

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 11 November 2010 at 10.00 am in Pugin Room, Council Offices, Cecil Street, Margate, Kent.

Present: Mr Robin Hills (Chairman);
Mr B Hinchley (Independent Member);
Councillors: Gregory, Harrison, M Roberts and Mrs Roberts

42. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Latchford, whose substitute was Councillor M Roberts.

43. DECLARATIONS OF INTEREST

There were no declarations of interest.

44. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Mrs Roberts, seconded by Councillor Gregory, the minutes of the meeting held on 25 August 2010 were approved and signed by the Chairman, subject to "applicant" in the last sentence on page 1 being changed to, "objector".

45. PROPOSED CHANGES TO THE SCHEME OF DELEGATION IN RESPECT OF PLANNING FUNCTIONS AND PROPOSED CHANGES TO THE PLANNING PROTOCOL

The matters outlined in the Monitoring Officer's Report were considered in the following order:

a) Public Speaking Arrangements at Planning Committee (Annex 2)

Simon Thomas, Planning Applications & Enforcement Manager, outlined the present system used to select a person to speak at Planning Committee, which was on a first come, first served basis from those having objected to the application. He said that there was no evidence that this system was being abused; for example, by a party hijacking a speaking slot to the preclusion of someone genuine.

Under the current system, the Council provided those persons who had made representations on a planning application an opportunity to request to speak.

The Planning Applications & Enforcement Manager pointed out that those who requested to speak subsequent to a slot having been taken were encouraged to consult with the person appointed to speak. Consequently, their views could be represented at the Planning Committee meeting by the speaker.

The Planning Applications & Enforcement Manager invited the Working Party to consider two optional changes to the system, as outlined in Annex 2: the first of which would give priority to those who had been written to and invited to make comment as part of the Council's initial notification process; and the second, to those who had previously made their comments in writing to the Council and where their residential amenity or that of members of their family was likely to be affected.

A discussion ensued, during which reference was made to the ability of a concerned resident to speak to their Ward Councillor, who would then be able to address the Planning Committee under Council Procedure Rule 24.1.

It was AGREED TO RECOMMEND that the status quo remains, subject to a watching brief being kept and any significant problems arising being reported back to the Working Party.

b) Protocol for the Guidance of Planning Committee Members and Officers (Annex 1)

A Member made reference to the apparent anomaly arising from Paragraphs 11.6 & 11.8, in that the Chairman, who had proposed that the Planning Officer's recommendation be adopted, could later in the meeting be required to propose something that was contrary to that recommendation.

It was AGREED TO RECOMMEND to the Standards Committee that the revised Protocol be adopted subject to the following further amendments:

i. **Paragraph 11.6 – Refusal of Planning Permission against Officer Advice**

That the first sentence be amended to read:

“If it is evident to the Chairman in the course of a debate on an application that the Committee is minded to refuse planning permission contrary to the recommendation of the Planning Officer, he/she will withdraw the motion to grant planning permission and seek a proposer and seconder for a motion that the Committee is ‘minded to refuse’ the application.”

ii. **Paragraph 11.8 - Grant of Planning Permission against Officer Advice**

That, similar to (i) above, the first sentence of the paragraph be amended to read:

“If it is evident to the Chairman in the course of a debate on an application that the Committee is minded to grant planning permission contrary to the recommendation of the Planning Officer, he/she will withdraw the motion to refuse planning permission and seek a proposer and seconder for a motion that the Committee is ‘minded to grant’ planning permission for the application.”

c) Amended Scheme of Delegations to Officers – Planning Applications Manager – Development Control (Annex 3)

The Planning Applications & Enforcement Manager explained the rationale behind the proposed amendments at new Paragraphs 9.8, 9.11, 9.12 & 9.15.

i. **Para 9.8 – Applications for householder development in the curtilage of a dwellinghouse located outside the urban and village confines as identified in the adopted Development Plan.**

It was noted that this amendment was necessary to address the anomaly which had existed since the abolition of the Kent and Medway Structure Plan, in that applications for developments at dwelling houses in the countryside (e.g. extensions and garages), falling outside of the adopted Development Plan must be determined by the Planning Committee and not a Planning Officer. These developments were often very small scale and the Working Party was invited to consider whether these would more appropriately be dealt with by Officers under delegated authority.

It was noted that there remained the option for a Ward Councillor to call-in any such application for determination by the Planning Committee.

- ii. **Para 9.11** – Ability to call-in applications for prior approval in relation to Part 24 of Schedule 2 of the Town and country Planning (General Permitted Development) Order 1995 (as amended) – Telecommunications Code Systems Operators

It was noted that when such applications were first introduced the Council had been required to make a decision within 28 days. That period had subsequently been extended to 56 days, making referral to the Planning Committee possible. Although the Working party was advised that in respect of these applications, if the Council made no decision within the 56 day period, then the applicant had the right to carry out the works. It was recommended that Members be given 21 days in which to make a request to call-in such applications and, where possible, having regard to the 56 day timescale, the matter would then be placed on an agenda for a meeting of the Planning Committee.

- iii. **Paras 9.12 & 9.15** - Changes in names of legislation

It was noted that the recommended changes, which merely updated legislation, did not affect the substance of the paragraphs.

Adoption of Monitoring Officer's Report

On the proposal of Councillor M Roberts, seconded by Councillor Harrison, it was AGREED TO RECOMMEND to the Standards Committee:

1. that the amended Protocol (Annex 1) be adopted subject to the further amendments set out at (b) above;
2. that the status quo on public speaking arrangements at Planning Committee remain, subject to a watching brief being kept and any significant problems arising being reported back to the Working Party;
3. that the amendments to the Scheme of Delegations to Officers – Planning Applications Manager – Development Control (Annex 3) be adopted.

46. REVIEW OF CALL-IN PROCESS

The current call-in system of the Council was considered alongside practices used by neighbouring authorities, as set out at Annex 1 to the Democratic Services & Scrutiny Manager's report. The differences between the Councils' processes were noted.

Particular concern was expressed at Thanet's constitutional requirement that a meeting of the Overview & Scrutiny Panel be convened "within 15 working days of the decision to call-in", on the basis that, owing to Scrutiny meetings preceding, rather than following, meetings of Cabinet and Council in the calendar cycles, it was expected that extraordinary meetings of the Panel would have to be called for the purpose of considering called-in decisions.

A question arose as to the merit of changing the Council's Constitution to facilitate called-in decisions being considered at the next scheduled meeting of the Overview & Scrutiny Panel, rather than within 15 days. It was noted that, in some cases, it might not be possible for Cabinet to defer implementation of a decision until after the next ordinary meeting of the Panel. However, consultation could take place with the Leader and Portfolio Holder regarding the timing of the Panel meeting.

Adjournment of Meeting

The meeting was adjourned at 11.00 am to enable Members and Officers to observe a two-minute silence to mark Armistice Day.

The meeting then resumed.

It was further noted that the Council's processes were generally compliant with the call-in advice published by the Centre for Public Scrutiny (Annex 2 to the report) and the consensus of opinion was that, apart from the issue of having to convene extraordinary meetings of the Scrutiny Panel, the current system appeared to operate satisfactorily with no further changes being required at the present time.

On the proposal of Councillor Harrison, seconded by Councillor Gregory, it was AGREED that the Officers consider, and bring back recommendations to the Working Party, on how the Council's Constitution should be amended to enable called-in decisions to be reviewed at the next scheduled meeting of the Overview & Scrutiny Panel, subject to permission being sought and granted by the Leader and Portfolio Holder.

47. LEADER'S REPORT

It was AGREED:

1. TO RECOMMEND that the Thanet Council procedure rules on the Leader's Report should be based on the Kent County Council model, as outlined at Annex 2 to the Democratic Services & Scrutiny Manager's report, as follows:
 - The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council.
 - The Leaders of the Opposition and any other Political Group may comment on the Leader's report, but no other Member may speak except with the consent of the Chairman. The comments of the Leaders of the opposition groups shall be limited each to five minutes.
 - The Leader has a right of reply, limited to two minutes, to any comments made on his/ her report.
 - No motions may be moved nor resolutions passed under this item.
2. that Officers bring back recommendations regarding constitutional changes to the next meeting of the Working Party.

Chief Executive's Report

The issue of whether Members' questions on the Chief Executive's Report to Council should be time-limited was raised at this stage of the meeting.

It was suggested that questions should be limited to, say, 5 minutes, with the Chairman having discretion at the meeting of Council to grant an extension of, say, up to 10 minutes, where he/she deems that necessary.

It was AGREED that Officers bring back a report to the next meeting of the Working Party, on options for constitutional changes.

Modern Council

On the proposal of Councillor M Roberts, seconded by Councillor Harrison, it was AGREED not to pursue a wider review of "Modern Council" at this time.

Meeting concluded : 11.40 am