

Committee Agenda



**Epping Forest
District Council**

CONSTITUTION WORKING GROUP Monday, 16th April, 2018

Place: Committee Room 2, Civic Offices, High Street, Epping

Room: Council Chamber

Time: 7.00 pm

Democratic Services Officer V. Messenger Tel: (01992) 564243
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors M McEwen (Chairman), M Sartin (Vice-Chairman), D Dorrell, L Hughes, S Kane, J Philip, C C Pond, C P Pond, D Stallan and J H Whitehouse

MEMBERS ARE REMINDED TO BRING THEIR COPIES OF THE EXISTING CONSTITUTION DOCUMENT WITH THEM TO THE MEETINGS – FURTHER COPIES CAN BE SUPPLIED ON REQUEST.

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS

(Director of Governance) To report the appointment of any substitute members for the meeting.

3. NOTES OF PREVIOUS MEETING (Pages 3 - 8)

To agree the notes of the meeting of the Working Group held on 20 February 2018.

4. TERMS OF REFERENCE & WORK PROGRAMME (Pages 9 - 12)

(Director of Governance) To review the terms of reference and progress with the achievement of the current work programme for the Working Group.

5. CONSTITUTION - REVISIONS & AMENDMENTS (Pages 13 - 14)

- (1) (Director of Governance) To note that the following revisions or amendments have been made to the Constitution since the previous meeting of the Working Group, pursuant to the authority delegated to the Director of Governance. (Report attached).
- (2) To receive an oral update relating to the Staff Appeals Panel which was discussed by the Joint Consultative Committee on 9 April 2018.

6. PLANNING PROCESS REVIEW 2017/18 - DELEGATION, OBJECTIONS AND COMMITTEE SYSTEMS (Pages 15 - 24)

(Assistant Director of Governance) To consider the report (attached).

7. REVIEW OF AUDIT AND GOVERNANCE AND STANDARDS COMMITTEES (Pages 25 - 34)

(Assistant Director of Governance) To consider the report (attached).

8. DATE OF NEXT MEETING

To note that the next meetings of the Working Group for 2018/19 will be held at 7pm on:

- 27 September 2018
- 28 March 2019

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP
HELD ON TUESDAY, 20 FEBRUARY 2018
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.00 - 8.42 PM**

Members Present: M Sartin (Chairman), , D Dorrell, L Hughes, S Kane (Safer, Greener & Transport Portfolio Holder), J Philip (Planning and Governance Portfolio Holder), C C Pond, C P Pond, D Stallan (Chairman of the Council) and J H Whitehouse

Other members present: None.

Apologies for Absence: M McEwen

Officers Present S Hill (Assistant Director (Governance)), N Richardson (Assistant Director (Development Management)) and V Messenger (Democratic Services Officer)

14. SUBSTITUTE MEMBERS

There were no substitute members at the meeting.

15. NOTES OF PREVIOUS MEETING

RESOLVED:

That the notes of the last meeting of the Working Group held on 25 January 2018 be agreed as a correct record.

16. TERMS OF REFERENCE & WORK PROGRAMME

- (a) The Terms of Reference were noted.
- (b) Work Programme
 - (i) Item (4) Procurement Rules – it was noted that the updated Procurement Rules would be going to Council on 24 February 2018 for adoption.
 - (ii) Item (5) Review of Audit and Governance and Standard Committees – this item would be deferred until the next meeting.
 - (iii) Item (6) Gifts and hospitality advice – as this item was still outstanding, it would be rescheduled into the 2018/19 meetings cycle.

17. PLANNING PROCESS REVIEW 2017/18 - DELEGATION, OBJECTIONS AND COMMITTEE SYSTEMS

(1) Committee systems for members considering planning applications

Most councils had one or two planning committees which this Council had also had up until 1999. These two planning committees had dealt with applications when they

were ready for determination on a non-geographic basis. In 1999 approval was given by members to create four area committees, A, B, C and D. However, these committees had a wider remit that had included some devolved budgets. In 2007 a review reduced the planning committees to three areas, East, South and West.

It was noted that all other meetings of the Council followed the provision in the Local Government Act 1972 in that they were:

- (a) Subject to pro rata at the same proportions of seats for groups as it held on the main council;
- (b) Maintained the overall majority for each committee that reflected that of the full Council seats;
- (c) Did not have a membership made up of one group only (except those related to Cabinet which was allowed under the 2000 Act).

Further, exceptions to pro rata were allowed by the Local Government (Committee and Political Groups) Regulations 1990, Section 19(c) (SI 1990, 1553), where:

- (a) the voting members of the committee consisted solely of persons who were elected for the electoral divisions or wards which were wholly within that part; and
- (b) the area of that part did not exceed two fifths of the total area of the authority; or
- (c) the population of that part, as estimated by the authority, did not exceed two fifths of the total population of the area of the authority as so estimated.

This was the basis on which the current three Area Planning Sub-Committees had been formed – to consider only those applications located within its geographic area.

However, research undertaken by officers had shown that between November 2016 and October 2017, there had been:

- An imbalance in workloads of these sub-committees, as Plans South dealt with significantly more applications;
- Plans South held more than 40 per cent of the District's population (contrary to 20(c));
- Plans East had more than 40 per cent of the District's area (contrary to 20 (b));
- A greater number of household applications were submitted from the District's more urban area; and
- Pro rata could not be achieved under the current configuration of committees.

The Assistant Director (Governance) advised that the forthcoming District elections on 3 May 2018 were an unknown quantity that might create additional imbalances. However, all the current planning committees did meet legal requirements but were not really in the spirit of the LGA. Also the District Development Management Committee (DDMC), which met once every other cycle, had the capacity to do more meetings, perhaps monthly.

Thus the following options were considered by members of the Working Group:

- (a) Do nothing at this time pending the assessment of the effect of not routinely referring 'other' category and householder applications to sub-committees and review in a year;
- (b) Change the number of or configuration of the sub-committees (any area committees would need to meet the test in paragraph 20 above);
- (c) Change the sub-committees to normal pro-rata committees, which would mean having a membership open to all members; or
- (d) Increase the number of DDMC meetings and alter the responsibilities of those committees relative to each other.

The Working Group had to consider the impact on officers' workloads and that they were split differently into two teams, North and South, whereas the sub-committees covered the areas – East, South and West. There was the option of altering DDMC's responsibilities by lowering the thresholds and changing the frequency of the number of meetings. The Council was also anticipating an influx of planning applications for Local Plan (LP) sites, which would mean an increased workload on members and officers, hence this report.

Councillor C C Pond commented that ten years ago the Plans South membership had changed to every councillor (relevant to that committee) was a member. He asked what consultations were likely to take place with local councils on the possible restructuring of planning committees, as members of the Essex Association of Local Councils (EALC) Epping Forest Branch had raised their concerns at its meeting on 6 February 2018. It was noted the Branch Secretary had outlined their concerns in an email to some Working Group members and officers.

The Assistant Director (Governance) advised that until members had agreed to make any recommendations there could not be a consultation.

Councillor M Sartin (Chairman) commented that the planning committees were all 'apolitical' and that members were not whipped.

A discussion followed where some members were in favour of non-geographic pro rata groups, provided that ward representation would be taken into consideration. There was merit in this because it would streamline and make the process faster. The judicial selection process could work. Therefore members with local knowledge could become involved in local issues that could influence their decision, so it was better to have a 'disconnected' view on applications. Other members disagreed and were of the opinion that geographic representation was very important, particularly to residents who wanted councillors with local knowledge. This was because there were significant differences between areas in the District. Also with non-geographic committees, ward members might find themselves at a meeting every week.

Other options / comments voiced included:

- Plans South had too many applications to consider and that if a meeting went on too late, then this was not advantageous to members or the public.
- To redistribute the wards within the existing three to improve the current imbalances;
- To move to four committees;
- If a fourth committee was introduced, Buckhurst Hill and Chigwell could be one with Loughton on its own or include Abridge and Passingford; or Buckhurst Hill and Loughton could be together while Chigwell joined another area;

- Increasing the number of meetings would increase the workload on officers and members;
- Set up an additional committee to handle applications of LP sites only, which would run parallel to DDMC;
- More site visits would be an additional burden;

Councillors had to look at the planning application process from a quasi judicial viewpoint, that decisions were made on a planning basis, that it was balanced and that the various voices were heard. They had to remember that they were not representing the public at planning committees but the Council as the Local Planning Authority (LPA). As planning applications could become emotive and the public were proactive in speaking at planning committees, it was important to get any potential restructure right.

The Assistant Director (Governance) said that Development Control provided a service to the applicants, who were often frustrated with delays to their applications when these went to committee. Applicants did not have any option but to agree to any delays. Therefore the LPA was missing targets. However, if the threshold of the size of sites was to change, this would have an impact. Furthermore, the customer planning processes were being looked at by the Head of Customer Service.

The Assistant Director (Development Management) continued that planning officers often had to deal with applicants' complaints during the process before the applications reached committees, which in itself increased their workload. At the beginning of the process officers did not know if any objections would be received. The LPA should deal with most applications within 8 weeks, except major applications – these had a 13-week completion target. This review was trying to lessen the impact on officers by having fewer committees and streamlining the process, and consequently should be less expensive.

Several councillors agreed with an alternative option – 24(a) Do nothing at this time pending the assessment of the effect of not routinely referring 'other' category and householder applications to sub-committees and review in a year.

The Assistant Director (Governance) replied that members could wait until after the District Elections on 3 May 2018 and see if the results would alter the pro rata membership of the sub-committees. He emphasised that with a new LP emerging, LP site applications would start to rise.

The Assistant Director (Development Management) agreed and that members would want to be involved in pre-applications and masterplanning, which would again increase members' workloads. He said that the Interim Assistant Director of Planning Policy would advise further on these matters. Members might consider changing the threshold from 5 dwellings back up to 10 units. Councillors suggestions to this included: 5 units when objections were received, but 10 units without objections; and changing the thresholds might not make a difference.

The Assistant Director (Governance) said that there was only a certain level of officer time and member time. Some responsibilities at the 'lower' end of the planning process needed to be taken out, to free up time for members to participate in the 'higher' end areas of masterplanning and strategic site developments.

The Portfolio Holder for Planning and Governance said that the LP would not be in place during the next municipal year (MY), or even until the autumn of the following

MY. He again suggested potentially a 'new' committee in the opposite months to DDMC to consider just applications for LP sites, pro rata as DDMC was.

Councillor C C Pond referred again to the recent EALC Epping Forest Branch meeting where local councils had raised their concerns about the loss of a referral to a planning committee when the parish had lodged an objection to an application. He suggested that if a parish/town council objected to an application but this was unsupported by other objections, then the application should go to officer delegation. He thought this would make a difference, and that this should be trialled before Annual Council.

It was decided that it might be better to separate out these two matters to allow more to be achieved.

On local council objections to planning applications / officer delegation, it was agreed that the Assistant Director (Governance) would draft a report for the Working Group and councillors to consider. This report would need to be agreed first before the next Council meeting on 24 April 2018. Following this, to undertake a consultation by letter with all local councils.

However, before any change to the current planning committee structure could be considered, more information would be required to help progress this further. The Working Group outlined the type of information needed to help achieve this, which included:

- Number of applications received from each individual ward;
- Size of wards;
- Population of each ward;
- Population of each Area Planning Sub-Committee;
- Number of LP sites within each ward.

Agreed:

- (i) The Assistant Director (Governance) to draft a report on local council objections to planning applications / officer delegation for the Working Group to agree before the next Council meeting on 24 April 2018.
- (ii) The Assistant Director (Governance) to undertake a consultation with all local councils by letter and to circulate the (final) report.
- (iii) The Assistant Director (Governance) to provide more information to enable the Working Group to consider any changes to the current committee structure.

(2) Style of officer reports

The Assistant Director (Development Management) said that the officer report format was relatively acceptable. However, it was the volume of applications referred to the planning committees that created the workload for officers and members. He clarified that the wording used for the conditions was the actual wording used in the Decision Notice, when issued by the Council. He also explained that there were two systems currently used by officers to collate any objections received from the public that had allowed errors to creep in, but that new software would allow the two systems to be combined and should be installed soon.

Discussions amongst the Working Group raised the following points:

- Reasons why the application was before the committee (Appendix A) were sometimes wordy / incorrect – perhaps less reasons or a tick box exercise might help;
- Looking at ‘delegation’, members should be given a reason why the ward member had called in the application;
- Spelling errors crept into reports;
- Information that was late and had missed the agenda should be given verbally at the meeting;
- The style of the planning sub-committee agendas was that site maps were always first followed by the officer’s report, which was preferable to the DDMC agenda format where site plans were after the officer report; and
- Site plans were difficult to interpret when they lacked sufficient road or other information to help identify the location of the site.

The Chairman asked if members were able to approve the style of officer reports contained within options (a) to (h) at point 26, which was agreed.

(3) Meeting arrangements

Finally, Councillor N Bedford had asked the Working Group to consider other meeting arrangements, by giving members of the planning sub-committees an additional option before the Development Control item to defer any applications for site visits (Appendix 3). The Assistant Director (Governance) said that any change to the Council’s Constitution was a procedural change. However, an earlier option in the agenda to propose a site visit could be trialled for a specified (brief) period, but that a majority view from the Working Group was required. Discussion between members led to their agreement on trialling this.

Agreed:

- (1) That the style of officer reports, as detailed in the agenda report at point 26 (a) to (h), was acceptable; and
- (2) Assistant Director (Governance) – to inform councillors and organise a trial to allow members the opportunity to propose and second a site visit for any application on the agenda prior to consideration of that item under Development Control. This would be after the May 2018 elections and for a specified/agreed period.

18. REVIEW OF AUDIT AND GOVERNANCE AND STANDARDS COMMITTEES

It was noted that this item would be deferred to the next meeting for consideration.

19. DATE OF NEXT MEETING

It was noted that an additional meeting would be required in the first half of April 2018 to allow recommendations from the Working Group to be made to Council before the end of April.

NB: The extra meeting was subsequently agreed to be held on 16 April 2018 at 7pm.

CONSTITUTION WORKING GROUP

TERMS OF REFERENCE

| |
|--|
| Title: Constitution Working Group |
| Status: Working Group |
| Terms of Reference: (1) To review any aspect of the authority's constitutional arrangements as requested by the Council; (2) To undertake general reviews of specific elements of the Constitution in order to ensure that the authority's constitutional arrangements complement current legislative requirements and decisions made by the Council; and (3) To consider any proposals of the Director of Governance for necessary revision to any element of the Constitution. Reporting: The Working Group shall report directly to the Council in connection with its Terms of Reference and the achievement of its work programme. |
| Chairman: Councillor M McEwen |

S. Hill (November 2017).

This page is intentionally left blank

Constitution Working Group (Chairman – Cllr M McEwen)

Work Programme

| Item | Starting Dates | Progress |
|---|-------------------|--|
| (1) Constitution – proposed minor amendments | 28 September 2017 | Article (6) O&S – Q3(1), Q3(2) and Appendix 1, 1(q). Article 10 (Membership of Area Plans Sub-Committees) – paragraph 3 replaced. (Adopted by Council on 1 November 2017). Completed |
| (2) Planning Code of Practice | 28 September 2017 | (Adopted by Council on 1 November 2017). Completed |
| (3) Planning Process Review 2017/18 | 16 April 2018 | Report to review: (i) Officer delegations (Revised version to consider). |
| | | (ii) How objections are considered and resolved. Completed |
| | | (iii) How objections trigger a member review. Completed |
| | 27 September 2018 | (iv) Committee systems for members considering planning applications. |
| | | (v) Style of officer reports. Completed |
| (4) Procurement Rules | 25 January 2018 | To review after one year's operation. (Revisions – Adopted by Council – April 2016). Completed |
| (5) Review of Audit & Governance and Standards Committees | 16 April 2018 | Review required after two years at members' request. |
| (6) Gifts and hospitality advice | TBC | To be rescheduled during 2018/19. |

This page is intentionally left blank

Report to Constitution Working Group

Date of meeting: 16 April 2018



**Epping Forest
District Council**

Subject: Constitution - Revisions & Amendments

Officer contact for further information: S. Tautz (01992) 564180

Democratic Services Officer: V. Messenger (01992) 564265

Recommendations/Decisions Required:

That recent revisions to the Constitution be noted.

1. A revised version of the Constitution was published on 26 February 2018. This included revisions to the following elements of the Scheme of Delegation (Part 3), which were agreed by the Council on 22 February 2018:
 - (a) Appendix 3 - Delegation to Officers from Full Council; and
 - (b) Appendix 5 - Delegation to Officers from the Executive.
2. The latest edition of the Constitution also incorporates the following:
 - (a) the Members' Allowances Scheme for the 2018/19 municipal year, which was agreed by the Council on 21 December 2017; and
 - (b) the revised Procurement Rules agreed by the Council on 22 February 2018.
3. Members were advised of these revisions to the Constitution through the Council Bulletin of 28 February 2018.

Resource Implications:

The recommendations of this report seek to ensure that the Council's Constitution remains fit for purpose.

Legal and Governance Implications:

The Council's Constitution sets out procedures and rules for the management of its services and functions.

Safer, Cleaner, Greener Implications:

There are no implications arising from the recommendations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

Consultation Undertaken:

The matters subject of recent revisions to the Constitution have been agreed by the Council.

Background Papers:

None

Risk Management:

The Council's Constitution sets out procedures and rules for the management of its services and functions.

Equality:

There are no equality implications arising from the recommendations of this report.

Report to Constitution Working Group

Date of meeting: 16 April 2018

Subject: Planning Process Review 2017/18 – Delegations to Planning Officers

Officer contact for further information: S Hill (01992) 564249

Democratic Services Officer: V. Messenger (01992) 564265

Recommendations:

- (1) To consider revised new delegation schedules to Officers for Planning matters;**
- (2) To receive responses from members and Local Councils on the proposals**
- (3) To consider whether recommendations can be made to Council at its meeting on 24 April 2018.**

Background to proposals

1. (Assistant Director, Governance / Assistant Director Development Management)
At the last meeting in January 2018, members agreed that at this meeting we would concentrate considerations on the result of their deliberations on officer delegations in planning matters.
2. Since that meeting officers have developed a scheme which seeks to:
 - (i) Reflect the discussion held in January;
 - (ii) Attempts to simplify and schedule to avoid misinterpretation;
 - (iii) Attempts to 'evolve' the delegations to give more time to more strategic applications.
3. Members will recall that further discussion will be held at a future meeting on the structure of planning committees once greater data is collated.
4. As the next schedule meeting of the Working Group is not until 27 September 2018, officers agreed with the Chairman of the Working Group that prior to this meeting:
 - (i) Members of the Working Group would be able to comment on the proposals;
 - (ii) The other members of the Council would be asked for comments; and
 - (iii) That following a commitment given at the Local Councils' Liaison Committee, the Parish and Town Councils would be given the opportunity of expressing a view.
5. One comment was received from a member of the Working Group on the proposals and is reproduced below:

Response from Councillors CC and CP Pond:

“We don't recollect the Group agreeing to allow a delegated decision on LP allocated sites of up to 25 units. We don't see why this should be any different from the 10 on unallocated sites.

We don't recollect the group agreeing to allow delegated decisions where there is a recommendation for approval of an application similar to one refused only within 12 months. We would argue for 2 years.”

6. Responses from other members and local councils will be reported at the meeting or via supplementary agenda.

7. The redrafted suggested delegations are reproduced at Appendix 1 to this report and the existing arrangements at Appendix 2.

8. Members of the Working Group are asked to consider the revision and comments made upon them. There is the opportunity to make recommendations to the full Council on 24 April on these proposals.

Replacement Planning Delegations**CLD2 Replacement**

Assistant Director Development Management / Head of Service – Planning

A. To determine:

- (a) All Full Planning Applications
- (b) All Householder Planning Applications
- (c) All Outline Applications and Reserved Matters Applications
- (d) All applications for Advertisement Consent
- (e) All Applications for Listed Building Consent
- (f) All applications for Demolition in Conservation Areas
- (g) All Applications for Hazardous Substance Consent
- (h) Tree Preservation Order Consent applications where felling is proposed.
- (i) All Applications for Variation or Removal of Conditions

except the following which shall be determined by the committee or sub-committee indicated in Article 10 to the constitution:

1. Applications for residential developments consisting of 10 or more dwellings on unallocated sites or 25 or more dwellings on allocated sites (unless approval of reserved matters only) which are recommended for approval.
2. Applications made by the Council on land and / or property in its ownership which are for disposal, in accordance with the size of application set out in Article 10 of the Constitution.
3. Applications recommended for approval where either of the following have been received:
 - a. At least 5 expressions of objections material to the planning merits of the proposal are received; or
 - b. An objection is received from a Local Council, supported by at least one non-councillor resident, with material planning reasons; or
 - c. An objection from a Local Council, material to the planning merits of the proposal is received and confirming in writing their intention to attend and speak at the meeting where the proposal will be considered.
4. Applications which a member has requested be referred to committee for consideration subject to that member:
 - a. Providing a planning reason for the request; and
 - b. The request is made in writing within 4 weeks of that applications notification in the weekly list.

5. Applications made, within 12 months of refusal of a similar development, where a recommendation for approval contradicts a previous decision of the committee;
6. Any application by an elected member or Senior Officer (Head of Service and above) of the Council or a relevant person (see Code of Conduct for definition) recommended for approval;
7. Any other application which the Head of Planning considers appropriate to be determined by members.

B. To determine:

All matters, set out below, unless the Head of Planning considers it appropriate to be determined by members.

1. Planning Related Applications
 - (a) Tree Preservation Order consent other than where felling is proposed.
 - (b) All notification applications.
 - (c) All prior approval applications.
 - (d) All certificates of lawful use and development.
 - (e) All applications for non-material amendments to applications.
 - (f) All applications for approval of details reserved by condition.
 - (g) All applications for Permission in Principle for Minor Housing Led Development and for Technical Details Consent.
2. Planning and Related Procedures
 - (a) Finalising the conditions or reasons for refusal, which appear on decision notices.
 - (b) The preparation of legal agreements, in consultation with the Head of Service, Governance and Strategy/Assistant Director Legal Services, within the terms of any relevant Committee resolution.
 - (c) Determining the need for information required to make a decision on a planning application including the need for, and scoping of, an Environmental Assessment.
 - (d) Deciding the charge to be made for the provision of information where the normal scale of charges is inappropriate (e.g. information requiring research and/or to be used for commercial purposes).
 - (e) Deciding what should be within the Councils Local Validation Checklist.
3. Enforcement
 - (a) To determine whether any enforcement should be taken and what such action should entail.

- (b) Issuing Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Notices under Section 215-219 of the Town and Country Planning Act 1990 (as amended), for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy.
- (c) Prosecution of the unauthorised display of advertisements, unauthorised works to a listed building, and non-compliance where enforcement action has previously been authorised.
- (d) Take appropriate enforcement action, including serving an injunction where the Head of Planning or their nominee, having regard to the evidence, considers the circumstances to require urgent action.
- (e) Investigation and prosecution of breaches of temporary market requirements.
- (f) Variation of the requirements for compliance with any enforcement related notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices.
- (g) To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice subject to budget provision being available and to local District Councillors being notified.

4 Entry onto Land

- (a) To authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary and make application to the magistrates court for a warrant authorising entry where applicable in relation to any matter set out in this Annex.

Current delegations

From the Schedule:

| | | | |
|-------------|--------------------|--|---|
| CLD2 | Council April 2016 | ASSISTANT DIRECTOR DEVELOPMENT MANAGEMENT | DEVELOPMENT MANAGEMENT To determine matters relating to Development Management Matter set out in Annex E to this schedule |
|-------------|--------------------|--|---|

Annex E

DEVELOPMENT CONTROL FUNCTIONS – Delegation to the Assistant Director Development Management

| Function | Principal Relevant Legislation (*see note) | Relevant Details | Exceptions |
|--|--|---|---------------------------------------|
| Care of the Environment District Development Control Committee (Minute 30 – 7.12.10) | Town and Country Planning (Environmental Impact Assessments) (England and Wales) Regulations 1999 Planning (Hazardous Substances) Act 1990, Section 36, 36A and 36B Planning (Hazardous Substances) Regulations 1992 | To determine the need for and scope of environmental impact assessments required under the Town and Country Planning Acts. To determine applications for hazardous substances consent except those where there are objections from interested parties, which shall be determined by the relevant Area Planning Sub-Committee. To use necessary powers of entry to the land in relation to the above and duly authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary. | No |
| Development Control District Development Control Committee (Minute 30 – 7.2.10) Council Minute 29 – 28.6.11 | Town and Country Planning Act 1990 - Section 70, 70(A), 191-3, 324, 325 Planning and Compensation Act 1991, Section 10 Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Part 1, Reg. 16-19 Town and Country Planning (Development Management | 1. Subject to Appendix A below, which are matters to be determined by Committee, to determine or decline to determine any: (a) planning applications; (b) applications for approval of reserved matters; (c) applications arising from any condition imposed on any consent, permission order or notice; (d) advertisement consents; and (e) listed buildings. | Yes (See Appendix A to this Schedule) |

| Function | Principal Relevant Legislation (*see note) | Relevant Details | Exceptions |
|----------|---|--|------------|
| | <p>Procedure) (England) Order 2010, Part 6, Article 35</p> <p>Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 3, Reg. 14-15</p> <p>Town and Country Planning General Permitted Development Order 1995, Part 6 and Part 31 of Schedule 2 As amended by SI2008 No. 2362 and 5</p> <p>Town and Country Planning (Development Management Procedure) (Amendment) (England) Order 2013</p> | <p>2. To agree the precise wording of additional/revised conditions to be attached to planning permissions, at members' request, and discharge of conditions.</p> <p>3. To determine whether a 28 day prior approval application of the method of any proposed demolition and any proposed site restoration is required and to give such approval where required.</p> <p>4. In relation to prior approval of telecommunications equipment, to determine, after prior consultation with ward Councillors in cases where a valid planning objection has been made, whether the prior approval of the Council should be required to the siting and appearance of notified development.</p> <p>5. In relation to agricultural development, to determine whether to require the formal submission of details.</p> <p>6. Subject to Appendix A(g), to determine applications in relation to certificates of lawful use and development.</p> <p>7. To use necessary powers of entry to the land in relation to the above and duly authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary.</p> <p>8. To determine or decline to determine any non-material amendments.</p> <p>9. Subject to consultation with Ward Members in the cases where a valid objection has been made and are minded to grant, to determine applications for prior approval.</p> <p>Note: The categories of Prior Approval in operation at any particular time can be confirmed by the Assistant Director (Development Management).</p> | |

| Function | Principal Relevant Legislation (*see note) | Relevant Details | Exceptions |
|---|---|--|---|
| Enforcement District Development Control Committee (Minute 30 – 7.12.10) | <p>Town and Country Planning Act 1990 (as amended), Part 7, section 171-190, 196 A, B, C, 198-200 214(A)-(D), 215-219, 220 or 221, 224, 225, 325 and 330</p> <p>Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 5, sections 27 and 30</p> <p>Planning (Listed Buildings and Conservation Areas) Act 1990, Chapter 4, sections 38, 88, 88A and 88B</p> <p>Local Government (Miscellaneous Provisions) Act 1982 (Section 37)</p> | <p>Authority for Director of Governance to:</p> <ol style="list-style-type: none"> 1. Issue Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Section 215-219 Notices for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy. 2. Prosecute the unauthorised display of advertisements, unauthorised works to a listed building, and non-compliance where enforcement action has previously been authorised. 3. Take appropriate enforcement action, including serving an injunction where the Director of Governance or their nominee, having regard to the evidence considers the circumstances to require urgent action. 4. Investigate if a temporary market has been held in breach of Section 37 of the 1982 Act. 5. Vary the requirements for compliance with notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices. 6. Determine when action is not expedient in relation to breaches of control considered inconsequential or insignificant. 7. To use necessary powers of entry to the land in relation to the above and duly authorise officers and agents engaged by the Council to use the relevant powers of entry as necessary. | |
| | <p>Town and Country Planning Act 1990 (Section 178) (Council Minute 126 – 23.4.13)</p> | <ol style="list-style-type: none"> 8. To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice under Section 178. | <p>Subject to budget provision being available and to local District Councillors being notified</p> |

APPENDIX A: MATTERS TO BE DETERMINED BY THE RELEVANT COMMITTEE

- (a) Applications contrary to the provisions of an approved draft Development Plan or Development Plan, and which are recommended for approval;
- (b) Applications contrary to other approved policies of the Council, and which are recommended for approval;
- (c) Applications for major commercial and other developments, (e.g. developments of significant scale and/or of wide concern) and which are recommended for approval;
- (d) Applications for residential development consisting of 5 dwellings or more (unless approval of reserved matters only) and which are recommended for approval;
- (e) The Council's own applications on its land or property which are for disposal;
- (f) Those applications recommended for approval where there are more than two expressions of objections received, material to the planning merits of the proposal to be approved, apart from approvals in respect of householder type developments, telecommunication masts, shop fronts and vehicular crossovers and "other" category developments (changes of use, advertisements, listed building consents), where more than four expressions of objections material to the planning merits of the proposal to be approved are received;
- (g) Applications including certificates of lawfulness in respect of existing use and development, recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;
- (h) Applications referred by a District Councillor, whose own ward must be within the remit of the relevant Area Plans Sub-Committee and who has firstly notified the relevant Ward Councillors in advance, so long as the referral has been requested in writing to Officers within 4 weeks of that applications notification in the weekly list;
- (i) Applications where the recommendation conflicts with a previous resolution of a Committee;
- (j) Applications submitted by or on behalf of a Councillor of the Authority (and/or spouse/partner) or on behalf of a member of staff of Development Control Division of the Governance Directorate and the Forward Planning and Economic Development Division of the Neighbourhoods Directorate (and/or spouse/partner) and also in those cases where a councillor is an objector in a purely personal capacity;
- (k) Any other application which the Director of Governance considers it expedient or appropriate to present to committee for decision (e.g. those raising issues not covered by existing policies, or of significant public interest, or those with a significant impact on the environment);
- (l) An application which would otherwise be refused under delegated powers by the Director of Governance but where there is support from the relevant local council and no other overriding planning consideration necessitates refusal.

This page is intentionally left blank

Report to the Constitution Working Group



**Epping Forest
District Council**

Date of meeting: 16 April 2018

Subject: Audit and Standards Committee – Review of Merger Proposals

Responsible Officer: Simon Hill (01992 564249)

Democratic Services: Gary Woodhall (01992 564470)

Recommendations/Decisions Required:

- (1) That, as required by the Council, the Working Group reviews the proposals for the merger of the Audit and Governance Committee with the Standards Committee.**

Report:

- (Deputy Monitoring Officer) The Council, at its meeting on 26 April 2016, considered the results of a review of the desirability of combining the Audit and Governance and Standards Committees.
- At that meeting, the Council concluded that the proposals for a merged committee not be adopted as part of the changes to the constitution but that there be a review of this position after two years, and that the Standards Committee be convened to meet only when there is business to be transacted.
- The review is required before the end of the municipal year in April 2018.
- Since that time this Committee has met twice, once in January 2017 and once in August 2017 for a total of two hours meeting time. In the last three and a half years the Committee has only met five times for a total of four hours and five minutes.
- At the time of the last review this Committee expressed the view that they accepted that the implementation of the new arrangements for dealing with allegations of Member misconduct under the Localism Act 2011 had dramatically reduced its workload. However, the Committee was not minded to support the proposals and expressed a number of concerns regarding the proposed merger:
 - (i) there were currently 9 Members available to consider Standards issues, which would reduce to 3 under the proposals and it was felt by the Committee that this was not enough;

The Committee suggested that the Working Group could:

- Recommend a higher number of members for the new Committee
- Ask Council to create a specific group to deal with Standards Investigation Hearings either on an ad hoc or standing basis.

(ii) there was a perceived lack of involvement of Parish Councils under the proposals as currently there were three representatives from the Local Councils affiliated to the District Council's Standards Committee formally invited to each meeting; and

The Committee suggested that the Working Group could:

- Ask that all agendas are notified to Parish and Town clerks that are aligned to the Districts Standards Committee
- Ask that existing parish representatives be invited to attend meetings of the new committee as they consider necessary
- Change the Terms of reference to include that any hearing into a Parish/Town Councillor includes an appropriate representative.

(iii) there was a perceived risk that a smaller Committee would be less objective when considering Standards issues.

6. The original report to Committee, made in January 2016 is attached which contained the proposals at that time for a combined committee and a new terms of reference.

7. The Standards Committee were asked to comment on the review in December 2017 and they remain of the view that a merger is not favoured for the following reasons:

(i) That combining Standards with a technical committee would give the perception of making it the poor relation and would not keep standards matters in members minds;

(ii) That the current levels of involvement by the parishes would be placed at risk; and

(iii) That the public perception of the District taking a lead in standards was the most important factor.

8. The Working Group is asked to form a view and make a recommendation to the Council if appropriate.

Report to the Standards Committee

Report Reference: STD-002-2015-16

Date of meeting: 25 January 2016



**Epping Forest
District Council**

**Subject: Audit & Standards Committee – Proposed
Terms of Reference**

Responsible Officer: Colleen O'Boyle (01992 564475)

Democratic Services: Gary Woodhall (01992 564470)

Recommendations/Decisions Required:

- (1) To approve in principle the proposed merger of the Audit & Governance Committee and the Standards Committee;**
- (2) To consider and approve the proposed Terms of Reference for the new Audit & Standards Committee; and**
- (3) To request the Constitution Working Group to consider the necessary constitutional amendments and report to the Council accordingly.**

Report:

Merging Audit and Standards Committee

1. The main role of the Standards Committee is to promote and maintain high standards of conduct by members. Matters around member conduct at committee level are relatively light and three of the six scheduled meetings have been cancelled in the last 18 months (9 October 2014, 8 January 2015 & 7 April 2015).
2. The Council's Audit and Governance Committee is responsible for providing independent assurance of the adequacy of the Council's risk management framework and provides independent scrutiny of the authority's financial and non-financial performance. The Committee approves the financial statements and Annual Governance Statement and enhances public trust and confidence in the governance of the authority.
3. A number of other councils have combined audit and standards committees successfully, including Broxbourne and Harlow Councils, the main drivers for this being:
 - Low complaint activity especially as the Monitoring Officer has delegated authority to seek to resolve a complaint informally where a formal investigation is not merited; and
 - Similarities and synergies – both Committees deal with governance, probity and transparency of processes.
4. There is by law an independent person appointed by the Council who advises on standards issues but is not permitted to be a member of the committee. This requirement has been incorporated into the proposed Terms of Reference which states:

'the Council is required to appoint at least one Independent person to advise on Standards relating to complaints who shall be invited to meetings in a non-voting capacity'.

5. There is no requirement to have independent members although the Council can appoint independent members to committees and the current Audit and Governance Committee has two independent members, and this arrangement should continue as it is line with good practice. It should be noted that Harlow District Council does not have any independent members on their Audit and Standards Committee but Broxbourne Council has an independent Chair.

6. It is important the new committee considers Standards issues at each meeting so it is proposed to have standards as a standing item on its agenda

Proposed Terms of Reference

7. The newly merged Audit and Standards Committee would have the objective of making a positive contribution to the Council's governance and control environment. The proposed terms of reference articulate the Committee's wide remit including advising and reviewing the Council's arrangements for internal audit, internal control, risk management, financial management, standards and corporate governance. The Committee also has an important role in ensuring public money is spent wisely and providing assurance to the public that the council is complying with the law, has an effective control framework in place and provides quality services in line with corporate priorities.

8. The proposed Terms of Reference for the Audit and Standards Committee (Appendix 1) draws on the experience of merging the Audit and Standards Committee at Broxbourne and Harlow Councils and is based on model Terms of Reference for local authorities as detailed in the Chartered Institute of Public Finance and Accountancy publication: Audit Committees - Practical Guidance for Local Authorities and Police 2013 Edition.

The View of the Audit & Governance Committee

9. The Audit & Governance Committee considered these proposals at its meeting held on 30 November 2015. The Committee welcomed the proposals and were in general agreement that the two Committees should merge as it would be more efficient and lead to a (albeit small) reduction in the number of Member meetings each year. It was also felt that oversight of the Council's Treasury Management function should remain with the new Committee, rather than transferring to the Resource Select Committee.

10. The Committee resolved to approve the merger of the two Committees in principle, along with the proposed Terms of Reference, and requested that the views of the Standards Committee be sought on the matter.

Conclusion

11. The Standards Committee is requested to consider the proposals and indicate if they are in agreement with the proposed merger of the two Committees. If the Committee is in favour then the proposed Terms of Reference for the new Committee is attached at Appendix 1 for the Committee to consider, propose amendments if necessary, and approve.

12. Final approval for the merger of the Audit and Standards Committee will need to be sought from the Council following formal consultation with both Committees. The Constitution Working Group would be asked to review the proposed new merged Articles and report to the Council accordingly.

Proposed Terms of Reference for Epping Forest District Council Audit and Standards Committee

Statement of Purpose

1. The role of the Audit and Standards Committee is a key component of the council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial statements and provides a forum for considering ethical issues and ensuring high standards of conduct. The role of the committee is two-fold:
 - Audit - the purpose of the Committee is to provide independent assurance to the members of the adequacy of the risk management framework and internal control environment. It provides independent review of the council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit arrangements, helping to ensure efficient and effective assurance arrangements are in place.
 - Standards – The Committee deals with a range of matters including issues concerning Councillor's conduct, provides advice and guidance to the Council, the Cabinet and individual Councillors and advises on the application and review of the Members' Code of Conduct.

Governance, risk and control

2. To review the council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances
3. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the internal audit opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
4. To note the council's overall approach to value for money in ensuring the council is making best use of its resources.
5. To consider the council's framework of assurance and ensure it is adequately addresses the risk and priorities of the council.
6. To monitor the effective development and operation of risk management in the council.
7. To monitor progress in addressing risk-related issues reported to the committee
8. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions
9. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
10. To monitor the anti-fraud strategy, actions and resources.

Internal Audit

11. To approve the Internal Audit Charter
12. To approve the internal audit strategy and plan, including internal audit resource requirements, the approach to using other sources of assurances and any work required to place reliance upon these other sources. To approve any significant interim changes to the plan and resource requirements and make appropriate enquires of both management and the Chief Internal Auditor to determine if there any inappropriate scope or resource limitations.
13. To consider regular reports from the Chief Internal Auditor which:
 - Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
 - Highlighting where there are concerns about progress with the implementation of agreed actions or where management has accepted a level of risk that the Chief internal Audit considers is unacceptable to the council.
 - Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement
14. To consider the Chief Internal Auditor's annual report:
 - The statement of the level of conformance with the Public Sector Internal Audit Standards and results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit
 - The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.
15. To support the development of effective communication with the Chief Internal Auditor.

External Audit and Financial Reporting

16. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
17. To review the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
18. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
19. To be responsible for the appointment of the Council's external auditors and ensure it is in line with the requirements of the Local Audit and Accountability Act 2014.

Treasury Management

20. To be responsible for the scrutiny of the Council's Treasury Management Strategy, including receiving regular reports on activities, issues and trends to support the committee's understanding of treasury management activities, risks and associated assurances.

Accountability arrangements

21. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
22. To report to the full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

Membership

23. The committee shall comprise 5 members, including 3 Councillors and 2 co-opted members. Additionally the Council is required to appoint at least 1 Independent Person to advise on Standards relating to complaints who shall be invited to meetings in a non-voting capacity.
24. Councillors serving as members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
25. That the seats should be allocated so they are not all drawn from one political group and are also open to councillors who are not affiliated to any political group.
26. Co-opted members shall serve for a period of 3 years from appointment. Such three year appointments shall be overlapping in terms of their expiry dates. A co-opted member may serve for a total of two such terms as of right but may be considered for two further three year terms, provided he or she is successful after open competition following public advertisement. Re-appointment for further terms shall be subject to satisfactory attendance.
27. Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

Standards Committee

28. Promoting and maintaining high standards of conduct by Councillors and Co-Opted Members.
29. Assisting Councillors and Co-Opted Members to observe the Members' Code of Conduct.
30. Advising the Council on the adoption or revision of the Members' Code of Conduct
31. Monitoring the operation of the Members' Code of Conduct.

32. Advising, and/or censuring and/or imposing a sanction on a Councillor or Co-Opted person of a Committee (or former Councillor or Co-Opted person) of the Council.
33. To advise the Council to ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct.
34. Considering dispensations to Councillors and Co-Opted Members (including Parish and Town Councillors) from requirements relating to interests set out in the Members' Code of Conduct.
35. Dealing with reports referred from or on behalf of the Monitoring Officer on any matter, including investigations relating to Councillor conduct.
36. The exercise of (29) to (35) above shall apply to parish councils and their members either directly or through a joint standards arrangement
37. Adjudication on complaints regarding the operation of District Council protocols annexed to the Constitution.
38. The Committee may appoint a Complaints Sub Committee to conduct any hearing into an allegation that a Member or Co-opted Member has breached the Council's Code of Conduct. The Audit and Standards Committee shall decide the membership of the subcommittee, ensuring where possible there is a minimum of three members of the Audit and Standards Committee.
39. The Complaints Sub Committee will undertake the following functions:
 - To conduct any Hearing into an allegation that a Member or Co-opted Member has breached the Council's Code of Conduct.
 - Following a hearing, make one of the following findings:
 - That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing: or
 - That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the hearing: or
 - That the Member has failed to comply with the Code of Conduct and that a sanction and/or informal resolution should be imposed. The subcommittee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.
 - After making a finding, providing written notice of its findings and the reasons for its decision to the Member and complainant.

Eligibility for membership

Councillor members

40. Councillors appointed to the Audit and Standards Committee may not also be members of the Cabinet or any select committee appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.
41. A Portfolio Holder Assistant (other than any Assistant involved in any portfolio dealing primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.
42. Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience or interest and for this purpose the normal rules for pro rata appointments shall not apply.
43. Formal attendance standards be operated in respect of the three councillor members when reappointment is under consideration by the Council's Appointments Panel and the Chairman and co-opted members of the Audit and Standards Committee be consulted informally about the appointment or reappointment of councillors at the appropriate time.

Co-opted members

44. Co-opted members, independent of the Council, shall be appointed by the Council on the basis of their professional expertise, experience and background as relevant to the role and responsibilities of the Audit and Standards Committee. Initial appointments of co-opted members and the filling of casual vacancies shall be made following public advertisement and interviews, the latter conducted in accordance with arrangements agreed by the Council. If the number of suitable applicants exceeds the number of co-opted places on the Committee, the Council shall keep a waiting list of suitable applicants should casual vacancies occur.

Chairman and Vice Chairman

45. The Chairman and Vice Chairman of the Audit and Standards Committee shall be appointed at the first meeting of the Committee in each Council year for a term of one year expiring on the date of the first meeting of the Committee of the next Council year.
46. Casual vacancies in the position of Chairman and Vice Chairman shall be filled in the same way as required in respect of members of the Committee (see paragraph 28 above).
47. Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice Chairman.
48. Where the Chairman of the Committee is a Councillor, the Vice Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice Chairman shall be a Councillor.
49. The Chairman and Vice Chairman shall be eligible for re-appointment.

Parish/Town Councils

50. Parish/Town Councils affiliated to the Standards Committee will be sent meeting agendas and invited to attend where appropriate.

Meetings of the Committee

51. The Committee shall meet at least three times each financial year.
52. The Committee shall be entitled to require any Member, Director, their representatives or any other officer to attend their meetings in order to discuss any matters under discussion including the annual audit programme.

Decision Making

53. Only the Councillors and co-opted members serving on the Committee shall be entitled to vote.
54. All members of the Committee shall be entitled to all documents advice and facilities relevant to their membership of the Committee, regardless of their status as either a Councillor or Co-opted member.

Other Requirements

55. All members of the Committee shall respect the confidentiality of Council information and proceedings where appropriate, particularly where exempt or confidential business is involved.
56. All co-opted members of the Committee shall be required to make a statutory registration of interests in the same form as those required of serving councillors and to be aware at all times of the requirement to clear any interest relating to their work on the Committee.
57. Members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this.
58. All members of the Committee should ensure that they participate fully in any training designed to assist them in their responsibilities as members of the Committee. Similarly all members should act on appropriate advice and other information supplied by the Council to improve their effectiveness.