etc) if the current sports centre is not made available for community use following the ending of the Joint Use Agreement and some form of leisure re-provision is not made in its stead.
- (iv) Even if it were to remain available for some form of community use, the existing sports centre falls well short of modern standards for community use and for access by those with disabilities. The new facility would be constructed to address these issues.

Report to Leisure Task & Finish Panel

Date of meeting: 18 May 2009

Portfolio: Leisure & Young People

Subject: Feasibility study on the construction of a new sports hall at the site of the Waltham Abbey Swimming Pool

Officer contact for further information: J Gilbert / Laura MacNeill

Committee Secretary: Adrian Hendry



Recommendation(s):

- (1) To note the receipt and content of the feasibility study of the construction of a new sports hall at the site of the Waltham Abbey Swimming Pool;**
- (2) To recommend to Overview & Scrutiny Committee and Cabinet that the proposals be further developed to enable:
 - (a) a planning pre-application submission to be made; and**
 - (b) subject to the satisfactory of the pre-application a full planning application to be made.****
- (3) That the proposal be progressed to the pre-planning application stage;**
- (4) That capital provision in the sum of £1.70 million be sought for the construction of the new sports hall; and**
- (5) That consideration be given to the time period between the cessation of the Joint Use Agreement with the Governors of King Harold School in January 2010 and the earliest likely date of opening of any new facility in the Spring of 2011.**

Background

1. At the last meeting of this Panel in November 2008, it was agreed to recommend to Cabinet that a feasibility study be undertaken into the construction of a new sports hall on the Waltham Abbey Swimming Pool site, to replace the facilities which might be lost due to the cessation of the joint use agreement between the Council and the governors of King Harold School, in respect of the Waltham Abbey Sports Centre.
2. This recommendation was endorsed by Cabinet at its meeting in November 2008 along with a recommendation to Council for the provision of a capital sum of £6,000 to undertake the feasibility.
3. Stace were appointed to carry out the feasibility with the following brief:
 - (i) undertake the feasibility but without intrusive investigations;
 - (ii) assess what surveys etc might be required to take a proposal to the planning application stage;
 - (iii) provide a high level budget estimate;
 - (iv) produce indicative sketch plans; and
 - (v) provide an indication of the fees required to bring a proposal to a conclusion
4. The core requirements for a new facility were identified as:
 - (i) a sports hall 35m by 17m (4 badminton courts);

- (ii) changing rooms;
- (iii) a creche area;
- (iv) a storage area for the sports hall;
- (v) reconfiguration of the existing reception area; and
- (vi) additional car parking

The feasibility study

5. The final feasibility study was received from Stace in March 2009, copies of which have been provided to Members of the Panel. The study has demonstrated that, in general terms and subject to planning consent and additional site investigations, such a development could be accommodated on the existing site, forming an integral part of the Waltham Abbey Swimming Pool complex. This is ably demonstrated by the sketch drawing in Appendix A of the study.

6. The study does indicate a wide range of additional surveys and additional design which will need to be undertaken. These are broken down into two areas:

- (a) those required to take the project to the stage of seeking planning consent (RIBA stage D); and
- (b) those required to see the proposal through to completion (RIBA stages E to K)

Both of these stages are estimated at around £130,000.

7. The Panel should note at this stage that whilst this is a clearly a capital scheme, should the project not be completed, all the capital monies spent on the scheme revert to revenue, which could have a serious impact upon the Council's continuing services budget at what is already a difficult time. However, if Members wish the feasibility to be taken further, additional capital monies will have to be allocated to enable that to happen. It is therefore suggested that the proposal only be developed as far as the planning pre-application stage, at which point it should become clear whether there is any realistic prospect of the proposal receiving a full planning consent. This intermediate stage reduces the exposure of the Council to the resourcing difficulties of capital expenditure reverting to revenue if the proposal cannot not be taken forwards.

8. The feasibility study indicates a construction cost of around £1.14 million with associated fees of £260,000, making an total of £1.4 million. There are however a number of significant key omissions from the costings at this stage, including fixtures and fittings, a new electricity sub station, contaminated land issues, diversions of existing services and unforeseen underground works. Based on other capital projects it is recommended that a contingency sum of between 5% and 10% is provided for, especially where ground conditions might be uncertain. A realistic total project cost for the project would therefore be £1.70 million and it is suggested that Cabinet be requested to allocate this capital sum into the Council's capital programme.

9. The feasibility study also puts forward an indicative time line for the proposal should it be agreed. If a project start were to be made in July 2009, completion could be anticipated in around March 2011 (i.e. a project period of 21 months). However, given current time constraints and the time needed for the proposal to be considered and approved through the Council's democratic processes, it is unlikely that a decision could be made to proceed by July of this year. The Joint use Agreement with the King Harold School is due to end in mid January 2010. If the School Governors elect to close the Sports Centre, this will leave a period of at least 15 months where there will be no replacement sporting or community provisions available. As part of the management of the cessation of the Joint Use Agreement, officers will discuss with the school how they may wish to deal with this time period and offer support to them where it is practical to do so. However, it is not suggested that the Joint Use Agreement be extended, since the Council's CSB budget already takes into account the savings which will arise from the closure of the Centre, and the underpinning rationale for the ending of the agreement, this being the condition of the buildings etc. remain, with continued deterioration.

Resources

10. The core resource components have been described in the section above, but for clarity this section will set out the resourcing implications in more detail in tabular form.

Item	Est. capital cost £
Develop proposal to planning stage (RIBA stage D)	130,000
Develop and oversee proposal to completion	130,000
Main construction costs	1,133,000
Other costs – sports equipment sub station	46,250 100,000
EFDC officer costs (estimated)	TBC
Total construction related costs	TBC
Contingency @ 10%	TBC
Total project cost	1,700,000

11. It can be seen from the above table that the total capital cost is estimated at £1.70 million. The use of this capital carries with it a revenue consequence added to which are the direct revenue costs of operating the new facility. This results in an overall annual revenue as set out below:

Item	Est. revenue cost £
Use of £1.70 million of capital at 2%	34,000
Additional SLM management fee	15,350
20% NNDR	TBC
Total additional revenue	£40,000

12. The report to Cabinet in December 2008 identified revenue savings of £202,500 per annum, from 201/11 onwards, arising from the decision to cease the joint use agreement with King Harold School. The revenue expenditure identified above will therefore reduce those CSB savings to £162,500 per annum.

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Item 29 - Provision of Sports Hall - Waltham Abbey Swimming Pool

The Leisure & Wellbeing Portfolio Holder presented a report upon the provision of a sports hall at Waltham Abbey Swimming Pool. Revised recommendations for the report had been tabled at the meeting for the Cabinet's consideration.

The Portfolio Holder reported that following the Cabinet's decision to withdraw from the Joint Use Agreement with King Harold School regarding the management of the Sports Centre at Waltham Abbey, the Leisure Task & Finish Panel was charged with considering the feasibility of constructing a replacement sports hall as part of the existing leisure complex at the Waltham Abbey Swimming Pool. Having received and considered that feasibility study, the Task & Finish Panel accepted that the proposal should be recommended and the Overview & Scrutiny Committee subsequently referred the matter to the Cabinet and Council to seek the required capital provision for the project.

The Director of Environment & Street Scene explained the background to the revised recommendations and emphasised a number of points for the benefit of the Cabinet. It was accepted that there could be a shortfall in sports facilities provision when the Council withdrew from the dual use agreement with King Harold School and a feasibility study had recommended a new sports hall at Waltham Abbey Swimming Pool. There were clear benefits for the community identified but it was not clear that the project would generate the necessary income, hence the proposal to only proceed to the pre-planning stage. The project would only proceed from this stage if it was felt that it would be at least cost neutral to the Council in the future. Negotiations with the Council's current Leisure Service provider about assuming the role of delivery agent for the proposed new sports hall would commence. The current sports hall at King Harold School might still be available for community use in the interim but it had been difficult to get the school to discuss the future of the sports hall with the Council after the end of the dual use agreement. A working relationship had already been established between Stace and Sports & Leisure Management Limited, so this aspect of the project was not considered to be problematic.

Decision:

- (1) That the endorsement of the recommendations of the Leisure Task & Finish Panel by the Overview and Scrutiny Committee be noted;
- (2) That the proposal to build a Sports Hall at Waltham Abbey Swimming Pool be progressed to the pre-planning application stage at an estimated cost of £41,000;
- (3) That Contract Standing Orders be set aside to enable the appointment of Stace to undertake this work;
- (4) That a supplementary capital estimate in the sum of £41,000 be recommended to the Council for approval;
- (5) That negotiations be commenced with the Council's leisure service providers, Sports Leisure Management Limited, in respect of:
 - (a) Sports Leisure Management Limited being the delivery agent for the proposed new Sports Hall at Waltham Abbey Swimming Pool; and

(b) the taking up of the optional 3 year contract extension period from January 2013

(6) That, irrespective of the outcome of recommendation (5), the project be progressed only if the use of Capital resources and additional management fees had no subsequent adverse impact upon the Continuing Services Budget (i.e. were cost neutral); and

(7) That the indicative time frame for the project be noted, and in particular the time period between the cessation of the Joint Use Agreement with the Governors of King Harold School in January 2010 and the earliest likely date of opening of any new facility in the Summer of 2011.

Reasons for Decision:

To provide a replacement sports hall facility for the community of Waltham Abbey following the cessation of the Joint Use Agreement with King Harold School in January 2010. Although the cessation of the Joint Use Agreement did not preclude continued community use of the sports centre, there had to date been no indication by the school of its future intentions.

Waltham Abbey had been identified as having one of the worst health outcomes of any area within the District and a new facility such as that proposed could greatly benefit the longer term health outcomes of the local community.

Other Options Considered and Rejected:

To not proceed with the proposed new sports hall; or

To defer consideration until a later date.

Report to Overview and Scrutiny Committee

Date of Meeting: 3 September 2009

Agenda Item 8



SCRUTINY



Report of: Constitution & Member Services
Standing Scrutiny Panel

Chairman: Councillor Mrs M McEwen/Returning Officer

Subject: Elections – June 2009

Officer contact for further information: I Willett (01992 564243), S Hill (01992 564249),
W MacLeod (01992 564023)

Committee Secretary: A Hendry (01992 564246)

Recommendation:

To note this review of elections held on 4 June 2009.

1. Introduction

We have reviewed the following elections which were held on 4 June 2009:

- (a) seven County electoral divisions (returning one County Councillor for each);
- (b) one District Council by-election for the District Ward of Waltham Abbey Honey Lane (returning one District Councillor);
- (c) one Parish Council by-election for the Parish Ward of Buckhurst Hill (East) (returning one Parish Councillor);
- (d) election of seven members of the European Parliament for the Eastern Region of the UK.

2. Responsibility

Responsibility for the four elections was as follows:

- (a) Essex County Council – I Willett as Deputy Returning Officer (on behalf of the County Returning Officer);
- (b) District Council by-election – I Willett as Returning Officer;
- (c) Parish Council by-election – I Willett as Returning Officer;
- (d) European Parliamentary Election – I Willett as Local Returning Officer on behalf of Mr D Monks, Regional Returning Officer (Huntingdonshire District Council).

3. Electoral Statistics

- 3.1 We have been advised that voter turnout at the various elections ranged between 46% of those entitled to vote in the Epping and Theydon Bois Electoral Division to 32% in respect of the Waltham Abbey electoral division.
- 3.2 The total number of postal votes issued for these elections was 8,167 compared with 5,408 in 2008. The increase is partly explained by the fact that in 2008 the whole district was not holding elections whereas in 2009 electors were entitled to vote across the whole district. Of the total number of postal votes issued the return rate was 70% (compared with 75% in 2008).

4. Nomination Process

- 4.1 The statutory timescale provided for the receipt of nominations for candidates by not later than 4 pm on 7 May 2009. The statutory requirement for the publication of the statements of persons nominated was for this to be achieved by no later than noon on Monday 11 May 2009. However, recognising comments which have been made in previous years a provisional list was published on the Council's website on 8 May 2009 subject to a proviso concerning final checking of the candidates list by Essex County Council.
- 4.2 We noted that the nomination process in respect of the European Parliament elections was solely the responsibility of the Regional Returning Officer.

5. Polling Stations

- 5.1 The majority of polling stations used were those which have been established for many years. However there were one or two exceptions this year which are outlined below:

(a) Field Station at Gunpowder Park, Waltham Abbey

Traditionally, the polling station for the Sewardstone area was Sewardstone Village Hall, Daws Hill but this ceased to be used two years ago because of the poor state of repair of this building. In 2008, the polling station was transferred to the Lee Valley Caravan Park in Sewardstone Road but subsequently alterations were made to the premises which made it impossible to use the premises as a polling station. In 2009 therefore a new venue was found at the field station at Gunpowder Park and there were no complaints notified to the Returning Officer about this new venue. One slight problem was encountered with the failure of the car park lighting but this will be attended to before any further elections are held.

(b) Sheering

For many years a portakabin was used to accommodate a polling station in the village of Sheering, there being no suitable public buildings elsewhere for polling purposes. However, in 2008 the polling station was situated in the local public house and has proved generally convenient and popular with voters. However one elector has complained about the public house not being a suitable venue for polling purposes because the polling station was not adequately screened off from the rest of the public house. The cost of a portakabin for Sheering is still regarded as prohibitive (£3,000 plus) and it is intended to base the polling station in the public house in future but there will be further discussion with the proprietors about the screening arrangements.

(c) Theydon Bois

Traditionally the polling station has been situated in Theydon Bois Village Hall. In 2009 this was not possible because an amateur dramatic society had booked the hall for a production in the evening which made it impossible for the polling station to continue to operate up to the close of voting at 10 pm. As a result the polling station transferred to St Mary's Church Hall in Theydon Bois which is very close to the village hall itself. No complaints have been received about the new premises and it may be that if the Village Hall is to be used for an evening count in future, then St Mary's Hall will continue to be used for polling purposes during the day.

(d) Buckhurst Hill

One polling station regularly used in Buckhurst Hill is the former Roding Valley Centre but in 2008, because of transfer of ownership and other considerations, the polling station moved to St Stephen's Church Hall. However this year the polling station moved back to the former venue, under its new name of the Woollard Centre.

(e) Bobbingworth

Representations were received by the Returning Officer concerning the provision of a polling station in Bobbingworth. Over the last few years Bobbingworth voters have been directed to a joint polling station in Moreton Village Hall. This was because of the difficulty of finding a suitable site in Bobbingworth which would avoid hiring a portakabin and also the potential health and safety issues about a highway side location. 215 voters are on the register for Bobbingworth and it has been suggested that the local church in Bobbingworth has now become available for use as a polling station, whereas previously it was not. For such a relatively small number of voters however the value for money assessment of polling station arrangements in that part of the District are crucial. With Government very carefully scrutinising claims for election expenses, it is not thought that additional expenditure on a separate polling station would be well received in a parliamentary election.

6. Postal Voting

6.1 In accordance with the election timetable, postal ballots for all divisions within the district were despatched to electors on 20 May 2009. These postal votes were opened at various times up to election day.

6.2 There was no evidence of any postal fraud although a very small number of postal votes were rejected as a result of signature and/or dates of birth comparison. The software and scanners which are used for checking personal identifiers were considered to have worked very well at the postal voting sessions.

7. Spoilt Ballot Papers

7.1 The total number of ballot papers rejected in the European election was 280 and a large proportion of these were left blank by voters, which could be read as a lack of interest in European voting. No local pattern of ballots rejected can be discerned in 2009, whereas in 2008 there were two areas where the number of rejected papers seemed more than the average. The explanation for this lack of a local pattern in 2009 may be that all political parties had fielded candidates throughout the district.

8. Police Liaison

8.1 Arrangements with the Police for attendance at polling stations and storage of ballot boxes and at the count centre operated worked well. The Returning Officer has written to the officer in command complimenting his staff for their support.

9. Complaints and Queries Received in the Elections Office

- 9.1 The majority of telephone calls made to the Elections Office were from electors complaining:
- (a) that they had not received poll cards;
- and
- (b) that they were not on the electoral register and were unable to vote.
- 9.2 These queries recur at every election and most are explained by voters losing their poll cards and sometimes forgetting to update their register entries at the appropriate time.
- 9.3 Several complaints were received on polling day regarding illegal signs being placed on lamp posts, traffic signs etc in various parts of the district but particularly Waltham Abbey, Theydon Bois and Loughton. This problem is referred to later in this report.

10. Count – Theydon Bois Village Hall (5 June and 7 June 2009)

- 10.1 This year, it was decided to hold the count at Theydon Bois Village Hall because it is regarded as a convenient location with generous car parking space and good IT links. Using the Village Hall allows both a large room and small halls to be used for counting purposes.
- 10.2 A number of comments were made in 2007 and 2008 concerning the layout of counting tables. As a result, a new layout was designed in 2009 in the form of “cells” which had open access on one side for agents and candidates to observe the counting arrangements but with a physical barrier to prevent counting tables being completely surrounded by observers. The general feedback received about these arrangements was positive and once again the individual “bus stop” signs used to indicate which divisions or wards being counted at each table or group of tables seemed to be helpful.
- 10.3 One TV display screen was rented to display results during the County, District and Parish Council counts but this was not used during the European verification or count. In future years the Returning Officer will continue to consider the means by which progress with the various counts can be displayed in the hall.
- 10.4 The administration of the count was considered a success. The first count undertaken was to verify the number of ballots cast in respect of the European Parliamentary elections. The Regional Returning Officer had directed that the verification of the European ballot needed to be notified to him by 1 pm on 5 June 2009 but this task was completed by 11.20 am. The count then proceeded to the seven County Council electoral divisions, which commenced at 12.15 pm and was followed by the District and Parish by-election counts. The main hall and the smaller room were used for these counts.
- 10.5 The counting of the local ballot as part of the European Parliamentary election had been directed by the Regional Returning Officer to commence at 4 pm on Sunday 7 June 2009 with the direction that it be completed before 9 pm that evening. The count at the hall was completed at 7 pm and the result sent to the Regional Returning Officer shortly thereafter. The Regional Returning Officer complimented all the Local Returning Officers in the Eastern Region for their efforts in ensuring that the regional result was declared one hour earlier than the last Euro election. The Eastern Region also was second in the UK overall.

11. Meeting with Election Agents

11.1 Election agents were invited to attend a debriefing on 15 June 2009 in order to express views on the running of the election and the count. One agent and one candidate (representing an agent) was able to attend that session but a number of other agents expressed their views either by telephone or by e-mail. The general response was favourable.

11.2 The following issues were raised and the suggestions made will be considered for future elections:

(a) Party Logo

The UKIP candidate queried the faint imprint of the UKIP logo on the ballot paper. On further investigation, this was found to be a quirk of the printing process and will be addressed in future elections.

(b) Election results screen

The UKIP candidate has objected to the graphic used in the count hall for posting the results of the elections. This graphic showed the Epping Forest District Council, Essex County Council logos on a background of part of the European Union flag. The candidate has stated that this was "entirely inappropriate" as the European Union has not assumed responsibility for the local government elections and any emblems should be UK national ones or Essex County Council ones. This will be borne in mind for the next EU Parliament election.

(c) Counting of individual ballot boxes

The Liberal Democrats' agent has asked in future counts it be made clear which ballot boxes are being counted on particular tables. This point will be addressed in future counts.

(d) Car Parking at Theydon Bois Village Hall

The Liberal Democrats' agent has commented that those persons arriving by car after the Euro verification on 5 June 2009 did find problems in finding a car parking space. Car parking at Theydon Bois Village Hall is however still considered a better venue than in this respect for instance at Waltham Abbey Town Hall.

(e) Publication of Election Results

The Liberal Democrats' agent has drawn attention to a delay in the publication of election results at parish offices and other information centres. He commented that early publication of this information would help to engage the public more in the process. He was however complimentary about the electronic circulation of the results to those people who had on-line facilities. There was a comment that the local press did not publish the full results but produced only a column of winners.

(f) Candidates' Returns

The Liberal Democrats agent expressed some concern about the constant changes to the return which has to be completed by candidates. Regrettably Returning Officers have to follow the model provided by the Government for these returns and they are being altered on a regular basis.

(g) Counting Arrangements – Timetable

The Liberal Democrats asked for better information on the timing of individual counts or provision of a contact telephone number at which timings for individual electoral divisions or ward counts might be obtained. It was agreed that the Returning Officer would look into this possibility.

(h) Counting in the Small Hall

At the meeting both the agent and the agent's representative commented that it would have helped those in attendance to know exactly which counts were being conducted in the small hall and also where and when the announcements were to be given as to the results. This will be looked into for future counts at this venue.

(i) Parking at Polling Stations

At the agents meeting reference was made to the difficulties which can occur when double yellow lines are along the kerbside outside polling stations. The Returning Officer agreed that this might be a matter which could be explored with the Head of Environment and Street Scene and the car parking contractor to see if anything can be done to avoid voters receiving parking tickets when they use their vehicles to visit polling stations.

12. Illegal Posting of Election Notices

12.1 A number of complaints were received on polling day regarding affixing of party election posters to traffic signs, lamp posts etc at various points in the district.

12.2 The Council responded very quickly by removing a large number of these signs on election day and it is understood that the Highway Authority did likewise. However, this speed of response may have limited the opportunities for further action in pursuing the individuals or groups who were responsible for this flyposting.

12.3 The powers available for dealing with flyposting of this kind are as follows:

(a) Town and Country Planning Act 1990

There is provision for an offending poster to be removed but if there is an identifiable address then two days' notice has to be given of doing so. The cost of removal can be pursued and there can be a prosecution which might result in a conviction of up to £2,500 in daily fines, post conviction.

(b) Highways Act 1980

It is an offence to place any mark, picture, letter, sign etc on the highway or infrastructure. This is liable to a fine upon conviction. The alternative is for the Highway Authority to remove the offending item at once.

(c) Clean Neighbourhoods and Environment Act 2005

This Act enables costs to be recovered from any person who flyposted or caused the flyposting or where concerns are advertised. This Act also permits the service of "defacement notices" but these are not intended to deal with cases of new flyposting but rather longstanding flyposting which is unsightly or causing damage.

12.4 The more robust power rests with the Highway Authority although the District Council's powers are perfectly usable. However, in removing the signs so quickly, not having given notice, it now makes prosecutions or recovery of costs very difficult. This is not now an avenue that is available for 2009.

- 12.5 More than one political party was involved in this practice. One of the parties which was the subject of the posters has denied that it was their supporters who posted the material but a different group. With this in mind, this report is designed to be a public statement saying that if there is a repetition concerning this behaviour at any subsequent election, the due process will be followed and prosecutions and recovery of costs may result in respect of the parties concerned. However, what will need to be accepted is that if posting takes place immediately before or on polling day there may be a period of time in which those notices remain displayed. The Returning Officer is currently investigating whether this practice could be regarded as an offence under the Representation of the Peoples Act although it has to be said that the position is not clear at the moment.

13. Party Seals on Ballot Boxes

- 13.1 One political party at recent elections has exercised its right to affix its own seal on ballot boxes immediately on the closure of the poll. This is a perfectly legitimate practice but is exercisable only by candidates, appointed electoral agents or appointed polling agents. The latter may be appointed for each polling station in a ward.
- 13.2 The role of the polling agent is to observe voting in the polling station with a view to detecting personation (ie one voter pretending to be another). In the 2009 election there were occasions where party workers sought to affix seals on ballot boxes in polling stations which they were not entitled to enter. The rule is that the candidate for the ward in question, the agent for the candidate in that ward or an appointed polling agent for that polling station are the only ones who may exercise the right to affix seals. One Presiding Officer challenged a party worker and this led to an unnecessary difficulty when identification was sought.
- 13.3 As a result, the Returning Officer is making representations to the Electoral Commission that in the latter's next guidance manual on the conduct of elections, candidates, agents and polling agents intending to enter polling stations for the purpose of fixing their seals to ballot boxes should be allowed to do so only after identification has been shown. It should be borne in mind that Presiding Officers cannot necessarily identify these persons and so as to avoid misunderstandings the production of identity is thought to be helpful to all involved.

14. Future Elections

- 14.1 In 2010, the scheduled date for District Council elections (one third) is 6 May 2010. There are no Parish or Town Council elections in that year. However it is likely that in May 2010 or before there will be a general election and planning has already started as to the arrangements for that event.
- 14.2 The Returning Officer has already undertaken to hold the Parliamentary count on the same night as voting closes (ie Thursday) and this remains his intention. This will however mean that a further look will need to be taken at potential counting centres. Alternatively, consideration could be given to a local secondary school which would provide a much larger hall than is otherwise available in the district. However, school halls cannot be available on Friday for the District Council count so it is possible that a Parliamentary count held in a school would be followed on the next day by a District Council count at a venue such as Theydon Bois Village Hall.
- 14.3 Recent Government policy has been to combine elections wherever possible and it may be that the Parliamentary and the District Council elections will be combined on 6 May 2010 or on some other date to be advised.

- 14.4 We questioned the Returning Officer about holding the General Election count on the same day as polling. We noted that there now seemed to be growing support for Friday counts and wondered whether there was some inconsistency in holding a General Election count on Thursday.
- 14.5 The Returning Officer explained that he had accepted the argument that public interest probably dictated a Thursday count for General Election. However, he said that there needed to be assurance that sufficient staff would be available for counts on Thursday and Friday (for District Council elections) and that suitable accommodation was booked.

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Report to Overview and Scrutiny Committee

Date of Meeting: 3 September 2009



Report of: Constitution & Members' Services
Standing Scrutiny Panel

Chairman: Councillor Mrs M McEwen

Subject: Officer Delegation – Planning Applications:
Comments by Town and Parish Councils and Single Storey Rear Extensions

Officer contact for further information: I Willett (01992 564243)

Committee Secretary: A Hendry (01992 564246)

Recommendations:

- (1) That no change be made to the terms of delegation to the Director of Planning and Economic Development regarding reference of planning applications to Area Plans Sub Committees;**
- (2) That new guidance be given to Parish Councils regarding how to frame their consultation responses and, in particular, the use of the terms 'support', 'oppose' 'no objection' and 'no comment' and that if necessary the matter be raised at a meeting of the Local Councils' Liaison Committee;**
- (3) That the Director of Planning and Economic Development be asked to use his discretion on how Parish Council responses are handled and whether any case should be referred to an Area Plans Sub Committee in the light of those responses;**
- (4) That the possibility of extending delegation to officers to approve routine applications in respect of single storey rear extensions to residential properties be deferred for consideration at the next review of delegation.**
- (5) That, pursuant to (4) above, the Director of Planning and Economic Development monitor the number of such applications being referred to Area Plans Sub Committees and the decisions made.**

Report:

1. Following consideration of this matter at the meeting of this Panel on 6 April 2009, the Council has requested that we re-consider our proposal not to change officer delegation in relation to comments by Parish Councils.
2. This proposal originated from Councillor J Knapman who wished the Panel to consider the following:

"Delegated powers should not be used if the Head of Planning and Economic Development intends to refuse a planning application where a local council has indicated a measure of support in its response and that such cases should stand referred to the relevant Area Plans Sub Committee.

Reason:

Most Parish Councils state “no objection” which appears to be viewed by Planning Officers as a neutral stance on applications, thereby giving authority to make a delegated decision either to grant or refuse consent. Sometimes, the comments of local councils which accompany “no objection” can indicate support for an application. The officer delegation should therefore provide for such comments to be taken into account in deciding whether reference to a Sub Committee should take place.”

Existing Position

3. The issue of comments by local councils is dealt with in 2 clauses of the relevant delegated authority. Two circumstances where applications would be reported to Committee are identified:

(a) P4(g) - applications recommended for approval contrary to an objection from a local council which is material to the planning merits of the proposal; and

(b) P4(1) - a planning application which would otherwise be refused under delegated powers but where there is support from the relevant local council and no other overriding planning consideration necessitates refusal.

4. We have discussed this issue again and remain of the view that the issue raised by Councillor Knapman is covered in clause P4(1). Determination under delegated powers is not reliant upon whether the local council has used or not used the term ‘Support’ or ‘No Objection’ but rather whether there are overriding reasons for refusing the application in any event. Whatever terminology is used, the issues raised would be taken fully into account when reaching a recommendation and decision. We also do not want to see the number of planning applications to Area Plans Sub Committees increase unnecessarily, not least because of the effect on performance against Government targets.

5. We still feel that the issue can be dealt with simply by asking officers to use discretion in handling expressions of support from local councils, by continuing to provide guidance on planning issues to local councils through the Member Training Programme and visits to local council meetings, and by reassuring local councils that their comments are taken fully into account. This can be done either by letter to Clerks or at a meeting of the Local Councils' Liaison Committee.

6. We recommend as set out in recommendation (1) to (3) at the commencement of this report.

Single Storey Rear Extensions

7. Planning Officers have made representations to us about another category of planning applications which could be dealt with by officers under delegated authority. These are applications for single storey rear extensions to residential properties where consulted neighbours have not raised an objection, but the Parish/Town Council have objected, which are generally of a routine nature but nevertheless are outside the scope of existing delegation. We have asked officers to monitor the number of such cases and outcomes over the next few months.

8. We do not expect that effect of delegating such applications to officers will have a major impact on performance against targets but we are anxious to ensure that the Council gives itself every chance to do so.

9. We recommend as set out in recommendations (4) and (5) above.

Origin:

Cabinet (minute 177 - 10 March 2008) " That the Overview and Scrutiny Committee be invited to consider the implications for the Council arising from the final report of the Pitt Review, expected to be published in the summer of 2008."

The final report has now been published and the Government has published its response to the Pitt Review recommendations.

The District does suffer from river and other water courses (fluvial) and surface water (pluvial) flooding in various locations.

The Council has a proactive approach to addressing flooding issues. It has maintained a Land Drainage Section since the 1970s and continues to invest in flood risk management.

Term of Reference:

1. To establish a Task and Finish Panel to consider and make recommendations on the implications for the Council arising from the recommendations of the review by Sir Michael Pitt following the flooding of 2007 (The Pitt Review).
2. To consider the number of flood risk assets within the District, some public infrastructure and residential properties that remain at a high risk of flooding.
3. To consider how the proposed changes in legislation would improve the management of flood risk and communication between various organisations.
4. To ensure that the Council fully understands and participates in the early stages of the implementation of the new legislation to gain maximum benefits for its residents.
5. To consider the recommendations within the Pitt Review that place additional responsibilities on Local Authorities in respect of management and coordination of all forms of flooding.
6. The District also implements Planning Policy Statement 25 'Development Control and Flood Risk' which seeks to reduce the impact of new build. The Panel to consider the changes proposed in the Pitt Review to further improve the work being done under this policy.
7. To note that County Councils are recognised as the lead authorities, working in partnership with Districts where appropriate, for those matters affecting local authorities within the Pitt Review Recommendations. Essex County Council have not, so far, indicated the likely split of responsibilities between County and Districts but it is reasonable to assume that Districts will have a role to play in implementing the recommendations, specially a District like EFDC which takes flood risk management seriously. To consider the implications of this split responsibilities to the District and to its emergency planning provisions.

Aims and Objectives:

To gather evidence and information in relation to the topics through the receipt of data, presentations and by participation in fact finding visits;

To consult with Partners, Agencies, Stakeholders and Users of the services under review, to establish key issues and future need;

PITT REVIEW ON FLOODING- TASK AND FINISH PANEL : TERMS OF REFERENCE

To evaluate all relevant facts in relation to the topics under review in an objective way and to produce recommendations for future action accordingly;

To establish whether there are any resource implications arising out of the topics under review and advise Cabinet for inclusion in the Budget Process 2009/10; and

To report back to Overview and Scrutiny Committee at appropriate intervals and to submit any final reports in the proposed Corporate Format for consideration by O & S, the Cabinet and Council.

TIMESCALE	ESTIMATED	ACTUAL
Commencement	July 2009	
<u>Finish</u> 1. Interim report to include any budgetary items for the next budget round. 2. As a time limited review - to end by January 2010.	By October 2009 January 2010	
Reports.		

Overview and Scrutiny Work Programme – August 2009

Overview and Scrutiny Committee			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
(1) Scrutiny of Essex Police – Community Policing Initiative	April 2010	Came in April 2009. – To arrange again for April 2010	<p>02nd June 2009 09th July 03rd September 8th October 12th November 17th December</p> <p>28th January 2010 4th March 15th April</p>
(2) OS Annual Review/ Annual Report	April 2010	Final Report went to April 09 meeting.	
(3) Scrutiny of London Underground Ltd	June 2009 – London Underground had withdrawn from this meeting at the last moment. To rearrange.	Last Came in April 2008 – to rearrange. Perhaps to broaden it out by inviting TfL or the GLA.	
(4) Scrutiny of Highways Local Service Agreement	To receive an annual report from the new Localism Panel. – April 2010.	The Council has created a new Localism Panel. This panel should provide this Committee an annual report on its activities.	
(5) Provision of Youth Services within the District	July 2009	Came in July 2008 - Lonica Vanclay (who is the local officer responsible for youth provision in the District) attended July' 09 meeting to discuss this issue.	
(6) West Essex PCT – Proposal for Joint Scrutiny Review	Update went to December 2008 meeting – endorsed in principle.	Further meeting to be arranged with Harlow / Uttlesford to discuss topics and method of any review. It is thought prudent to wait for the outcome of ECC's review of PCT scrutiny arrangements before progressing this review.	

(7) District Transport in Rural Areas		Survey now completed – Data has now been sent to County for their action. To report back to the Committee when County has taken any follow up action. Cllr Hume attended January 09 meeting. Still awaiting County response.	
(8) Scrutiny of Epping Forest Local Strategic Partnership –Chairman and Member level EFDC representatives	March 2010	Last came in March 2009 - Representatives of the partnership to report on an annual basis.	
(9) Scrutiny of Cabinet Forward Plan	April 2010	Last looked at in April 2009.	
(10) Six monthly review - (a) Monitoring of OS recommendations (b) OS work programme	November 2009	Last completed in November 08	
(11) To review the strategic direction of Epping Forest College, its vision for the future and its relationship with the Community	January 2010	Principal addressed of Epping Forest College addressed the December 2008 meeting. To invite the new head teacher to the January 2010 meeting.	
(12) Budget Report	January 2010	Last completed January 2009	

(13) To receive a Health and Inequalities presentation as requested by the Audit Commission.	November 2009	Last came in November 08 - received a presentation from Alison Cowie. Cllr Mrs Wagland wished to discuss 'hip fractures of over 65's. To ask the PCT to attend a future meeting.	
(14) To receive a presentation from the Fire and Rescue Services.	July 2009 September 2009 October 2009	Members agreed to have this presentation at their April 09 meeting. Postponed to October 2009. Members to be asked for their question in advance via the Members Bulletin.	
(15) Debt Management Review.	October 2009	A sub-committee, consisting of four members has been constituted to look into this topic. A report will be brought to this Committee once completed.	
(16) Review of Secondary and Primary Education in the District and to focus on the link between Education and deprivation in the District.		To ask the appropriate person to attend a future meeting.	

Standing Panels			
Housing Standing Panel			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
No reports due to be submitted to this OSC			30 July 2009 29 October 21 January 2010 25 March

Constitution and Member Services Standing Panel

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
Reports on: <ul style="list-style-type: none"> • Elections – 4 June 09; • Delegations to Officers – Planning applications. Reports for 3 September O&S meeting.			29th June 2009 14 th September 2 nd November 11 th January 2010 22 nd March

Safer, Cleaner, Greener Standing Panel

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
Safer, Cleaner, Greener Strategy Document	Went to July O&S meeting.	Agreed by this Panel at its February 2009 meeting, To go to O&S for adoption and then to Cabinet in Sept. 09.	23 June 2009 1 September 27 October 8 December
Environment and Street Scene Directorate Enforcement policy.	Went to July O&S meeting.	To go to Overview and Scrutiny Committee for endorsement.	
Flood and Water Management Bill	Went to July O&S meeting.	Deadline for a reply to the Government precludes the Safer Cleaner Greener Panel considering this report. To go straight to the July 09 O&S Committee.	25 February 2010 29 April

Planning Services Standing Panel

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
No reports due to be submitted to this OSC			<p>18th June 2009 8th September 10th November</p> <p>5th January 2010 11th February 27th March</p>

Finance and Performance Management Standing Panel			
Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
No reports due to be submitted to this OSC			16 June 2009 25 August 17 November 12 January 2010 23 February 22 April

Task and Finish Panels

Pitt Review on Flooding

Item	Report Deadline / Priority	Progress / Comments	Programme of Future Meetings
<p>1. Interim report to include any budgetary items for the next budget round.</p> <p>2. As a time limited review - to end by January 2010</p>	<p>1. By October 2009</p> <p>2. By January 2010</p>	<p>The Panel had their first meeting on 20th July to consider and agree their Terms of Reference and have arranged another meeting for September 2009.</p>	<p>20th July 2009 22 September</p>

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Report to the Cabinet

Report reference: C-017-2009/10

Date of meeting: 13 July 2009



**Epping Forest
District Council**

Portfolio: Leader of the Council

Subject: Sustainable Communities Act 2007

Responsible Officer: Ian Willett (01992 564243)

Democratic Services Officer: Gary Woodhall (01992 564470)

Recommendations:

1. To consider:

(a) How the Cabinet should respond to the motion passed at the Council meeting on 30 June 2009 concerning the development proposals for submission to Government under the Sustainable Communities Act 2007;

(b) The following options as to how this motion can be taken forward:

(i) refer to the Overview and Scrutiny Committee for consideration and report;

(ii) establish a Cabinet Committee with the specific brief to invite proposals from within the District, assess those proposals against the Acts requirements and report back to the Cabinet; and

(iii) The Cabinet itself to deal with the motion.

Executive Summary:

At the Council meeting on 30 June 2009, a motion was adopted whereby the Council has supported the aims and objectives of the Sustainable Communities Act and has asked the Cabinet to use the Act to submit proposals for action and assistance from Central Government as best serves the Epping Forest District.

This report asks the Cabinet to consider how the Council motion should be taken forward and, in particular, the review arrangements which should be set up so that the Council may pursue the matter.

Reasons for Proposed Decision:

The motion on the Sustainable Communities Act having been adopted by the Council and referred to the Cabinet, it is now for the Cabinet to decide how to respond.

Other Options for Action:

To advise the Council that it is not proposed to pursue the aims and objectives of the motion.

Report:

1. The Council on 30 June 2009 passed the following motion:

"That this Council:

(a) supports the "bottom up" process in the Sustainable Communities Act designed to allow local authorities and their communities to drive the action and assistance that Central Government gives in promoting thriving, sustainable communities;

(b) notes that the Act gives local authorities the power to make proposals to Government on the action and assistance Government must take or give to promote sustainable communities and that those proposals can be for the transfer of public money and functions from central or regional control to local control";

(c) notes that the Act defines sustainable communities broadly, that definition having the four aspects of:

- The improvement of the local economy;*
- Protection of the environment;*
- Promotion of social inclusion; and*
- Participation in civic and political activity;*

(d) notes that reasons for a local authority choosing to use the Act include gaining new powers or assistance from Government, determining those powers or that assistance and transferring public monies from central or regional control to local control;

(e) resolve, to use the Act by submitting proposals for action and assistance from Central Government as best serves the District; and

(f) that consideration of this motion be referred to the next appropriate meeting of the Cabinet."

Sustainable Communities Act 2007 - Background

2. The Act provides an opportunity for local authorities to make proposals which they consider would encourage the improvement of the economic social or environmental well-being of local areas. It is based on the principle that local communities know best what needs to be done to promote the sustainability of their area and that Central Government will act in order to enable them to do so.

3. The Act sets out a process by which ideas generated from local communities which aim to promote local sustainability are put forward by the local authority to Central Government through a body known as the "Selector". The Local Government Association "LGA" has been appointed by the Secretary of State as the Selector and its role is to shortlist proposals to be submitted to Government for consideration under the Act.

4. The duties of the Secretary of State include making a decision on which proposals on the shortlist submitted to them by the LGA should be implemented, giving reasons for that decision and to do so after consulting the LGA and reaching an agreement with the latter. The Secretary of State must then publish a statement of how the Government will take forward any proposals that are to be implemented (known as an Action Plan).

5. Local authorities must establish or recognise one or more panels of representatives of

local persons and consult these panels and try to reach agreement about which proposals (if any) are to be put forward. Authorities are not required to submit a proposal. These are then sent to the LGA and in the current round the deadline for submissions was 31 July 2009.

Detailed Operation

6. The Secretary of State made regulations and published guidance on this Act and the main features of these are as follows:

(a) regulations require local authorities before making any proposals to establish or recognise one or more panels of representatives of local persons and to consult them about each proposal. These panels are to be a balanced selection of the individual groups or organisations the authority considers likely to be affected by the proposal. These do not refer to formally elected or nominated members of the community.

(b) panels must include persons from "under represented groups";

(c) it is a matter for the Council to determine how these groups should be established but must take reasonable steps to identify and include representatives from the under represented groups on new or existing panels;

(d) the definition of those likely to be affected by a proposal is such that they do not have to be residents and could be those who work or study in the area, visitors, service users, local third sector groups, businesses, parish councils or anyone else likely to be affected by or interested in the proposal; and

(e) the local authority must consult parish councils in their area.

7. The Council has passed a motion which asks the Cabinet to actively pursue the opportunities raised by the 2007 Act. It will be appreciated that the timescale for submission for proposals in 2009 is now almost unachievable but there is an issue of policy for future years if the Act continues to operate in future years in the same way. The Cabinet may wish to consider how schemes are to be found and what arrangements are to be made for setting up relevant panels of affected people. This is a task which can be undertaken by:

(a) the Cabinet itself;

(b) a Cabinet Committee;

(c) Overview and Scrutiny.

8. If the Cabinet wishes to pursue this issue they should select a method by which the matter can be progressed but if they are not minded to do so they should report back to the Council explaining the reasons for that view.

Resource Implications:

To develop proposals and to submitting these to the LGA and Government. It is not clear whether there is any kind of financial commitment involved in developing these proposals.

As part of any proposal to undertake work in connection with the Sustainable Communities Act 2007, there would need to be an allocation of staff.

Legal and Governance Implications:

None at this stage.

Safer, Cleaner and Greener Implications:

The context of submitting proposals under this Act imply a range of well-being issues for the District which might fall under the umbrella of the "Safer, Cleaner, Greener" initiative.

Consultation Undertaken:

None

Background Papers:

None

Impact Assessments:

Such an assessment has not yet been carried out. The Sustainable Communities Act is clear that the Council informing panels of those likely to be affected by sustainability proposals need to take full account of equalities issues.