

## **EPPING FOREST DISTRICT COUNCIL OVERVIEW AND SCRUTINY MINUTES**

**Committee:** Overview and Scrutiny Committee      **Date:** Thursday, 28 January 2010

**Place:** Council Chamber, Civic Offices, High Street, Epping      **Time:** 7.30 - 9.32 pm

**Members Present:** Councillors R Morgan (Chairman) K Angold-Stephens (Vice-Chairman) K Chana, Mrs A Grigg, D Jacobs, J Knapman, Mrs M McEwen, G Pritchard, P Spencer and Mrs L Wagland

**Other Councillors:** Councillors Mrs D Collins, D Stallan, Ms S Stavrou, C Whitbread, J M Whitehouse, R Bassett and B Rolfe

**Apologies:** Councillors M Colling, A Green, Mrs A Haigh and G Mohindra

**Officers Present:** D Macnab (Deputy Chief Executive), R Palmer (Director of Finance and ICT), I Willett (Assistant to the Chief Executive), T Carne (Public Relations and Marketing Officer), S G Hill (Senior Democratic Services Officer), A Hendry (Democratic Services Officer) and M Jenkins (Democratic Services Assistant)

**By Invitation:** D Jackson (Regional Valuation Office)

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### **70. 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.

### **71. SUBSTITUTE MEMBERS**

It was noted that Councillor P Spencer had substituted for Councillor Mrs A Haigh, Councillor G Pritchard had substituted for Councillor M Colling, Councillor K Chana had substituted for Councillor A Green and that Councillor Mrs M McEwen had substituted for Councillor G Mohindra.

### **72. DECLARATIONS OF INTEREST**

Councillor J Knapman declared a personal interest in item 7 of the agenda by virtue of being a County Council member on their Health Scrutiny Panel.

Councillor Mrs Wagland declared a personal interest in item 6 of the agenda by virtue of being a lawyer that dealt with this type of issues.

Councillor D Jacobs declared a personal interest in item 6 of the agenda.

Councillor D Stallan declared a personal interest in item 6 of the agenda by virtue of his employment.

Councillor C Whitbread declared a personal interest in item 6 of the agenda by virtue of being a business owner in Epping.

**73. MINUTES**

**RESOLVED:**

That the minutes of the last meeting of the Committee held on 17 December 2009 be agreed.

**74. PRESENTATION FROM THE LOCAL VALUATION OFFICER**

The Chairman welcomed David Jackson, the District Valuation Officer for the East Anglian region. He said his was a statutory role under the Finance Act of 1988. His office maintained a rating list of the rateable values applied to all non-domestic property, that is, the open market rental value of each property. The Committee noted that there were 111,000 properties in the East Anglian area. If needed, there was also an appeals procedure that could be undertaken.

The meeting was opened up for questions from attending Councillors and members of the public.

Q: Non Domestic Rates (NDR) have been doubled in Queens Road, Buckhurst Hill due to a recent appeal. Were there mistakes made in the initial assessment?

A: We have a duty to maintain a list that is fair and accurate for everybody. We request information from as many businesses as we can, but sometimes have difficulties in getting the information we need. Someone did appeal and our subsequent investigations revealed that the wrong value had been applied.

Q: Would not 'natural justice' dictate that the charges be increased in the next year and not immediately.

A: We were reliant on information being returned to the valuation office. Once a problem had been identified we were bound to put it right to be fair.

Q: Is your role one of an expert witness in these matters?

A: I am totally impartial, it is not a question of getting the highest rate for an area.

Q: What would one of your officers say to a shopkeeper about the purpose of his visit?

A: We do not give our staff a script, although all staff are trained and should explain why they are at the premises.

Q: Some officers start by saying that they have come to put the traders rates up.

A: This statement should not compromise their impartiality, however, they should not say things like that.

Q: Do you explain to shopkeepers that they can provide their own evidence. The Waitrose effect tends to apply to all shopkeepers, a newsagent had had a recent 15% increase. They are not happy that you are acting impartially. Transitional arrangements would ease some of the burden of this increase.

A: The Buckhurst Hill increase was evidence based and will be reviewed again when we review the district again. Leaflets and notices went out to all shopkeepers explaining their right of appeal and the appropriate cut off dates etc.

Q: Traders in Ongar have a difficult time. Is any account taken of the size and viability of a shopping precinct? A local trader had advised that bills are doubling in Ongar in comparison to Croydon in London.

A: Rateable value applied to Ongar is based on evidence available to us. We can review the the valuation, such things as road works can effect the rateable value. Shopkeepers can appeal for a reduction on those grounds.

Q: It seems that if a small business becomes larger by opening another branch then they can be disadvantaged a second time.

A: Multiples are determined by Central Government.

Q: What economic cyclic considerations do you take into account?

A: A revaluation would ensure that we would take account of the market conditions at the time.

Q: Is there no requirement by Central Government to continue to increase rateable values; can they also go down?

A: Yes.

Q: Local Councils are trying to help businesses survive, but they have you driving up rateable values.

A: I have a statutory responsibility to set a fair rate.

Comment: We have heard this before and are concerned by this current review as it causes problems to local businesses. Some businesses are on the cusp of going under. We understand that this is not your fault as you are following your statutory duty. Government action was needed, the review should be put on hold. It will not benefit anyone in Epping Forest. We need more action from the government.

Q: What constitutes a locality? And is transitional relief a smoothing mechanism form one period to another.

A: A particular property market will determine what a locality is; such a shopping parade or a large industrial estate. As for transitional relief, officers set out a boundary and billing is dealt with by the local authority who take into account factors to lessen the impact of a valuation.

Q: Our village shops have had their bills go up by 60% and this questions their survival. Have the thresholds for small businesses moved in line.

A: There is a difference in rateable value and bills, and increase in rateable value may not mean an increase in bills; bills are set by the local authority. We just set the rateable value.

Q: If everyone is going to be appealing, are you geared up for the number of appeals you will get?

A: We will deal with any appeals we get.

Q: How is the market value arrived at, by the square foot or by revenue.

A: We get as much information as we can. Shop sizes vary, so we go by zoning value for the area of the shops and do an assessment based on rents priced per square metre.

Q: So, viability of a business is not a deciding factor.

A: We arrive at a rateable value via an open market value of that property as it were vacant and available for rent.

Q: As a Queens Road trader, should we tell you about any environmental changes. We used to have shopper car park, now it's a long stay car park. There is nowhere for shoppers to park after 9am. It would be helpful if 30 to 40 spaces could be made available for shoppers. This is destroying the small shopkeepers.

A: We understand the problems, but my duty is to make sure the list is fair; but you can put in a case for material change.

Q: A colleague has shops in different areas. He has to pay for air conditioning in Buckhurst Hill but not in LB of Barnet.

A: A person would pay more for renting a shop with air conditioning than without, which is what we base our rateable fees on. I cannot speak about Barnet.

The Chairman drew this part of the meeting to an end and thanked Mr Jackson for coming, explaining about the rateable system and answering members questions.

## **75. NORTH EAST LONDON HEALTH SERVICES - CONSULTATION DOCUMENT**

The Senior Democratic Services Officer, Simon Hill introduced the report on the consultation document on the North East London Health Services. The Committee noted that at their upcoming meeting in March they would be considering this consultation paper. They should consider the approach they should take and scope out the questions they should ask. They noted that County Councillor Chris Pond should be invited and that they consider if any one else needed to be invited and if it should be held in the South of the District.

Some of the aspects the committee wanted to question were:

- Parking at Whipps Cross Hospital;
- Why concentrate acute services at the Royal London and Queens;
- Why withdraw A&E and maternity services from some sites;
- What would be the future usage of King Georges Hospital;
- Concerns about the A&E department being removed from King George's Hospital;
- Has Essex Ambulance Services been involved in effective journey mapping to ensure that for emergency calls and transfers that there is no greater journey time;
- Needed to clarify what services were going to Queens;
- It may also mean that people from Loughton would come up to the Princess Alexandra, do they have a view of what this would mean for them;
- Concerns were raised about the loss of surgery for children at Whipps Cross, and where would people go in emergencies;
- What steps were being taken to consult Epping Forest residents.

It was also agreed that a member of the review team be invited to the meeting; John Carr and Judy Harkus from the West Essex Link Group; and Councillor Brian Sandler.

On consideration of the venue the committee decided that it should not be moved to the South of the District.

### **RESOLVED:**

- (1) That the scope of questions be agreed as set out above.
- (2) That apart from the West Essex PCT, the following people and organisations should also be asked to the meeting: Councillor Chris Pond, members from the North East London Review Team, John Carr and Judy Harkus from the West Essex Link Group, and Councillor B Sandler.
- (3) That the meeting be held at the Civic Offices, Epping.

**76. BUDGET REPORT**

The Committee considered the recommendations of the Finance and Performance Management Cabinet Committee and the Finance and Performance Management Scrutiny Panel on the Council's budget for 2010/11.

The Chairman of the Finance and Performance Management Scrutiny Standing Panel, Councillor Jacobs, reported back on what their Panel had discussed and noted that they were in broad agreement with the draft budget as presented to them.

Councillor Whitbread, the Chairman of the Finance and Performance Management Cabinet Committee reported back on their deliberations on the budget. They noted that this was difficult times as they were not sure if the country was out of the recession as yet and would be unsure of government funding until after the election. The cabinet were proposing the lowest Council Tax increase in at least 10 years of 1.5%, a lower figure than 2.5% contained in the draft budget considered by the Scrutiny Panel.

The Committee welcomed the proposed new Council Tax rate and that the Council would be maintaining frontline services in difficult times. They also welcomed the fact that the Council's reserves would be maintained, especially as the rating officer had suggested that the local shopkeepers may look to this council under the hardship rules.

In view of the revised Council Tax the Director of Finance and ICT made some amendments to some figures in the recommendations in the Budget report.

**RESOLVED:**

That on consideration of the budget report and the deliberations of the Finance and Performance Cabinet Committee and the Scrutiny Standing Panel the Overview and Scrutiny Committee endorsed the Budget and the revised 1.5% Council tax rate.

**77. FINAL REPORT FROM THE PITT REVIEW ON FLOODING TASK AND FINISH PANEL**

On Consideration of the concluding report of the Pitt Review Task and Finish Panel the Committee agreed to disband the Panel and to re-establish it once clear guidance had been received from Government and Essex County Council.

**RESOLVED:**

(1) That the work of the Pitt Review Task & Finish Panel to date was noted;

(2) That due to the continuing uncertainty surrounding the Flood and Water Management Bill, which prevents the Panel from drawing meaningful conclusions and making recommendations at this time, the Panel is to be wound up; and

(3) That consideration to be given to re-establishing the Pitt Review Task & Finish Panel once the Flood and Water Management Bill has been introduced and clear guidance from Government and Essex County Council was forthcoming.

**78. FINAL REPORT ON THE DISTRICT TRANSPORT SURVEY**

The Committee noted the ongoing work undertaken by Essex County Council and the LSP since the district transport survey was completed. The 381 replies were passed onto the Transport Liaison Manager at Essex County Council who analysed the results. They have since incorporated the results into their work programme. They have also liaised with Epping Forest LSP who are also currently working towards a sustainable community strategy which should cover effective and accessible public transport.

The Committee asked that this item be kept on the Committee's work programme so that the counties and the LSP's ongoing work on local transport could be monitored.

**RESOLVED:**

That the response and ongoing work to the Rural Transport Survey be noted.

**79. CONTRACT STANDING ORDERS - ANNUAL REVIEW**

Councillor Mrs McEwen introduced the annual review of Contract Standing Orders (2009/10). The Constitution and Member Services Standing Panel recently reviewed the work of a cross directorate working party of officers that reviewed the contract standing orders with the view of ensuring that these documents are up to date and reflect current statutory requirements and operational needs.

The Committee noted that the number of significant changes proposed were relatively limited in number and the remainder were minor drafting changes relating to post titles, changes in responsibilities and updating for new legal requirements.

A summary of the more significant changes is given below:

**(a) Tender and Bid Rigging**

The new wording at the top of page L2 of the CSO's reflects a recent national investigation by the Office of Fair Trading into possible collusion and rigging of tenders and bids. The additional wording is designed to alert all officers involved in tendering procedures to be alert as to any unusual circumstances which arise in this regard. This statement is supported by further advice to officers via the Council's intranet.

**(b) CSO 1(9) (Compliance – Combination of Orders)**

The amendment to this CSO is to extend the period from one to four years in determining the value of orders which can be combined into one contract. The period has been extended to four years to comply with EU Regulations.

**(c) CSO 1(10) (Compliance – Single Contractor Limits)**

The final sentence in this CSO is new and relates to Chief Officers being required to have regard to the overall cost of contracts in deciding whether the threshold amount for awards of contracts to a single contractor has been exceeded. Such an assessment must now include management costs and any costs which extend over longer than a single financial year. This is included for clarification.

**(d) CSO 1(12) (Compliance – Procurement Hub)**

The only change to this CSO is in the first sentence by the removal of “framework” after “Essex Procurement Hub”. The word “framework” appears to give the impression that procurement similar, but not part of, the Procurement Hub need not be subject to CSO's or the Hub itself. This is not the case. CSO's will only apply to any procurement method which is not specifically part of the hub procedures.

**(e) CSO 6(4)(a) (Tender Invitations - £50,000+)**

This paragraph has been amended to refer to five contractors selected from Constructionline. Previously the paragraph referred to four contractors. The change has been made to accord with EU Regulations.

**(f) CSO 8(1) (Open Tendering)**

The final sentence of this CSO is new. It is designed to clarify that when the open tendering method is adopted all the tenders received must be reviewed in accordance with EU Regulations. However many tenders are received, all must be properly assessed against the tender specification. There can be no filtering process to reduce the number which are examined.

**(g) CSO 10(2)(ii) (Contractor Selection - £50,000+)**

Previously this CSO required that, in respect of contracts in excess of £50,000 the previous lowest and second lowest tender for similar work should be part of a new tendering list. The text has been changed to refer to the Housing Repairs Service and the previously successful contractor unless this is deemed to be inappropriate to the contract concerned. The reason for this is the advent of quality assessments being included in tender assessments.

The previous wording reflected only assessments based on financial considerations which were previously the norm. However, because quality considerations might mean other than the lowest tender had been accepted, it is felt appropriate to include only the successful tender from the previous round.

The inclusion of the Housing Repairs Service is to cover the fact that some contracts may be related to its specialist skills. The inclusion of those two tenderers in any list may be deemed inappropriate on discussion between the Chief Finance Officer and the relevant Service Director.

**(h) CSO 20(3) (Acceptance of Tenders - £50,000+)**

The second sentence of paragraph 3 is new and relates to tenders considered on both financial and quality grounds. Currently, the only tenders which may be accepted without prior approval are lowest tenders where the sole criterion is price. Others are to be approved by the Council or the Cabinet on the recommendation of a Portfolio Holder. The additional sentence makes it clear that if the Cabinet or the Portfolio Holder has determined prior to the invitation of tenders that they will be assessed on the basis of quality or on the most economically advantageous proposal to the Council, then the formal decision of the Council or the Cabinet is not required subject to the conditions in paragraph 1 and 2 earlier in that contract standing order.

**(i) CSO C23(1) (Official Orders)**

The final sentence is new and is designed to clarify that an official purchase order is required in conjunction with all contracts irrespective of the method of procurement concerned.

**(j) CSO C34 (EU Procurement Thresholds)**

The contract standing orders now show the new EU procurement thresholds which came into effect on 1 January 2010.

**RESOLVED:**

- (1) That the Overview and Scrutiny Committee recommend to Council the amendments to contract standing orders as set out in the report; and
- (2) That the new contract standing orders be published in the Constitution following approval by Council.

**80. WORK PROGRAMME MONITORING****(a) Work Programme****Overview and Scrutiny Committee**

The Senior Democratic Officer took the Committee through their current work programme. They noted that:

- The draft annual report would go to their next meeting and that it would have a change of format;
- That the Work Programme had mostly been covered this year;
- Item 10, review of Epping Forest College and item 15, review of secondary and primary education in the District was premature this year and would be kept on the work programme for next year.

**The Customer and Member Services Standing Panel**

Councillor Mrs McEwen updated the Committee on her Panel's work. They noted that the Panel had a lot of items coming to their March meeting such as the annual review of officer delegation; review of the Licensing Committee membership; review of the area plans sub-committees; review of the constitution of the Audit and



Governance Committee; review of the Housing Appeals Panel and the cancellation of meetings due to inclement weather.

### **Safer Cleaner Greener Standing Panel**

Councillor Pritchard updated the Committee on his Panel's upcoming work. They noted that the February meeting would be devoted to Crime and Disorder and that the CCTV Policy would be going to the April meeting.

### **Planning Services Standing Panel**

Councillor Mrs Wagland reported on her Committee's work programme saying that since the November 2009 meeting, members had requested that the Planning Services staffing structure be made available to all members through the Bulletin, this has now been done.

The Overview and Scrutiny Committee had received reports from the Panel recommending the creation of a new Senior Enforcement Officer post; also recommendations regarding the Essex County Council Minerals Development Document. It was felt that the consultation document was unsuitable. The Panel had also discussed the EERA Consultation – 2031 Scenarios for Housing and Economic Growth, with members making an additional recommendation for a fifth scenario dealing with the assessment of infrastructure provision in terms of implications for housing and economic growth.

At the January 2010 meeting of the Panel, members considered the updated Best Value Review. Panel members requested additional information but recommended that it be re-submitted to the Panel with benchmarking detail. The Panel had also requested a report, previously put before the Constitutional and Member Services Panel, regarding Officer Delegation in respect of Comments by Town and Parish Councils. The members recommended that no change be made to officer delegation.

Further additional work is needed on the Panel's Terms of Reference. The Panel's Work Programme indicated that there would be further reports on Enforcement and the possibilities of sharing Building Control Services with other councils.

### **Finance and Performance Management Standing Panel**

Councillor Jacobs updated the Committee on what his Panel had been doing. At their last meeting they had received a presentation from the Comprehensive Area Assessment Lead at the Audit Commission. He spoke about the Organisational Assessment carried out on this Council at the end of last year. The Panel also looked at the Key Priority objectives for 2009/10 and 10/11. The 2010/11 list was only a broad summary of objectives and a more detailed list would be reported back to their next meeting.

The Panel had also received the draft budget and this had already been reported on earlier on in the meeting. Lastly they had also received a report updating members on the ICT services of the Council.

### **Pitt Review on Flooding Task and Finish Panel**

Reported on earlier on in the meeting.

### **Sustainable Communities Task and Finish Panel**

The Panel had met on 3 December 2009, when they scoped out their terms of reference. Their next meeting will be on 4 February 2010 when an officer from the London Borough of Redbridge would be giving an insight into their dealings with the sustainable communities' agenda.

**(b) Reserve Programme**

The Committee considered the proposal put forward by Councillor Jon Whitehouse to look at waste collection and the problems caused by inclement weather.

On reflection the Committee decided that this topic should be added to the Safer, Cleaner Greener Scrutiny Standing Panel work programme.

**RESOLVED:**

That the topic of waste collection and inclement weather be added to the Safer, Cleaner Greener Standing Panel work programme.

**81. CABINET REVIEW**

It was noted that there was no business to report to the Cabinet.

**CHAIRMAN**