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Chairman and Members of the
Council

Your contact: Martin Ibrahim
Ext: 2173
Date: 9 May 2014

cc. All other recipients of the Council
agenda

Dear Councillor

ANNUAL COUNCIL - 14 MAY 2014: SUPPLEMENTARY AGENDA NO 1

Please find attached the following reports which were marked "to follow" on the agenda for the above meeting:

9. Executive Report - 6 May 2014 (Pages 3 - 8)

To receive a report from the Leader of the Council and to consider recommendations on the matters below:

(A) East Herts Fund for the Future

Minute 668 refers

18. Development Management Committee: Minutes - 30 April 2014 (Pages 9 - 28)

Chairman: Councillor Mrs R Cheswright

20. Amendments to the Constitution (Pages 29 - 84)

To consider a report of the Monitoring Officer.

Please bring these papers with you to the meeting next Wednesday.

Yours faithfully

Martin Ibrahim
Democratic Services Team Leader
Democratic Services
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MEETING : COUNCIL
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 14 MAY 2014
TIME : 7.00 PM

MINUTES OF A MEETING OF THE
EXECUTIVE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
TUESDAY 6 MAY 2014, AT 7.00 PM

PRESENT: Councillor A Jackson (Chairman/Leader)
Councillors M Alexander, M Carver,
L Haysey, P Phillips, S Rutland-Barsby and
M Tindale.

ALSO PRESENT:

Councillors R Beeching, E Buckmaster,
S Bull, J Jones, M McMullen, P Moore,
T Page, P Ruffles, M Wood and
C Woodward.

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Director of Neighbourhood Services
Martin Ibrahim	- Democratic Services Team Leader
George A Robertson	- Chief Executive and Director of Customer and Community Services
Kevin Steptoe	- Head of Planning and Building Control Services
Adele Taylor	- Director of Finance and Support Services

ALSO IN ATTENDANCE:

Matthew Bodley	- Carter Jonas LLP
Jacqueline Millward	- Essex Legal

Partnership

668 **EAST HERTS FUND FOR THE FUTURE**

The Executive Member for Health, Housing and Community Support submitted a report seeking approval for a proposal for a new working relationship between the Council, East Herts Fund for the Future (EHF4F) and the Hertfordshire Community Foundation (HCF).

The Executive Member detailed the proposed new approach, which had been discussed with key stakeholders. She reminded the Executive that the EHF4F was an independent endowment fund that had been established by former Councillor D Mayes. The proposed new arrangement would be administered by HCF for the benefit of East Herts residents.

The Executive supported the proposals as now detailed.

RECOMMENDED – that the proposal related to East Herts Fund for the Future (EHF4F) recommending a new operating partnership between East Herts Council and the Hertfordshire Community Foundation (HCF) be agreed.

669 **LEADER'S ANNOUNCEMENTS**

The Leader welcomed the press to the meeting and reminded everyone that the meeting was being webcast.

He also welcomed Jacqueline Millward, Essex Legal Partnership and Matthew Bodley, Carter Jonas LLP, who were in attendance to answer questions in respect of the matter at Minute 671.

Finally, the Leader advised that Agenda Item 10 – Surrender of Lease at Bircherley Green, Hertford, had been withdrawn and would be submitted to a later meeting.

670 MINUTES

RESOLVED – that the Minutes of the Executive meeting held on 8 April 2014 be approved as a correct record and signed by the Leader.

671 OLD RIVER LANE, BISHOP'S STORTFORD -
COMPULSORY PURCHASE ORDER

The Leader of the Council submitted a report proposing the principle of using compulsory purchase powers (CPO) to assemble land to assist in the implementation of the Old River Lane development in Bishop's Stortford town centre by Henderson Global Investors. He detailed the ongoing negotiations with interested parties and the public interest case for using CPO powers.

The Leader emphasised that the CPO proposal was in two stages; firstly a decision in principle, which would assist in delivering the scheme, and a second stage, whereby a further report would be submitted prior to making the CPO.

The Leader advised that the plans of the site at Essential Reference Papers "B" and "C" contained errors and asked Members to refer to the amended plans that had been tabled.

Various Members asked a number of questions covering a range of issues, including:

- clarification of the boundaries of the land required as detailed in the amended plans now tabled;
- a reassurance that a further report would be submitted to the Executive before making the CPO;
- the nature of the indemnity arrangements to be agreed with Hendersons;
- the need for a CPO given the impact of ongoing negotiations with interested parties on the viability of the development timeframe; and
- the compensation package for interested parties

disturbed by the development.

Jacqueline Millward and Matthew Bodley commented on these issues and answered Members' questions.

The Leader emphasised that, despite this decision, ongoing negotiations with interested parties would continue, as Hendersons remained committed to securing the remaining interests in the Order land by private treaty negotiations where practicable. He also reminded Members that the development would provide an economic boost to the town centre that would benefit the residents of Bishop's Stortford. Finally, the Leader thanked Members for their input.

The Executive approved the proposals as now detailed.

RESOLVED - that (A) the principle of using compulsory purchase powers to facilitate the comprehensive redevelopment of the Old River Lane Site, Bishop's Stortford is approved subject to a further report back to Executive prior to making the Order to advise Members on:

- (i) the outcome of attempts to acquire the outstanding land interests by negotiation in line with paragraph 24 of Circular 06/2004 since the date of this report,
 - (ii) an update as to the current status of the case for making the CPO in light of circumstances as they stand at the date of the future report,
 - (iii) consideration of the draft Statement of Reasons,
 - (iv) whether a full CPO indemnity has been put in place between Henderson and the Council, and
 - (v) settling the form of making and publishing an Order.
- (B) the Director of Neighbourhood Services be

authorised to make any necessary requisitions for information from parties interested in the Order Land by way of the service of notices under section 16 of the Local Government Miscellaneous Provisions Act 1976 or section 5A of the Acquisition of Land Act 1981; and

(C) the Director of Neighbourhood Services be authorised to continue to negotiate with any interested parties with a view to acquiring interests by negotiation and to appoint any necessary consultants jointly with Henderson to advise in this regard.

672 EXCLUSION OF PRESS AND PUBLIC

The Executive passed a resolution pursuant to Section 100 (A) (4) of the Local Government Act 1972, to exclude the press and public during consideration of the business referred to in Minute 673 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the said Act.

673 PLOT 6, WATERMILL INDUSTRIAL ESTATE, BUNTINGFORD - UNCONDITIONAL SALE

The Executive Member for Finance submitted a report seeking approval to dispose of an asset that had been deemed surplus to requirements. He referred to the various offers that had been received for this particular site and proposed accepting the unconditional offer detailed at paragraph 2.5 of the report submitted.

In response to questions by Councillor S Bull, the Executive Member undertook to provide a written response, if the information requested was able to be released. He also undertook to ask Officers to provide a clearer plan of the site in question.

The Executive approved the proposals as now detailed.

RESOLVED – that the freehold interest in plot 6 at

Watermill Industrial Estate, Buntingford be sold on the terms detailed in the report now submitted.

The meeting closed at 8.31 pm

Chairman
Date

MINUTES OF A MEETING OF THE
DEVELOPMENT MANAGEMENT
COMMITTEE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
WEDNESDAY 30 APRIL 2014, AT 7.00 PM

PRESENT: Councillor Mrs R Cheswright (Chairman).
Councillors M Alexander, D Andrews,
E Bedford, S Bull, A Burlton, K Crofton,
G Jones, P Moore, M Newman, N Symonds
and G Williamson.

ALSO PRESENT:

Councillors R Beeching, E Buckmaster,
J Jones, G Lawrence, M McMullen,
P Phillips, P Ruffles and S Rutland-Barsby.

OFFICERS IN ATTENDANCE:

Glyn Day	- Principal Planning Enforcement Officer
Simon Drinkwater	- Director of Neighbourhood Services
Peter Mannings	- Democratic Services Officer
Kevin Steptoe	- Head of Planning and Building Control Services
Stephen Tapper	- Senior Planning Officer
Alison Young	- Development Manager

655 MINUTES – 2 APRIL 2014

RESOLVED – that the Minutes of the meeting held on 2 April 2014 be confirmed as a correct record and signed by the Chairman.

656 3/13/0804/OP – LAND AT BISHOP'S STORTFORD NORTH – APPLICATION BY BISHOP'S STORTFORD NORTH CONSORTIUM AND LANDOWNERS

Mr Rivers addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, subject to the referral of the application to the Secretary of State under the requirements of the Town and Country Planning (Consultation) (England) Direction 2009, in respect of application 3/13/0804/OP:

1. In consultation with the Chairman of the Development Management Committee and the Head of Planning and Building Control, the Head of Democratic and Legal Services be authorised to complete a section 106 Agreement in accordance with the heads of terms as detailed in Essential Reference Paper 'A'.
2. in consultation with the Chairman of the Development Management Committee, the Executive Member for Community Safety and Environment, any two Members who represent Bishop's Stortford wards and who are members of this Committee and the Head of Democratic and Legal Services, the Head of Planning and Building Control be authorised to make amendments to the heads of terms, the scale of financial contributions to be assigned to the various service areas referred to in the heads of terms and the service areas to which financial contributions should be assigned and the Head of Democratic and Legal Services be authorised to complete a section 106 Agreement as may be amended, in all cases to ensure a satisfactory development.

3. upon completion of the section 106 Agreement in respect of application 3/13/0804/OP, planning permission be GRANTED subject to the conditions set out in Essential Reference Paper 'B', with amendments to conditions 38-40 to ensure a greater degree of monitoring of the traffic impact. The details of the amended conditions to be agreed in line with the following resolution; and
4. in consultation with the Chairman of the Development Management Committee, the Executive Member for Community Safety and Environment plus any two Members who represent Bishop's Stortford wards and who are Members of the Committee, in advance of the issuing of the planning permission, the Head of Planning and Building Control be authorised to add or remove conditions and directives and make such changes to the wording of them as may be necessary, to ensure clarity and enforceability, and to ensure a satisfactory development.

Councillor G Jones stated that he would like to see a timeline submitted that would guarantee the implementation of a completely sustainable development, as he was keen to avoid a situation whereby houses were completed without the completion of the appropriate supporting infrastructure. He expressed concerns in respect of drainage design and the comments of the Landscape Officer.

Councillor Jones stated that he was seeking a deferral to ensure his concerns were addressed and further improvements made to the scheme. He highlighted the possible increase in traffic due to the potential changes to the scheme.

Councillor N Symonds also expressed concerns regarding traffic impact and education provision.

The Director advised Members that the provisions of the

Section 106 Legal Agreement would include a range of triggers to ensure that key infrastructure elements of the scheme would be delivered at certain stages of the development.

The Director confirmed that Hertfordshire Highways and Hertfordshire County Council had requested some very ambitious and early triggers for the delivery of highways and education infrastructure within the Legal Agreement. The design and layout of the proposed schools would be considered through further planning applications.

Members were also advised that the scope of the proposals remained unchanged in that the scheme was for 2,200 houses and approving this application would not be approving a more significant development than Members had supported on 30 January 2014.

The Director pointed out that the flood risk issue was a balance between the most favourable designs in terms of soft drainage measures and the implementation of effective solutions. Members were advised that Officers considered that the soft drainage solutions being proposed were significant. The Landscape Officer would generally always seek to maximise the proposed landscaping features of an application.

The Director set out that the use of green roof designs would mean a move away from traditional house designs and the implication of this could be more contemporary design which had not generally received support locally. Officers were confident that all of the necessary safeguards were in place to ensure a satisfactory development.

In response to queries from Councillor A Burlton, the Director confirmed that no planning decision would be issued until the legal agreement had been signed. The Director provided a detailed breakdown of the layout of the site including the play areas and primary education provision in the western neighbourhood. Provision would

be put in place to ensure the maintenance of the trees and minor unadopted roads.

Members were advised that, in endorsing the recommendation, they would be giving Officers the authority to achieve further minor changes to the scheme where these were considered to be improvements. This would be subject to agreement with the Chairman, the Executive Member for Community Safety and Environment plus any two Bishop's Stortford Members who were Members of the Committee.

The Director concluded that the issue of highway capacity had been covered on the basis that mitigation measures would be brought forward if traffic exceeded predicted levels. Members were advised that, as per the previous decision of the Committee, further changes to the conditions regulating this matter were to be agreed with the appropriate Members.

In response to comments from Councillors P Moore and D Andrews regarding traffic, access and flooding, the Director advised that Officers had significant control over the issues of traffic and access issues. Officers were also satisfied that the concerns of the Environment Agency had been overcome and Members could be comfortable that the flood risk would be no greater than the status quo.

Councillor E Bedford stated that the applicant had been most helpful in engaging with Officers and residents. He stated that he was confident that Officers would continue to be diligent in making sure that the conditions and Section 106 legal agreement would ensure a satisfactory development.

Councillor G Jones proposed and Councillor N Symonds seconded, a motion that application 3/13/0804/OP be deferred to enable the landscape scheme to be improved in line with the design principles of the applicant and to the satisfaction of the Landscape Officer and also the

submission of further details in respect of drainage to the satisfaction of the Council's engineer and the submission of a timeline that would guarantee the implementation of a completely sustainable development.

After being put to the meeting and a vote taken, this motion was declared LOST. After being put to the meeting and votes taken, the Committee supported the recommendations of the Director of Neighbourhood Services as now detailed, subject to the referral of the application to the Secretary of State under the requirements of the Town and Country Planning (Consultation) (England) Direction 2009.

RESOLVED – that, subject to the referral of the application to the Secretary of State under the requirements of the Town and Country Planning (Consultation) (England) Direction 2009, in respect of application 3/13/0804/OP, the recommendations of the Director of Neighbourhood Services be approved as now detailed.

- 657 3/14/0060/OP – ERECTION OF HIGH DEPENDENCY CONTINUING CARE RETIREMENT COMMUNITY COMPRISING OF: 80 BED CARE HOME UP TO 96 C2 EXTRA CARE/ASSISTED LIVING UNITS PUBLIC WOODLAND WALKING AREAS. SHARED COMMUNAL FACILITIES INCLUDING SWIMMING POOL, GYMNASIUM, DAY CENTRE, THERAPY ROOMS, RESTAURANT, STORE/POST OFFICE AND SURGERY LOCATED IN A CENTRAL PURPOSE DESIGNED CARE AND MANAGEMENT FACILITY SHARED EXTERNAL COMMUNAL FACILITIES INCLUDING TENNIS COURTS, BOWLING GREEN, GARDENING AREA AND WOODLAND WALKING AREA AT FORMER BRICKFIELDS, OFF COLE GREEN WAY, HERTFORD, SG14 2LF FOR MR L J ELMERMANN
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Mr Wischhusen addressed the Committee in objection to the application. Mrs Lerner spoke for the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/14/0060/OP, planning permission be refused for the reasons detailed in the report now submitted.

Councillor S Rutland-Barsby, as a local ward Member, commended Officers for an excellent report and the cogent and thorough representation from Hertford Town Council. She stated that this site had returned to nature in its entirety many years ago and there remained no activity for this area to qualify as a brownfield site.

Councillor Rutland-Barsby expressed concerns that, should this application be approved, Hertingfordbury would be joined to Hertford in a ribbon of development. She referred to the irresponsibility of locating such development where many of the potential access routes would be frequently closed due to flooding. She urged Members to accept the Officer's recommendation.

The Director referred Members to the additional representations summary. After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, in respect of application 3/14/0060/OP, planning permission be refused for the reasons detailed in the report now submitted.

658 3/14/0094/OP – OUTLINE PLANNING APPLICATION FOR A DEVELOPMENT OF UP TO 10 DWELLINGS WITH ALL MATTERS RESERVED EXCEPT HIGHWAY ACCESS ONTO GREEN END (B1368) ON LAND EAST OF GREEN END FARM, GREEN END, BRAUGHING, SG11 2PG FOR THE FAIRFIELD PARTNERSHIP

Mr Boylan addressed the Committee in objection to the application.

The Director of Neighbourhood Services recommended

that, in respect of application 3/14/0094/OP, planning permission be refused for the reasons detailed in the report now submitted.

The Chairman, as the local ward Member, referred to the 44 letters of objection that had been received by Officers. She also highlighted that fact that Braughing had already seen the recent construction of 54 new residential dwellings. She stated that she could not have put the case for refusal any better than the public speaker against this application.

Councillor P Moore stated that this application had been proposed on a totally inappropriate site, which was located in flood zone 2. She commented that, due to the steep gradients of the site and the fact that the proposed development would be overbearing, she would be voting against this application.

The Director reminded Members that the emerging District Plan was still subject to consultation so should not be given significant weight by Members. Members were advised that, depending on the volume and content of objections made during the current consultation period, the policies set out in the emerging District Plan would start to attract weight following the completion of the consultation.

The Director stated that the Committee should base any decision making on the policies of the East Herts Local Plan Second Review April 2007, except where the policies of the National Planning Policy Framework (NPPF) had moved matters on in policy terms. After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, in respect of application 3/14/0094/OP, planning permission be refused for the reasons detailed in the report now submitted.

659 3/13/1820/FP – DEMOLITION OF EXISTING LAFARGE TARMAC DEPOT BUILDINGS AND STRUCTURES. CONSTRUCTION OF A MIX OF 8 SUSTAINABLE DWELLINGS TOGETHER WITH ASSOCIATED HIGHWAY WORKS, LANDSCAPING, WATER MANAGEMENT AND FOOTPATH PROVISION AT LAND ADJOINING SACOMBE ROAD, WATERFORD FOR JOHN DUFFIELD

Mr McCabe addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/13/1820/FP, planning permission be refused for the reasons detailed in the report now submitted.

Councillor P Phillips, as a local ward Member, stated that the benefits of the application to the Bengeo Ward, Hertford and to East Herts outweighed the risks of harm to the Green Belt. He confirmed that the 8 sustainable dwellings would produce no CO² when in occupation and would utilise rainwater harvesting. Councillor Phillips concluded that there was significant local support for this application and he urged the Committee to approve the application.

The Director reminded Members of the presumption against development in the Green Belt. Members were advised however that, due to the provisions of the NPPF, development could be permitted on previously developed land so long as this would not cause additional harm than any existing development.

The Director concluded that Officers were of the view that the proposed development would cause further harm than the existing use of the site. The Committee should therefore approach the matter on the basis that the proposed use constituted inappropriate development and was contrary to the purposes of green belt, specifically, protecting the countryside from encroaching development. Members should then assign weight to the

likely benefits that could result from this application and determine if they clearly outweighed the harm.

In response to comments from Councillors P Moore and G Williamson, the Director advised that the Council had no control over land ownership and could only control land use. Members were advised that Officers considered the design, layout, building materials and aspirations of the applicant should not outweigh the issue of Green Belt policy, because there was not a locationally specific requirement for the development to be located here.

Councillor K Crofton stated that this was a very exciting development that represented a very good use of the site and the likely benefits far outweighed the issue of Green Belt policy. Councillor N Symonds requested that the applicant take particular care to protect wildlife, with particular regard to the impacts of the application on basking adders. She stated that this application was a step too far and she would be supporting the Officer's recommendation for refusal.

Councillor M Alexander stated that this application should be approved for 8x code 6 accredited zero carbon dwellings, subject to very strict legal conditions to ensure that the sustainable credentials were not lost in favour of more luxury dwellings.

Councillor G Jones proposed and Councillor M Alexander seconded, a motion that application 3/13/1820/FP be granted on the basis that there were special and unique circumstances for approving the application, namely the aspirational and demonstrative nature of the proposed development, that outweighed the policy presumption against development in the Green Belt.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, subject to the applicant or successor in title entering into a legal obligation pursuant to Section 106 of the Town and Country Planning Act 1990, in respect of matters delegated to Officers to determine, planning permission be granted for application 3/13/1820/FP, subject to conditions, the details of which were delegated to Officers to formulate.

660 3/14/0411/FP – REDEVELOPMENT TO PROVIDE A NEW COLLEGE BUILDING, CAR PARKING, ASSOCIATED ACCESS AND LANDSCAPING, INCLUDING DEMOLITION OF EXISTING BUILDINGS AT HERTFORD REGIONAL COLLEGE, SCOTTS ROAD, WARE, HERTS, SG12 9JQ FOR HERTFORD REGIONAL COLLEGE

Mr Forbes addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/14/0411/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

Councillor N Symonds stated that she was supportive of the application. She expressed concern regarding asbestos in what was a very old building. She also expressed concerns regarding the hours of construction commencing at 7:30 am on weekdays. She stated that a start time of 8:30 am would be better.

Councillor M Alexander commented that the application would provide education and employment and would add to the economic life of Ware. He suggested that Officers should apply the industry standard in respect of hours of construction.

After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, in respect of application 3/14/0411/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

661 3/13/1654/FP – USE OF THE LAND FOR FISHING, SWIMMING, SHOOTING, SEGWAY HIRE, WEDDINGS AND FUNCTIONS. ERECTION OF MARQUEE BETWEEN 1ST MARCH AND 30TH SEPTEMBER; THE RETENTION OF AN ASSOCIATED STORAGE CONTAINER; THE EXTENSION OF HARD STANDING TO FORM AN ACCESS TO THE MARQUEE AND THE CHANGE OF USE OF LAND FOR OVERFLOW CAR PARKING. (RETROSPECTIVE) AT REDRICKS LAKES, REDRICKS LANE, SAWBRIDGEWORTH, HERTFORDSHIRE, CM21 0RL FOR MITCHELL EDWARDS, REDRICKS LEISURE PARK LTD

Mr Newton addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/13/1654/FP, planning permission be refused for the reasons detailed in the report now submitted.

Councillor R Beeching, as a local ward Member, summarised the local feeling towards the various activities at Redricks Lake. He stated that the proposed activities provided a valuable function that allowed residents to enjoy a natural unspoilt countryside area that supported East Herts Council's aspirations in terms of health and wellbeing.

Councillor Beeching concluded that there had been no objections from Hertfordshire Highways, the Environment Agency or Hertfordshire Ecology. He urged the Committee to approve the application as the benefits of the application outweighed the harm that could be caused to the Green Belt.

In response to a query from Councillor M Alexander regarding the planning history of the site, the Director advised that the open water swimming had intensified in regularity to the point where this required planning permission and, as the marquee was left in situ during the summer months, this was a semi permanent structure that also required planning permission.

The Director confirmed that Officers considered that, at the current scale and frequency of events, the use of the site for swimming, segway hire, shooting and bird of prey events was considered to be ancillary to the lawful use of the site. Members were advised that enforcement action was not considered expedient in respect of the open water swimming. The Director emphasised that, should the intensity or extent of those uses increase in the future, the Council would need to reconsider the expediency test for enforcement action.

The Director concluded that, whilst it was not considered expedient to take enforcement action to secure the removal of the access track to the marquee, it was recommended that an enforcement notice was required for the removal of the hardstanding upon which the marquee was erected to ensure that it was not subsequently used for parking, which would have a detrimental impact on the openness and rural character of the area.

After being put to the meeting and a vote taken, the Committee accepted the recommendations of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, (A) in respect of application 3/13/1654/FP, planning permission be refused for the reasons detailed in the report now submitted; and

(B) in respect of 3/13/1654/FP, the Director of Neighbourhood Services, in conjunction with the Director of Finance and Support Services, be

authorised to take enforcement action on the basis now detailed.

662 3/14/0254/FP – ERECTION OF 1 NO. FIVE BED AND 1NO. FOUR BED DETACHED DWELLINGS WITH ASSOCIATED OFF-STREET PARKING, LANDSCAPING AND NEW VEHICULAR ACCESS AT THE COTTAGE, CAUTHERLY LANE, GREAT AMWELL, SG12 9SD FOR MRS J MAYES

Mr Richardson addressed the Committee in objection to the application. Ms Mayes spoke for the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/14/0254/FP, planning permission be refused for the reasons detailed in the report now submitted.

Councillor S Bull read out the key points from a lengthy e-mail that had been sent to all Members of the Committee. He referred to references in the e-mail to the relative openness of the site and to the fact that it was bounded on all sides by steep banks and mature landscaping, which prevented clear public views into the site. The e-mail concluded that the application was infill development that was in accordance with policies GBC1 and OSV2 of the East Herts Local Plan Second Review April 2007.

The Director reminded Members that the East Herts Local Plan and the NPPF were clear in stating that residential development in the Green Belt was inappropriate. Members were advised that the lack of public views into the site did not alter the weight to be assigned to this harm and the Committee had to consider whether there were other issues that clearly outweighed the harmful impact this application would have on the Green Belt.

Councillor S Bull proposed and Councillor K Crofton seconded, a motion that application 3/14/0254/FP be approved on the grounds that that the application was in accordance with policies GBC1 and OSV2 of the East Herts Local Plan Second Review April 2007.

After being put to the meeting and a vote taken, this motion was declared LOST. After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, in respect of application 3/14/0254/FP, planning permission be refused for the reasons detailed in the report now submitted.

663 3/13/2273/FP – TWO STOREY SIDE EXTENSION AND SINGLE STOREY REAR EXTENSION AT 4 LOWER COTTAGES, THE CAUSEWAY, BRENT PELHAM, BUNTINGFORD, SG9 0HN FOR MR JAMES CLAGUE

Mr Clague addressed the Committee in support of the application.

The Director of Neighbourhood Services recommended that, in respect of application 3/13/2273/FP, planning permission be refused for the reasons detailed in the report now submitted.

Councillors P Moore and N Symonds addressed the Committee in support of the Officer's recommendation for refusal. After being put to the meeting and a vote taken, the Committee accepted the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, in respect of application 3/13/2273/FP, planning permission be refused for the reasons detailed in the report now submitted.

664 3/14/0016/FP – ERECTION OF RESIDENTIAL ANNEXE (BUILDING PREVIOUSLY APPROVED AS GARAGE UNDER REF: 3/10/1997/FP) AT 5 BLUEBELL WALK, SAWBRIDGEWORTH, HERTFORDSHIRE, CM21 0JQ FOR MR S GRAYSTON

The Director of Neighbourhood Services recommended

that, in respect of application 3/14/0016/FP, planning permission be granted subject to the conditions detailed in the report now submitted.

Councillor E Buckmaster, as a local ward Member, referred to the debatable designation of this structure as a residential annexe. He stated that he felt that this application should be refused. He referred to the frustration of local residents with this application and he commented that, should residential use of the annexe become permanent, then full planning permission should be applied.

The Director reminded Members that the application, although retrospective, had to be determined using the same set of policies and procedures as if it were an application for new development, in this case the relevant Local Plan policy was ENV8 and Officers felt that this residential annexe was of a scale that was in accordance with that policy.

In response to comments from Councillors P Moore and M Alexander, the Director gave the definition that Officers used when designating a structure as a residential annexe.

At this point (9.50 pm), the Committee passed a resolution that the meeting should continue until the completion of the remaining business on the agenda.

Councillor P Moore proposed and Councillor M Alexander seconded, a motion that application 3/14/0016/FP be refused as the application had the potential to be harmful to the amenity of adjoining residents by reason of loss of privacy, noise and disturbance and was therefore contrary to policies GBC1, ENV8 and ENV1 of the East Herts Local Plan Second Review April 2007.

After being put to the meeting and a vote taken, this motion was declared CARRIED. Councillor M Alexander requested that his vote in support of this motion be

recorded. The Committee rejected the recommendation of the Director of Neighbourhood Services as now submitted.

RESOLVED – that, in respect of application 3/14/0016/FP, planning permission be refused for the following reasons:

1. The proposal by reason of its siting away from the main house is not capable of being used as an integral part of the dwelling and constitutes inappropriate development in the Green Belt. In addition, it has the potential to be harmful to the amenity of adjoining residents by reason of loss of privacy, noise and disturbance. It is thereby contrary to policies GBC1, ENV8 and ENV1 of the East Herts Local Plan Second Review April 2007.

Summary of Reasons for Decision

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). East Herts Council has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Policy Framework.

665 LAND AT ASPENDEN ROAD, BUNTINGFORD

The Director of Neighbourhood Services submitted a report seeking confirmation from Members that the stated reasons for refusal of application 3/13/1399/OP, in respect of proposed residential development at Land East of Aspenden Road, Buntingford, appropriately reflected

the scope of the concerns raised by Members at the Committee meeting on 12 March 2014.

The Director confirmed that the applicants believed that policy ENV25 of the Local Plan, which was referred to in the second reason for refusal, had not been raised by Members during the meeting. The applicant had sought clarification as to why that policy objection formed part of the second reason for refusal.

The Director believed that Members' concerns had been clearly articulated at an early stage in the 12 March 2014 meeting in relation to the impact of traffic noise from the A10 on future occupants of the proposed development. Members were advised that policy ENV25 of the East Herts Local Plan Second Review April 2007 was the relevant policy.

Members were reminded that Councillor P Moore had raised the issue of noise impact at an early stage of the meeting, commenting that Environment Health's suggestion for acoustic fencing and mechanical ventilation implied that residents would not be able to open windows due to the close proximity of the A10.

Members confirmed the second reason for refusal as now detailed.

RESOLVED – that, in respect of application 3/13/1399/OP, the Committee confirmed that the second reason for refusal appropriately reflected Members' concerns relating to the impact of traffic noise on future occupiers of the development and that the inclusion of the reference to policy ENV25 was appropriate to that concern.

666 ENFORCEMENT UPDATE

The Director of Neighbourhood Services submitted a report that had been requested by Members of the Development Management Committee in respect of the

latest situation regarding current Enforcement Notices and Enforcement Statistics.

The Committee noted the report as now detailed.

RESOLVED – that the report be noted.

667 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

- (A) Appeals against refusal of planning permission / non determination;
- (B) Planning Appeals lodged; and
- (C) Planning Appeals: Inquiry and Informal Hearing dates.
- (D) Planning Statistics.

The meeting closed at 9.58 pm

Chairman
Date

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EAST HERTS COUNCIL

ANNUAL COUNCIL - 14 MAY 2014

REPORT BY THE MONITORING OFFICER

AMENDMENTS TO THE CONSTITUTION

WARD(S) AFFECTED: All

Purpose/Summary of Report

- The report sets out proposed amendments to the Constitution.

<u>RECOMMENDATION FOR COUNCIL:</u>	
(A)	That the amendments to the Constitution be approved.

1.0 Background

1.1 The report considers amendments to the Council's Constitution. The Monitoring Officer monitors and reviews the Constitution on an annual basis. Recommended changes are included in the report.

2.0 Report

2.1 An annual review of the Constitution is carried out prior to a report being submitted to Annual Council on any proposed changes. A number of changes are proposed. The significant changes are highlighted in this report.

2.2 Some amendments reflect changes which have already taken place such as delegations for decisions relating to the introduction of the Scrap Metal Dealers Act 2013. The significant changes are described in this report and they are shown in **Essential Reference Paper 'B'**.

3.0 Scrap Metal Dealers Act 2013

3.1 The new legislation was considered at a meeting of the Executive. The decision making process for the determination of applications was agreed by the Executive on 5 November 2013. The

procedure which was agreed will now be included in the constitution.

3.2 The scheme of delegations agreed by the Executive involves most decisions being taken at officer level in the interests of efficiency. However, given the potential impact, decisions to revoke or refuse a license are delegated to the Director of Neighbourhood Services.

4.0 Annual Governance Statement

4.1 The current version of the Annual Governance Statement will be added to the Constitution. The following minor amendments are as follows:

- “Procurement Regulations” to replace “Contract Procedure Rules”
- “Head of Internal Audits” to replace “Internal Audit & Business Improvement Managers”
- Delete references to the car leasing scheme
- “Manager of Corporate Risk” to replace “Internal Audit & Business Improvement Manager”
- Two PA names to be deleted and replaced

5.0 Licensing Act 2013

5.1 The Council is a licensing authority for the purposes of the Licensing Act 2003.

5.2 The Council is also a “responsible authority” for the purposes of the 2003 Act, allowing the Council to make representations regarding applications for licenses. It is important to achieve a separation of responsibilities within the Council to ensure procedural fairness and avoid conflicts of interest. Licensing determinations are made by the Licensing Sub-Committee. To achieve a separation from licensing functions delegated to the Director and other authorises officers, it is proposed to create a separate delegation for the responsible authority functions to the Joint Enforcement Manager.

6.0 Member/Officer Working Group

6.1 A Member/Officer Working Group was established to review aspects of the constitution which are of interest to Members. The Group’s proposals are set out in this report.

7.0 Rules of Procedure

7.1 The proposed changes are contained in **Essential Reference Paper 'C'**. The Group considered that the rules of procedure are not always clear or easy to apply. The existing procedure may make it difficult for the Chairman to manage.

7.2 The Constitution Member/Officer Working Group considered which changes may prove to be useful.

7.3 The possible amendments covered the following areas:

- Limiting the number of questions from Members
- The content of Member's questions
- The length of speeches
- The time allowed for questions at Council meetings
- Limiting motions to one per Member
- Defining the time allowed for motions

7.4 Members are requested to consider proposed changes to questions and motions. Additional rules are proposed relating to the number of Members questions, length of speeches and the time allowed for questions at Council.

7.5 Similar proposals are included for the number of motions per Member and the time allowed for motions.

8.0 Member/Officer Relations Protocol

8.1 The proposed new protocol is contained in **Essential Reference Paper 'D'**. The opportunity has been taken to completely revise the document. The current protocol was drafted some years ago. It has seen little change apart from the addition on use of Council email addresses.

8.2 The protocol was produced at a time when the issues were rather different. Freedom of Information was relatively new which resulted in considerable guidance on this issue,

8.3 Other parts of the constitution have been revised in the past. One of the results of these revisions is that the protocol does overlap with other parts of the constitution. The following areas have been changed to reduce duplication:

- The equalities section is now covered in various parts of the Members' Code of Conduct.

- Access to information is elsewhere in the constitution.
- The Scrutiny elements are in the relevant part of the constitution.

8.4 The new draft covers the following areas:

- Role of Members
- Role of Officers
- Respect and Courtesy
- Provision of Advice and Information
- Confidentiality
- Provision of Support Services
- The Council as Employer
- Political Activity.

9.0 Members' Planning Code of Good Practice

9.1 The revised code is attached in **Essential Reference Paper 'E'**. Although the existing code is described as a code, it also contains advice and guidance. It is written in the style of "do's and don'ts".

9.2 The new draft includes an introduction which sets the context of planning decisions. The code sets out practices and procedures which are intended to guide Members and officers when involved in planning matters.

9.3 There is a section on the role and conduct of Members and officers. It explains the role of Members and officers in the context of planning decisions. This advice will be well understood by many Members but it should assist Members who are less experienced in planning matters.

9.4 Section 3 deals with Member's interests. It does not duplicate the Code of Conduct for Members but concentrates on the need to approach decisions with an open mind.

9.5 The next section deals with lobbying. It provides practical advice on how to manage lobbying. It emphasises that the time to make a decision is at the meeting when all the available information has been considered.

9.6 The next section deals with discussions and negotiations. The central message is for Members to retain their impartiality.

9.7 This is followed by guidance on officer's reports to committee.

- 9.8 There is a section on planning considerations pointing out that planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 9.9 A description of the decision making follows.
- 9.10 Site visits are discussed, reflecting the practice at East Herts.
- 9.11 The code discusses the process for representations on planning applications. The code concludes with a review process and the need for training for Members.
- 10.0 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers
Constitution Guidance

Contact Officer: Simon Drinkwater – Director of Neighbourhood Services and Monitoring Officer, ext 1405.

Report Author: Simon Drinkwater – Director of Neighbourhood Services and Monitoring Officer

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ESSENTIAL REFERENCE PAPER 'A'

<p>Contribution to the Council's Corporate Priorities/Objectives (<i>delete as appropriate</i>):</p>	<p>People</p> <p>This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</p> <ul style="list-style-type: none"> • Enhance our local community engagement by working together with our partners such as Parish and Town Councils, for the benefit of our communities. • Maintain our core services to a good standard and ensure high satisfaction with the council as measured through the biennial Residents Survey.
<p>Consultation:</p>	<p>The Monitoring Officer has consulted the Section 151 Officer and the Head of Paid Service.</p>
<p>Legal:</p>	<p>The legal implications have been taken into account in amending the Constitution.</p>
<p>Financial:</p>	<p>N/A</p>
<p>Human Resource:</p>	<p>No comments.</p>
<p>Risk Management:</p>	<p>A Constitution which reflects the Council's structure and delegation is important to the smooth running of the organisation.</p>

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ESSENTIAL REFERENCE PAPER 'B'

SCRAP METAL DEALERS ACT 2013 DELEGATIONS

Matters to be dealt with	Director of Neighbourhood Services	Officers (Community Safety and Health Services- Licensing Team)
Processing applications and supply of information to external agencies.		✓
Inclusion of conditions under section 3(8)		✓
Refusal of license	✓	
Variation to impose conditions on licence under section 4	If the applicant requests the right to make representations	If the applicant declines to make representations
Revocation of License under section 4	✓	
Entry inspection and compliance		✓

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Council Procedure Rules

1. Annual meeting of the Council
2. Ordinary meetings
3. Extraordinary meetings
4. Appointment of Substitute Members of Committees and Sub-Committees
5. Time and place of meetings
6. Notice of and summons to meetings
7. Chairman of meeting
8. Quorum
9. Duration of meeting
10. Questions by the public and Petitions
11. Questions by members
12. Portfolio Reports
13. Motions on notice
14. Motions without notice
15. Rules of debate
16. Previous decisions and motions
17. Voting
18. Minutes
19. Record of attendance
20. Exclusion of public
21. Members' conduct
22. Disturbance by public
23. Suspension and amendment of Council Procedure Rules
24. Application to committees and sub-committees
25. Disclosable Pecuniary Interests

ESSENTIAL REFERENCE PAPER 'C'

1.0 ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in April or May.

The annual meeting will:

- (i) elect a person to preside if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;
- (iii) elect the Vice Chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or head of the paid service;
- (vi) consider and approve the Constitution;
- (vii) agree the number of Members to be appointed to the executive;
- (viii) appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (ix) agree the scheme of delegation;
- (x) approve a programme of ordinary meetings of the Council for the year; and
- (xi) consider any business set out in the notice convening the meeting.

1.2 **Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the council meeting will:

- (i) decide which committees to establish for the civic year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive.

2.0 **ORDINARY MEETINGS**

2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Chairman, Leader, Members of the executive or the head of paid service;
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of

ESSENTIAL REFERENCE PAPER 'C'

the person presiding at the meeting are relevant to the business of the meeting;

- (vi) deal with any business from the last Council meeting;
- (vii) receive reports from the executive and the Council's committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting, including consideration of proposals from the executive in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate.

3.0 EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) the monitoring officer;
- (iv) Section 151 Officer; and
- (v) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

ESSENTIAL REFERENCE PAPER 'C'

4.0 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1 Allocation

As well as allocating seats on committees and sub-committees, the Council will allocate seats in the same manner for substitute Members. For Committees or Sub-Committees exercising the functions of Development Management, licensing or appeals, only Councillors who have received satisfactory training to enable proper and lawful discharge of the functions may be appointed as substitutes. Up to 6 named substitutes per political group will be permitted for committees and joint committees having 12 or more members and up to 3 named substitutes per political group for committees and joint committees having less than 12 members.

4.2 Powers and duties

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.3 Substitution

Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after notification has been given by the absent Member to the Head of Democratic and Legal Support Services at least 24 hours before the meeting of the intended substitution or at least 7 hours before the meeting for Development Management Committee meetings. The duration of the substitution shall be included in the notice.

ESSENTIAL REFERENCE PAPER 'C'

4.4 The Director of Finance and Support Services shall change the standing membership of committees and joint committees in accordance with the wishes of the political groups to whom seats on these committees have been allocated.

5.0 TIME AND PLACE OF MEETINGS

5.1 The time and place of meetings will be determined by the Chief Executive and notified in the summons.

6.0 NOTICE OF AND SUMMONS TO MEETINGS

6.1 The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Proper Officer will send a summons signed by him/her by post or electronic mail to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7.0 CHAIRMAN OF MEETING

7.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees.

8.0 QUORUM

8.1 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a

ESSENTIAL REFERENCE PAPER 'C'

time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9.0 DURATION OF MEETING

9.1 Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted until 10.00 p.m. will adjourn on completion of the item being considered. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10.0 QUESTIONS BY THE PUBLIC AND PETITIONS

10.1 General

Members of the public may ask questions of members of the executive at ordinary meetings of the Council.

10.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

10.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than noon, two working days before the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

10.4 Number of questions

At any one meeting no person may submit more than 1 question and no more than 1 such question may be asked on behalf of one organisation.

10.5 **Scope of questions**

The Chief Executive may reject a question if it:

- is not about a matter for which the Council has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

10.6 **Record of questions**

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

10.7 **Asking the question at the meeting**

The Chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, or if they so elect, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A

ESSENTIAL REFERENCE PAPER 'C'

supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

10.9 Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

10.10 Reference of question to the executive or a committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

10.11 Petitions

The Council operates a petitions scheme in accordance with the provisions of the Local Democracy, Economic Development and Construction Act 2009. A document submitted by a Member or members of the public shall be identified as a petition where it is indicated to be so by the person or persons submitting it. Petitions may be submitted in paper form or online.

Lead petitioners shall be invited to address an ordinary meeting of the Council for up to three minutes after which a response shall be given by the relevant Executive Member outlining how the Council intends to deal with the petition. Local Ward Members may also speak on the subject of the petition.

Petitions relating to highway matters shall be referred to the next Highways Joint Member Panel. If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing

ESSENTIAL REFERENCE PAPER 'C'

right of appeal, such as Council tax banding and non-domestic rates, other procedures apply.

Petitions submitted to the Council should be accompanied by contact details, including an address, for the petition organiser and must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take
- the name and address and signature of any person supporting the petition.

Full Council debates

If a petition contains more than 1,355 signatures (1% of the local population) it will be debated by the full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in a petition will be discussed at a meeting which all Councillors can attend. The organiser of a petition will be given five minutes to present their petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. Council will decide how to respond to a petition at this meeting. They may decide to take the action a petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. A petition organiser will receive written confirmation of this decision

Officer evidence

Petitions may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. If a petition contains at least 677 signatures (0.5% of the local population), then the relevant senior officer will give evidence at a public meeting of one of the Council's overview and scrutiny Committees on the subject matter.

ESSENTIAL REFERENCE PAPER 'C'

E-petitions

E-petitions which are created and submitted through the Council's website must follow the same guidelines as paper petitions. The petition organiser will need to provide their name, postal address and email address. The petition organiser will also need to decide how long a petition should be open for signatures.

11.0 QUESTIONS BY MEMBERS

11.1 On reports of the executive or committees

A Member of the Council may ask the Leader or Chairman of a committee any question without notice upon an item of the report of the executive or a committee when that item is being received or under consideration by the Council.

11.2 Questions on notice at full Council

A Member of the Council may ask:

- the Chairman;
- a Member of the executive;
- the Leader; or
- the ~~Chairman~~Chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the District.

11.3 Questions on notice at committees and sub-committees

A Member of a committee or sub-committee may ask the ~~Chairman~~Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that committee or sub-committee.

ESSENTIAL REFERENCE PAPER 'C'

11.4 Notice of questions

A Member may only ask a question under Rule 11.2 or 11.3 if either:

- (a) they have given notice in writing of the question to the Chief Executive, which has been received not later than noon, two working days before the meeting; or
- (b) the question relates to urgent matters, they have the consent of the chairman to whom the question is to be put and the content of the question is given to the Chief Executive by noon on the day of the meeting.

11.4.1 Two Questions per Member

A Member may ask only two questions under 11.2 or 11.13 except with consent of the Chairman of Council, Committee or Sub-Committee.

11.4.2 Length of Speeches

A Member asking a question under 11.2 and 11.3 and a Member answering such a question shall ensure that the question and the reply is succinct.

11.4.3 Time Allowed for Questions at Council Meetings

The time allowed for consideration of any questions submitted under 11.2 shall not, without consent of the Council, exceed 15 minutes unless the Chairman consents to a longer period.

Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

11.5 Response

An answer may take the form of:

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ESSENTIAL REFERENCE PAPER 'C'

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

11.6 Supplementary question

A Member asking a question under Rule 11.2 or 11.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. The Chairman has the right to prevent any Members from asking a protracted supplementary question or giving a protracted answer.

12.0 PORTFOLIO REPORTS

12.1 Portfolio Holders may submit portfolio reports to full Council giving information for Members on developments in each portfolio area since the last report. Members may ask Portfolio Holder questions without notice on any item in the portfolio report. A maximum of 10 minutes will be permitted for questions by Members.

13.0 MOTIONS ON NOTICE

13.1 Notice

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by at least 2 Members, must be delivered to the Chief Executive in normal office hours not later than 10.00 a.m. on the Tuesday of the week preceding the next meeting of the Council. These will be entered in a book open to public inspection.

13.2 Motion set out in agenda

ESSENTIAL REFERENCE PAPER 'C'

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

13.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the area.

13.4 **One Motion per Member**

No Member may give notice of more than one motion of any Council meeting, except with the consent of the Chairman.

13.5 **Time Allowed for Motions**

The time allowed for consideration of motions submitted shall not, without the consent of the Council, exceed 10 minutes.

Any remaining motions submitted shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

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14.0 **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;

ESSENTIAL REFERENCE PAPER 'C'

- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) that the meeting continue beyond 10.00 p.m. in duration;
- (n) to suspend a particular council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

15.0 RULES OF DEBATE

15.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

ESSENTIAL REFERENCE PAPER 'C'

15.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

15.3 Secunder's speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

15.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman.

15.5 When a Member may speak again

A Member who has spoken on a motion may not speak again without the consent of the Chairman whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

15.6 Amendments to motions

ESSENTIAL REFERENCE PAPER 'C'

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

15.7 Alteration of motion

- (a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the

ESSENTIAL REFERENCE PAPER 'C'

meeting and the seconder. The meeting's consent will be signified without discussion.

- (c) Only alterations which could be made as an amendment may be made.

15.8 Withdrawal of motion

A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

15.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

15.10 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;

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- (f) to adjourn a meeting;
 - (g) that the meeting continue beyond 10.30 p.m. in duration;
 - (h) to exclude the public and press in accordance with the Access to Information Rules;
- and
- (i) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

15.11 Closure motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

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- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

15.12 Point of order

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

15.13 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

16.0 PREVIOUS DECISIONS AND MOTIONS

16.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 25 Members.

16.2 Motion similar to one previously rejected

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A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 25 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

17.0 **VOTING**

17.1 **Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

17.2 **Chairman's casting vote**

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

17.3 **Show of hands**

Unless a ballot or recorded vote is demanded under Rules 17.4 and 17.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

17.4 **Ballots**

The vote will take place by ballot if 5 members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

17.5 **Recorded vote**

If 5 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the

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minutes. A demand for a recorded vote will override a demand for a ballot.

17.6 Right to require individual vote to be recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

17.7 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

18.0 MINUTES

18.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

18.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

18.3 Form of minutes

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Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

19.0 RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

20.0 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

21.0 MEMBERS' CONDUCT

21.1 Chairman standing

When the Chairman stands during a debate, any Member speaking at the time must stop. The meeting must be silent.

21.2 Member not to be heard further

If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

21.3 Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is

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adjourned for a specified period. If seconded, the motion will be voted on without discussion.

21.4 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

22.0 DISTURBANCE BY PUBLIC

22.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

22.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

23.0 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

23.1 Suspension

All of these Council Rules of Procedure except Rule 17.6 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

23.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

24.0 APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the executive. Only Rules 4 – 9, 11 (part), 14, 17 – 22 apply to meetings of committees and sub-committees. Committees and Sub-Committees may elect a Vice Chairman.

25.0 DISCLOSABLE PECUNIARY INTERESTS

A Member must withdraw from the meeting room including from the public gallery during the whole of consideration of any item of business in which he/she has a Disclosable Pecuniary Interest, except where he/she is permitted to remain as a result of a grant of a dispensation.

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MEMBER/OFFICER PROTOCOL

1.0 Introduction

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another.
- 1.2 The primary responsibility for Members is to set policy as a Member of Council. Officers are responsible for implementing those policies.
- 1.3 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues.
- 1.4 The Protocol is a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.5 It also seeks to reflect the principles underlying the respective rules of conduct that apply to Members and Officers. Its purpose, therefore, is to enhance and maintain the integrity (real and perceived) of local government by seeking high standards of personal conduct.
- 1.6 Members and Officers depend on each other in carrying out the work of the Authority. Officers are responsible to the Council. Officers give advice to the Council, as well as to individual Members, and to carry out the Council's work under the direction and control of the Council and its various bodies.
- 1.7 Mutual respect between Members and Officers is essential to good local government. However, close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.
- 1.8 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Officers.

2.0 Roles of Members

- 2.1 Members undertake many different roles. Broadly these are:

- Members express political values and support the policies of the party or group to which they belong (if any).
- Members represent their wards and are advocates for the constituents who live in the area.
- Members are involved in active partnerships with other organisations as community leaders.
- Members contribute to the decisions taken in full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- Members help develop and review policy and strategy.
- Members monitor and review policy implementation and service quality.
- Members are involved in quasi-judicial work through their membership of regulatory committees.

3.0 Roles of Officers

3.1 Briefly, Officers have the following main roles:

- Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.
- Initiating policy proposals.
- Implementing agreed policy.
- Ensuring that the Council always acts in a lawful manner.

4.0 Respect and Courtesy

4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. This plays an important part in the Council's reputation and how it is seen in public. It is important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Officers, in public places.

5.0 Undue Pressure

- 5.1 It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position.
- 5.2 In their dealings with Officers (especially junior Officers) Members need to be aware that it is easy for them to feel at a disadvantage.
- 5.3 A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- 5.4 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers. (The Council has formal procedures for consultation, grievance and discipline, and Officers have the right to report possible wrongdoing under the Council's confidential code).

6.0 Familiarity

- 6.1 Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- 6.2 Such familiarity could also cause embarrassment to other Members and/or other Officers and even give rise to suspicions of favouritism.
- 6.3 Members should be aware of the need for a professional relationship with officers.

7.0 Breach of Protocol

- 7.1 If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Director responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.
- 7.2 If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for

potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

8.0 Provision of Advice and Information to Members

- 8.1 Members are free to approach Officers of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 8.2 Officers should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within 5 working days of the receipt of the enquiry.
- 8.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 8.4 The Access to Information Procedure Rules in the Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 8.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 8.6 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Officers are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Information Manager will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.
- 8.7 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 8.8 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more

specifically, about issues and events affecting the areas that they represent. Local Members should be informed about proposals that affect their wards and should also be invited to attend Council initiated events within their wards.

- 8.9 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Executive Member or Committee Chairman concerned should be advised about the information provided.
- 8.10 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.

9.0 Confidentiality

- 9.1 Members should be aware of their data protection responsibility. The Council may disclose personal information to Member which should only be used for the purposes of carrying out their duties.
- 9.2 Members must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:-
- he/she has the consent of a person authorised to give it;
 - he/she is required by law to do so;
 - the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - the disclosure is –
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority.
- 9.3 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to

exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

- 9.4 Information and correspondence about an individual's private or business affairs will normally be confidential.
- 9.5 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 9.6 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.
- 9.7 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that officer.

10.0 Provision of Support Services to Members

- 10.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

11.0 Correspondence

- 11.1 Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.
- 11.2 Members shall use the Council email address provided for that Member when acting in an official capacity as a Member.

12.0 Media

- 12.1 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Officers provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Director or Head of Service concerned or ask the Press Office to do so.
- 12.2 Do not allow members of the public to communicate with you during any formal meeting of the Council its Committee or sub-committee (orally or in writing) other than through the scheme for public speaking, as they may give the appearance of bias.
- 12.3 Do ensure that you comply with the Council's procedures in respect of public speaking.

13.0 The Council's Role as Employer

- 13.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

14.0 Political Activity

- 14.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.
- 14.2 In summary, such Officers are prevented from:
- (1) being a Member of Parliament, European Parliament or local authority;
 - (2) acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in (1);
 - (3) being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:-
 - participate in the general management of the party or branch; or
 - act on behalf of the party or branch in dealings with persons other than members of the party;
 - (4) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (1);
 - (5) speaking to the public with the apparent intent of affecting public support for a political party; and

(6) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

14.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. Chairman. Officers should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers.

14.4 Usually the only Officers involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

14.5 Officers are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.

14.6 Both Members and Officers are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Officers. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

15.0 Sanctions

15.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

15.2 Complaints about any breach of this protocol by an Officer may be referred to the Chief Executive or the relevant Director.

16.0 Conclusion

- 16.1 It is hoped that following good practice and securing sensible and practical working relationships between Members and Officers will provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Officers.

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Members' Planning Code of Good Practice

This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

1.0 Introduction

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.4 This Code of Practice sets out practices and procedures that Members and Officers shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.5 Failure to follow this Code without good reason could be taken into account in investigations into possible

maladministration against the Council, or have implications for the position of individual elected Members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

- 1.6 This Code of Practice sets out principles to guide Members and officers in determining planning applications and making other decisions within the terms of reference of Development Management Committee. Although of particular relevance to members of Development Management Committee it applies to all Members of the Council who may become involved in planning and development matters.

2.0 The Role and Conduct of Members and Officers

- 2.1 Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a Member of the Development Management Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Members' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.

- 2.5 Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Members shall provide:
- Impartial and professional advice;
 - Consistency of interpretation of planning policy; and
 - Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.

3.0 Interests of Members

- 3.1 Where the interest is such that Members of the public may feel that the Member will not be able to approach matters with an open mind and consider the application on its planning merits, Members should consider withdrawing from the Committee for that item.
- 3.2 The Code of Conduct for Members provides guidance as to Disclosable Pecuniary Interests which may affect a Member's ability to take part in the decision-making process.
- 3.3 Members should also consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Member considers that this is not possible, the Member should withdraw from consideration of that item.

3.4 The integrity of the planning system requires openness on the part of Members; it must operate fairly and be seen to operate fairly.

3.5 Members should seek guidance from officers where appropriate.

4.0 Lobbying Of and By Members

4.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or Members of a Development Management Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question.

4.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

4.3 The time for individual Members of the Development Management Committee to make a decision on a proposal is at the Committee meeting when all available information is to hand and has been duly considered.

4.4 A Development Management Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Development Management Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely susceptible to

persuasion at the decision-making meeting. Members who are lobbied should:

- make clear that they reserve their final decision on a proposal until the committee meeting;
- only give procedural advice;
- consider referring those lobbying to the relevant Officer who can provide further advice; and
- not seek to meet an applicant or potential applicant alone.

4.5 Members of the Development Management Committee shall not, in general, organise support or opposition for a proposal, or lobby other Members (other than when addressing the Development Management Committee). Members shall not put improper pressure on officers for a particular recommendation.

4.6 The local Member who is not a member of the Development Management Committee will be allowed to attend and speak at the decision-making meeting (either presenting their own views if they are an affected party or representing the views of their ward) but not vote. The Member of an adjacent ward substantially affected by the proposal shall, at the discretion of the Chairman of the Development Management Committee

4.7 Members of a Development Management Committee must be free to vote as they consider appropriate on planning matters.

4.8 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

5.0 Pre- and Post- Application Discussions and Negotiations

5.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these

parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.

- 5.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 5.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 5.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 5.5 Members need to preserve their role as impartial decision makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when Members are involved, it should be part of a structured arrangement with Officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 5.6 Members may receive information from applicants and give information to applicants and Members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

6.0 Officer Reports to Committee

- 6.1 The Head of Planning and Building Control will submit written reports to the appropriate Development Management Committee on planning applications to be determined by the Council. The reports will give the background to the

application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning and Building Control shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Head of Planning and Building Control in his/her report will give a reasoned assessment of the proposals and a justified recommendation.

- 6.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 6.3 The Head of Planning and Building Control will have available for inspection by Members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

7.0 Planning Considerations

- 7.1 Planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 7.2 Members of Development Management Committee should attend training sessions which may be organised from time to time. All other Members are encouraged to attend.
- 7.3 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 7.4 Having identified all the material planning considerations and put to one side all the immaterial considerations, Members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

8.0 The Decision Making Process

- 8.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 8.2 Where an environmental impact assessment is required, the Development Management Committee shall take the information provided in the report into consideration when determining the application.
- 8.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 8.4 Where the Development Management Committee decide to adopt the recommendation of the Head of Planning and Building Control, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 8.5 Where the Development Management Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning and Building Control, or the Development Plan, agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted .
- 8.6 The reasons for Committee's decision to defer any proposal should also be recorded.

9.0 Site Visits

- 9.1 Any information gained from the site visit should be reported back to the Committee, so that all Members have the same information.
- 9.2.1 The site visit should be treated as an opportunity to seek information and to observe the site. The purpose of a site visit is to gain information relating to the land and buildings that is the subject of the planning application, which is not apparent from the report to be considered by the Development Management Committee. A site visit may also

assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Members are encouraged to visit sites accompanied by other Members.

- 9.3 Do not hear representations from any other party, with the exception of the Ward/Local Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present. Members should make a note recording the details of the meeting.
- 9.4 Do not express opinions or views to anyone. Members should not express an opinion on the planning application and its merits (or otherwise) at the site visit.
- 9.5 Do not enter a site which is subject to a proposal unless;
- You feel it is essential for you to visit the site
 - You can ensure you will comply with these good practice rules on site visits, and
 - Identify yourself (if necessary).

10.0 Representations on Planning Applications

- 10.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Development Management Committee. Members will be given the opportunity to inspect all letters received before the decision on the application is made.
- 10.2 There will be occasions when applicants or objectors, or both, may wish to make representations in person to the Development Management Committee.

10.3 The Council has a scheme for public speaking at Development Management Committee. Details of this scheme are on the Council's website.

11.0 Review of Decisions

11.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.

11.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.

11.3 Attendance at the review site visits shall be restricted to members of the committee and the local Member.

12.0 Training

12.1 Members should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.

12.2 Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively