

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Planning Services Scrutiny Standing Panel **Date:** Thursday, 11 February 2010

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 7.30 - 10.05 pm

Members Present: Mrs L Wagland (Chairman), A Boyce, R Frankel, Mrs A Haigh, Mrs C Pond, W Pryor and H Ulkun

Other Councillors: Mrs M Sartin, Mrs P Smith and J M Whitehouse

Apologies: K Chana, J Hart and Mrs P Richardson

Officers Present: J Preston (Director of Planning and Economic Development), N Richardson (Assistant Director (Development Control)), S Amin (Senior Accountant) and M Jenkins (Democratic Services Assistant)

51. SUBSTITUTE MEMBERS

There were no substitute members present at the meeting.

52. DECLARATIONS OF INTEREST

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

53. NOTES FROM THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 5 January 2010 be agreed.

54. TERMS OF REFERENCE

The Panel received a report from Mr J Preston, Director of Planning and Economic Development, regarding the Panel's Terms of Reference.

A new draft had been made of the Terms of Reference, some items had been re-prioritised, and two items had been transferred to the Panel's Work Programme, they were:

(a) Item 8 "To review a selection of controversial planning decisions to see if lessons can be learnt from their consideration."

(b) Item 9 "To consider whether the reporting arrangements for all of the above matters and those for the Section 106s (including how they are negotiated, agreed and implemented strategically to secure community benefit), and appeals are sufficient (including how new legislation impacts on these) and to recommend accordingly."

RESOLVED:

That the Panel's new Terms of Reference be agreed.

55. WORK PROGRAMME

The Panel discussed the Work Programme.

1 (a) Regional Plan

Work was still on-going.

(c) Gypsy and Traveller Development Plan Document

(i) A letter had been sent to the Government minister concerning the Gypsy and Traveller Development Plan Document (DPD). Mr J Preston, Ms K Polyzoides, Assistant Director of Planning and Councillors Mrs A Grigg and Mrs M Sartin would represent EFDC at such a meeting, officers had been to a preliminary meeting at GoEast on 8 February 2010.

(ii) Temporary planning permission for some Gypsy and Traveller sites had been granted for three and five years. It was felt necessary to examine Gypsy and Traveller sites where permanent planning permission might be granted.

(iii) The Chairman mentioned the meeting of the District Development Control Committee on 2 February 2010 which included a debate on further pitches at a Gypsy site in Nazeing. The Discussion had been very good and well informed. The webcast record of the meeting should be mentioned to Mr M Beard QC (the District Council's Counsel) for the Minister to consider because it illustrated how well the Council approached such decision making.

(d) Current Staffing

(i) The Panel had scrutinised a "Family Tree" of the Planning Directorate staffing structure.

(ii) The "Family Tree" was in the Bulletin.

(iii) Extra staff were being used in dealing with outstanding Essex Tree Preservation Orders.

(2) Value for Money Provision:

(b) Building Control

There was a report on Building Control due for the next meeting of the Panel in April 2010.

(4) Report from Legal Services on performance at Planning Appeals.

There was a separate meeting arranged with the Panel's Chairman on 12 February 2010.

(5) Comments from the Planning Agents and Amenity Groups required matching.

There was to be a forthcoming meeting of planning agents and amenity groups, it was felt that the meeting should take place late in the afternoon in the two committee rooms for 30 – 35 people. The date needed to be convenient for panel members as well.

RESOLVED:

That Mr N Richardson, Assistant Director of Planning and Economic Development, arrange a meeting of planning agents and amenity groups and email suggested dates to Panel members.

(10) Review the Corporate Planning protocol in respect of applicants, agents, developers and local business community.

This item was with the Constitution and Member Services Scrutiny Panel.

56. ACTION POINTS FROM MEETINGS OF DEVELOPMENT CONTROL CHAIRMEN AND VICE CHAIRMEN IN FEBRUARY & OCTOBER 2009

The Panel received a report regarding the Action Points from the 26 February 2009 and 15 October 2009 meetings of the Development Control Chairmen and Vice Chairmen.

1. Discussion of plans prior to meetings – pilot a pre-application briefing where a fee is required.

Officers had attended a preliminary meeting for potential development of land at Epping Forest College, Loughton. This was an opportunity for a Planning Performance Agreement to be drawn up with Area Plans South Chairman/Vice Chairman, and nominated group representatives being briefed by officers following their own meeting with applicants and their agents.

Members asked for this item to be brought back to the Panel for further analysis.

RESOLVED:

That Discussion of Plans Prior to Meetings – Pilot (a pre-application briefing where a fee is required), be brought back to the Panel.

2. Planning Services to consider link to the online plans on Area Plans agenda.

The online plans were being looked at by the new Business Manager.

3. Planning Directorate consider planning website/pinpoint member training before or after Area Plans meetings.

It was difficult to arrange for Area Plans South Sub-Committee members to receive planning website/pinpoint training because there was no link to the website at the meeting area at Roding Valley School. However there was an opportunity for an Iplan presentation at the planning agents and amenity groups meeting. The Constitution and Member Services Panel should discuss Iplan training as this was part of member training.

RESOLVED:

That the Constitution and Member Services Scrutiny Panel examine Iplan training for members.

4. Improving Local Performance Indicator's – Increase Delegation, frequency of meetings etc.

(a) The validation process had been revisited. Careful checking was taking place and the website updated with the validation checklist.

(b) Performance on major planning applications should be improved by applicants and the Council entering into Planning Performance Agreements (PPA). Officers had either not had prior warning of major applications submissions in 2009 or there was a reluctance on the part of applicants to enter PPA's because they were seen as making the time dealing with a major application longer and therefore were not beneficial to the applicant.

(c) A report had been submitted to the Constitution and Member Services Panel in June 2009, considering a proposal for a change to the operation of the Director of Planning's delegation in determining planning applications. The proposal was to make the interpretation of the views of Local Councils more flexible resulting in more cases being put before Area Planning Committees. The Panel did not support the change preferring to rely on improved advice from planning officers to local councillors in making their views clear. The Overview and Scrutiny Committee had recommended this item to this Panel which came to the same conclusion.

5. Defending Refusals at Appeals

(a) Officers had altered the report template to show representations in the middle section of the report as opposed to being at the end of the report focussing officers' attention on comments raised by third parties. More balance was reflected in officer reports showing relevant cases where despite recommendation to grant there was a case to refuse should members vote that way.

(b) Officers viewed the webcast of the committee meeting where recommendations were overturned and incorporated these views into their statement.

(c) All appeals received appeared on the weekly list of applications, which was available on the website.

(d) Dates for hearings and inquiries were also published in the Bulletin closer to the appeal date. Members were able to get more involved in the appeal process.

6. Decision Making at Meetings – Webcasting

(a) Chairman of Area Planning Committees now obtained clear reasons for refusal before a vote took place.

(b) Members were putting their reasons for refusing forward more clearly.

(c) There was still an impression that occasionally a Committee Member was reading from a pre-prepared statement, but the position had got better.

(d) With the assistance of the Democratic Services Officer, Chairmen were summarising the decision made and result of voting.

7. Highway Objections to Planning Applications

Explanation was required from Essex County Council Highways Engineers for some of their recommendations. There had been a re-organisation of County Council Highways Services and highways engineers had addressed the District Development Control Committee on 2 February 2010 and indicated a greater willingness to co-operate on planning applications. There had been the occasional attendance of Highways Engineers at Area Plans Committees.

8. Planning Services and Building Control – working from the same set of agreed plans

Trial had begun of drawing up building commencement list and providing approved planning permission plans for Planning Directorate building inspectors to check when visiting sites. It was hoped that this would produce more consistency between planning and building control decisions.

57. OFFICER DELEGATION

The Panel received a report from Mr N Richardson, Assistant Director of Planning and Economic Development, regarding recommended alterations to officer delegation to improve planning performance against targets.

At the last meeting of the Panel, members had requested officers to suggest alterations to delegated powers for planning applications and enforcement matters in CL36 and CL56 respectively. The Panel considered recommended changes to the following:

(a) Enforcement (Ref CL36 Paragraph 1)

Delegation CL36 (1) set out delegated authority to issue enforcement notices, stop notices, contravention notices etc, but if officers wished to serve a discontinuance notice to remove an advert, it currently required Area Plans Committee authorisation. Such action was likely to be rare, but, given that full planning enforcement action was delegated, it appeared not unreasonable for a discontinuance notice to be delegated as well. The Panel supported this.

(b) Planning Applications (Ref CL56 Para 1, Sch A (f))

The current Delegation CL56 stated that planning applications were determined by the Director of Planning and Economic Development except in certain circumstances when they were instead determined by committee. This includes the following in Part (f) of Schedule A which currently reads:

“Applications recommended for approval on which there was more than one expression of an objection material to the planning merits of the proposal to be approved other than householder applications.”

In order to secure improved performance in NI157c officers recommended reviewing this to “two” rather than “one” expression of an objection, and expand in the case of householder applications to include “other applications.” The Panel agreed but with wording revised from that suggested in the report by officers. The following revised wording formulated by officers was suggested to read as follows:

“Apart from approvals for householder and “other” applications, those applications recommended for approval where there are more than two expressions of objections material to the planning merits of the proposal be approved.”

The Panel noted that “other” applications included changes of use, householder development, adverts, listed building consents, conservation area consents, lawful development certificates, agricultural notifications, telecommunications masts, shop fronts and vehicular crossovers. Officers stated that the Council was very close in achieving the challenging target of 93% set for this category, of planning applications, but there were some low contentious applications that went before a Committee despite no objections raised by Parish or Town Councils which could have been avoided and otherwise dealt with in time.

(c) Paragraph 1, Schedule A - Proposed Additional Section

Paragraph 1 Schedule A – It was also suggested that an additional section (m) should be added as follows:

“Applications for extensions to the time limit for implementing planning permission, listed building consents or conservation area consents, unless there had been no changes to material considerations, including planning policy from when the permission was granted.”

The Panel noted that developers with planning permission granted up until 30 September 2009 where the time limit for implementation had not expired, could apply to extend their permissions. This allowed applicants to apply for new planning permission where the original consent which was in danger of lapsing. Amongst other advantages, this particularly helped improve performance NI157A, turn around times of “major” applications where a decision was required within 13 weeks of receipt. However the Panel had concerns that the question of whether circumstances had changed was a matter about which the Sub-Committee’s view might have useful local information. The question of whether something would or would not be delegated could not be known for certain under the proposed revision Therefore it was decided to reject this proposal.

(d) Paragraph 1 Schedule A (h)

The Leader of Council had asked that there was a review of the “call-in” by Councillors which would affect part (h) of delegation CL56 that stated:

(h) “Applications which any member requests within 4 weeks of the notification of that application in the Council Bulletin should be the subject of consideration by the relevant committee.”

The Panel noted that the opportunity to call-in applications was currently open to any member of the Council. The Overview and Scrutiny Committee had asked for a review of this because allowing any member to call-in increased the number of such references to sub-committees which would already effect planning performance against targets and because allowing any Councillors to call-in an application went against the principle of area based plans sub-committees.

The Panel noted the following options for meeting this request:

- (a) restricting the call-in to the local ward member (s) for the application concerned;
- or

(b) restricting the call-in to any Councillor representing a ward within the Area Plans Sub-Committee area concerned; or

(c) making no change.

The Panel favoured option (b) as it emphasised the status of Area Planning Sub-Committees.

The other two suggested alternations to delegation below were not necessarily to improve NI performance, but to partly provide an updating of delegation and to respond to members comments.

(e) CL56 – Paragraph (3)

Paragraph (3) related to trees and currently stated that delegated powers can be used:

“To determine applications for works to preserved trees (other than felling) unless subject to criteria (f), (g), and (h) of the preceding schedule and dispensing with requirements to replace a preserved tree, and to respond to consultations from Essex County Council.”

N Richardson’s suggested wording which read as follows:

“To determine applications for works to preserved trees, including felling (unless there is a significant risk of a claim for compensation against the Council, unless subject to criteria (f), (g) and (h) of the preceding schedule and dispensing with requirements to replace a preserved tree.”

The Panel noted that Planning Officers considered that in cases where felling was necessary or where there were compensation issues these should remain outside officer delegated powers and still be referred to plan sub-committees. The other reason for the changes was that the Essex County Council TPOs were being revoked and the Council completing a review of these cases as new TPOs. Reference to Essex County Council was therefore no longer required.

RECOMMENDED:

(1) That Delegation CL36 (Part 1) be amended by adding the words “discontinuance notices to remove advertisements” after “Planning Contravention Notices.”

(2) That the following amendments to CL56 be made:

(a) That under Schedule A Part 1 (f) be revised to read as follows:

“Apart from approvals for householder and “other” applications, those applications recommended for approval where there is more than two expressions of objection material to the planning merits for the proposal to be approved”;

(b) That the following proposed change to Schedule A Part 1 (m) be not pursued:

“Applications for extensions to the time limit for implementing planning permission, listed building consents or conservation area consents, unless

there has been no changes to material consideration, including planning policy, from when the permission was granted”;

(c) That under Schedule A Part 1 (h) paragraph be revised to read as follows:

“Applications which a Councillor representing a ward within the relevant Area Plans Sub-Committee area requests within four weeks of notification in the Weekly List should be referred to the appropriate Sub-Committee”;

(d) That Schedule A Part 3 be amended by deleting “and to respond to consultations from Essex County Council”; and

(3) That the proposed changes to officer delegation be referred to the Constitution and Member Services Scrutiny Standing Panel for consideration.

58. BEST VALUE REVIEW

The Panel received a report from Ms S Amin, Senior Accountant, regarding the Revised Estimate for 2009/10 and Estimate for 2010/11.

At the Panel's meeting on 5 January 2010, members requested that the costs of Enforcement and the administration of Planning Appeals, be included in the Development Control Best Value Review.

As the Panel had previously agreed the format and data included in the review document it was proposed that the future financial monitoring of Enforcement and Planning Appeals was continued in a separate report to the Panel.

Members were interested in the cost of legal advice involved regarding appeals. Officers advised that there was no particular difference in cost between the District Council's legal service and outside legal services. Members asked if it was possible for the Council to take up an indemnity insurance policy of about £80,000 in case of adverse costs ordered against the Council where appeals were upheld. Officers said they would investigate.

RESOLVED:

(1) That the actual outturn for 2008/09, revised estimate for 2009/10 and original estimate for 2010/11 for Planning Appeals and Enforcement be noted;

(2) That the future monitoring of Enforcement and Planning Appeals will not be included in the Development Control Best Value document, but in a separate report to the Panel; and

(3) That Ms S Amin, Senior Accountant, investigate the possibility and cost of the District Council having an insurance policy for dealing with adverse costs orders on appeals.

59. IMPROVEMENT PLAN

The Panel received an updated version of the Improvement Plan from Mr J Preston, Director of Planning and Economic Development. This was updated as follows:

Item 2 – Develop and promote a set of service standards for Planning and Economic Development, outlining the minimum levels of service that external and internal customers will receive.

There was a new postholder in place, Mr P Millward, Business Manager, who would work on this.

Item 3 – Check the effectiveness of the channels of communication used to ensure that all staff were aware of service priorities and quality standards.

Although the staff had been included in the refresh of the Business Plan in February 2010, the staff survey had not been issued yet. Mr J Preston advised that he would circulate the new staff newsletter to the Panel.

Item 8 – Improve the standard, content, presentation and consistency of reports to Development Control, Planning Standing Panel and Area Sub-Committees.

The “Standard Template” for reports to Committees was being reviewed.

Item 10 – Implement practical measures to improve the public perception and reputation of the Council’s Planning Service, particularly with respect to high profile/controversial applications and enforcement action.

Planning Services did not have the correct software for the data they needed for presenting the enforcement information. Mr D Newton, Director of ICT was putting this information into the right format and Mr J Godden, Principal Planning Officer, would be invited to the Panel for one of its future meetings.

60. ANY OTHER BUSINESS

There was no other business for discussion.

61. DATES OF FUTURE MEETINGS

The next programmed meeting of the Panel was scheduled for Tuesday 27 April 2010.

CHAIRMAN