

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Governance and Audit Committee held in the Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA on 17 April 2018 commencing at 2.00 pm.

Present: Councillor Giles McNeill (Chairman)
Councillor Mrs Jackie Brockway (Vice-Chairman)

Councillor Mrs Sheila Bibb
Councillor David Bond
Councillor John McNeill
Councillor Mrs Angela White
Alison Adams
Andrew Morriss

In Attendance:

Councillor Ian Fleetwood	
Councillor Mrs Pat Mewis	
Ian Knowles	Executive Director of Resources and S151 Officer
Mark Sturgess	Executive Director of Operations and Head of Paid Service
Alan Robinson	Strategic Lead Governance and People/Monitoring Officer
James O'Shaughnessy	Corporate Policy Manager & Deputy Monitoring Officer
Lucy Pledge	Internal Audit
Matthew Waller	Internal Audit
Lucy Gorringe	Customer Insight Analysis
Natalie Kostiuk	Customer Experience Officer
James Welbourn	Democratic and Civic Officer

Apologies: Peter Walton

Membership: 2 members of the public.

68 PUBLIC PARTICIPATION PERIOD

The following question was asked of the Committee by Mr Ian Forster:

Dear Chairman/Members of the Committee, I am concerned about what I consider to be a lack of transparency, democracy and probably more importantly the lack of respect for elected Councillors by the council Planning Department.

In a recent planning application (137092) submitted by my daughter the elected Ward Councillor (Councillor Tom Regis) submitted a written request for the application to be called in and dealt with by The Planning Committee. The request set out at length his reasons detailing relevant planning policies, in accordance with the requirements of the Constitution.

The entry on the West Lindsey District Council website showed this had been called in and

also the Planning Officer requested an extension to the time for consideration/deliberation. This was taken (wrongly as it transpires) as the relevant parties agreeing to the Councillors wishes. It then came as something of a surprise to receive a refusal notice under delegated powers.

My understanding is that Councillor Regis was not consulted by the Planning Officer, to explain why the officers did not accept his reasoning or the policy references. In a subsequent email following the refusal of permission it was explained that the Chairman "had viewed the officer report and the representations related to this application". It is unclear whether the Chairman had read or considered the reasons for the "call in" and I understand that the Chairman never discussed the matter with the Ward Councillor before making his decision that the application should be refused.

I am particularly concerned that the decision should be made without at least a discussion with the Ward Councillor. It begs the question, in relation to the determination of planning applications, do we need a Planning Committee or in fact Elected Ward Councillors? Maybe the unelected Planning Officers could deal with all applications by delegated powers thus saving time and a considerable amount of money. I understand that a number of other elected councillors have had similar experiences during recent months.

I think it is a sad indictment of Democracy within West Lindsey District Council, particularly when the Government are pushing for more houses to be built when the persons who are elected and know the local issues and concerns best are not even consulted or kept informed.

My questions are as follows:-

1. Will the Committee carefully assess and reconsider the terms of the Constitution in so far as it relates to the opportunity for a Member to "call in" an application to be considered by the Planning Committee?
2. Will the Committee consider making it a requirement, that before agreeing to an officer decision, the Chairman should first discuss the matter fully with the Ward Councillor concerned? During such discussions, the reasons should be carefully explained, as to why the issues and planning policies specified are not sufficient in the particular case to justify the determination by the Committee.
3. In the interests of transparency, will the Committee also require that these reasons be set out in writing and included in the application file documents?

The Head of Paid Service responded as follows:

I would like to thank Mr Forster for his question. In answering the question it is first important to understand the context in which the Planning Committee operates.

Legally it is a 'quasi-political' committee which takes planning decisions in the interests of West Lindsey as a whole. It is required to take those decisions on the basis of national planning considerations. Those decisions are also policy led. In other words the decisions have to be taken in accordance with the national and local policy (National Planning Policy Framework, Central Lincolnshire Local Plan, Neighbourhood Plan) unless any of the

material considerations indicate otherwise. It is also the Council's strategic committee on planning matters. In other words the delegations are clear that all proposals which have major significance or are of importance to the district as a whole must be considered by the Planning Committee.

The delegations to which Mr Forster refers are universally accepted nationally. Amongst local planning authorities across England around 95% of decisions on planning applications are taken using some form of delegated powers (West Lindsey District Council takes 95% of decisions in this way).

At West Lindsey District Council the current delegation arrangements were introduced by Members in 2011 following a series of workshops which thoroughly examined the issues. They have been regularly reviewed since by:

- Introducing the role of the Chairman in being consulted on all applications where a Ward Member requests that an application is considered by Committee;
- Requiring all applications which conflict with policy to be determined by committee – as Members make policy only they should agree a breach to that policy.

The delegations were last reviewed following an audit of the service in 2017 (the audit gave the service 'substantial assurance').

Planning and Democracy

It is important to remember that the principal role of Members is setting policy. It is the officers' role to implement that policy; in planning, this is established through the Central Lincolnshire Local Plan and the relevant Neighbourhood Plans. However in recognition that planning considerations can be open to interpretation the delegations to officers contain a number of provisions which allow non-strategic applications to be considered at the Planning Committee. These provisions include:

- Probity conditions (where the applicant is an officer or member or a close relative of an officer or a member);
- Where the planning issues are finely balanced. In this case objections from neighbours or parish councils can trigger the application being considered by the Planning Committee;
- Ward Member requests, in accordance with the adopted protocol, details of which are given below.

Ward Members can request that a planning application is considered by the Planning Committee. In doing this they need to give 'planning reasons' (a proforma is provided for this). This is because the Planning Committee will have to decide the proposal using planning reasons and it is reasonable that the Member making the request gives some evidence to the Committee on the planning matters or policy they think are at issue. The Chairman of the Planning Committee is always consulted on any request made by a Ward Member to refer an application to the Planning Committee. The request also has to be made within 28 days of the application first appearing on a weekly list of new planning

applications (N.B. as part of changes introduced after a peer review of the service in 2015 all Ward Members are notified by email of new applications in their ward as soon as they are validated, so 28 days is a minimum).

Current Performance

Since January 2017 there have been 14 requests from Members to refer applications to the Planning Committee for determination. In this time the service has dealt with 1400 planning applications. Of these, 13 call-in requests from Ward Members were discussed with the Chairman of the Planning Committee (the remaining application was not discussed as the Member agreed with the decision made by officers and withdrew his request). In 5 of the cases the matter was discussed with the Ward Member and the Member agreed with a delegated decision.

5 of the 14 decisions complied with the constitutional requirements to provide material planning reasons. Of these 5, 2 went to the Planning Committee; the remaining 3 were discussed with the Member and their concerns were addressed.

3 of the 14 decisions only partially complied with the constitutional requirements. 6 of the 14 decisions contained either no planning reasons for call-in, no reference to policies or were submitted after a deadline.

The Head of Paid Service had also discussed the matter with the Planning Services Manager in preparation for this meeting, and no application where the Chairman of the Planning Committee agreed with the Ward Member that the application should be determined by the Committee had not been considered by the Planning Committee.

Members' Training

In order to ensure Members have the necessary skills to be able to act effectively when dealing with planning matters, regular training, to which all Members are invited is undertaken. This includes identifying the planning reasons and policies they used to raise in making a request for a planning application to be referred to the Planning Committee. It must be stressed that this training is open to all Members, and not just those that sit on the Planning Committee.

Conclusions – Planning and Democracy

It is often cited that the Planning Committee is about democracy. If that means Members of the Planning Committee have unfettered discretion to make any decision they want on an application then this is not correct. They have to make decisions in accordance with the development plan unless material (planning) considerations indicate otherwise. The democracy in planning comes earlier in the process when Members set the policy in the development plan.

Points of Caution

In a lot of ways the delegated arrangements help to protect Members. Planning is often an area of controversy and has been under the spotlight at a number of Councils over the years due to poor practice – this Council has not been immune to this. It is also recognised that

Members are part of the community they serve. This focus on the delegations, or 'planning matters' is correct as it prevents applications where 'planning matters' are not the main issue from being determined by the Planning Committee.

Questions

- 1) The Constitution is about checks and balances. There is already a provision in the Constitution that allows the Planning Committee Chairman to be consulted on a planning application where a Ward Member has requested an application to be determined on the Planning Committee. In all cases since January 2017 where this provision has been exercised the view of the Chairman of that committee has prevailed.
- 2) It is also open to the Chairman to discuss the application with the Ward Member before expressing a view on whether the application should be determined by Committee. It was the view of the Head of Paid Service that this covers Mr Forster's first two questions.
- 3) The Head of Paid Service agreed with Mr Forster's third question, that all the reasons for referring an application to Committee, or not, should be included in the application file. There is always room to improve communications.

69 MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 13 March 2018 were approved as a correct record and signed by the Chairman.

70 MEMBERS DECLARATIONS OF INTEREST

There were no declarations of interest.

71 MATTERS ARISING SCHEDULE

The matters arising schedule was noted.

In relation to the Unaudited Statement of Accounts in June, this would take place from 1pm on 19 June, with a ten minute break before the start of the Governance and Audit Committee.

Councillor Giles McNeill had not yet been contacted by Councillor Mrs Rollings on the subject of the Leisure Contract; this had previously been raised at Full Council on 9 April 2018.

72 ATTENDANCE OF HEAD OF PAID SERVICE - PLANNING DELEGATIONS

The Head of Paid Service answered Members' questions on planning delegations. The points raised are highlighted below:

- Councils can have their planning powers removed, and the Government was progressively tightening targets local planning authorities are required to meet. Removal of the council's planning powers would not be permanent; planning powers

would be taken away by Government until the system failure had been addressed. West Lindsey District Council (WLDC) were at risk at the end of 2016, but then was able to demonstrate nine months of continuous improvement;

Note: The Chairman read out an email on this topic from Councillor Lewis Strange. This email had been circulated at Cllr Strange's request to all Members of the Governance and Audit Committee.

- Planning was an apolitical topic and therefore no favouritism would be offered to any individual of the Council;
- The application paperwork does refer to relatives, and Members have the opportunity to fill this field in if an application coming to Planning was from a Member of their family;
- Parish Councils were consultees in the planning process. All comments from Parish Councils were taken into account, and would be reflected in the reports taken to Planning Committee;
- In the last couple of years WLDC had done more training sessions that involved Parish Councils, with the aim of giving them a better degree of knowledge on planning matters. They were made aware of every planning decision taken in their area;
- One of the recommendations from the peer review of the Planning Service was closer working with Parish Councils; this had been done by providing more joint training sessions with parish councillors and West Lindsey District Council Members;
- There were mechanisms whereby Parish Councils and affected neighbours can get planning applications referred to the Planning Committee, which had been referred to in the public participation item.

73 DRAFT INTERNAL AUDIT QUARTER 4 PROGRESS REPORT 2017/18

Members considered a report giving an update of progress by the Audit partner against the 2017/18 annual programmes agreed by the Governance and Audit Committee in March 2017.

Following questions from Members, information additional to the report was provided:

- Limited assurance was given on the finance system. A replacement system is being considered; Civica have quoted £30,000 for the replacement module currently being used for testing;
- It was useful to have two assurance ratings; one for the finance system, and a second for the process;
- The bank reconciliation was being run on a daily basis and had a small number of minor variations. This seemed to occur when the pennies were not put through. This

would be continually monitored through April; by 19 March there was a week's worth of no variations. The Head of Finance will scrutinise until the end of April and then rely on the daily reconciliation to identify any problems.

RESOLVED to:

- (1) Note the report;
- (2) Highlight that commercial billing is an area of concern and should be completed by June;
- (3) Ask for a further report on commercial billing to be brought to the June meeting of Governance and Audit.

74 REVIEW OF STRATEGIC RISKS (APRIL 2018)

Members considered a report on the review of strategic risks facing the Council as at April 2018.

In addition to the information in the report, the Executive Director of Resources advised Committee that when something unusual occurs, such as the virus that struck computer systems at Lincolnshire County Council, it is within the general mitigation of officers to take the necessary action.

RESOLVED to note the report.

75 MEMBER CHAMPIONS

Members considered a report proposing a new role description for Member Champions. This description was proposed to be added to the Constitution. It had been recommended to the Governance and Audit Committee by Prosperous Communities Committee.

RESOLVED to recommend the addition of the role description attached at Appendix 1 of the report into the Constitution for the Civic year 2018/19.

Note: Councillor David Bond left after the conclusion of this item.

76 PERIODIC REVIEW OF THE ANNUAL GOVERNANCE STATEMENT ACTION PLAN 2016/17

Members considered a report reviewing progress of the Annual Governance Statement 2016/17 action plan.

Since the previous report came in November 2017, 3 further actions (relating to resilience and capacity, political governance, and development management) had been closed off. There was no slippage envisaged; there were, however, further discussions around the value for money priority. Since the New Year, a Performance Officer had been appointed; they would take overall responsibility for this task, in particular for benchmarking and performance.

RESOLVED:

Members were assured that the current position of the Annual Governance Statement Action Plan for 2016/17 will result in the completion of all relevant actions by July 2018.

77 CONSTITUTION ANNUAL REVIEW

Members considered a report on the annual review of the Constitution. The Committee were also asked to approve the amendments made to the Financial and Contract Procedure Rules, which would subsequently be noted by Council as part of the Annual Review. Article 14 stipulates how such a review should be conducted and this is set out at Section 1.2 of the report.

Arising from the feedback received a number of additions/ amendments are proposed to come into immediate effect, following Annual Council. These are as set out in the table in Section 2. Those highlighted green support the Council's commercial agenda whilst those highlighted red are deemed to be greater than "house-keeping" in nature.

Building on the successful introduction of a new Code of Conduct in May 2017, particular focus has also been given this year to ensuring the Operation of Conventions included within Section III of the Constitution is reflective of how Members and Officers engage across the Council.

Two workshops, open to Senior Officers and All Members of the Council were held in January 2018, and allowed attendees to take a focussed look at this Section (III) of the Constitution.

It should be noted the most frequently raised point by attendees at the work shop was that the contents of the Protocol were not widely known of and therefore work had been undertaken to raise its profile.

The Governance and Audit Committee were delegated to make any changes to the Financial and Contract Procedure Rules between Annual Councils. A set of revised rules were attached at Appendices 3a and 3b. Appendix 3 detailed the table of amendments which had been made to each document along with the rationale for each and Members' attention was particularly drawn to those amendments which had been made to reflect the Council's commercial agenda, highlighted in green.

With regard to the Financial Procedure rules, the delegation at 7.2.9 of the Executive Director of Resources in forming a partnership is for a maximum contribution by the Council of £25k, and therefore for clarification purposes it was suggested that Financial Procedure Rule 7.2.9 be further amended to read as follows:

7.2.9 The Executive Director of Resources is authorised to form a partnership arrangement with a maximum value contribution by the Council of £25k for works/services.

Following this introduction, Members commented on the report, and these comments are

highlighted below:

- The Monitoring Officer had the power to appoint Members of Parish Councils in instances where they were inquorate. In future, this would be reported to Governance and Audit Committee;
- Some housekeeping amendments were required at pages 91 and 252 of the bookmarked agenda;
- The British Trust for Volunteers was now known as the Trust for Conservation Volunteers.

RESOLVED:

- (a) That Members note the outcome of the annual review;
- (b) That the amendments detailed at Section 2 of the report be recommended to Council for immediate adoption and implementation;
- (c) The revised Member Officer Protocol (formally known as the Operation of Conventions) (Part III – Codes and Protocols) – attached at Appendix 1a be recommended to Council for immediate adoption and implementation, and the Monitoring Officer be requested to promote its content at meetings of the Service Leadership Team (SLT);
- (d) The Member Champion Role Description – attached at Appendix 2 be recommended to Council for inclusion within the Appendices of the Constitution;
- (e) That Members approve the amendments made to the Financial and Contract Procedure Rules – attached at Appendix 3a and 3b, and these be noted by Council as part of the Annual Review;
- (f) That the amendments detailed at Appendix 4, 4a, and 4b of the report, already approved by Council/Committee, throughout the year be noted;
- (g) That Members note the further planned work detailed at Section 4 of the report.

78 WORKPLAN

The workplan was noted.

The meeting concluded at 3.32 pm.

Chairman