

CONSTITUTION WORKING GROUP held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 6.00pm on 1 JULY 2014

Present: Councillors J Davey, I Evans, A Ketteridge, J Menell, D Morson, and L Wells.

Also present for item CWG 4: Councillor J Cheetham

Officers present: J Mitchell (Chief Executive), M Perry (Assistant Chief Executive - Legal) and P Snow (Democratic and Electoral Services Manager).

CWG1 ELECTION OF CHAIRMAN

RESOLVED that Councillor J Menell be elected as Chairman of the Working Group for the ensuing year.

CWG2 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

An apology for absence was received from Councillor Rich.

CWG3 MINUTES

The Minutes of the meeting held on 17 March 2014 were approved and signed by the Chairman as a correct record, subject to the substitution of the date 17 March 2014 for 17 September 2014 in the title.

CWG4 PUBLIC SPEAKING AT PLANNING COMMITTEE MEETINGS

The Chief Executive reported that the Planning Committee had resolved at its meeting on 7 May 2014 to ask this working group to review the issue of public speaking. This had followed a number of lengthy meetings arising from the consideration of contentious planning applications when many members of the public had requested to speak.

He reminded members that the public speaking scheme at planning meetings had been considered by the Council in February 2013. At that time members had been unwilling to place a limit on the number of people able to speak either in favour or in opposition to planning applications and the scheme had operated on this basis since then.

Prior to that meeting the Planning Committee had operated a limit of one speaker for and against each application for the previous eleven years since public speaking had been introduced.

The report included a summary of public speaking at Planning Committee meetings since the introduction of unrestricted speaking and a schedule of public speaking arrangements in neighbouring and nearby authorities.

Councillor Cheetham, speaking at the invitation of the Chairman in her capacity as Chairman of the Planning Committee, said that, in her view, the constant repetition of argument by different objectors to the same application was of limited value and detracted from the case being made. It was much better to hear arguments marshalled by one or two people as this avoided undue repetition and made it both clearer and easier for members to judge the merits of the application.

Members debated the reference from the Planning Committee on this issue and agreed the following points:

- Too much repetition of matters of support or of objection was damaging and counter-productive to the process of deciding on the merits of planning applications.
- It was a basic democratic right for members of the public to be able to express their views about planning matters, but other means existed for that to happen.
- There should be either a time limit, or a limit on the number of speakers, applicable to all planning meetings with the proviso that the chairman would always retain the discretion to allow more speakers or more time if the situation demanded it.
- It was a perfectly reasonable approach, and conducive to the effective conduct of business, to allow and to encourage campaigners, either for or against an application, to organise themselves into groups for the purpose of delivering verbal representations.
- A more focussed public speaking scheme, by avoiding unnecessary delay, would help applicants and members of the public waiting to have their applications heard.

Councillor Ketteridge expressed a concern that local pressure groups would dominate public speaking under a more restrictive scheme to the possible detriment of other members of the public.

Members generally favoured a restriction on the number of speakers as suggested in the final paragraph of the report. They agreed that the scheme could work well if up to three members of the public were allowed to speak for and against each application being considered.

Officers clarified how the registration of speakers would work in practice in the event of a restriction operating, and the effect of a revised scheme bearing in mind previous decisions made by the Ombudsman. The effect was that the Council was entitled to decide upon a scheme restricting the numbers of speakers and to operate guidance limiting each speaker to three minutes, but had to apply discretion to allow speakers to complete their presentation unless this involved constant repetition.

The working group asked officers to ensure that the revised scheme was adequately publicised to mitigate the impact of a negative reaction from the local press and pressure groups. This would include issuing a press release and preparing text for a revised leaflet explaining about public involvement in planning matters. Officers were asked to table revised text explaining how the revised scheme would work for consideration at the Council meeting.

It was AGREED to recommend to Council that a revised scheme of public speaking should operate at meetings of the Planning Committee to restrict speakers to no more than three supporters and three objectors, together with the applicant/agent and the relevant parish council.

CWG5

REVIEW OF THE WORKING OF THE CABINET SYSTEM

The Chief Executive reminded members that the working group had agreed its approach in reviewing the working of the cabinet structure as set out in minute CWG 3. He had prepared draft terms of reference for the review as circulated in appendix 1 to the report.

He took members through the various governance model options available to the Council. The one closest to the model presently operated was option f, a leader – cabinet system operating collective decision making. In this case, no decision making powers of note had been delegated to portfolio holders.

A number of councils of varying types had reverted to a committee system after 13 years of cabinet governance. This change was often associated with a change of political composition, or a position where no party group was in overall control.

The report had listed the pros and cons of executive governance, many of which had been identified in the Scrutiny Committee review of 2012. One of the main reasons identified in favour of cabinet governance was that it provided a quicker way of reacting to challenging circumstances, such as the difficult financial position in 2007. It was also widely perceived that the Council's decision making was quicker and more business-like.

On the other hand, some members undoubtedly now felt excluded from decision making, and less involved than hitherto. The Chief Executive felt that the idea of inclusivity might be as much cultural as structural and that some members would always feel excluded whatever the system being operated. There was also an impact on officers less able to gain experience of presenting reports to members.

In conclusion, he said that the present system was still bedding in and it was probably too early to draw conclusions even though this was a matter for members to determine. The report had identified four choices for the working group to consider. These were:

1. to consider recommending a change back to a committee system now, and whether this should be to a traditional or streamlined system;

2. to consider whether to recommend change to an incoming council and administration in May 2015
3. to recommend changes to the existing cabinet system;
4. to recommend no changes were necessary

The terms of reference suggested reporting to Council in October 2014. In the meantime, the working group could continue meeting over the summer and consider inviting specific members to discuss the operation of the overview and scrutiny functions.

A summary of members' views is set out below:

- Councillor Wells – said she was a convert to the cabinet system as this was proving to be more efficient. Members could be as involved as they wanted to be. The Leader had made best endeavours to be as inclusive as possible but more might need to be done to address concerns about lack of involvement.
- Councillor Davey – had attended a number of cabinet meetings. The system was not wrong in itself but the way it was operated meant there was a lack of debate. Members should be enabled to participate in decisions via cabinet sub-committees. *Note: executive functions could not be delegated to non-executive members, but working groups or task groups could be established to include non-executive members.*
- Councillor Evans – opinion on cabinet operation was divided. A lot of debate presently went nowhere. Members should be made to feel more engaged in the process. This could be achieved by enhanced overview and scrutiny, concentrating especially on internal council functions and decisions.
- Councillor Ketteridge – Uttlesford was one of the best run councils anywhere and he was surprised that anyone would wish to change the system. Cabinet operation was more business-like.
- Councillor Morson – his views in opposition to cabinet were well known. The report was fair and balanced. Members must now decide what to recommend to the new council. Structures had a part to play in how members perceived their role. It would be a matter for the new administration to decide how it wanted to operate. An attempt must be made to note the concerns of members and to enable greater participation.

The Chairman asked how the overview and scrutiny role could be beefed up. One suggestion was for cabinet papers to be examined earlier.

The Chief Executive said this would be possible. One approach would be for this working group to invite the chairmen of the Performance and Audit, and Scrutiny Committees, as well as the Leader of the Council, to a future meeting to discuss how the overview and scrutiny functions could operate in a more inclusive and accountable manner.

Members agreed with this approach with a view to meeting at least once more to agree a recommendation to be made to Council on 21 October.

In discussing further the matter of inclusivity, members were surprised to note that five members of the Council had chosen not to be members of any committee.

In conclusion, it was agreed that the role of this working group in considering the operation of the cabinet system was to suggest to the Council how best to enable the Council's chosen method of governance to work more effectively while providing a means for members to feel more involved in the decisions being made.

It was AGREED to accept the draft terms of reference for this review and to invite the chairmen of the overview and scrutiny committees, and the Leader of the Council to attend the working group's next meeting to discuss how those functions could be made to work more effectively. That meeting would be arranged to take place prior to the October Council meeting.

The meeting ended at 7pm