

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF CONSTITUTION WORKING GROUP
HELD ON THURSDAY, 3 FEBRUARY 2022
IN VIRTUAL MEETING ON ZOOM
AT 7.00 - 8.00 PM**

Members Present: S Rackham (Chairman), M Sartin (Vice-Chairman), N Bedford, D Dorrell, S Heap, H Kauffman, C C Pond and J H Whitehouse

Apologies for Absence: J Mclvor, J Philip and J Share-Bernia

Officers Present: N Boateng (Service Manager (Legal) & Monitoring Officer), N Richardson (Service Director (Planning Services)), A Marx (Development Manager Service Manager (Planning)), G Courtney (Planning Applications and Appeals Manager (Development Management)), G Woodhall (Team Manager - Democratic & Electoral Services) and V Messenger (Democratic Services Officer)

19. SUBSTITUTE MEMBERS

The Working Group noted that Councillor N Bedford was appointed as substitute for Councillor J Philip.

20. NOTES OF PREVIOUS MEETING

RESOLVED:

That the notes of the Working Group held on 23 November 2021 be agreed as a correct record, subject to the amendment of 'and' to 'had' at Minute no 17 (a), (viii) Economic Development Strategy, second sentence, to read:
"The town centre regeneration reports had gone to Overview and Scrutiny Committee [8 June 2021] and then to Cabinet [21 June 2021], which was a better process."

21. TERMS OF REFERENCE & WORK PROGRAMME

(a) Terms of Reference

The Working Group noted the Terms of Reference.

(b) Work Programme

It was agreed that item (7), Article 4 – The Full Council Terms of Reference, sub-paragraph 2(b), in relation to reviewing the role of Council appointees to outside bodies, would go to the next Working Group meeting on 7 April 2022.

22. CONSTITUTION - REVISIONS & AMENDMENTS

The Working Group noted that its Report to Council was deferred on 16 December 2021 to Council's next meeting on 24 February 2022. Therefore, its recommendations from 23 November 2021 meeting regarding Article 4, The Full Council Terms of Reference, sub-paragraph 1(c) had yet to be approved by Council.

23. PART 3 - SCHEME OF DELEGATION - APPENDIX 3 - DELEGATION TO OFFICERS FROM FULL COUNCIL

The CLD2 delegations covered Development Management and were revised about four years ago. N Richardson (Planning Service Director) advised it allowed the service director, or a level 2 or 1 officer nominated by him, to deal with planning applications under delegated powers. Planning application determinations were dependent on various thresholds and CLD2 listed applications that would need to go to a planning committee. It also detailed the criteria for objections (material to the planning merits) received from parish and town councils, and members of the public (see: (A) 3(a) to 3(c)). A member (whose ward was within the Plans Sub-Committee Area) was also allowed to request an application be referred to committee for consideration subject to a written request received within four weeks of its notification in the Weekly List (see: (A) 3(d)).

Councillor S Heap had proposed this item for the work programme and commented that for applicants, a lot of planning cases were taking far too long to determine, which also included enforcement cases, as the process was lengthy. The Epping Forest Special Area of Conservation (SAC) might have caused delays and officers might well be following procedures but control needed to be reinstated. Also, some of the officer reports and plans were inaccurate.

N Richardson and A Marx (Development Management Service Manager) defended the work of their planning colleagues. There had been substantial delays to the SAC applications, but officers were working through the backlog. Planning Services was required to turn around an application as quickly as possible and officers worked to statutory deadlines but if the applicant had to be asked for an extension, this would obviously add to the delay. With between 3,000 to 4,000 applications a year, mistakes were made sometimes, but officers did their best to look at all the drawings. Members needed to trust officers. The site plan in the case officer's report was not part of the application but, if it would help, officers could put a 'dot' to mark the site on this plan. Officers could not influence any decision. It would also be very helpful if planning committee members could warn officers before the meeting about questions they wanted to raise, as it was quite difficult to assess a query properly during a meeting and come up with an answer.

Councillor M Sartin reminded members that the Working Group was only concerned with the Constitution and procedures put in place. Thus, the points raised by Councillor S Heap were more appropriate for discussions at the Joint Meeting of Development Chairmen and Vice-Chairmen, which was agreed. Councillor C C Pond commented that in his opinion the CLD2 delegation system worked satisfactorily as members could always call-in an application and therefore, supported the existing process.

The Working Group raised the following queries on the CLD2 delegations.

- (a) (A) To determine – (6) Any other application which the Head of Planning considered appropriate to be determined by members in relation to applications made by the Council.**

Clarification was sought in relation to when the Council submitted an application. N Richardson replied that the Terms of Reference for District Development Management Committee and the Area Plans Sub-Committees were detailed in Article 10 of the Constitution. If an application was made by a Council officer, such as from Housing, for more minor alterations to Council properties, this would likely be

determined by Planning officers under delegated powers. However, members could call-in an application within four weeks of it being published in the Weekly List, which was the way forward.

- (b) (A) To determine – (3c) 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. Should the relevant Local Council fail to register to speak, [or attend following registration,] the application be referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination in accordance with Rule P2 (2) (Planning Applications) set out in Part 4 of the Constitution**

Councillor N Bedford replied that to prevent members having to consider an application when the local council failed to speak, the inclusion in the second sentence of, '*or attend following registration,*' (shown in italics above), would clarify this, so an application could be referred back to officers for delegation without further delay at a meeting. A Marx replied that when officers knew a local council had not registered to speak, the application would usually be withdrawn from the agenda and be determined under delegated authority. Sometimes though there might still be an objection(s) from the public, but he thought it was for members to decide whether to debate in that instance.

The Working Group agreed for N Boateng (Legal Services Manager/Solicitor and Monitoring Officer) to look at the wording in the Constitution at (3c), and to make a suitable minor amendment, which would be reported to the Working Group at the next meeting on 7 April 2022.

- (c) (B) To Determine – (2a) Planning and related procedures – Finalising the conditions or reasons for refusal, which appear on decision notices.**

How could members view the decision notices especially the reasons for refusal? N Richardson replied that the decisions were published in the minutes of the planning committees. It was noted that when applications were refused, members would come up with as close to the exact wording as planning officers needed to defend an application if it was appealed. Also, refused applications could not always be delegated back to an officer.

- (d) (B) To Determine – (2b) The preparation of legal agreements, in consultation with the Service Manager (Legal Services)/Solicitor to the Council within the terms of any relevant Committee resolution.**

Did the Council compile an annual list of Section 106 agreements and were ward councillors notified of these? N Richardson, Planning Service Director, replied that heads of terms and requirement for S106 agreements were included in the officers' reports published in the meeting agendas. No further requirements or terms were added into a legal agreement afterwards that had not been published in the officer's report. Members were advised to contact the planning officer before the scheduled meeting with any queries or ideally earlier in the process when the application first appeared in the Members Bulletin, otherwise the application might be delayed and deferred to another meeting. Although not part of the CLD2 Scheme of Delegation, the updated Infrastructure Delivery Plan Schedule was approved in September 2020 and listed the infrastructure delivery schedule requirements for a potential S106, broken down by settlement, that would be sourced from developer contributions to

deliver the upgrades required by Local Plan development growth. For further information on this, please see the weblink below:

<http://www.efdclocalplan.org/wp-content/uploads/2020/11/EFDC-IDP-Update-Part-B-2020.pdf>

Although not for the Working Group' meeting, the following points were raised, which N Richardson and A Marx noted:

- Keeping a red line around the site in the plan accompanying the officer report would be helpful; and
- Naming a few more roads on this site plan would help members identify a site's location.

RESOLVED:

- (1) That the Working Group reviewed Part 3, Scheme of Delegation, Appendix 3, CLD2;
- (2) That N Boateng (Legal Services Manager/Solicitor and Monitoring Officer) suitably amend the Scheme of Delegation CLD2 wording at (A) To determine (3c), as suggested above (in italics) and report to the Working Group at the next meeting; and
- (3) That other comments raised by members, which were not relevant to the CLD2 delegations, should be discussed by the Joint Meeting of the Development Management Chairmen and Vice-Chairmen.

24. JOINT MEETING OF DEVELOPMENT MANAGEMENT CHAIRMEN AND VICE-CHAIRMEN - COMPOSITION AND FUNCTION

Councillor C C Pond introduced the report and commented that as tonight's meeting had shown, there was not a simple way to raise issues on planning in an informal way. It was not a question of scrutiny as planning determination was a statutory function. The joint meeting was there to encourage smooth conduct of meetings, to troubleshoot problems that had occurred, to consider new matters (e.g. of national policy) that had arisen, and generally to facilitate the process by which members considered those planning applications where delegated decision by officers was precluded. Currently the chairmen and vice-chairmen of the planning committees were appointed at the Annual Council Meeting entirely on political lines but there needed to be a means where issues could be discussed outside of the planning committees. A slightly enlarged committee to include other group members at the joint meeting would add value in highlighting any issues. If the majority group was worried about being outvoted, then such members could be there on a non-voting basis. Their presence would be solely to facilitate good governance of the consideration of planning applications. For example, the necessity to update the Briefing Note had to be raised during a planning sub-committee last autumn. Also, how planning objections in officers' reports were condensed was another issue. Therefore, it was a question of practicalities.

There were also ongoing problems encountered in the chamber which included:

- Sound inconsistencies between those in the chamber and virtual participants on Zoom;

- Difficulties in hearing certain planning officers virtually when physically in the chamber; and
- Lighting levels in the chamber were too bright when on full power

The majority of the Working Group was in support of enlarging the joint meeting membership to include other group members, except Councillor N Bedford who thought there was no need for change and that the Working Group was a good place to discuss such issues.

After discussion, it was agreed that the proposal was not fully formed because more information was needed on the number of other group members that should be allowed to sit on the joint meeting of the Development Management Chairmen and Vice-Chairmen and what the scheme was about.

Councillor C C Pond commented that there was nothing in the Constitution on the membership of the joint meeting and if other group members were merely invited to be present at the joint meeting, then he did not think it needed to be.

N Boateng (Legal Services Manager/Solicitor) advised that a proposal to change the membership would have to be approved by Full Council.

Councillor N Bedford preferred that one additional member could be nominated by their respective Group Leader, but they should be non-voting members.

As the chairmen and vice-chairmen of the planning committees were automatically members of the joint meeting, G Woodhall (Democratic and Electoral Services Team Manager) advised looking at the Terms of Reference of the joint meeting to see if a change could be incorporated, if required.

AGREED:

- (1) That Councillor C C Pond would expand on the initial report draft, which would be circulated to the Working Group for further discussion at the next meeting on 7 April 2022; and
- (2) That the Terms of Reference of the joint meeting be circulated in the next agenda for 7 April.

(Post meeting update: G Woodhall advised that he had been unable to find a Terms of Reference and neither did one exist in the Constitution. As this item would be continued at the next Working Group meeting, he would liaise with Councillor C C Pond and a further report would be published in the next agenda).

25. DATE OF NEXT MEETING

It was noted that the next meeting of the Working Group would be held virtually on 7 April 2022 at 19.00.

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