

## EAST DEVON DISTRICT COUNCIL

Minutes of a meeting of the Standards Committee held at Knowle, Sidmouth on Tuesday, 20 January 2015

### **Attendance list at the end of the document**

The meeting started at 10.00am and ended at 10.55am

- \*11 Public speaking  
There were no questions asked.
- \*12 Minutes  
The minutes of the meeting of the Standards Committee held on 28 October 2014 were confirmed and signed as a true record.
- \*13 Declarations of interest  
There were none.
- \*14 Probity in planning and lobbying by and of councillors  
At their last meeting, the Committee had considered a report on probity in planning and the lobbying by and of councillors. Following a lengthy discussion, the Committee resolved to defer the issues to the following meeting to allow the Deputy Monitoring Officer to draft a further discussion document on introducing declarations at Development Management Committee (DMC) meetings where there had been significant lobbying of committee members by developers or supporters or those opposing an application.

The Committee considered the Deputy Monitoring Officer's further report on the matter. Key points included:

- Lobbying was a legitimate part of public life. Only when accompanied by aggravating factors, such as intimidation, should it be a concern to members and the public. Cases of intimidation were likely to be referred to the police.
- Reference was made to a recent Ombudsman report highlighting the importance of members having the correct information before making a decision. The preparation of an officer report to DMC for each application considered was key to ensuring fairness and transparency in planning decision making.
- The Council's advice, endorsed by the Standards Committee, to town and parish councils was that where they have been involved in pre-application discussions with developers, to ensure transparency, this should be made known to EDDC's planning department when submitting their consultation response.
- The Council's Planning Code of Good Practice provides for members to report any significant contact with the applicant or other parties to the Development Manager. It was suggested that to build on this the Committee might wish to consider that where there has been significant lobbying, and it involves a member of DMC, that this be recorded for transparency purposes in the committee report. A further suggestion was that if a member had been subject to significant lobbying and it had not been noted in the committee report then a simple declaration could be made to that effect at the meeting. This could be followed by a statement that the member retained an open

mind and would only reach a decision in relation to the application after consideration of all the relevant facts.

- Following changes introduced by the Localism Act 2011 members were entitled to engage with people about a matter and express views without it preventing them from subsequently taking part in the decision making process. To avoid public perceptions about bias and unfairness in the decision making by DMC members, the Council's Planning Code advised against members expressing strong views in advance of a meeting or giving an indication of how they might vote.

Points made and questions raised during discussion on the report included:

- The use of the word 'developer' should be replaced with 'applicant' as this was considered more appropriate – most people tended to associate the word developer with large scale developments.
- Declarations of significant lobbying should apply to Ward Members who comment on or address the DMC as well as the Committee members.
- The suggestions set out in the report had taken on board the Committee's previous discussions on the subject and would help to strengthen accountability and improve transparency in the planning process.
- Lobbying of and by councillors that sit on other committees should not be overlooked.
- Members would know themselves what constituted 'significant' lobbying. Although significant lobbying would not be defined, a non exhaustive list of examples could be included in the Planning Code, such as excessive and persistent emails from the applicant, a supporter or an objector. It was in the interests of individual councillors to declare where they had been significantly lobbied to avoid accusations of undue influence.

#### **RESOLVED:**

1. that the Deputy Monitoring Officer draft changes to the Council's Planning Code of Good Practice to include.
  - Where there has been significant lobbying by an applicant, supporter or objector regarding an application coming before the Development Management Committee, and it involves a member of that Committee or a Ward Member, that this is reported to the Development Manager and recorded for transparency purposes in the committee report.
  - Where there has been significant lobbying by an applicant, supporter or objector regarding an application and it had not been noted in the committee report, for example it happened after the report was published, then the member should make a declaration to that effect at the meeting. This to be followed by a statement that the member retains an open mind and would only reach a decision in relation to the application after consideration of all the relevant facts.
  - A non exhaustive list of examples of 'significant' lobbying.

The amended Planning Code to be presented to the next Standards Committee meeting for approval before being recommended to Council.

2. that the Service Lead – Planning be invited to the next meeting to explain how the changes to the Planning Code would work in practice.

\*15 Complaint update

The Committee considered and noted the report of the interim Monitoring Officer, which detailed the level of code of conduct complaints received since the last meeting.

The Interim Monitoring advised that an increasing number of the complaints received in respect of parish councils were about procedural issues rather than a potential breach of the Code of Conduct. This was an issue that may need to be addressed in order to manage the expectations of the complainant – although the Monitoring Officer could offer advice to the parish council, it was not their role to get involved in the sovereignty of councils.

He also updated the Committee that having carried out further assessment he did not consider complaint MO-C073, which related to a planning application, to be a Code of Conduct matter. The Councillor had been supporting and representing their community.

Members of the Committee raised that they felt there was a lack of detail on the outcomes of the complaints contained within the report. They did not feel this gave a true reflection of the work involved and could lead members of the public to think that complaints received were quickly dismissed. Members wished to see more information in the report on the reasons for the Interim Monitoring Officer reaching the decision he had on each complaint and details of any other actions taken, such as procedural advice being given to the council. The Committee confirmed that they wished for the complaints to remain anonymous so the report could still be considered in public.

**RESOLVED:**

that more detail is included in respect of the complaint outcomes in future complaint update reports to the Committee.

\*16 Whistleblowing Policy

The Deputy Monitoring Officer and Corporate Legal and Democratic Services Manager advised the Committee that the Council's current Whistleblowing policy required updating in light of legal changes, including that any disclosure must now be in the public interest. The existing policy, which had been included on the agenda for information, would be updated in light of the changes and included on the agenda for the next meeting.

**RESOLVED:**

that the Deputy Monitoring Officer and Corporate Legal and Democratic Services Manager make the necessary changes to the Whistleblowing policy and present the updated Policy to the next Committee meeting.

17 Councillor attendance at committee meetings

The Chairman invited Committee member Cllr Tony Howard, who had asked for this item to be placed on the agenda, to address the Committee.

Councillor Tony Howard introduced the idea of publishing an annual report on Councillor attendance at Committee meetings of which they were a member. He spoke about the importance of this information being in the public domain in the interests of transparency and democracy. He also mentioned concern that Councillors did not always stay until the end of meetings and this led to the risk of

meetings being inquorate. Therefore, in addition to attendance at meetings it was also suggested that the length of time a councillor was at each meeting could also be recorded and published.

During discussion a member of the Committee advised that in some other authorities a Councillor's attendance at committees of which they were a member was shown on their profile along with an attendance percentage.

A non Committee member raised concern about what was trying to be achieved by publishing the information and commented that the effectiveness of a councillor was not necessarily based on how many meetings they attended.

**RECOMMENDATION:**

that the Democratic Service Team find a suitable system for recording Councillor attendance at committee meetings, of which they are a member, and length of attendance with a view to, subject to Council approval, introducing the system from Annual Council 2015 and reporting the data on an annual basis.

\*18 Forward Plan

The Committee noted the contents of the forward plan and future meeting dates.

The following items would be included for consideration at April's meeting:

- Planning Code of Good Practice – updated in line with the Committee's recommendation
- Updated Whistleblowing policy

**Attendance list**

**Present:**

Councillors:

Graham Godbeer (Chairman)

Susie Bond

Tony Howard

Frances Newth

Co-opted non-voting members:

Cllr Courtney Richards, Co-opted Parish/Town Council member

Ray Davison, Co-opted Independent member

David Mason, Co-opted Parish/Town Council member

Tim Swarbrick, Co-opted Independent member

**Also present:**

Alison Willan, Independent Person

Councillors:

Ray Bloxham

Roger Giles

**Officers:**

Ian Clarke, Interim Monitoring Officer

Rachel Pocock, Deputy Monitoring Officer and Corporate Legal and Democratic Services Manager

Hannah Whitfield, Democratic Services Officer

**Apologies:**

Cllr Geoff Chamberlain – Committee member

Cllr Alan Dent – substitute Committee member

John Walpole, Independent Person

Chairman ..... Date .....