

## EPHING FOREST DISTRICT COUNCIL OVERVIEW AND SCRUTINY MINUTES

**Committee:** Overview and Scrutiny Committee      **Date:** Monday, 28 February 2011

**Place:** Council Chamber, Civic Offices, High Street, Epping      **Time:** 7.30 - 10.30 pm

**Members Present:** Councillors R Morgan (Chairman) K Angold-Stephens (Vice Chairman of Council) (Vice-Chairman) R Barrett, W Breare-Hall, Ms R Brookes, Mrs R Gadsby, Mrs A Grigg, D Jacobs, J Philip and J M Whitehouse

**Other Councillors:** Councillors R Bassett, A Boyce, Mrs D Collins, C Finn, Ms J Hart, J Markham, Mrs M McEwen, Mrs C Pond, B Rolfe, Mrs M Sartin, Mrs P Smith, D Stallan, Ms S Stavrou, Mrs L Wagland and C Whitbread

**Apologies:** Councillors D C Johnson

**Officers Present:** D Macnab (Acting Chief Executive), I Willett (Assistant to the Chief Executive), S G Hill (Senior Democratic Services Officer), R Wilson (Assistant Director (Operations)), K Polyzoides (Assistant Director (Policy & Conservation)), A Mitchell (Assistant Director (Legal)), D Newton (Assistant Director (ICT)), T Carne (Public Relations and Marketing Officer), A Hendry (Democratic Services Officer) and M Jenkins (Democratic Services Assistant)

**By Invitation:** D Vernazza (Regional Census Officer) and D Stannard

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### 75. 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.

### 76. SUBSTITUTE MEMBERS

There were no substitute Members for the meeting.

### 77. MINUTES

#### RESOLVED:

That the minutes of the last meeting of the Committee held on 24 January 2011 be agreed.

### 78. DECLARATIONS OF INTEREST

- (i) Councillor W Breare-Hall declared a personal interest in agenda item 8 as he was the Deputy Housing Portfolio Holder.
- (ii) Councillors Mrs R Gadsby, R Bassett, Mrs P Smith, Mrs M Sartin and Ms S Stavrou declared personal interests in agenda item 8 as they were members

of the Area Planning Sub-Committee that decided on the original planning application for 35 Denny Avenue.

## 79. NATIONAL CENSUS PRESENTATION

The Committee welcomed David Vernazza, the officer charged with organising the census for our region, who was there to speak about the background, aims and objectives of the upcoming national census.

The Committee noted that the census had been going since 1801 and was of historical value as an indicator of the past and where we were moving on to as a society. Central Government raises about £100 billion in taxes and the information gathered by the census was used for redistributing funds to local communities. The Committee noted that there was a need to understand how society was changing, and what the trends in aging were.

The Committee noted that:

- The Gypsy and Traveller population had never been counted before, this time they would be;
- It was estimated that each form filled in would generate about £500 a year in funding for the district;
- Completion of the forms also underpins policy making and forward planning and helps target expenditure;
- There would be no questions on sexual identity or income;
- Historically, the over eighties have experienced difficulty in filling in the forms and at the other end younger people thought that their time was too valuable to fill them in;
- Typically, children under school age are not put on the form and this would affect educational numbers and school places in future years; and
- It would take a hundred years for the stored information to be attributed to individuals.

The forms will be posted from the start of the second week of March and they could be filled out online or manually. Census day will be 27 March 2011 and a series of adverts and corresponding publicity will lead up to this day.

The meeting was then opened for questions from members.

Councillor Breare-Hall noted that the population was changing rapidly, for how long were the results reliable after being gathered? Mr Vernazza said that the trends from the last 2001 census until today were always changing. A census carried out more frequently would give a more accurate picture. At the ten year limit, results were diluted.

Councillor Mrs Sartin asked if this would be the last ever census and if so how could this information be gathered in the future. She was told that there was a strong feeling that no other method could provide as much information, as accurately. There was no clear 'other way'.

Councillor Mrs Smith asked what the penalty was for not returning the form. Mr Vernazza said that maximum fine was £1,000; the timescale depended on the law courts. The compliance teams will start work in June; starting by sending out warnings. They would not go to court until the end of the year. Last time there was only about one hundred prosecutions.

Councillor Jennie Hart queried if they would stress in their publicity not to leave out young children. She was told that they would focus on them this time.

Councillor Mrs Wagland asked if the figures for the costs were accurate and when would the data be available in a useable form. Mr Vernazza said that the cost over a period would be in the region of £520 million but this focused expenditure was a good price to pay. It would take about two years to get any results as they would be receiving forms back for most of this year.

Councillor Jacobs commented that this information was eventually to go to government departments, but when would they inform local government? He was told that the Office for National Statistics, the people running the census, was an arms length organisation who would provide statistics only, to any organisation that asked for it.

Councillor Mrs Smith asked what he wanted District Councils to help him with. He replied that they wanted support and help in getting their message across, like completion events for people having difficulty in completing the forms.

Asked by Councillor Barrett why we had to fill in these forms Mr Vernazza said they were governed by an act passed in 1920. The value was on the Historical and Social side, people leaving individual messages that would take a hundred years to get through.

The Chairman thanked Mr Vernazza for his interesting presentation and for answering the member's questions.

#### **80. CALL IN - CABINET DECISION ON TOWN CENTRES OFFICER POST AND THE FUTURE MANAGEMENT OF TOWN CENTRES**

The Committee considered the call-in of a decision by the Cabinet of a Finance and Economic Development Portfolio Holder report (C-053-2010/11) regarding the discontinuance of the Town Centre Officer post. The call-in was concerned that this decision was contrary to the Council's stated intention to support local businesses, the regeneration of our high streets and that there was no indication of who was going to carry out an investigation into Town Centre management.

The lead member of the call-in, Councillor Jeannie Hart was asked to open the discussion. She started by saying that the Town Centre Officer (TCO) post should be retained and that this was contrary to the Council's stated intention. The post was due to finish in July when the current funding ran out and officers had recommended that the post continue to be funded until April 2012. She was aware how difficult it was to fund the post but felt a co-ordinator would be necessary in this role. Good Town Centre Management was vital for a Town Centre economy; visits to Town Centres have declined by 20%, and high street shops were empty, so it was important to have a manager. The Government's Big Society demanded co-ordinated action at the local level.

The Council currently have a well qualified Town Centre Manager, who was a very approachable person and who had launched a number of projects. This was the only link between the business rate payers and the Council. Keeping this post was affordable.

Councillor Rose Brookes added that there were lots of empty properties in Ongar and Waltham Abbey. Although the Council had frozen car parking charges to help our traders, we needed an officer to keep driving things like this forward.

The responsible Portfolio Holder, Councillor Whitbread was then asked to make his opening statement. He said that much had been done by this administration such as freezing car parking charges and shortening the turn around time for invoices. This call-in was disappointing but understandable as we now have to make some difficult decisions. Government funding for this post had ran out last year.

We collect £31 million in business rates but only keep £5 million. We also have a recruitment freeze at present, when we examine each vacant post as they occur. A lot of other authorities do not have a Town Centre Manager post. We would need to look at other means of funding this post. I believe this was the right decision.

The Chairman next asked Dave Stannard, the Chairman of the Debden Town Centre Partnership to make his statement. He appreciated that cuts had to be made, but thought some cuts which could be avoided as they would have a long term effect on the Council. He asked for an extra year for this post.

Debden have a thriving Town Centre Partnership because of the current officer. There needed to be an officer that the traders could talk to. The original funding for this post came from Sainsbury's, why could we not have an S106 agreement funding again to raise money for this post. The role was very important and funding should be sought from elsewhere.

He believed in the 'Big Society' and wanted to set up a community resource shop in the Broadway with local volunteers and they were not asking for EFDC money. This is what a Town Centre Manager was involved in on a day to day basis. He urged that the post be extended for another year.

Councillor Gadsby said that businesses were feeling very vulnerable at present and a manager working with them for another year would be very beneficial.

Councillor Stavrou noted that Waltham Abbey had empty properties and that the Town Council had done its utmost to help the businesses there. Waltham Abbey has an active Town Clerk who promoted Waltham Abbey to the wider community. This promotion was done under their own steam, as a Town Council. Although the shops are quite small, they were not attractive to the larger chain stores; they can be profitable and were not usually empty for long.

Councillor Markham said he supported the call-in and said that at a recent Planning Scrutiny Panel meeting Councillor Whitbread had said that the post was safe until 2012, could he clarify please.

Councillor Grigg asked how the social enterprise option was being investigated by officers and how was that work covered. Ms Polyzoides, the Assistant Director of Planning, said that the Town Centre Manager would enable the council to look at social enterprise; otherwise it would mean asking an existing officer to take on a large amount of work. Councillor Grigg asked if this meant that the work could still be undertaken. Ms Polyzoides said she was not ruling anything out at present.

Councillor Breare-Hall said the Call-in had valid points and it was regrettable that we could not review the impact that the officer had. This was not something we wanted to do, but, because of economic necessity it was something we had to do.

Councillor Jacobs noted that Ongar had increasing empty shops and the problem was that they were small units. The next year will be very difficult, so why not give the post another year until the worst was over; the economy may have improved by then.

Councillor Wagland said at face value this looked difficult, but the exercise done was worthwhile. Officers needed to allow other organisations to respond in their own way to the problems that we all face.

Councillor Barrett said that shopkeepers would not finance this post. Part of the problem was that we do not use local shops. An officer was needed to look after Town Centres. We need to ensure that our towns and villages are somewhere people want to go to. As Councillors we need to make town centres more inviting.

Councillor Jon Whitehouse remarked that the Planning Scrutiny Panel wanted to recommend the continuance of the Town Centre Officer post. The question was how to bridge the gap from what we have now and what we want. What could be available as an alternative support? And as for the money, the post was originally to be funded from a DDF underspend, was the current underspend taken into consideration in the continuance of this post? Ms Polyzoides said it would be difficult to have an alternative in place by July to address the work. They did not look at options of salary underspends, just at DDF underspends.

Councillor Philip, speaking as the chairman of the Planning Scrutiny Standing Panel who looked at the post in the context of a DDF underspend commented that if it was available, they would have like to have kept it. The cost for a further eight months would be £25,000 and they were unsure if this was the best they could do with that money. What else would be lost for the lack of this? There is five months left of this post and alternative funding needed to be looked at.

Councillor Pond noted that the current Town Centre Manager had done excellent work. Our Town Centres need support and this administration always said that they would support small businesses. She hoped that the Committee would refer the decision back to the Portfolio Holder to keep the post going until 2012.

The lead member responsible for the call-in and the Portfolio Holder were asked to sum up the debate.

Councillor Jennie Hart pointed that they had only wanted the post to be kept on until the end of financial year (April 2012). They supported the social enterprise recommendation, but it needed a proper strategy, with a Town Centre Manager giving support to the smaller businesses of the district. She hoped the members would refer this decision back to the Portfolio Holder.

Councillor Whitbread said in an ideal world he would have liked to see the Town Centre Manager post kept in place, but they had to make tough decisions. He had seen excellent work here, but the future of economic development needed partnership working with other authorities or to get business support for a Town Centre Manager post.

**RESOLVED:**

That the Overview and Scrutiny Committee confirmed the original decision of the Cabinet on report C-053-2010/11 regarding the Town Centre Officer post.

**81. RESTRICTIVE COVENANT - 35 DENNY AVENUE, WALTHAM ABBEY.**

At its meeting on 15 April 2010, the Overview and Scrutiny Committee considered the call-in of a decision by the Housing Portfolio Holder approving a variation of the restrictive covenant placed on the sale of 35 Denny Avenue, Waltham Abbey in order

to grant permission for either its current use or as privately rented shared accommodation, on condition ensuring that the occupiers of the accommodation do not cause any management problems, nuisance or anti-social behaviour. The option of releasing the restrictive covenant was ruled out, as a variation would allow the Council to maintain control and deal with any issues that may arise.

Planning consent for the change of use had recently been refused and an enforcement notice had been served. The varying of the restrictive covenant would only have been effective should planning consent be granted. The Committee were advised that planning consent and varying the restrictive covenant were two separate matters and it was quite possible for two different Directorates to reach different conclusions.

The Committee agreed the following:

- (i) That the decision be referred back to the Housing Portfolio Holder for further consideration and review once any Planning appeal had been determined by the Secretary of State; and
- (ii) That the Housing Portfolio Holder would bring the issue back to the Overview and Scrutiny Committee along with appropriate legal advice, prior to making the final decision.

Councillor Stallan, the Housing Portfolio Holder noted that the Planning Inspector had granted planning permission for the change of use for the property but had also set a number of conditions mainly relating to the provision of parking spaces. He also noted legal advice that cited cases whereby if the covenants were not released, the owners of the property could apply to the Upper Tribunal for the covenant to be released and then costs would become an issue.

One of the points raised last time was the potential problems to neighbours. To date there has not been any complaints made.

Part of the Planning Inspectors conditions was that a parking scheme be submitted by 17 April 2011. None has been received so far and Councillor Stallan said that he would not make a decision until this had been submitted. He would also delegate to the Director of Housing to agree future requests for changes of use under the restrictive covenant, provided the requirements set out were complied with.

The Committee noted that a variation to the covenant would enable the council to manage any problems as they arise.

Councillor Wagland advised that the covenant should be varied on the basis that the discharge would not adversely affect the persons entitled to the benefit of the covenant. This was agreed by Councillor Stallan and he agreed that a revised decision would be published in the Members Bulletin.

**RESOLVED:**

- (1) That the decision to vary the restrictive Covenant at 35 Denny Avenue, Waltham Abbey be taken on the completion of the conditions as set by the Planning Inspector;
- (2) That the decision was to be published in the Members Bulletin; and

- (3) That a report be submitted to a suitable Cabinet meeting to consider a policy on the Council's approach in the future, to changes of use under restrictive covenants.

## 82. APPOINTMENTS AT ANNUAL COUNCIL

The Committee received a report from the Constitution and Members Services Standing Committee on the processes of the annual council meeting and the procedure of making appointments. The Chairman of the Panel, Councillor McEwen introduced the report. The Panel firstly suggested changes to create an Appointments Panel, to meet on a pre arranged date between the elections and the Annual Council meeting, where it would receive the recommended appointments for the coming year, including those of the Leader, members of ordinary committees, Chairman and Vice-Chairman of Council and those members that would sit on outside bodies. Any areas of real contention would be left to be decided by a vote at Council.

The Panel would be a recommending Panel and would not be subject to pro-rata, but membership would include representatives from all political groups and an open invitation to all un-affiliated members. Of course the Panel itself would need to be appropriately appointed depending on the results of the election.

They were also asked to look at improving the ceremonial aspect of the Annual Council. They thought it would help the smooth running of the meeting if a rehearsal was held during the afternoon. They further recommended that a ceremonial signing of declarations of acceptance of office be carried out in the well of the Chamber.

They also considered a review of the constitution of Political Groups. Subject to a legal view they recommended that each group formally reconstitutes itself with a notice asking to be treated as a group which is signed by two or more members of that group. Then other members could sign individual forms making it easier for all the signatures to be with the proper officer by the due date.

They were not recommending any changes to the appointment of the Vice-Chairman of the Council.

Councillor Grigg thought that this was an excellent idea although she had doubts about the declaration of acceptances of office. It would be sufficient for the Chairman to say that members had signed the declaration. Signing in the CEO's office gave members the time to have a private discussion. Mr Hill said that the Panel thought that there was a need to rebalance the meeting to a more ceremonial type of meeting. Members could still sign with the Chief Executive before the meeting, but also sign at the meeting and receive a certificate.

Councillor Philip added that the Panel was tasked with looking at the ceremonial aspects of the annual council meeting; they recognised the time burden but thought it was a price worth paying.

Councillor Smith agreed with Councillor Grigg, there could be a global declaration or a vow made, but she was not in favour of what was being suggested. It should be kept clear and succinct.

Councillor Rose Brookes appreciated a little ceremony, at her first annual council new members had their names called out and they went up and shook the Chairman's hand, this was enough.

Councillor Stallan noted that the proposals were to be reviewed after one year. It was worth seeing how it worked in May. He urged the Committee to support the recommendation and to review it in a year's time.

Councillor Collins noted that the Annual Council had got contentious, especially on the appointment of outside bodies. She asked if the proposed Appointment Panel would bring forward proposals for memberships and what if they could not agree. Also she was not sure that there were a lot of safeguards for the bigger groups. Mr Hill replied that the Panel would not be subject to pro-rata and would only be recommending appointments to the full Council. The Panel would only work if groups worked together to put forward nominations. Un-affiliated members would not be on the Panel as they were not recognised as a political group. Only groups had a statutory right to pro-rata, un-affiliated members could put themselves forward to be considered. Nominations could still be made or withdrawn up to the time of the Council meeting.

Councillor Angold-Stephens proposed amending recommendation 1(e) to read "... (except for the provision for pro-rata for Chairmen and Vice-Chairmen positions, for sections 6 (a) to (c) in the protocol - the provision for pro-rata for Chairmen) be suspended...." This was agreed.

Councillor Grigg proposed the removal of recommendation 1(g) (iii) and (iv) and this was agreed by the Committee.

Councillor Philip gave notice that he would attempt to get a minority report to the next council meeting supporting recommendation 1(g) (iii) and (iv) and was told that he needed three Committee members support and had ten days to do this.

#### **RESOLVED:**

That the recommendations as set in the report on Appointments at Annual Council, as amended, and as set out below be endorsed and recommended to Council:

- (1) That a report be made to Council recommending:
  - (a) the introduction of an Appointments Panel as set out in Annex 1;
  - (b) the approval of the Terms of Reference of the Appointments Panel set out at Annex 1;
  - (c) the agreement of the following dates for the Appointments Panel for 2011:

Thursday 12 May 2011 and Tuesday 17 May 2011 (Provisional)
  - (d) group nominations to be made to the Panel in accordance with the Terms of Reference subject to the post-election receipt of a notice made under regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990 of the proper constitution of a Political Group under the Local Government and Housing Act 1989;
  - (e) that to allow the envisaged Appointments Panel to make recommendations to Annual Council on all appointments, the operation of the protocol on the Allocation of Chairmanships and Vice-chairmanships and Outside Organisations (except for sections 6 (a) to (c) in the protocol - the



provision for pro-rata for Chairmen) be suspended for the period of one year and then reviewed;

(f) that the Assistant to the Chief Executive ensure the distribution of advice to all Panel members, Group Leaders and non-affiliated members on pro rata requirements and details of all Committee Places, Outside Organisation appointments in advance of the electoral period and provide pro rata allocations immediately following the elections;

(g) the introduction of the following new arrangements for the Annual Council meeting:

(i) That all candidates for the positions of Council Chairman and Vice-Chairman be involved in planning the Annual Meeting;

(ii) a rehearsal for all members and officers involved in organising that meeting;

(iii) to agree in principle that supplementary tabled schedules of nominations should not be tabled at the Annual Council meeting and that a deadline for nominations be set to ensure that they are made in advance of the Appointments Panel.

(h) that for the purposes of introducing a new system of Group constitution and membership signing this year, new forms under regulation 8 and 9 of the Local Government (Committees and Political Groups) Regulations 1990 be developed to allow individual members to sign to join a political group for introduction from May 2011;

(i) that no changes be made to the Vice Chairman appointment process contained in Article 5 of the Constitution save all nominations to be notified by Group Leaders to the Appointments Panel by the date of their meeting; and

(j) that the operation of these new arrangements be reviewed after one year.

### **83. STATUTORY OFFICERS - PROTOCOLS**

The Chairman of the Constitution and Member Services Standing Panel, Councillor Mrs McEwen, introduced a report on the draft protocols for the three Statutory Officers and their relationship with the Council. The three statutory officer posts being the Head of Paid Services, the Monitoring Officer and the Chief Finance Officer.

The Panel considered how their functions were to be carried out in the event that any of the designated officers had a conflict of interest which would rule them out of involvement.

Councillor Wagland had some doubts about paragraph 3(b) of the report about conflict of interest and agreed to discuss this with the Monitoring Officer and alter if necessary before the report goes on to the next Council meeting.

#### **RESOLVED:**

That a report be submitted to the Council recommending:

- (a) that protocols for the three Statutory Officers and their relationship with the Council, as set out in Appendices 1-3 of the report, be adopted;
- (b) that these protocols be reviewed every two years in future; and
- (c) if necessary, paragraph 3(b) be altered by the Legal and Estates Portfolio Holder after holding discussions with the Monitoring Officer.

#### **84. COUNCILLOR ACCOUNTABILITY STATEMENTS**

The Chairman of the Constitution and Member Services Standing Panel, Councillor Mrs McEwen, introduced a report on the Councillor Accountability Statements that were reviewed by her Panel. The Council had asked that Overview and Scrutiny look at the revised Member Accountability Statements with a view of recommending adoption after consultation with the Remuneration Panel and the Standards Committee as appropriate.

Draft statements were considered by the Panel and various changes were requested. It was noted that with the limited life of the current standards regime, the preparation of statements concerning the Standards Committee should be deferred.

##### **RESOLVED:**

That a report be submitted to the Council recommending:

- (a) approval of the Member Accountability Statements;
- (b) when adopted by the Council, the Accountability Statements be referred to the Remuneration Panel to assist them in advising the Council on Member Remuneration;
- (c) the deferral of work on Accountability Statements in respect of the Standards Committee; and
- (d) preparation of Accountability Statements for the Audit and Governance Committee for future discussion by that body.

#### **85. WIRELESS BROADBAND WITHIN THE EFDC AREA**

The Assistant Director ICT, David Newton, informed the Committee that he had investigated the possibility of the Council assisting in the provision of wireless broadband in rural areas. He noted that Essex County Council had undertaken a similar exercise, where they supplied a loan of £10,000 to a company to supply coverage to the Maldon area. Unfortunately, ECC funding for future projects had been withdrawn.

It was difficult to see how the District Council could help as they could not provide a financial incentive or be associated with an existing (possibly failing) supplier. The market was aware of the issues and were making moves to address it.

Councillor Wagland said that we needed to look at this in a broader way, it was about economic competitiveness and the problem was not just confined to rural areas. We need as a Council to find some way to work with this.

The Committee debated whether a Task and Finish Panel should be set up to look into this topic, but decided as it was already on the Overview and Scrutiny Committee's Work Programme, it should remain there. They would still like a service provider to attend one of their meetings; however the Committee would need to sort out exactly what they wanted from this meeting, and to this end the Committee agreed that they should scope out their approach at their next meeting.

**RESOLVED:**

- (1) That a service provider be invited to a meeting of the Overview and Scrutiny Committee in the new Municipal year; and
- (2) That an item be added to the next agenda to enable the Committee to discuss their approach to the service provider.

**86. WORK PROGRAMME MONITORING**

**(a) Work Programme**

**(i) Overview and Scrutiny Committee**

Noted that were two presentations lined up for the April meeting, the Epping Forest College and the Community Magistrates.

**(ii) Safer Cleaner Greener Standing Panel**

Comments of the progress made on item 5, the Nottingham Declaration, needed to be included on the work programme.

**(b) Next Year's Work Programme**

Noted that members who wished to add a topic to the work programme needed to fill out a request form so that it could be considered at the April meeting.

**87. CABINET REVIEW**

The Committee wanted to emphasise the importance of the Pest Control Contract, especially the provision of a 'preferred contactor service' to our residents.

**CHAIRMAN**