

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Complaints Panel **Date:** Monday, 23 January 2012

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 4.30 - 5.10 pm

Members Present: Councillors R Cohen (Chairman), B Rolfe, P Spencer and D Wixley

Other Councillors:

Apologies: Councillor H Ulkun

Officers Present: J Preston (Director of Planning and Economic Development), J Filby (Complaints Officer) and G Lunnun (Assistant Director (Democratic Services))

1. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 29 November 2010 be taken as read and signed by the Chairman as a correct record.

2. DECLARATIONS OF INTEREST

No declarations of interest were made by members of the Panel pursuant to the Council's Code of Member Conduct.

3. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12(A) of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
5	Waste Transfer Station at "Greenacres" – Claim for Compensation	1 and 3

4. WASTE TRANSFER STATION AT "GREENACRES" - CLAIM FOR COMPENSATION

The Director of Planning and Economic Development and the Complaints Officer presented a report regarding a claim by a local resident for compensation for property devaluation following a previous finding of maladministration against Epping Forest District Council and Essex County Council.

Members were informed that in 2006, the Local Government Ombudsman had issued a report concerning complaints about the operation of a Waste Transfer Station at "Greenacres" which had been granted a licence to operate in 1980. The Ombudsman had found that the decision made by Epping Forest District Council in 1980 that there was an established use as a Waste Transfer Station, which precluded the need for an application for formal planning permission, and the acceptance of that decision by Essex County Council, had been unjustified. In consequence, the Ombudsman had concluded that the two complainants who had pursued that complaint at that time had unnecessarily suffered noise and nuisance over many years and that their properties had been devalued. Both Councils had accepted the Ombudsman's findings and had agreed to implement his recommendations which had included the payment of compensation equating to the difference in value of their properties between having and not having a Waste Transfer Station nearby. The two residents had accepted the payment of compensation which had been split between Essex County Council and Epping Forest District Council on a 60/40 basis with the County Council paying the higher proportion.

The Panel was advised that in 2008, some nine years after the original complaint had been made residents at another property had submitted a claim for compensation for property devaluation. These residents, together with other local residents, had been co-signatories to the original 1999 letter of complaint resulting in the Ombudsman's findings in 2006 but they had not pursued their complaint at that time. Members noted that initially in accordance with the Council's Complaints Scheme their complaint had been deemed to be time-barred from consideration, a view shared by the Ombudsman's Investigator. However, on review by the Assistant Ombudsman in 2009 it had been decided that the claim should be considered. Both Epping Forest District Council and Essex County Council had been invited by the Assistant Ombudsman to negotiate a satisfactory outcome direct with the complainants which would be regarded as a local settlement not requiring a formal report by the Ombudsman.

The Panel was informed that in accordance with the Ombudsman's invitation, Epping Forest District Council had taken the lead in the matter and had agreed with Essex County Council that a property valuation exercise should be undertaken by valuers, Montagu Evans (jointly for both Councils) who had undertaken valuations in regard to the original complaints. On receipt of the valuer's advice, Epping Forest District Council officers had advised the Assistant Ombudsman and Essex County Council that they were willing to report to members recommending payment by the District Council of 40% of the difference in valuation with and without the existence of the Waste Transfer Station. However, Essex County Council had refused to consider any further payment of compensation. As a result the Assistant Ombudsman had formally reopened his investigation in January 2011. In December 2011 he had sent his draft findings to both Councils that the complainants were entitled to compensation for property devaluation. He had also recommended that the identified compensation payment should be split 60% Essex County Council/40% Epping Forest District Council.

The Panel considered the matter. Account was taken of the background to the current complaint and the Assistant Ombudsman's advice that he was not currently minded to issue a report of maladministration against the District Council because of its positive stance and, subject to payment of the proposed proportion of the compensation sum. Account was also taken of the Assistant Ombudsman's confirmation that no further similar claims for compensation from any other residents who had been co-signatories to the 1999 original complaint would be considered as they had either since moved away from the area or were deemed to live too far from the site for their properties to have been affected.

RESOLVED:

- (1) That the recommendations of the Assistant Ombudsman, and the previous actions taken by Epping Forest District Council and Essex County Council which have resulted in that recommendation, be noted;
- (2) That, in order to resolve the matter, the District Council make a voluntary offer of £12,000 financial compensation to the complainants in full and final settlement for the devaluation of their property equating to 40% of the valuation provided by Montagu Evans;
- (3) That the compensation sum be met from the DDF Budget making provision for the payment of costs resulting from adverse decisions against the Council; and
- (4) That the Assistant Ombudsman's confirmation that no similar claims for compensation from those other residents who had also complained originally about the activities at Greenacres will be considered, as they have all either since moved away from the area or are deemed to live too far away from Greenacres for their property to have been affected, be noted.

CHAIRMAN