

MINUTES OF A MEETING OF THE
POLICY DEVELOPMENT SCRUTINY
COMMITTEE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD
ON TUESDAY 6 SEPTEMBER 2005

PRESENT: Councillor J O Ranger (Chairman).
Councillors H G S Banks, K A Barnes, A D Dodd,
G L Francis, Mrs M H Goldspink, J Hedley,
G McAndrew, Mrs S Newton, D Richards,
J D Thornton, N Wilson.

ALSO PRESENT:

Councillors W Ashley, P A Ruffles, M Wood.

OFFICERS IN ATTENDANCE:

Miranda Steward	- Executive Director
Cliff Cardoza	- Head of Contract Services
Martin Ibrahim	- Senior Democratic Services Officer
Bernard Perry	- Director of Direct and Contract Services
Trevor Watkins	- Waste Services Manager
Alison Young	- Planning Enforcement Manager

ALSO IN ATTENDANCE:

Tony Clampton	- North Herts District Council
Sue Davidson	- Hertfordshire County Council

276 APOLOGIES

Apologies for absence were submitted on behalf of Councillors R N Copping, Mrs D L E Hollebon and D E Mayes.

277 CHAIRMAN'S ANNOUNCEMENTS

The Chairman reminded the Committee that it would be examining policies relating to the Council's priorities during the next year. It would not be looking at performance but at whether policies enabled work to be done to support the priorities. The Committee would consider if policies needed to be adjusted or new policies needed to be introduced.

RESOLVED ITEMSACTION278 MINUTES

RESOLVED - that the Minutes of the meeting held on 5 July 2005 be confirmed as a correct record and signed by the Chairman.

279 CORPORATE PRIORITY - "PROTECT OUR NATURAL ASSETS THROUGH RECYCLING AND OTHER INITIATIVES THAT ACHIEVE ECONOMIC AND ENVIRONMENTAL BALANCE"

The Head of Contract Services introduced issues around waste and recycling. He outlined the three presentations that would be given and introduced Sue Davidson, Hertfordshire County Council and Tony Clampton, North Herts District Council.

Presentation by Sue Davidson

Sue Davidson explained her role as the Head of Waste Planning at Hertfordshire County Council. She referred to the legislative framework, the emerging waste local plan and the regional context. The Waste Development

ACTION

Framework comprised:

- the Core Strategy;
- Site Allocations; and
- Development policies.

She outlined the key timescales and the partnership arrangements with District and Borough Councils. Also, she referred to the criteria and methodology for identifying potential sites. The County Council would be considering a long list of perhaps 150 sites, which would eventually be reduced to a short list of 50 – 60 sites. These sites would be areas that were designated as employment areas, previously developed land and in some cases, green belt land, if environmental impacts could be managed.

She concluded by stating that the new plan would not be rewriting the Joint Municipal Waste Strategy or deciding on technological treatments.

Sue Davidson responded to a number of questions asked by Members in respect of issues around types of sites to be allocated, the criteria for sites allocation, the option of incineration and waste minimisation. She stated that there would need to be a mix of sites provided for Material Recycling Facilities (MRFs), composting, industrial waste, end of life vehicles, etc.

Councillor Mrs S Newton had submitted a question as follows:

“When looking at recycling and other indicatives will the discussion include the complex and costly situation of the waste tips where people, put off by visiting them because of waiting times, cost and selection of waste, then dump in gate ways and fields? Will we be looking at disposal by the public?”

ACTION

In response, Sue Davidson stated that her field of expertise was waste planning and not waste disposal. However, she undertook to refer the question to a colleague for a response.

Presentation by Tony Clampton

Tony Clampton outlined his role as the Waste Management Service Manager at North Herts District Council and the Chairman of Waste Aware.

He detailed the current provision of waste and recycling services in North Herts and referred to the Partnership Board comprising representatives of the Council and Serviceteam. In North Herts, the same doorstep recycling service was provided for both urban and rural properties, where paper, bottles and cans were collected from each house. Also, he outlined the role and activities of Waste Aware in promoting recycling initiatives in Hertfordshire.

Tony Clampton gave an overview of the targets for local authorities set by the Landfill Directive and the measures taken to meet these targets. Various options for reducing waste could be pursued by authorities, such as alternate weekly collections, charging by weight, policing collections and imposing financial penalties. He also referred to the WEEE Directive relating to electrical goods, which was expected to be implemented in January 2006.

In response to Members' questions, Tony Clampton referred to a number of issues including:

- markets for recycled materials;
- types of collection vehicles;
- collection costs in rural areas; and
- use of incentives/penalties to encourage recycling

ACTION

activity;

Presentation by Cliff Cardoza/Trevor Watkins

Cliff Cardoza, Head of Contract Services and Trevor Watkins, Waste Services Manager gave a joint presentation covering the wider context of waste and recycling issues, where East Herts was in terms of current provision and possible areas for the future expansion of services.

The Waste Services Manager provided an overview of the European and national targets the Council was required to meet and detailed current performance. East Herts was required to reach a target of 18% in 2005/06 and 30% by 2010. He was confident that a recycling rate of 22% would be achieved in 2005/06.

Reference was also made to growing public expectations as evidenced in resident surveys. He detailed current provision in East Herts and areas of expansion in the pipeline, such as the introduction of plastics banks in 2006.

The Head of Contract Services outlined options for the future expansion of the service. He detailed costs and the impact on recycling rates of options for expanding glass and cans collection, green and kitchen waste and collecting cardboard.

Also, he referred to issues such as plastics, the size of bins, alternate weekly collections and enforcement.

Finally, he undertook to provide Members with a hard copy of his presentation.

Arising from Members' questions, further discussion took place on the various issues raised by the presentation. In view of the need to consider and recommend options for the Executive and Council to determine as part of the budgetary process, it was proposed that a start and finish panel of 12 Members be set up to consider the specific

ACTION

issues raised and to report back to the Committee. It was suggested that the Panel's terms of reference be 'to comment on the specific questions raised for recycling options in the future and to report back its recommendations to the Policy Development Scrutiny Committee on 15 November 2005'. Further, it was suggested that membership be agreed in consultation with political group leaders. This was agreed by the Committee.

In response to a Member's question relating to other aspects of the corporate priority, the Chairman stated that there was insufficient time to deal with everything, but that the Energy Efficiency Panel would be meeting in due course and that other aspects could be considered by the Committee in February 2006.

RESOLVED – that (A) a panel of 12 Members be established 'to comment on the specific questions raised for recycling options in the future and to report back its recommendations to the Policy Development Scrutiny Committee on 15 November 2005'; and

DCG

(B) membership of the panel in (A) above be delegated to the Director of Corporate Governance, in consultation with political group leaders.

DCG

280 TOWN AND COUNTRY PLANNING – REQUEST FOR INFORMATION ON DELEGATED DECISIONS

The Director of Regulatory Services submitted a report on the Council's scheme of delegated powers in respect of planning matters. The Committee noted that Hertford Civic Society had expressed concern that the Council's scheme did not accord with Government policy on delegation, as expressed in the Local Government Association (LGA) document, 'Delivering Delegation'.

The Committee noted that 8 specific areas of concern had been raised by the Civic Society and considered each of

ACTION

these in turn.

- *the lack of “a clear statement, readily available to the public, of the procedures and practices by which power to determine planning applications is delegated”.*

The Committee noted that in fact, the Council's Constitution did include a clear statement of the delegated powers available to officers to determine planning applications. It was publicly available and was posted on the Council's website. Therefore, the Committee concluded that the scheme was open, transparent and clear, as recommended by the LGA guidance. That guidance promoted schemes, such as East Herts', whereby all planning application decisions were delegated to officers, with exceptions being clearly defined in the scheme of delegation, i.e., the "by exception" approach. It suggested that there should be a level of delegation over 90%. The Committee also noted that the scheme of delegation was reviewed regularly, in accordance with the LGA advice.

- *the lack of an up-to-date local plan with which officers could make informed decisions.*

The Committee noted that this should not prevent the appropriate use of existing delegated powers. Although the current adopted plan was not up-to-date, Officers did have detailed knowledge of, and access to, the Re-Deposit version of the Second Review of the Local Plan, which had been approved by Council in November 2004. The Committee further noted that, in any event, decisions on planning applications, whether by Committee or by officers under delegated powers, must have due regard to not only the policies of the adopted local plan and the re-deposit version, but also to any other material considerations. Such considerations included government policy and guidance, especially where these were more recent than the policies of a Local Plan.

ACTION

- *'sensitive' applications should be reported to Committee..*

The Committee noted the Civic Society's concern that the scheme of delegation made no reference to applications that fell within conservation areas, involved a listed building, or were otherwise considered to be 'sensitive'. It considered that applications involving these issues should be reported to the Development Control Committee. However, these issues were always considered by case officers in the course of determining any such planning application and in practice, a great many application sites in the District did fall within a conservation area or involved a listed building. The Committee concluded that it would be impractical and inappropriate to refer every one of these to the Development Control Committee. In respect of an application felt to be sensitive or of much public concern or interest, the current scheme of delegation provided for the local elected member to request that it be considered by the Committee. This was considered to be an appropriate and successful solution.

- *applications where there were "weighty objections" from a town or parish council; a statutory consultee, such as English Heritage; the Environment Agency; or a local civic society; should be reported to committee*

The Committee noted that this appeared to be at odds with the LGA guidance which stated that such a policy 'achieves their confidence but at the cost of uncertainty as to timing and other inefficiencies'. Indeed, the Committee recalled that East Herts Council had a similar policy in the past, which had resulted in unnecessary delays to planning applications – a matter which now had financial implications for the service, as failure to meet performance targets would result in a reduced allocation of the planning delivery grant.

Nevertheless, it was noted that the scheme of delegation

ACTION

already provided for major applications and those involving a departure from the Development Plan to be referred to the Development Control Committee. This, together with the ability of the local member to request that applications are heard by the Committee, was considered to be sufficient to enable any “weighty” objections to be referred to Members where necessary. Therefore, the Committee concluded that the scheme was sensitive and flexible enough to adapt to circumstances where a referral to Development Control Committee was desirable and appropriate.

Some Members referred to the role of the Chairman of the Development Control Committee in dealing with a request by a local Member for an application to be submitted to Committee. It was clarified that the Chairman did not have discretion to refuse such requests. However, Members needed to be mindful that a deluge of local Members’ requests would not be appropriate.

- *the scheme of delegation (currently to the Director; Development Control Managers; Planning Enforcement Manager; and their duly appointed officers) was too wide.*

The Committee noted that the East Herts scheme allowed for important flexibility within the Development Control Service and enabled decisions to be made within the government's statutory timescales, but always by appropriately qualified officers. In practice, decisions were currently made by Development Control Managers (or the Planning Enforcement Manager), and there were no duly appointed officers currently. However, it was proposed that some minor householder applications for example, could be determined by appropriately qualified and experienced Principal Planning Officers, and the scheme was flexible enough to allow this, but only with the express authorisation of a Manager.

- *where DC Managers acted as case officers they should not be permitted to determine*

ACTION

their own applications.

The Committee noted that Development Control Managers were the case officer for only a few applications, which tended to be major and/or more complex/contentious applications that were reported to Development Control Committee anyway. The current scheme of delegation did allow Development Control Managers to, in effect, sign off their own delegated decisions where they were also the case officer. The Committee concluded that the Civic Society's comment in this regard, was valid. The proposed re-structuring of Development Control and the review of the Scheme of Delegation provided the opportunity to change this. It was suggested that the scheme of delegation could be re-worded to the effect that any applications where the Development Control Manager was the case or lead officer must be decided by the Head of Development Control, or by the Development Control Committee.

- *there was no machinery for monitoring the operation of delegation.*

The Committee believed that monitoring delegated decisions was important in order to maintain confidence in the scheme of delegation and in the interests of openness and transparency of the system. Officers had acknowledged that some improvements could be made in this area and a number of suggestions were set out in the report now submitted.

Members referred to the technical problems experienced in accessing the weekly list of applications that was posted on the website. Officers undertook to look at improving this to ensure Members had easier access.

In respect of monitoring by external parties, it was felt that letters of explanation to consultees, where decisions were contrary to their views, would have resource implications for officers. The Committee referred to the role of local Members and their role as community leaders in liaising

ACTION

with consultees. The Committee believed that greater publicity was needed, perhaps via Link, promoting the role of local Members in ensuring that consultees were better informed of decisions.

- *there was no public access to case files where the decision was made under delegated powers.*

The Committee noted that this was incorrect factually. All planning application files were open to view by any member of the public and always had been. Therefore, It was open to any individual, group or society to carry out its own "audit" of decisions made under delegated powers.

Councillor J D Thornton undertook to respond to Hertford Civic Society on the issues discussed.

RESOLVED - that the Council be recommended to (A) amend the scheme of delegated powers to the effect that applications where the Development Control Manager was the case or lead officer must be decided by the Head of Development Control, or by the Development Control Committee; and

DCG

(B) consider promoting better, the role of local Members in liaising with consultees on development control applications.

DOD

281 FORWARD PLAN

The Committee received and approved the work programme for 2005/06.

The Chairman reminded Members that suggested additions could be submitted to Democratic Services.

RESOLVED - that the forward plan be approved.

ACTION

The meeting closed at 10.25 pm.

Chairman

Date

Nps\Policy Dev Scrutiny\06 Sept 2005\Minutes 6 Sept 2005