

# ***Report to the Council***

**Committee: Constitution Working Group  
(Councillor M McEwen)**

**Date: 20 December 2018**

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## **1. PLANNING PROCESS REVIEW – LOCAL COUNCIL’S ATTENDANCE**

**Recommending:**

**(1) That in the instance where a local council has not registered to speak at an Area Plans Subcommittee and fails to attend, having previously advised the Council of their intention to attend and speak, relevant applications be automatically referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination in accordance with the Scheme of Delegation;**

**(2) That to facilitate (1) above, the following additions be made to the constitution:**

**(i) That in Part 3 of the Constitution – Scheme of Delegations from the Council: delegation CLD2, paragraph 3 (c) be reworded to read:**

**“3(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. Should the relevant Local Council fail to register to speak, 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.”**

**(ii) That in Part 4 – Council Rules P2 (planning Applications, a further paragraph be added to read:**

**“P2 (2) That, pursuant to the scheme of delegation on planning applications set out in Part 3 of this constitution, where a local council have indicated, during the course of planning consultations, of their intention to attend and speak at the meeting where the proposal will be considered and then subsequently fail to register and attend, the application be referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination.”**

- 1. At its meeting on 31 July 2018, the Council adopted a number of recommendations of the Working Group arising from a review of planning processes, which had been considered against the implications of the delivery of the Local Plan and the resource implications likely to result from an increased volume of work at the pre-application and application stages.**
- 2. Part of the review undertaken by the Working Group concerned existing arrangements for the consideration of planning applications by the Area Plans**

Sub-Committees, many of which did not meet the national target for determination within eight weeks of receipt, to which an objection to a development proposal was made by a local town or parish council. This report concerns issues that have arisen as a result of the application in practice of this arrangement.

3. To improve relevant processes in this regard, the Council agreed that, in all cases where a local council had submitted a material objection to a development proposal but such objection was not supported by local residents, applications be determined in accordance with the authority delegated to the Service Director (Planning Services) within the Scheme of Delegation set out in the Council's Constitution.
4. Applications recommended for approval where an objection to the planning merits of a development proposal has been received from a local council continue to be considered by an Area Plans Sub-Committee, only where the local council has confirmed in writing its intention to attend the relevant meeting where the proposal will be considered, in order to present such objection to the Sub-Committee.
5. In at least four recent instances, applications contained within the agenda for a meeting of one of the Area Plans Sub-Committees have been referred to the Sub-Committee for determination solely as a result of the receipt of an objection to the development proposal by the relevant local council. In each instance, no other objection had been received to the development proposal and, without the receipt of an objection by the relevant local council, each would have been determined by the Service Director (Planning Services) in accordance with the current Scheme of Delegation. The Local Council's concerned then failed to attend and speak at the subsequent meeting.
6. As each of the applications had been correctly published within the agenda for the respective meeting, the Monitoring Officer considered that it was inappropriate for them to be simply withdrawn without some form of 'consideration' by members and advice was issued to each chairman and vice-chairman in this respect.
7. We considered the following options that appear available to address this unforeseen situation:
  - (a) that relevant applications be automatically referred (without any consideration of the merits of the development proposal) to the Service Director (Planning Services) for determination in accordance with the Scheme of Delegation; or
  - (b) that the Area Plans Sub-Committees be authorised to consider and determine relevant applications on the basis of the information set out in the report of the Service Director (Planning Services) and presented at the meeting by the Principal Planning Officer (and external speakers where relevant).
8. We are of the view that we should act now to alter the scheme of delegation and the Council Rules to ensure that such application are referred back to officers for determination in this instance. We recommend accordingly.

## **2. PETITION SCHEME – REVIEW**

### **Recommending:**

**(1) That the revised version of the Petition Scheme for inclusion within the Constitution, attached as Appendix 1 to this report, be adopted.**

1. The Council's Petition Scheme, adopted on 14 December 2010 in accordance with the requirements of the Local Democracy, Economic Development and Construction Act 2009 as part of a duty to promote democracy, was reviewed by the Governance Select Committee (GSC) on 23 October 2018. Feedback from neighbouring local authorities on the handling of petitions and signature thresholds used suggests that generally a low number of petitions are received. Therefore, no changes are made to the current threshold levels.
2. The existing guidance for the Petition Scheme has also been reviewed to ensure it is clear and consistent with the revised scheme that incorporates previous separate guidance on the creation of e-petitions. However, as a result that many of the petitions received relate to services provided by other authorities, e.g. Essex County Council (highway issues) and North Essex Parking Partnership (parking enforcement), which did not meet some of the acceptance criteria, the revised scheme also includes a list of the main functions of local authorities (appended to the Petition Scheme).
3. On adoption by Council, the revised Petition Scheme will be publicised on the Council's website to increase public, member and officer awareness, since Democratic Services often receive petitions indirectly from ward members or other officers.
4. We recommend as set out at the commencement of the report.

### **3. APPOINTMENT OF HONORARY ALDERMEN AND ALDERWOMEN**

#### **Recommending:**

**(1) That the scheme for the Appointment of Honorary Aldermen and Alderwomen, attached as Appendix 2 to this report, be adopted; and**

**(2) That a DDF budget sum of £3,500 be approved to fund the implementation of the scheme, production of a supply of Badges of Office and Roll of Honour book.**

1. At a meeting of Full Council held on 1 November 2018 the following Motion was moved by Councillor J Philip and seconded by Councillor C Whitbread, was adopted:

“That, in recognition that the Council has the option, under the provisions of Section 249 of the Local Government Act 1972, to confer the title of Honorary Alderman on any person who, in the opinion of the Council has rendered eminent services to the Authority, asks the Chief Executive to:

- (i) report further to the Council's Constitution Working Group on proposals that would bring forward such a scheme to enable the Council to confer a title; and

- (ii) asks that the Working Group report back to the Full Council on the adoption of such a scheme together with the likely resources required.”
2. We have therefore been asked to consider how such a scheme could be implemented.
3. Section 249 of the Local Government Act 1972 allows the Council to confer the title of Honorary Alderman (or Alderwoman) on persons who have, in the opinion of Council, rendered ‘eminent services’ to the Authority as past members of the Authority but who are not then members of the Authority.
4. It is a Council decision to confer the title which must be passed at a meeting specially convened for the purpose (i.e. an extraordinary meeting) and approved by vote by not less than two-thirds of the members present.
5. An Honorary Alderman may attend and take part in such civic ceremonies as the Authority may from time to time decide but, as such, has no right to:
  - (i) attend meetings of Council, Cabinet or Committee other than as a member of the public; or
  - (ii) receive any of the allowances or other payments to which Councillors are entitled.
6. Section 249(2) provides that such an honour can only be held by someone who is not a serving Councillor of the Council. As such, were a recipient to be re-elected or co-opted back onto the Council, the title would be suspended for their further term. It is also suggested that there should be provision for the removal of the honour by resolution.
7. We have also considered the criteria by which nominations are approved by Council. We are suggesting that the following criteria apply:
  - (i) they are no longer a serving Councillor; and
  - (ii) the proposed recipient must be willing to accept their nominationAND one of the following criteria apply to the proposed recipient:
  - (a) they have served at least 16 years in office; or
  - (b) they have held a significant position of public responsibility with the Council, for a minimum period of one year; or
  - (c) they have provided demonstrable eminent service to the Council throughout a long and distinguished period of public service;
8. It is also suggested that a nomination supported by a proposer and seconder should form part of the consideration by the Council whether to bestow the title. Applications would be submitted to the Proper Officer and initially considered by the Chairman of Council in consultation with the Leader, taking soundings from Group Leaders.

9. The DDF sum requested would cover the cost of an initial run of medals and a 'roll of honour' book. This sum would enable the scheme to be operated for a number of years, depending on the number of nominations.
10. We recommend as set out at the commencement of the report.

## **Petition Scheme – Epping Forest District Council**

### **1. Definition**

- 1.1 For the purpose of this procedure a petition is a request to the Council made either in writing; or through the Council's e-petitions system on its website.
- 1.2 The petitions page of the Council's website is available at:

<https://rds.eppingforestdc.gov.uk/mgePetitionListDisplay.aspx>

### **2. Scope of Scheme**

- 2.1 The Council will accept paper-based petitions, e-petitions (but only those submitted through its own petition system) or a mix of paper and e-petitions. The proper officer for petitions is the Service Manager (Governance).

### **3. Acknowledgement**

- 3.1 The Council will treat something as a petition if it is identified as being a petition, or if it seems to the Council that it is intended to be a petition.
- 3.2 All petitions sent or presented to the Council will be acknowledged within seven days of receipt. Such acknowledgement will be sent to the lead petitioner and will set out what the Council plan to do with the petition.

### **4. Exceptions to the Scheme**

- 4.1 The following do not fall within the scope of this Petition Scheme:
  - (a) emailed petitions, as email systems are not secure. Petitioners must use either paper or the Council's e-petitions system. The Council will not monitor third party petitions systems;
  - (b) petitions which are considered to be vexatious, abusive, anonymous or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum the Council may need to deal with a petition differently – if this is the case the Council will explain the reasons with the petitioner and discuss the revised timescale which will apply;
  - (c) petitions relating to a planning application, including those about a development plan document or the community infrastructure levy. The planning application process deals with objections to applications;
  - (d) petitions relating to a licensing decision; (as the Licensing scheme deals with objections to applications);
  - (e) petitions relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal;
  - (f) any matter for which the Standards Committee has powers for determining complaints received under the Local Assessment process;

- (g) any complaint made against an employee of the District Council;
- (h) any matter which is substantially the same as a petition submitted in the previous 12 months;
- (i) where the subject matter is subject to ongoing legal proceedings; or
- (j) petitions made during formal Council consultations related to the subject matter of the consultations (these will be formally referred to that process as appropriate).

4.2 Where a petition submitted relates to one of the categories set out above the Council will write to the lead petitioner and explain why the matter is not covered by the authority's Petition Scheme. In appropriate circumstances, the Council may advise how the public views can be considered via alternative means.

## **5. Submission guidelines/Signatory Requirements**

5.1 Petitions submitted to the Council must include:

- (a) a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take;
- (b) the name and address and signature of any person supporting the petition; and
- (c) contact details, including an address (and a valid email address if submitted electronically), for the lead petitioner;

5.2 If the lead petitioner wishes to start an e-petition, the Council and the lead petitioner will agree the period over which signatures will be collected and the final wording of the petition. The petition will then be available to sign 'electronically' for the agreed period on the Council's website. On the expiration of that time, the Council will respond in accordance with Section 7 below.

5.3 Anyone who lives, works or studies in Epping Forest District is entitled to sign to support a petition. The supporter's name, address, a valid email address and/or postcode are required to sign an e-petition on the Council's website. For paper petitions signatories must provide their, name, address and signature.

5.4 A paper petition template can be downloaded from the Council's website.

5.5 E-petitions will run on the Council website for a maximum of 3 months, but the Council and the lead petitioner can choose a shorter timeframe up to the maximum period.

## **6. The procedure when the Council receives a petition**

6.1 The Council will send the lead petitioner an acknowledgement of the petition within seven working days. Local ward councillors will be informed of the receipt of a petition.

- 6.2 If the Council can do what the petition asks for, the acknowledgement may confirm that the Council have taken the action requested and the petition will be closed.
- 6.3 If the petition needs more investigation, the Council will advise the lead petitioner of the steps that it plans to take.
- 6.4 If the lead petitioner has created an e-petition, the Council will check that the content of the e-petition is suitable before it is made available for signature. This will take a maximum of ten working days. Any person wishing to submit an e-petition should ensure there are no existing petitions addressing the same issue before creating a new petition.
- 6.5 If the Council cannot publish an e-petition for some reason, the Council will contact the lead petitioner within ten working days to explain the reason for not publishing a petition based upon the exceptions in section 4 above.
- 6.6 A lead petitioner is able to change and resubmit their e-petition within ten working days. If they fail to do so within that time, a summary of the e-petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- 6.7 When an e-petition has closed for signature, it will automatically be submitted to the Council's Democratic Services Section. In the same way as for a paper petition, the lead petitioner will receive an acknowledgement within 10 working days.
- 6.8 All e-petitions currently available for signature will be available on the Council's website. Any person visiting the e-petition will be able to see the name of each signatory in the list of those persons that have signed the petition, but contact details will not be visible. All members of the Council will be advised of the submission of an e-petition, through the Council Bulletin.

**7. How the Council considers petitions**

<b>Petition type</b>	<b>Response</b>
Correspondence with fewer than 20 signatures	This will normally be dealt with by the appropriate Directorate as ordinary correspondence, unless the Service Director concerned is of the opinion that the subject matter is sufficiently important or contentious to warrant referring the matter to the appropriate Portfolio Holder.



Petition type	Response
Petitions with more than 20 but fewer than 1200 signatures	<p>These will be considered and dealt with by the relevant portfolio holder who may:</p> <p>(a) take action if he or she has delegated powers to act alone;</p> <p>(b) prepare a report to the Cabinet or a Sub-Committee of the Cabinet for decision if appropriate.</p>
Petition containing at least 1200 signatures.	The relevant Portfolio Holder will prepare a report to the Cabinet for decision on the matter.
2400 signatures or more	These large petitions will be scheduled for a council debate.
E-petitions	When an e-petition has closed for signature, it will automatically be submitted to the relevant officer, portfolio holder or Council in the same way as a paper petition.

## 8. Decisions on petitions

8.1 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by the Cabinet or a Cabinet Committee;
- writing to the lead petitioner setting out our views about the request in the petition.

8.2 In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

8.3 If a petition is about something over which the Council has no direct control, the responsible body (under section 7 above) will consider making representations on behalf of the community to the relevant body.

8.4 There is a three-tier system of local government in the Epping Forest District. Generally, Essex County Council is responsible for strategic functions and services such as education and social care and the district and borough councils provide more local services, although some functions are shared between the county and district councils. Details of the main functions of Essex

County Council and Epping Forest District Council can be found in the Appendix to this Scheme. Some of the Council's functions and responsibilities have also been devolved to local town and parish councils.

- 8.5 In addition, many public services are delivered by other organisations, including the police (through the Police, Fire and Crime Commissioner), health services (via the National Health Service), welfare benefits and employment services etc.
- 8.6 If the Council is not able to meet the petitioners' requests for any reason (for example if what the petition calls for conflicts with council policy), then the Council will set out the reasons for not taking the action requested in writing to the lead petitioner.
- 8.7 Decisions made by a Portfolio Holder will be recorded in writing and notified to the public, the lead petitioner and all members of the Council.
- 8.8 All petitions received will be reported to the Council via regular Portfolio Holder reports.

## **9. Petitions received after a decision is made**

- 9.1 In cases where a petition is received after a decision has been made by the Council on any matter, the following steps will be taken by the relevant service director unless the petition meets the threshold for a Council debate:
  - (a) a letter of acknowledgement shall be sent to the lead petitioner, including a statement of the action already taken by the Council;
  - (b) in consultation with the appropriate Portfolio Holder, Committee or Sub-Committee Chairman a decision will be taken as to whether the petition raises new evidence requiring further consideration by the Portfolio Holder or Committee concerned;
  - (c) if it is decided that no new matters are raised by the petition, the lead petitioner shall be advised accordingly;
  - (d) if new matters are raised then the petition will be treated as 'new' under this Scheme.

## **10. Full Council and Cabinet debates**

- 10.1 If a petition contains more than 2400 signatures it will be debated by the full Council at its next ordinary meeting.
- 10.2 If a petition contains more than 1200 signatures it will be subject to report and debate by the Cabinet at its next available meeting.
- 10.3 The lead petitioner will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors.
- 10.4 The Council or Cabinet will decide how to respond to the petition at this meeting. The Council or Cabinet may:

- (a) decide to take the action the petition requests, and in the case of a Cabinet debate, report to Council if appropriate (see paragraph 11 below)
- (b) not to take the action requested for reasons put forward in the debate, or
- (c) commission further investigation into the matter, for example by the Cabinet (if the matter was debated at Council) or a relevant Cabinet committee.

## **11. Council Referrals**

- 11.1 Where the issue is one on which the Council Executive are required to make the final decision (i.e. within the financial and policy framework), the Council will decide whether to make recommendations to inform that decision. The lead petitioner will receive written confirmation of this decision. This confirmation will also be published on the Council's website.

## **12. Further Information**

- 12.1 Further information about the Council's Petition Scheme can be obtained by contacting:

[democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

## Appendix: main functions of local authorities

Function	Tier
Allotments	Town/Parish
Arts and recreation	County/District
Births, ceremonies and deaths registration	County
Building regulations	District
Burials and cremations	District
Cemeteries	Town/Parish
Children's services	County
Community safety	District
Concessionary travel	County
Consumer protection	County
Council tax and business rates	District
Economic development	County/District
Education, including special educational needs, adult education, pre-school	County
Elections and electoral registration	District
Emergency planning	County/District
Environmental health	District
Highways (not trunk roads), street lighting and traffic management	County
Housing	District
Libraries	County
Licensing	District
Markets and fairs	District
Minerals and waste planning	County
Museums and galleries	County/District
Open spaces	Town/Parish
Parking	County/District
Passenger transport (buses) and transport planning	County
Planning and development	County/District
Public conveniences	District
Public health	County
Social services, including care for the elderly and community care	County
Sports centres, parks, playing fields	District
Street cleaning	District
Tourism	County/District
Trading standards	County
Waste collection and recycling	District
Waste disposal	County

**Epping Forest District Council  
Honorary Alderwoman/ Alderman  
Scheme**

The appointment of Honorary Alderman may be conferred by the Full Council in recognition on a previous Councillor who over a period of time, has made a significant eminent contribution to the Council and the District.

Any member of Council may nominate an ex-Councillor for the role of Honorary Alderman (or Alderwoman). A nomination form, as set out in Appendix A, must be completed and signed by two members of Council. Once completed the form should be submitted to the Chairman for consultation with the Leader of the Council.

If for any reason the nomination does not meet the criteria then a full written reply will be sent to the nominating members.

An individual will be eligible for nomination and appointment to the role of Honorary Alderman provided:

- (i) They are no longer a serving Councillor; and
- (ii) the proposed recipient must be willing to accept their nomination

AND one of the following criteria apply to the proposed recipient:

- (a) they have served at least 16 years in office; or
- (b) they have held a significant position of public responsibility with the Council, for a minimum period of one year; or
- (c) they have provided demonstrable eminent service to the Council throughout a long and distinguished period of public service;

The award must be the subject of a resolution passed by not less than two thirds of the members present at a meeting specially convened for that purpose.

An Honorary Alderman/Alderwoman does not carry any right to attend meetings of the Council or its committees or to claim any allowances payable to Members.

An Honorary Alderman/Alderwoman of the Council may attend and take part in such civic ceremonies as the Council may from time to time decide. Honorary Aldermen are entitled to wear the badge of 'Honorary Alderman' at Civic events within the district.

The badge of Honorary Alderman/Alderwoman must only be worn at civic events outside the District at the specific request of the organisation of the event.

Those elected to the Roll of Honorary Alderman/Alderwoman are entitled to use the title of 'Honorary Alderman of the District of Epping Forest'.

Following notification of the death of an Honorary Alderman/Alderwoman, the district flag will be flown at half-mast over the Civic Offices on the day after of notification of death and the date of the funeral as a mark of respect.

## **Presentation**

The award of Honorary Alderman/Alderwoman shall take place during an extraordinary meeting of the Council, called for this specific purpose. The Chairman will preside over this meeting.

During the meeting a Notice of Motion will be put forward to confer the title of Honorary Alderman on the Nominee(s) to recognise their services to the Council and the community.

The motion before the Council shall be proposed and seconded, and members of the Council shall be invited by the Chairman to speak.

The Chairman shall seek the agreement of those present and voting.

Should the motion not be unanimously carried, a vote shall be called by the Chairman, and a majority of two thirds of those present shall be required to carry the motion.

If the resolution is passed, the person being awarded the title of Honorary Alderman/Alderwoman will be presented with a Badge of Office and their name entered into the Roll of Honorary Alderman/Alderwoman.

The Roll of Honorary Alderman/Alderwoman, which will include the date of election to the Roll, will be maintained by the Proper Officer.

Following the presentation, the person appointed will be given the opportunity to address the Council meeting.

## **Removal of Award**

If any person appointed Honorary Alderman/Alderwoman is subsequently elected as a member of Epping Forest District Council their appointment will be suspended for the duration of their further term(s) in office.

The Council may remove the award of Honorary Alderman/Alderwoman. A motion to remove the award of Honorary Alderman/Alderwoman must be signed by at least six current Councillors and passed by not less than two thirds of members present at the Council meeting.