

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held on 14 March 2018 at 6.00 pm

Present

Councillors

Mrs J B Binks (Chairman)
Mrs F J Colthorpe, F J Rosamond,
C R Slade, Mrs E J Slade, Mrs M E Squires,
L D Taylor and Mrs N Woollatt

Apologies

Councillor(s)

C J Eginton

Also Present

Councillor(s)

R M Deed, Mrs J Roach and T W Snow

Also Present

Officer(s):

Stephen Walford (Chief Executive), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Sally Gabriel (Member Services Manager), Maria De Leburne (Solicitor) and Julia Stuckey (Member Services Officer)

65 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr C J Eginton.

66 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT

Cllr Mrs F J Colthorpe declared a personal interest for agenda item 6 as she was the Chairman of the Planning Committee and Cllr F J Rosamond declared a personal interest for item 8 on the agenda as he was the Chairman of the Scrutiny Committee.

67 PUBLIC QUESTION TIME

With reference to item 6 on the agenda Mr N Quinn said last July, I asked you for increased support for members of the public speaking to planning applications.

It seems the answer is No, as Mrs Tebbey's report proposes options which would remove the public's constitutional rights completely or replace them with Chairman's discretion. Supporting these options will place great pressure on the Chairman and is more likely to raise tensions with the public rather than relieve them.

Many Planning Committee Members rely solely on the Officer report and recommendation as the basis for their decision. The public use question time to inform Members by questioning statements made in the Officer report and pointing out material omissions or inaccuracies that Members may wish to explore.

Over the past year, the average Planning Committee meeting took 3 ½ hours. Public Question Time averaged only 12 minutes. However, Mrs Tebbey blames Public

Question Time for the length of meetings but does not consider any other issues.

Question to Chairman – The Council recently had a Peer Review of Planning Service Productivity which produced some comments and recommendations specifically aimed at reducing the length of Planning Committee meetings. Have these comments and recommendations been fully implemented?

In para 3.5 - Mrs Tebbey states that there is “a general limit on speakers and the nomination of a spokesperson is common to many councils”.

However, in our local area the number of objectors who can speak is generally set higher than our one:

Taunton Deane = No Limit,
North Devon = 6,
East Devon = 2,
Torridge = 2,
Teignbridge = 2 if large and 5mins

Question to Chairman – In the light of these local figures, would the Standards Committee, when addressing Protocol para 9.2, please raise the number of Objectors (and Supporters) who can speak to 2?

In Para 4.2, Mrs Tebbey says she “raised the issue with counterparts nationally” and gives some feedback. However, the Councils quoted may not be comparable to us.

Question to Chairman – Where did these 6 comments come from? How many of the 200 District Councils in England were actually contacted? How many replies were received from them?

In the Council’s Code of Corporate Governance you use “Public Question Time at every Committee” to evidence that “the authority as a whole is open and accessible to the community....”.

Were Members aware that the recent Residents Satisfaction Survey showed that:
Only 41% of residents believe that this Council acts on their concerns and
Only 51% of residents trust this Council

Restricting the scope of Public Question Time at Planning Committee will lower the standing of this Council even further.

I urge you to leave para 9.1 of the Protocol as it currently stands.

Also referring to item 6 on the agenda Cllr B Warren of Willand Parish Council said Why is it that a Parish Councillor can speak for 3 minutes in objection to a small unsightly extension proposal but can still only speak for the same amount of time to object to a complex application for say 259 houses that will increase the size of the village by 20%? The same concern applies to a Ward Councillor having 5 minutes. Is there not an argument for being able to provide a proportionate response by extending the time in such cases?

As I read Mrs Tebbey’s report I get the impression that she is suggesting that there be restrictions placed on the content of public questions which prevents questions

being asked to make a point which is of concern but cannot be made within the 3 minutes. Am I correct in this interpretation? If so how is this going to correct the perceptions held by public and councillors that their views are not valued? As it is many questions are not answered.

Issues are sometimes raised by Planning Committee members which an officer cannot answer or gives an incomplete misleading answer. Would it not be good practice for the Chair to have discretion to ask a Parish Council member in appropriate cases as they would probably have the factual answer?

Cllr R M Deed asked a question regarding Planning Committee site visits and Planning Working Group visits. He considered that the protocol did not make it clear who could visit a site with the full Planning Committee and asked for clarification.

The Monitoring Officer reminded the Committee that the purpose of agenda item 6 was to consider the protocol for Ward Members speaking at Planning Committee and that she had not yet carried out a complete review of the protocol with regard to other areas, such as site visits.

The Chairman informed the Committee that answers would be provided at the agenda item.

68 MINUTES

The Minutes of the previous meeting were approved as a true record and signed by the Chairman.

69 CHAIRMAN'S ANNOUNCEMENTS

The Chairman gave her apologies for the next meeting.

70 MOTION FROM COUNCIL 0.25

The Committee had before it a Motion from Cllr Mrs J Roach which had been forwarded from Council to the Standards Committee for consideration along with a report * from the Monitoring Officer in connection with the motion and other issues.

Motion 541 (Councillor Mrs J Roach – 30 November 2017)

This Council reconsiders the time and times that it allows ward members to speak at the planning committee. The present system gives many opportunities to speak but allows the local member only one opportunity. At the very least Council should give elected Councillors the opportunity to correct incorrect statements, something that exists within standing orders but not allowed at the planning committee. At the last planning committee the situation that exists at the moment prevented me as the elected Councillor for Silverton for pointing out that the Highways advice was inconsistent with previous advice given on the same site.

Cllr Roach introduced her Motion, explaining that it was not an attack on Planning Chairmen and put on record that she appreciated that it was a difficult job. She was critical of events but did not put blame on anyone. The context of her Motion was that people attending Planning Committee had often spent time researching and were

often nervous with a lot invested in what was going to happen. It could be an emotional and scary experience. The whole system was stacked in favour of the developer, the Planning Framework did that, reports from officers did that and if rejected there was a right to appeal. It was therefore important that we did not restrict the rights of objectors who had nowhere else to go other than judicial review which was very expensive. She concluded that objectors were at an extreme disadvantage along with local Members. She continued by stating that prior to last year Ward Members could speak at any point but that was stopped and she regretted that, she considered it sad that local Members were restricted. She also pointed out that if the local Member was on the Planning Committee they could speak to the item which was an unfair advantage if other Ward Members were restricted. She further explained that the particular application she was referring to had included a report from Highways. There were some issues with the accuracy of information given but she had been unable to speak to correct this. She considered that objectors were hampered by the time they had to speak and that Planning Officers could counter every point made by a Member. The whole process was heavily biased to the officer's report.

The Monitoring Officer outlined the contents of her report and provided a short power point presentation highlighting some areas for conversation. She explained that when she was asked to look at public speaking rights she felt it would be remiss not to look at the whole section in the protocol as there was a thread that ran through the process that needed to be considered.

The officer explained that the points she made were not to undermine or blame public speaking but there to provoke discussion and help to tease out changes to be made.

Referring to questions asked during Public Question Time the Monitoring Officer responded that:

- She offered to investigate what neighbouring authorities set as limits if the Committee wished her to;
- She did not have answers to hand regarding the Peer Review and would respond in writing to that question;
- With regard to having raised questions with her counterparts nationally the officer explained that she had access to various websites and for this issue had referred to the forum on a Local Government Lawyers site. She had asked a question regarding procedures, an open question asking how other authorities operated. She had provided the responses within her report but had not identified the authorities as they had responded on a private site and she did not consider it appropriate to put this in a public domain. She could however confirm that they were trusted sources. However, there were no rules regarding public speaking and it was up to each authority to make their own protocol.

The current Chair of Planning responded by saying that chairing Planning Committee was not an easy job to do at any time because at least 50% of the people that came were going to go away disappointed because the outcome of planning applications would always upset somebody. When she had first joined the Planning Committee

scarcely anyone had used public question time. Odd visitors attended but it was not used as it was now as a forum for those that were unable to speak at an item, because of the way we currently ran meetings. It used to be that the applicant followed after the officer's report and was able to add anything he felt the officer had overlooked. This had been recently changed so that the objector spoke after the officer's report as objectors felt they should have that opportunity. She had no preference but that was the way it was currently run. Cllr Colthorpe explained that she had on occasion allowed more than one objector to speak to large applications and was quite relaxed about that but even with two there was a limit to what the Committee could take in and there was a limit to the number of new matters that could be raised.

The current Chair of Planning then informed the Committee that she often asked the public to make sure that they were not all repeating the same questions. She added that she was very happy for public question time to be used to make objection or give a statement and had previously discussed whether its title could be changed to allow for this. Cllr Colthorpe said that she had been known to take hands from the floor using Chairman's discretion, but was less comfortable with the idea of having a formal position for people to come back as it could become a dialogue. That was not what the Planning Committee was about, the protocol was there to allow people on all sides, for and against, Ward Members and Parish Councillors and this was covered reasonably well by the protocol. Cllr Colthorpe was personally happy with having Chairman's discretion, but considered it would be very difficult to cope if the right to reply was formalised.

The Monitoring Officer confirmed that the Chairman had a common law discretion in managing meetings, but the public might not be aware of this - so it would be better to ensure it was clear in the protocol.

A previous Chair of Planning agreed with Cllr Colthorpe and explained that she often spoke to the public about how best to get their points across by identifying a spokesperson and sending in comments in advance to be forwarded to the Committee. She agreed with Cllr Colthorpe that Chairman's discretion could be used.

Discussion took place regarding:

- Point of Order was not currently allowed at Planning Committee in the way that it was at other Committees;
- Members considered it acceptable for the public to make statements rather than a question;
- The Chairman could allow a Ward Member or member of the public to speak again using Chairman's discretion;
- The difficulty in demonstrating the fair or consistent use of discretion;
- The length of officer presentations and whether time could be saved at Committee if these were shortened;

- Whether adjacent parishes/Ward Members should be allowed to speak at an item if the agenda item had a clear and material impact on them;
- The level of information that Committee Members were expected to take on board;
- The need for the Chairman to take into consideration matters such as the size of the agenda and length of meeting when using discretion;
- Summaries of public comments within officer reports were not always complete and Members could look on the Planning Portal for the full versions;
- The Clerk circulated information that she received from objectors or supporters to the Committee in advance of the meeting;
- A guide to meeting procedures was available on the website.

Having given consideration to the above points it was **RECOMMENDED** to the Planning Committee that the Planning Protocol be amended to the following:

- a) 9.1 Public Question Time is available at the beginning of the meeting for those present to ask questions about, or to speak on, any item on the agenda, including planning applications.

(Proposed by Cllr C R Slade and seconded by Cllr F J Rosamond)

- b) 9.2 For applications reserved for individual consideration, the Chairman will call those who have indicated a wish to speak in the following order: officer, one objector (3 minutes), one from applicant/agent/supporter (3 minutes), parish council (3 minutes) and ward member(s) (5 minutes each). For the avoidance of doubt, the Chairman has the discretion to vary the number and order of speakers, including the amount of time for which they may speak. In some circumstances, it may also be appropriate to hear from the County Councillor.

(Proposed by Cllr C R Slade and seconded by Cllr F J Rosamond)

- c) 9.3 Through the Chairman, members of the Planning Committee may ask questions of any person who has spoken under paragraph 9.2 of this Protocol. Further, a ward member who has spoken under 9.2 may raise through the Chairman a point of order in order to correct a statement or error of fact which has been made during the course of the debate.

(Proposed by Cllr C R Slade and seconded by Cllr F J Rosamond)

Discussion took place regarding Motion 541.

It was **RECOMMENDED** to Council that Motion 537 not be supported as the matters raised within the Motion had been adequately covered and surpassed by the above recommendation to the Planning Committee

(Proposed by Cllr C R Slade and seconded by Cllr F J Rosamond)

Notes: i) Report previously circulated and attached to Minutes.

ii) Cllr Mrs F J Colthorpe declared a personal interest as Chairman of the Planning Committee.

71 **MONITORING OFFICER UPDATE 2:13**

The Monitoring Officer provided a brief update, explaining that she was continuing to work on the Constitution and would be updating the Scheme of Delegation following recent restructures. There was no ongoing training planned for Parish Councils but this would need to be addressed following the local elections in 2019.

72 **EFFECTIVENESS OF SCRUTINY 2:15**

The Committee had before it and **NOTED** a report * from the House of Commons Communities and Local Government Committee regarding effectiveness of local authority overview and scrutiny committees, along with a briefing note highlighting main points of the report and a personal view from the Chairman of Scrutiny. The Scrutiny Committee had requested that the Standards Committee consider and review the conclusions and recommendations within the paper.

The Chairman of the Scrutiny Committee outlined the contents of the report and his briefing note, highlighting recommendations that had been put forward. Some of these recommendations were already in place at Mid Devon, such as the recently appointed Scrutiny Officer, the use of experts, engaging with service users, Member training and digital engagement.

The Chief Executive informed the Committee that the Government had since responded to these recommendations and the Member Services Manager provided a brief outline of their comments.

It was **RESOLVED** that the updated recommendations from the Government be reviewed by the Scrutiny Committee and that they be asked to report their findings back to the Standards Committee.

(Proposed by the Chairman)

Note: i) Papers * previously circulated and attached to Minutes.

ii) Cllr F J Rosamond declared a personal interest as Chairman of the Scrutiny Committee.

73 **INTIMIDATION OF MEMBERS 2.34**

The Committee had before it and **NOTED** a review by the Committee on Standards in Public Life regarding 'Intimidation in Public Life'.

The Solicitor provided a brief presentation ** which would be circulated to Members following the meeting.

Note: - Review * previously circulated and presentation ** attached to Minutes

74 **COMPLAINTS 2:40**

The Monitoring Officer provided an update regarding on-going complaints being dealt with.

During the discussion it was agreed that the meeting be closed to the press and public to allow the Monitoring Officer to inform the meeting of the detail with regard to ongoing complaints and therefore

It was **RESOLVED** that under section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual.

Following consideration of the Monitoring Officer's information, the meeting returned to a public forum.

(Proposed by the Chairman)

75 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING 2.41**

Effectiveness of Scrutiny
Monitoring Officers Annual Report to the Committee
Complaints

(The meeting ended at 9.08 pm)

CHAIRMAN