

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF PLANNING SERVICES SCRUTINY STANDING PANEL
HELD ON TUESDAY, 14 JUNE 2011
IN COUNCIL CHAMBER, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.30 - 10.10 PM**

Members Present:	H Ulkun (Chairman), A Watts (Vice-Chairman), C Finn, Ms Y Knight, A Lion, J Markham, B Sandler, Mrs J Sutcliffe and G Waller
Other members present:	Mrs A Grigg, Mrs S Jones, Mrs J Lea, A Mitchell MBE, J Philip, B Rolfe, Mrs M Sartin, Mrs P Smith, D Stallan, Mrs L Wagland and C Whitbread
Apologies for Absence:	A Boyce and P Keska
Officers Present	J Preston (Director of Planning and Economic Development), N Richardson (Assistant Director (Development Control)), K Polyzoides (Assistant Director (Policy & Conservation)), M Jenkins (Democratic Services Assistant), T Carne (Public Relations and Marketing Officer) and S G Hill (Senior Democratic Services Officer)

1. SUBSTITUTE MEMBERS

It was noted that Councillor G Waller was substituting for Councillor A Boyce.

2. DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest made pursuant to the Members Code of Conduct.

3. NOTES FROM THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel held on 3 March 2011 be agreed.

4. TERMS OF REFERENCE

The Panel's Terms of Reference were noted. It was advised that a proposed draft of the Terms of Reference, from Councillor A Lion, would be considered at a future meeting.

5. WORK PROGRAMME

The following was noted:

(1) (a) Regional Plan

The Regional Plan was being removed from the Localism Bill.

(2) (c) Value for Money Provision: Development Control (including Appeals)

A report was being planned for the September 2011 meeting of the Panel.

(3) Review of a selection of controversial planning decisions.

This work was currently uncompleted.

(6) Liaise with other planning authorities to learn from their work.

A continuous process of liaising with other Essex local authorities was taking place.

(8) Community Infrastructure Levy

Although a report was on the agenda. It was advised that the current situation would change. It was felt that this item should be a Panel standing item.

6. IMPROVEMENT PLAN

The Panel received the Draft Planning and Economic Development Improvement Plan 2011 – 2012.

The members were updated as follows:

1. Continue to improve procedures.

(a) Confirm a programme of areas where information, primarily held in hard copy versions, can be scanned into I-Plan.

Fully achieved

(b) Make more information available by improving the content of the sections of the website concerning Planning.

Partially achieved. Due to fewer staff resources, it was important to undertake more transactions electronically.

(c) One particular project is working with local Council's to further improve the I-Plan system and, once completed, to gradually remove duplicate manual systems.

Partially achieved

2. Create a shorter and simpler Business Plan for 2012-13.

(a) Re-focus Business Plan 2012-13

Partially achieved

3. Green Issues

(a) Create a revised and improved section on the Council's website to give greater clarity and prominence to these matters.

Not achieved

(b) Run training sessions for Members and Officers

Not achieved

There had been no progress on this. It was advised that Green Issues encompassed how the authority used its buildings.

4. On the assumption that the Government introduces legislation to allow planning fees to be set locally.

- (a) Complete benchmarking exercise

Partially achieved

- (b) Compile fee schedule based on existing national schedule and with similar arrangements to adjoining authorities

Partially achieved

- (c) Compile a set of charges based on evidence of EFDC costs

Not achieved

7. CLG CONSULTATION - PLANNING FOR TRAVELLER SITES

The Panel received a report from Mr J Preston, Director of Planning and Economic Development, regarding the Communities and Local Government (CLG) Consultation Planning for Traveller Sites.

The consultation, which ran for 12 weeks, from 13 April to 6 July 2011, was essentially about a draft Planning Policy Statement (PPS) (Planning for Traveller Sites) which was intended to replace Circulars 01/2006 and 04/2007 (Planning for Gypsy and Traveller Caravan Sites, and Planning for Travelling Showpeople). There were 13 questions associated directly with the content of the PPS, and a further 15 specific questions related to the consultation stage impact assessment.

The draft PPS stated that “the Government’s overarching objective is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.”

The Government had made plain its intentions to abolish Regional Spatial Strategies and all associated housing and Gypsy Roma Traveller (GRT) pitch targets. This would take place when the Localism Bill was enacted in early 2012. The Government was also intending to replace all existing planning guidance with a National Planning Policy Framework in April 2012 and this draft PPS had been written with that in mind.

The Panel considered its responses to the following consultation questions:

PPS Consultation Questions

1. Do you agree that the current definitions of “gypsies and travellers” and “travelling showpeople” should be retained in the new policy?

Response – Yes - It was sensible to retain both definitions because of the different land use requirements associated with the lifestyles of the two groups, but by only excluding the recognised ethnic groups from the definition of travelling showpeople this left uncertainty about others who might be included in the definition of “gypsies and travellers.” Members also felt that with a large housing list and a shortage of

affordable housing, it was not possible to make adequate provision for the local community. It was difficult defending the making of provision for one group when the District Council could not make provision for others.

2. Do you support the proposal to remove specific reference to “Gypsy and Traveller Accommodation Needs Assessments” in the new policy and instead refer to a “robust evidence base?”

Response – No - The lack of reference to the GTAA could lead to the production of needs assessments of widely differing approach and quality. A more consistent nationwide approach should result in fewer successful challenges at EiP or other Planning Inquiries. Members added that the district was diverse in terms of urban and rural settlement, it was difficult to settle Gypsies and Travellers in areas that were very different from them.

3. Do you think that local planning authorities should plan for “local need in the context of historical demand?”

Response – Undecided - The Council supported the principle, but was concerned about the advice in paragraph 20 (e) of the draft PPS in relation to determining planning applications for traveller sites – “...applications for sites from any travellers and not just those with local connections.” Permission being granted for non-local” travellers, this would not be addressing “local need.” Members felt that historical demand bore no relevance to today’s situation. Officers suggested that historical demand could be relevant to Gypsies and Travellers who had connections with certain district areas.

4. Do you agree that where need has been identified, local planning authorities should set targets for the provision of sites in their local planning policies?

Response – Undecided - The Council had increased the number of authorised pitches by 36 (from 72 to 108) in the period from January 2008 to the present, exceeding both the East of England Plan target of 34 new pitches by April 2011, and the GTAA figure of 32.4 pitches by 2013. This suggested that targets could work, and that the answer was yes. However setting targets here had other implications because of the answers to other consultation questions, therefore the answer could be no. It was felt that there was no immediate need to make further provision in this district. The issue would be addressed through the Local Development Framework.

5. Do you agree with the proposal to require local planning authorities to plan for a five year supply of traveller pitches/plots?

Response – No - The Council believed that this was wholly unrealistic and completely unachievable in this district, unless some publicly owned land in suitable locations became available.

6. Do you agree that the proposed wording of Policy E (in the draft policy) should be included to ensure consistency with Planning Policy Guidance 2: Green Belt?

Response – Yes - The Council agreed with the proposed change in wording, because this should “even things up” regarding the consideration of applications for permanent housing and traveller pitches in the Green Belt. The change may make it difficult establishing or justifying completely new traveller sites in the Green Belt,

which in turn would make it increasingly difficult for the Council to identify suitable and deliverable new sites.

7. Do you agree with the general principle of aligning planning policy on traveller sites more closely with that on other forms of housing?

Response – Yes - The Council believed there were some advantages in bringing pitch provision considerations within the wider housing framework. Assuming that pitch provision could be treated as merely one element of the total housing agenda, this would help reduce suspicion and mistrust. Officers were convinced that at least in this district it would be quite impossible to identify a five year supply of deliverable sites, so there would be limits to how closely pitch provision could be aligned with other forms of housing. Members felt that all peoples involved should be treated equally.

8. Do you agree with the new emphasis on local planning authorities consulting with settled communities as well as traveller communities when formulating their plans and determining individual planning applications to help improve relations between the communities?

Response – No – The Council generally favoured consultation and involvement of the community, but Gypsies and Travellers and settled community applications should be dealt with in exactly the same way. Members were not persuaded that a new emphasis was needed because there were already existing duties to consult both at policy formulation and at planning application stages. The Council strongly disagreed that consultation on this specific issue would help improve relations. This was based on very recent experience of such a consultation.

9. Do you agree with the proposal in the transitional arrangements policy for local planning authorities to “consider favourably” planning applications for the grant of temporary permission if they cannot demonstrate an up-to-date five-year supply of deliverable traveller sites, to ensure consistency with Planning Policy Statement 3: Housing?

Response – No if GRT (Gypsy Roma Traveller) housing land supply was going to be brought within PPS3 then the approach must be fully integrated, in particular when considering local need and that land supply in the Green Belt arisen much more as a windfall process.

The “consider favourably” position was really a back stop to encourage proper planning for mainstream housing supply rather than being applicable to the particular attributes of GRT land supply which were never likely to be as formal and documented.

10. Under the transitional arrangements, do you think six months is the right time local planning authorities should be given to put in place their five-year land supply before the consequences of not having done so come into force?

Response – No - The Council believed this to be a nonsensical suggestion, with no basis on reality, and which showed no understanding whatsoever of the practical difficulties of dealing with this controversial and complex subject.

11. Do you have any other comments on the transitional arrangements?

Response – Yes - The Council’s recent record of increasing significantly the number of authorised pitches indicated that a criteria based policy, reasonably applied, could meet the needs of the travelling community, even in areas of development restraint, if applications were professionally prepared and supported by adequate justification. The Government should therefore be thinking again about the requirement to produce five-year land supplies.

12. Are there any other ways in which the policy can be made clearer, shorter or more accessible?

Response – Yes - Definitions of the terms “local need” and “historical demand” would help local authorities have a consistent basis from which to calculate future pitch targets. This could also address the confusion that appeared to exist between these terms and the guidance for determining planning applications.

The PPS also proposed the use of a “Rural Exception Site Policy” where there was a lack of affordable land to meet local traveller needs, it was not clear whether the Government thought that this would be an acceptable approach in the Green Belt, given that traveller sites had been added to the definition of “inappropriate development.”

Members were asked to note that Housing land supply normally included a stock of unimplemented planning permissions, allocations of land mainly outwith the Metropolitan Green Belt, and that there was active dialogue with promoters of such development about future sites.

Gypsy, Roma and Traveller land supply in this area did not have those attributes, rather it was influenced by what could be purchased and afforded, what need could be presented, whether existing sites could have their capacity raised and what GRT sites could be provided within the Master Planning of future large developments.

Members themselves raised a number of points, they contrasted what had been achieved in terms of extra pitch provision for GRTs locally with the volumes of affordable housing for those on waiting lists. To have met the 2011 target for one group with housing needs, but not to have similarly met the needs of those, some of whom were longstanding local residents was not fair.

The communities within the overall District were diverse, if the costs of GRT provision arise in one locality or community, but resulting benefits such as new homes bonus were expended in other localities that was also unfair.

A clear message from the EFDC consultation pursuant to the Direction was that GRT did not tend to want to live “cheek by jowl” with the settled community. Advice used to seek some separation of the communities, but more recent advice had sought integration. This was a circle which had not been squared.

94% of the District was Metropolitan Green Belt and Traveller sites were inappropriate in the Green Belt the combination made sourcing sites challenging.

The consultation appeared to make no reference to the overall size of site.

13. Do you think that the proposals in this draft statement will have a differential impact, either positive or negative, on people because of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation? If so, how in your view should we respond?

We are particularly interested in any impacts on Gypsies and Travellers, and welcome the views of organisations and individuals with specific relevant expertise.

Response – Yes - The Council believed that Gypsies and Travellers would be adversely affected by the proposed changes, on the grounds that it was likely to be much harder to identify suitable new sites in the Green Belt.

Differential treatment of different groups, on the one hand applying Green Belt policy more fairly would be likely to restrict the ability of GRT to achieve sites in this area, whereas, on the other hand the settled community may well perceive that a balanced approach was fairer overall.

Impact Assessment (Specific) Questions

Option 1: Do Nothing

Do you think there are any other benefits to retaining the existing policy, and whether these can be quantified?

Response – No - This was not a viable option, given the changes to the planning system being brought forward by the Government. Nevertheless, the Council had shown that the current system could work, even in areas of significant development restraint.

Option 2: Withdraw Circulars and do not replace them. Can you identify – in quantitative terms if possible –whether you think there would be any benefits to this option?

Response – No

Option 3: Withdraw Circulars and replace them with a new single policy (a) Enabling local planning authorities to make their own assessment of need and to use this evidence to set their own targets for pitch/plot provision.

Please comments on whether you envisage any extra costs to local planning authorities associated with the assessment of need for traveller sites in their areas, over and above those they experience at present.

Response – No - There would be extra costs. Steps were being taken to identify GRT families potentially living in bricks and mortar. Some cross-agency contacts have been established during discussions about the information of a County-wide Gypsy and Traveller Unit. Ideally a repeat of the consultation exercise aimed at travellers under the direction would be best, however this was time consuming and costly.

Please give your view on the scale of the time and money benefits which will accrue to local planning authorities as a result of being able to set traveller site targets locally.

Response – Locally derived targets would be subject to rigorous challenge by the settled community, if the Council's recent experience with the direction consultation was anything to go by. This would add to staff and other resource costs. There was also a broad assumption that co-operative working with other authorities to produce joint development plans, would ease the problem for districts such as this which were

mainly Green Belt. Given the controversial nature of the particular land use, it seemed unlikely that there would be much successful co-operation, this was again likely to add to staff and other resource costs.

(b) Enabling local planning authorities to meet this need over a reasonable timescale.

Please give your views on whether the transitional period envisaged will lead to any extra costs – and what these might be in monetised terms.

Response – No - The transitional period of 6 months to identify and establish a five year supply of suitable sites was totally unachievable in this district. The timing would interfere with the preparation of the Issues and Options consultation for the Core Strategy. The settled community, already angered and upset by the previous consultation, would continue to object strongly and in significant numbers, to any more specific work associated with the travelling community at this time.

Please give your view on the extent to which, and rate at which, you consider the new sites will come forward as a result of the new approach.

Response – The changes were unlikely to have a significant impact. If anything, the rate would reduce with traveller sites now being fully classed as inappropriate development in the Green Belt.

(c) Enabling local planning authorities to protect Green Belt from development.

Please give your view on whether the draft policy is likely to have any significant monetary benefit in terms of protection of the Green Belt and, if so, what this is likely to be.

Response – It was unlikely that there would be any measureable monetary benefits.

(d) Reducing tensions between settled and traveller communities.

Response – No requests for comments made.

(e) Streamlining planning policy for traveller sites. Do the familiarisation costs estimated for local planning authorities appear reasonable? Please give your view on the assumptions made in this calculation.

Response – No - There would be benefits from amalgamating and simplifying what were two broadly similar circulars, but familiarisation costs were likely to be minuscule or otherwise immeasurable. Unlike the assumption made in the calculation, several officers in the Planning directorate would need to familiarise themselves with the changes.

Do the estimated administrative savings for local planning authorities as a result of streamlining national policy, seem reasonable? Please give your view on the assumptions made in this calculation?

Response – the Council was not able to offer a meaningful response.

Other Specific Questions

(i) Are there any significant costs and benefits that we have omitted? If so, please describe including the groups in society affected and your view of the extent of the impact.

Response – Yes - The definition of traveller sites as being inappropriate development in the Green Belt was likely to trigger almost automatic refusals by this Council for applications for entirely new sites in the district. This may lead to frequent appeals and inquiries with associated costs.

(ii) Do you think that the draft policy is likely to have any impact, positive or negative, on travelling showpeople as an economic group?

Response – Travelling Showpeople will experience increased difficulty in finding suitable and acceptable sites in the Green Belt. This may have a negative effect on their way of life and their economic operations.

(iii) Are there any significant risks or unintended consequences we have not identified? If so please describe.

Response – (i) The consultation and the impact assessment seriously underestimated the suspicion and mistrust between the settled and travelling communities in this district. The suggested approach for reducing tension, would only inflame these feelings, and would not achieve the desired results. (ii) Too much reliance was being placed on positive outcomes from collaborative working between authorities. It seemed very unlikely that participating authorities were going to agree to take another authority's pitch members, irrespective of whether this would suit individual families of the travelling community.

(iv) Do you think there are any groups disproportionately affected?

Response – Life would be tougher for the travelling community in districts such as this where the major part of the area was Green Belt, and where land values and amenity considerations meant that sites could not be found in the built-up areas excluded from the Green Belt.

The report was recommended to Council for final approval before being submitted to the Government.

RECOMMENDED:

(1) That subject to consultation with the Chairman of the Overview and Scrutiny Committee, a report be made to Council by the Planning Portfolio Holder, to permit a formal response to the consultation made prior to the deadline set by the Government;

(2) That a meeting be requested with the appropriate Minister to discuss the Council's experience of the previous consultation in connection with the Gypsy and Traveller Development Plan Direction, with the intention of modifying the content of the final version of the Planning Policy Statement; and

(3) That local Members of Parliament be advised of the report and the request to meet the Minister.

8. PLANNING AND ECONOMIC DEVELOPMENT - ORGANISATIONAL CHARTS

The Panel received the Staffing Organisational Charts for the Planning and Economic Directorate. It was noted that there were two vacancies within the Forward Planning Team, at senior officer level. The Chairman advised that there were concerns regarding filling officer posts and the recent freeze on external recruitment. It was suggested that a report should be submitted, initially to the Leader of Council, regarding these concerns. However the Portfolio Holder for Planning requested that the report should be submitted to himself initially for consideration.

RESOLVED:

That a report be submitted to the Portfolio Holder for Planning regarding the current policy of restricting external entrants from vacancies, particularly in Planning and Economic Directorate.

9. SECTION 106 - AFFORDABLE HOUSING

The Panel received a report from Mr N Richardson, Assistant Director of Planning and Economic Development, regarding Section 106 Agreements and Affordable Housing.

Section 106 of the Town and Country Planning Act 1990 allowed a local planning authority to enter into a legally binding agreement or planning obligation with a land owner/developer over a related issue. The obligation was often termed a "Section 106 Agreement."

Section 106 Agreements could act as a main instrument for placing restrictions on developers, often requiring them to minimise the impact of their development on the local community and to carry out tasks providing community benefits.

Such agreements were sought when planning conditions were inappropriate to ensure and enhance the quality of development and enable proposals that might otherwise have been refused to go ahead in a sustainable manner. They were not used to take a share of the developer's profits into the public purse, nor were they used to gain a benefit that was unrelated to the development.

Affordable Housing

Affordable Housing was required where a certain threshold (15 dwellings or more or where the site was 0.5 hectare or above) was reached in a single development proposal where the population of the settlement was greater than 3,000 people. The requirement in this case would be 40% of all houses would be affordable and the only way to secure this was through a legal agreement. In smaller settlements outside the Green Belt, up to 50% would be sought.

Negotiation became more complex and delayed the determination of planning applications, when community or off-site affordable housing contribution was sought. The Council had no formulae or standard charges worked up and requests made at planning committee meetings were sometimes interpreted as a take of the developer's profit and therefore not necessary or reasonable in planning terms. An affordable housing contribution should cover the difference between the value of a residential unit on the open market and the amount a housing association could pay for it to charge affordable rents. An evaluation was needed for each unit and a development appraisal based on a cash flow of a housing association managing the units over 30 years netted back to the present value.

Performance for the Year 2010/11

There were 7 Section 106 Agreements concluded between April 2010 and March 2011.

Benefits negotiated through the year provided:

- (1) A total of £703,400 to be received into the public purse;
- (2) In the region of 6 affordable housing units;
- (3) Various highway improvements at the developer's expense; and
- (4) Parish Council facilities

Benefits actually realised through the year have provided:

- (5) A total of £545,512 received into the public purse;
- (6) 165 affordable housing units;
- (7) Improvements to public transport facilities at the developer's expense;
- (8) Various highway works at the developer's expense; and
- (9) Town Centre improvements

The Future

Essex County Council had been working on proposing a "standard charge" for development within the county. This meant, for example, that for every new dwelling granted permission, they may require a standard sum of money to be paid into the public purse to cater for increased use of libraries, roads, education facilities etc. They have recently produced a "Developer's Guide to Infrastructure Contributions" and within this, there were formulae and standard charges/tariffs relevant to county services. It was sensible for this Council to adopt a similar approach, that on qualifying developments a standard sum be required to cover the increased use of leisure facilities, waste collection, affordable housing, town centre enhancement, public car parking etc. Such a policy would need to be adopted within the emerging LDF.

RESOLVED:

That the Section 106 Affordable Housing report be noted.

10. COMMUNITY INFRASTRUCTURE LEVY

The Panel received a report from Mr N Richardson, Assistant Director of Planning and Economic Development, regarding the Community Infrastructure Levy.

It was anticipated to replace Section 106 planning obligations as a means of providing payment for the provision of infrastructure in a local area. The Community Infrastructure Levy (CIL) was a new financial charge which would entitle local

planning authorities to charge on development taking place in their area. The money would be spent on local infrastructure.

After April 2014, if the Council wished to collect infrastructure charges or monies, it would formally adopt a CIL as this would be the only option available, and therefore collection through Section 106 legal agreements would no longer be possible. The CIL would include a charging schedule document prepared by the charging authority.

Monies raised under CIL could only be spent on "infrastructure," which was defined to include the following:

- Roads and other transport facilities
- Flood defences
- Schools and other educational facilities
- Medical facilities
- Sporting and recreational facilities
- Open spaces

It was for officers to determine what was to be infrastructure in the area, and allowed flexibility to include community and cultural facilities.

Pre-requisite to making a CIL payment. Before an obligation to pay CIL could arise there were a number of sequential steps which needed undertaking and conditions satisfied before any landowner or developer would be required to make a CIL payment.

Not every planning permission would be liable to pay CIL, only specific developments defined as:

- The creation of new non-residential buildings where the gross internal floor area space was 100 square metres or more; and/or
- The creation of residential buildings, irrespective of its size

Who can spend CIL?

The charging authority could spend monies on infrastructure, but the charging authority could also pass receipts to other infrastructure providers, such as Essex County Council, Environment Agency, Highways Agency. The authority could also forward funding to other bodies, this included local councils, as well as neighbourhood groups, they must be locally "elected" bodies.

The Assistant Director of Planning and Economic Development (Policy and Conservation), was preparing a draft EFDC CIL strategy for the next Planning Scrutiny Services Standing Panel in September 2011. This would contain the preferred approaches for our District based on emerging evidence, and new guidance. It was important to add that ongoing changes to the planning system would change the course of action taken.

RESOLVED:

That the Community Infrastructure Levy report be noted.

11. ANY OTHER BUSINESS

The Planning Portfolio Holder advised that there was Local Development Framework training taking place on July 14.

12. DATES OF FUTURE MEETINGS

The next Panel meeting was taking place on 13 September 2011.

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