

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF PLANNING SERVICES SCRUTINY STANDING PANEL
HELD ON THURSDAY, 12 MARCH 2009
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.30 - 10.05 PM**

Members Present: Mrs L Wagland (Chairman), A Boyce, M Colling, R Frankel, Mrs C Pond and P Spencer

Other members present: Mrs A Grigg

Apologies for Absence: K Chana, J Hart and W Pryor

Officers Present D Macnab (Deputy Chief Executive), J Preston (Director of Planning and Economic Development), R Sharp (Principal Accountant), S Solon (Principal Planning Officer) and M Jenkins (Democratic Services Assistant)

47. SUBSTITUTE MEMBERS

It was noted that there were no substitute members present.

48. DECLARATIONS OF INTEREST

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

49. NOTES FROM THE LAST MEETING

The notes of the last meeting held on 12 February 2009, were agreed as a correct record, subject to the inclusion of Councillor Mrs P Smith and R Sharp, Senior Accountant, as being present.

50. TERMS OF REFERENCE

The Terms of Reference were noted.

51. WORK PROGRAMME

The Panel considered its Work Programme.

(1) East of England Plan and Local Development Framework

(a) The Panel noted that the final version of the East of England Plan was awaiting completion, as the results of a legal challenge were being awaited.

(b) Planning Services were awaiting the report from the Inspector's Panel on the number of Gypsy and Traveller sites in the district. The number of sites within the district was expected to fall from 49 to 39.

(c) A report on the Local Development Framework (LDF) was going to the Cabinet. A six monthly review of the LDF would be put before the Panel later in the year.

(2) Traffic issues and transport in the District

Although a review of the action plan was scheduled for the March 2009 Panel, the District Council was still awaiting the Essex County Council transport strategy for the Nazeing area.

(3) Value for Money within Planning Services

(a) Development Control

A benchmarking review of work coming forward was scheduled to go before this Panel in September 2009.

(b) Forward Planning

This item was being re-scheduled.

(c) Economic Development

The Panel would need statistics to underpin discussions on the economic situation within the district before discussing this item fully.

AGREED:

That economic statistics be included in the report on Economic Development at the June 2009 meeting.

(12) Scrutiny Review Request – Councillor Mrs A Cooper

A report was going before the next Overview and Scrutiny Committee in April 2009 as a result of the Panel's consideration of this issue with a proposal to develop a set of frequently asked questions.

52. PLANNING ENFORCEMENT SCOPING REPORT

The Panel received a report from Mr S Solon, Principal Planning Officer (Enforcement), setting out how the Council's planning enforcement function was delivered, setting out performance indicators, identifying issues and challenges for the delivery of planning enforcement by the District Council.

The Panel's Terms of Reference had indicated that they were considering Value for Money within Planning Enforcement. The report gave a general background on planning enforcement and allowed the Panel to consider the scope for future discussions.

The main purposes of the Council's Planning Enforcement Service was to:

- Investigate allegations of breaches of planning control;
- Remedy the harm caused by actual breaches of planning control; and
- Regularise acceptable development carried out in breach of planning control.

In fulfilling its purpose, the Planning Enforcement Service had regard to relevant legislation, case law, national planning policy and adopted development plan policy.

The planning merits of all actual breaches of planning control were assessed prior to an appropriate course of action being decided upon. The service primarily drew on resources from other sections within the Planning Directorate and on legal advice provided by the Corporate Support Services Directorate.

The Panel were informed that planning enforcement was a discretionary function of the Council. However, experience suggested that the demand for the delivery of a Planning Enforcement Service was high. The failure to take appropriate and timely enforcement action could lead to the Council being found guilty of maladministration and being required to compensate those whose interests were harmed by the consequences of breaches of planning control.

The Planning Enforcement Team, its Performance, Identification and Discussion of Issues

The Council's Planning Enforcement Team was part of the Development Control Group of the Planning and Economic Development Directorate and was made up of seven staff. This comprised a Principal Planning Officer, Senior Enforcement Officer, three Enforcement Officers, a Compliance Officer and a dedicated administrative officer, the Principal Planning and Senior Enforcement Officers were the only posts where the post holders were required to have a relevant planning qualification. Between August 2006 and February 2009 the team had been fully staffed. However, some staff had had extended periods of absence due to illness or bereavement. Since February 2009 the Compliance Officer post had been vacant pending a decision on whether to replace it with either a further Senior Officer or a full time Compliance Officer post. An Enforcement Officer had been taken seriously ill and was unlikely to return to work for a number of months. It was recognised that the District Council's Planning Enforcement Team was one of the bigger planning enforcement teams amongst other local authorities.

The Planning Enforcement Team's workload had increased with the turn over of investigations going up from 650 to 750. There were 60 to 70 complaints per month. However, a great deal of the enforcement work, 65%, involved no breach of planning control. The Panel was informed that it was better to take informal action against breaches of planning control with enforcement action being used only as a last resort. Currently the District Council had a good success rate at appeal, the Council sought injunctions and took direct action from time to time, but there were too few instances to serve as a useful performance indicator. The Panel noted the statistics for performance over the previous three calendar years presented to the Panel.

S Solon advised that staffing and skills within the Enforcement Team were an issue, although there were no targets for the District Council to comply with and no national targets on enforcement. It was felt that better advice to the public on enforcement would drive up the council's performance. Members asked why some enforcement cases took a long time to resolve. S Solon said that if people wished to delay the system there were many avenues open to them.

S Solon advised that managing the workload was a problem due to a lack of skills amongst the enforcement team and having the whole of the District to deal with. Although they can make the best use of existing rules and bring action more speedily, appeals which followed enforcement and went to a public inquiry, took up a lot of time. The enforcement rules were not problematical, the main issue concerned staffing resources. In contrast each of the two Development Control Area Teams had more qualified staff. S Solon proposed that the part time Compliance Officer post be replaced by a full time senior officer post. Members requested a report setting out the

benefits of providing an additional senior officer in place of the Compliance Officer, with reference to outcomes and setting out options for funding the new post. Members had asked for consideration to be given to alternative options rather than recruitment.

D Macnab reminded the Panel that the Council had set a deficit budget with a medium term framed strategy which required £300,000p.a. CSB efficiency saving to be found for three years from 2010/11. Any requests for additional staffing should be found from within existing resources.

It was suggested that by prioritising some cases, a great deal of enforcement action should be avoided sending a strong message around the District that enforcement was taken seriously leading to workloads being eased. The Panel were advised that a lot of complaints about planning control did not actually involve planning issues. It was confirmed that letters sent by the enforcement team to complainants were designed to reduce their expectations and point out contraveners rights of appeal against enforcement action. The members were advised that staff work on an investigation may last up to a year and end in a £300 fine for the offender. Members were also advised that approximately 10% of cases dealt with, generated up to 80% of the work done. They were also advised that a site visit was made within two weeks of a complaint being made. The Panel requested a route map explaining the possibilities and outcomes for each investigation to serve as an indicator of whether more resources were needed to ensure an effective delivery of the planning enforcement function.

Members asked about local cafes which had operated without obtaining planning permission. J Preston advised that there were other dimensions to businesses working without planning permission. Some had bought a site and started operating without permission waiting for the District Council to take action against them. When the District Council took action the applicant gained retrospective approval. The costs in penalties were minor, making it worthwhile breaking the law.

Officers were currently differentiating between types of planning contraventions employing a flexible approach and taking a sterner approach with some compared to others. J Preston advised caution when dealing with people who had a history of planning breaches because they still needed their applications judged fairly. Councillor R Frankel commented that the Council Bulletin published notification of enforcement action taken, but the final outcomes of the actions were not always known by members. It was also interesting to know how much time was spent on enforcement actions and planning applications. The Chairman argued that evidence was needed to justify more resources.

The Chairman asked how many people were making retrospective planning applications, the council should be making greater work on these. S Solon advised that they did not control the number and types of allegation brought to the attention of the Planning Enforcement Team and there were undoubtedly more breaches of planning control in the district than was known. Members felt that fear of appeal should not be a factor in how the District Council dealt with these cases. The Chairman commented that defaulters on Housing Benefit were published regularly in the Council Bulletin, the same could be applied to Enforcement defaulters. The public, and in particular Parish Clerks, should be trained in evaluating what constituted a breach. S Solon advised that there could be significant danger in this, as they may make the wrong decision. The Parish Clerks could be a source of information but it would be a mistake to rely on them. Swifter, draconian action on

breaches should bring dividends. Members requested enforcement statistics to illustrate the process by which a more streamlined system could be implemented.

AGREED:

- (1) That a report be produced for the Panel setting out the benefits of creating an additional senior officer post, replacing the Compliance Officer post with reference to outcomes, options for funding the new post with consideration given to alternative options for securing the same benefits;
- (2) That a report be produced for the Panel setting out the possible route any planning enforcement investigation could take;
- (3) That Members should be advised, through the Council Bulletin, of milestones reached and further action taken in the course of resolving an enforcement action; and
- (4) That Members should be advised of planning enforcement performance through the inclusion of quarterly planning enforcement statistics in the Council Bulletin.

53. GYPSY AND TRAVELLER DEVELOPMENT PLAN DOCUMENT (DPD) UPDATE

The Panel received a brief update report on the Gypsy and Traveller Development Plan Update. The Panel were informed that the deadline for the consultation had now expired. It had generated the following responses:

- In total, there were 9,700 responses to the consultation made;
- 8,100 group responses;
- 900 individual responses; and
- 700 responses were made online.

The responses were still being checked for duplication, and were being put through various processes for analysis. This would generate a report about the number of responses reflecting on where the analysis suggested the Council could go in terms of a strategy with specific extra provision of sites, within the timescale of the Government direction. This report will be considered initially by the Cabinet committee and then the Cabinet in April. Some general themes were clear from the considerable response received. Few responses needed returning, so acceptable language had been used. Although some technical responses were still awaited, in particular that from the Environment Agency, there was still a great deal of work which needed completion.

54. LOCAL DEVELOPMENT FRAMEWORK TIMELINE

The Panel received a summary of the position with regards to the Local Development Framework Timeline. GO East, the Government office for the East of England, had responsibility for monitoring overall progress on development documents, they recently introduced a new template for highlighting this. Officers from, the District Council, Harlow Council and East Hertfordshire Council, had formulated a response for discussion with GO East. The summary specified the likely completion dates of

the Development Plan Documents for the Core Strategy and Development Management Policies as July 2012, Land Allocations as October 2014 and Area Action Plans for Lands around Harlow as October 2014.

55. IMPROVEMENT PLAN

The Panel received a report regarding the Improvement Plan. In November 2008, the Overview and Scrutiny Committee had agreed that the Planning and Economic Directorate would produce an Improvement Plan for the next eighteen months. The Panel's investigations had shown that there had been significant change within planning over the last four years. However, there was scope for further change and improvement. The following was noted:

1. Review the measures used within Planning and Economic Development to ensure that staff are maximising the performance of the Directorate.

- **The Directorate Business Plan for 2009/2010 was almost completed.**
- **The Key Performance Indicators (KPIs) for inclusion in the KPI 2009/2010, was whittled down to 51 KPIs.**

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

- **The Panel were informed that the Planning Services' Business Manager, S Bacon, was leaving for another position within the District Council. His position would need filling.**

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

- **All Planning Services staff had been consulted regarding the Development of the Service Business Plan. However the Staff Survey was due for completion by June 2009.**

4. Improve the mechanisms of regular on-going feedback from users on the quality of service they have received.

Ensure officers with the appropriate level of responsibility act upon complaints.

- **The Panel had already received feedback from planning agents and amenity groups.**

ACTION: Comments from the planning agents and amenity groups required matching, and were to be brought back to the Panel.

5. Improve ownership of problems and accountability amongst the Senior Management Team within Planning and Economic Development.

- **Appointment of new senior staff needed.**

6. Implement appropriate measures to raise morale and increase staff motivation in achieving service improvements.

- **It was possible for a staff newsletter to be produced, however this could be problematic given resource issues.**
7. Develop a systematic approach to workforce planning to address recurring recruitment and retention difficulties.
- **The previous Workforce Development Plan was being updated. It was noted that some staff were approaching retirement age and subsequently would take away many years of experience. Procedures for replacing staff needed to be faster.**
8. Improve the standard, content, presentation and consistency of reports to Development Control, Planning Standing Panel and Area Sub Committees.
- **This was a separate item on the agenda.**
9. Review the Corporate Planning Protocol with respect to dealing with applicants, agents, developers and the local business community to ensure that the highest standards of probity and governance are achieved.
- **The Corporate Planning Protocol was being started.**
10. Implement practical measures to improve the public perception and reputation of the Council's Planning Service, particularly with respect to high profile/controversial applications and enforcement action.
- **More publicity was needed for planning successes.**
11. Take positive action to raise confidence amongst elected Members of the Council with respect to the performance of the service area.
- **Travel Plan – better feedback.**
12. Routinely review costs for the different elements of the service, set challenging targets for improved performance and implement effective monitoring arrangements.
- **Going before the September 2009 panel.**
13. Ensure that there is a clear focus on the actions contained within the improvement plan by all senior staff within Planning and Economic Development and that priority is given to delivery.
- **The Panel are currently monitoring the Improvement Plan.**
- 56. FEEDBACK FROM MEETING OF DEVELOPMENT CONTROL CHAIRMEN AND VICE CHAIRMEN**
- The Chairman fed back to the Panel on the outcomes from the recent meeting of the Development Control Chairmen and Vice Chairmen on 26 February 2009.
- Arrangement of a pilot of pre-application briefings for the Chair, Vice Chair and nominated group representatives of the Area Planning Sub-Committees;

- Inclusion of a link to online plans on Area Plans agendas;
- Officers ensure that full application documentation was received before application was registered;
- Consideration of agreement with developers allowing larger applications over a longer timescale;
- Area Plans Sub-Committees report template reviewed ensuring that information was presented in the best way taking account of best practice in other authorities and how many residents had been consulted;
- Decision making at meetings – webcasts. Chairmen should ensure that they obtained clear reasons for refusal before any vote was taken. Chairmen should provide a summary of the decision of the sub-committee at the end of each item for the benefit of the public, both those present and those viewing the webcast; and
- Highways Objections – responses from Highways to consultations did not always have an explanation with the decision. Highways should attend sub-committees if requested.

57. STAFFING UPDATE

The Panel received an update on the current staffing situation within Planning Services.

The Compliance officer was retiring, the IT Business Manager, S Bacon, was moving to another position within the District Council.

The Assistant Director's post was still vacant. There was concern amongst members regarding the apparent lack of progress in locating a replacement for this post, particularly as the current economic conditions should, in theory, furnish the Council with lots of candidates. The Chairman requested a report for the Panel reviewing the whole recruiting process, for the Assistant Director's post.

AGREED:

That a report be produced reviewing the recruiting process for the Assistant Director of Planning Services post.

58. ANY OTHER BUSINESS

There was no other business.

59. DATES OF FUTURE MEETINGS

The future meeting dates of the Panel were noted as follows:

Thursday 18 June 2009;

Tuesday 8 September 2009;

Tuesday 10 November 2009;

Tuesday 5 January 2010; and

Thursday 11 February 2010.

The Director of Planning Services was concerned that the meeting dates of 5 January 2010 and 11 February 2010, were too close to allow sufficient time for adequate reports for the next meeting. The Chairman agreed, suggesting that the February meeting date could be re-arranged.