

# **Report to Constitution Working Group**

**Date of meeting: 24 September 2019**



**Epping Forest  
District Council**

**Subject:** Council Meetings - Public Speaking on Planning Applications & Site Visits

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

**Democratic Services Officer:** V. Messenger (01992) 564265

---

## **Recommendations/Decisions Required:**

### **That the Working Group review:**

- (a) current arrangements for public speaking at Council meetings, with regard to the consideration and determination of planning applications; and**
  - (b) current arrangements for the holding of member site visits with regard to the consideration of planning applications referred to the Council for determination.**
1. At its meeting on 28 March 2019, the Working Group reviewed the operation of trial arrangements for the identification of requirements for formal member site visits with regard to planning applications scheduled for consideration by the Area Plans Sub-Committees. The recommendations of the Working Group in this regard were subsequently agreed by the Council on 25 April 2019, alongside the extension of arrangements for site visits for members of the District Development Management Committee, to ensure consistency of approach.
  2. At that time, the Council also agreed that the following matters be added to the ongoing work programme of the Working Group:
    - (a) the review of existing arrangements within the Constitution whereby planning applications referred to the Council for determination are not generally subject to arrangements for public speaking.
    - (b) The consideration of possible arrangements for formal site visits to be held with regard to planning applications referred to the Council for determination; and
  3. This report seeks the review of these matters by the Working Group.

### **Public Speaking**

4. In order to ensure consistency of approach with regard to arrangements for public speaking in relation to planning applications, the Working Group is requested to review existing arrangements within the Constitution whereby planning applications referred to the Council for determination are not generally subject to arrangements for public speaking.
5. The Council introduced arrangements for 'public' speaking at meetings of the District Development Management Committee and Area Plans Sub-Committees over twenty years ago and has a well-established procedure for the registration of applicants, objectors and local town and parish councils (or representatives) to speak at meetings.

6. These existing arrangements for public speaking currently only extend to meetings of the District Development Management Committee and the Area Plans Sub-Committees and do not apply to planning applications considered by the Council. The current arrangements do not preclude an applicant, objector or parish/town council representative that has previously made representations on a planning application at a meeting of an Area Plans Sub-Committee from speaking again, if any matter is reconsidered by the District Development Management Committee.
7. The only exception to these arrangements is in respect of planning applications submitted directly to a meeting of the Council without prior consideration of the development proposal by the District Development Management Committee and/or an Area Plans Sub-Committee. In these circumstances, applications are subject to the existing arrangements for public participation by applicants, objectors and parish/town councils in the same way as those applied to the District Development Management Committee and the Area Plans Sub-Committees. The types of planning application that can be considered by the District Development Management Committee and the Area Plans Sub-Committees, are set out in the Constitution.
8. The relevant provisions of the Constitution in this regard are:
  - Article 10 (District Development Management Committee and Area Plans Sub-Committees) (Appendix 1 - Rules for Participation); and
  - Council Procedure Rules (Rule P2) (Planning Applications).
9. Copies of these extracts of the Constitution are attached as Appendix 1 to this report.
10. Planning applications are occasionally referred to the Council for determination by way of constitutional requirement or a minority reference from the District Development Management Committee. In the previous five years, only four planning applications have been considered at Council meetings as follows:

2019/20: Nil  
2018/19: 2 (one withdrawn)  
2017/18; Nil  
2016/17: 1  
2015/16: 2  
2014/15: Nil
11. In the previous five years, no planning applications have been submitted directly to a meeting of the Council without prior consideration of the development proposal by the District Development Management Committee and/or an Area Plans Sub-Committee.
12. A benchmarking exercise has recently been undertaken amongst other local authorities in Essex and the Council's 'family group' of comparable authorities, with regard to the introduction of arrangements for public speaking at meetings of planning committees. The results of the benchmarking exercise are attached as Appendix 2, although it must be noted that as committee structures vary between authorities, meaningful comparison in relation to such matters is not easily achieved.
13. Whilst all local authorities that responded to the benchmarking exercise have introduced public speaking arrangements along the lines of those applied by this Council to the District Development Management Committee and Area Plans Sub-Committees, only two authorities (Guildford Borough Council and Hertsmere District Council) have introduced arrangements for members of the public to speak at meetings of the full Council in objection to or support of planning applications that have been referred to the Council for determination.
14. Members should also be aware that, in a significant number of local authorities that

responded to the benchmarking exercise, planning applications are determined at the level of this Council's Area Plans Sub-Committee framework and that there are generally no 'parent' or 'higher level' planning committees to which planning applications can be referred upwards for determination. From analysis of the results of the benchmarking exercise, it appears that the determination of planning applications by the full Council (and therefore the need for arrangements for public speaking at Council meetings) is therefore unusual amongst comparable authorities.

15. The Working Group is therefore requested to review this authority's current arrangements for public speaking at Council meetings, with regard to the consideration and determination of planning applications.

### **Site Visits**

16. The Council has longstanding arrangements whereby formal member site visits may be undertaken in respect of any site subject of a current planning application, where this offers a substantial benefit to the decision-making process. Site visits are undertaken at an agreed time and are subject to the presence of a representative of the Service Director (Planning Services). Site visits are managed by the Chairman (or Vice-Chairman) of the relevant Area Plans Sub-Committee, or the Planning Officer in attendance. No discussion with interested parties as to the merit of the development proposal is permitted at any time during a site visit. The Council's protocol for the management of site visits is set out in Appendix 2 to Article 10 (District Development Management Committee and Area Plans Sub-Committees) of the Constitution, which is included within Appendix 1 to this report.
17. As already indicated, planning applications are occasionally referred to the Council for determination either by or constitutional requirement or minority reference from the District Development Management Committee. Although certain planning applications may be submitted directly to a meeting of the Council without prior consideration of the development proposal by the District Development Management Committee and/or an Area Plans Sub-Committee, no such planning applications have been submitted to the Council for determination in the last five years. At present no arrangements are in place for site visits to be held (where appropriate) by members of the Council in these circumstances.
18. In order to ensure consistency of approach with regard the site visit arrangements applied by the District Development Management Committee and Area Plans Sub-Committees, the Working Group is requested to review arrangements for formal site visits to be held with regard to planning applications referred to the Council for determination.
19. The number of planning applications considered at Council meetings in the previous five years, is highlighted in paragraph 9 of this report. The majority of local authorities that responded to the benchmarking exercise referred to earlier in this report have not introduced arrangements for the consideration of planning applications by the full Council and have also therefore not considered arrangements for member site visits. Only one authority (Guildford Borough Council) has introduced arrangements for site visits to be held for the full Council in advance of its consideration and determination of planning applications. The determination of planning applications by the full Council (and therefore the need for arrangements for site visits) accordingly appears to be unusual amongst comparable authorities.
20. The Working Group might wish to consider whether, in circumstances where an application that has been subject to a formal site visit by members of the District Development Management Committee is subsequently referred to the Council for determination (either by constitutional requirement or minority reference), a further site visit should be arranged for members of the Council prior to its consideration of the application.

21. The Working Group may also wish to consider whether site visits should be arranged as a matter of routine with regard to planning applications submitted directly to a meeting of the Council without prior consideration by the District Development Management Committee and/or an Area Plans Sub-Committee. notwithstanding that no planning such applications have been submitted to a Council meeting in the last five years.
22. In general, a site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the submitted plans and any supporting material, including photographs taken by officers, where the comments of the applicant and objectors cannot be expressed adequately in writing, or if the development proposal is particularly contentious. Whilst members may wish to visit development sites on their own, they are only entitled to view such sites from public vantage points and have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the land owner, it is not good practice to do so on their own, as this can lead to a perception that the member may no longer be impartial.
23. It should be recognised that the holding of site visits for all members of the Council would be likely to present logistical difficulties in terms of arranging access to smaller development sites by a significant number of members (in addition to associated parking difficulties) and that it will generally be difficult for officers to make arrangements for sites visits to be held on dates and times that are convenient to a majority of members.
24. Additionally, dependent on the period of time arising between the consideration of relevant applications by the District Development Management Committee and the Council, it should be appreciated that the holding of site visits for all members of the Council might present a delay in the determination of relevant planning applications.
25. The Working Group is therefore requested to review current arrangements for the holding of member site visits with regard to the consideration of planning applications referred to the Council for determination. Any recommendation for the introduction of such formal site visits should ensure that they continue to be undertaken in accordance with the guidance set out in Article 10 of the Constitution.

#### **Resource Implications:**

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

#### **Legal and Governance Implications:**

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

#### **Safer, Cleaner, Greener Implications:**

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

#### **Consultation Undertaken:**

The Service Director (Planning Services) has been consulted with regard to the recommendations of this report.

#### **Background Papers:**

None

**Risk Management:**

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

**Equality:**

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