



Uttlesford District Council

Chief Executive: John Mitchell

Council

Date: Tuesday, 21 October 2014
Time: 19:30
Venue: Council Chamber
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: All Members of the Council

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given two working days prior notice.

AGENDA

PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest**
To receive apologies for absence and declarations of interest
- 2 Minutes of previous meetings**
To receive the minutes for the meeting held on 15 July, 5 and 19 August 2014
 - 2.01 Minutes of the meeting held on 15 July 2014** 4 - 21
 - 2.02 Minutes of the extraordinary meeting on 5 August 2014** 22 - 27
 - 2.03 Minutes of the extraordinary meeting held on 19 August 2014** 28 - 31
- 3 Matters arising.**
To consider matters arising from the minutes

- 4 Chairman's announcements**
To receive any announcements from the Chairman
- 5 Matters of report from the Leader and members of the Executive**
To receive reports from the Leader and members of the Executive
- 5.01 Portfolio holder report - community safety** 32 - 33
To consider a report by Councillor Walters
- 6 Members' questions to the Leader, Executive and committee Chairmen**
To receive members' questions
- 7 Matters received from the Executive (standing item)**
To consider items referred from the Executive
- 8 Matters received about joint arrangements and external organisations (standing item)**
Matters concerning joint arrangements and external organisations
- 9 Matters received from committees and working groups**
To consider items referred from the Council's committees and working groups
- 9.01 Review of the Cabinet system and overview and scrutiny arrangements** 34 - 51
To consider a report by the Constiution Working Group
- 9.02 Independent Members of the Standards Committee** 52 - 57
To consider the appointment of independent members
- 10 Membership of committees and working groups**
To consider membership of i) Planning Committee ii) Local Joint Committee
- 11 Chairman's urgent items**
To consider items that the Chairman considers to be urgent

PART 2

Exclusion of the Public and Press

Item containing exempt information within the meaning of paras 1,2,7 of Schedule 12A of LGA 1972

- 12 Report of Monitoring officer**

MEETINGS AND THE PUBLIC

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The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

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For information about this meeting

Democratic Services Officer – Peter Snow

Telephone: 01799 510430 Email: Committee@uttlesford.gov.uk

General Enquiries

Council Offices, London Road, Saffron Walden, CB11 4ER

Telephone: 01799 510510

Fax: 01799 510550

Email: uconnect@uttlesford.gov.uk

Website: www.uttlesford.gov.uk

COUNCIL MEETING held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 15 JULY 2014 at 7.30pm

Present: Councillor K Artus – Chairman.
Councillors G Barker, S Barker, C Cant, R Chambers, J Cheetham, J Davey, P Davies, A Dean, R Eastham, K Eden, I Evans, M Felton, M Foley, J Freeman, E Godwin, S Howell, D Jones, A Ketteridge, J Ketteridge, T Knight, R Lemon, K Mackman, J Menell, D Morson, E Oliver, E Parr, D Perry, V Ranger, J Redfern, J Rich, H Rolfe, J Rose, D Sadler, J Salmon, L Smith, A Walters, D Watson and L Wells.

Officers in attendance: J Mitchell (Chief Executive), R Dobson (Principal Democratic Services Officer), M Perry (Assistant Chief Executive – Legal), A Taylor (Assistant Director Planning and Building Control), P Snow (Democratic and Electoral Services Manager) and A Webb (Director of Corporate Services).

PRESENTATION

Before the meeting commenced, representatives of Family Mosaic made a short presentation and answered members' questions about the work of the organisation across Essex and especially in relation to services provided to people in need living within Uttlesford.

C16 PUBLIC SPEAKING

Speaking on her own behalf, and on behalf of residents of neighbouring properties, Dr Jean Johnson made a statement about the outcome of her complaint to the Local Government Ombudsman and to the Information Commissioner regarding the Council's handling of a planning application at an adjoining property. A summary of her statement is appended to these minutes.

Councillor Derek Jones spoke during the public speaking session in support of the statement made by Dr Johnson. His statement is included as an appendix.

C17 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Harris, Hicks and Loughlin.

The Chairman said that it was a great pleasure to see Councillor Walters back again following his recent enforced absence.

C18 MINUTES

The minutes of the annual meeting held on 13 May 2014 were received and signed by the Chairman as a correct record.

C19

BUSINESS ARISING

(i) Minute C13 – Chief Executive’s announcement

Councillor Dean expressed disappointment that a recruitment process had not been initiated for the position vacated by Stephen Joyce. He said that a permanent replacement was needed for reasons of competence, integrity and to maintain a strategic approach.

The Chief Executive reconfirmed his recent message to all staff and councillors that he wished to see first how policy evolved with a new leader in place before reaching any conclusions about the correct structure to have in place. The statutory duty to have in place a Section 151 officer was being addressed at a later point in the agenda.

(ii) Minute C14(ii) – report of the Executive Member for Communities and Partnerships

Councillor Cant said she had much enjoyed the visit of the Tour de France to Uttlesford and congratulated all of those involved with the arrangements.

C20

RESIGNATION OF LEADER OF THE COUNCIL

Councillor J Ketteridge announced his resignation as leader of the Council and leader of the Conservative group with immediate effect. He confirmed that he would not seek re-election as a district councillor in May next year. His resignation now would allow a new leader to come to terms with the role before the election.

He had acted in the role of leader of the Conservative group for 11 years and as leader of the Council for seven years. His time as Leader had coincided with the most difficult period in the Council’s history. A black hole in the finances had required immediate action to remove £1m from spending plans to allow a legal budget to be set.

These events had led to the setting up of a voluntary improvement board and a new management structure. This had required a change in the spending culture prevalent at that time and gradually a different council had emerged from the ashes.

The close working relationship he had developed with the Chief Executive had been at the heart of the transformation needed to deal with the financial crisis enveloping the Council in 2007.

He had also facilitated the devolution of assets to parishes; this rectified mistakes made in the reorganisation of the 1970s.

The Council’s finances had been placed on a sound footing. This had led to a favourable variance for seven years running and a period of four years when the

Council had not increased its share of Council Tax. Indeed, for two years, the Council's share of Council Tax had been cut.

These steps had all been necessary in planning for a future in which there would be little or no financial support from central government.

On 4 July, the local plan had been submitted for examination. He hoped this would lead to the plan being adopted. Local people could not afford to climb on the housing ladder. The local plan would help to address this problem.

In conclusion, Councillor Ketteridge said that he was proud the Council was well respected by their peers and by central government. Uttlesford had been voted the best rural district in which to live. This had not happened by accident.

He thanked fellow councillors and all of the staff for the part they had played in improving the Council's fortunes and reputation. He was leaving the Council's affairs in capable hands.

The Chairman thanked Councillor Ketteridge for the hard work and sterling dedication he had demonstrated.

Speaking for the Liberal Democrats, Councillor Dean commented that it was sad for anyone stepping down from a long held position. He said that Uttlesford Conservatives had a good record in many areas but not in respect of the local plan. He wished Councillor Ketteridge a happy retirement.

Councillor Lemon for the Independent group thanked Councillor Ketteridge for his hard work and for the leadership he had shown.

Councillor Cheetham said that Councillor Ketteridge had been a superb leader who was always prepared to listen when needed. She had enjoyed their time together leading the Council and she was sad their partnership was ending.

C21

ELECTION OF LEADER OF THE COUNCIL

Councillor J Ketteridge proposed and Councillor Cheetham seconded Councillor Rolfe for election as Leader of the Council. No other nominations were received.

In accepting his nomination, Councillor Rolfe thanked the Chairman and members for the confidence they had shown in him. He would endeavour to be professional and effective and looked forward to working with everyone.

He announced that Councillor S Barker would be his deputy.

Councillor Ketteridge had been an outstanding leader enjoying a record of considerable success. He had served the community since first being elected in 1979 with the help and support of Marilyn and the rest of his family. He would do his best to protect the legacy left by Councillor Ketteridge and the administration he had led.

He thanked Councillor Cheetham for the service she had given as deputy leader and said this was highly valued. Councillor Cheetham would continue to serve in the Cabinet as executive member for aviation.

Councillor Ranger would join the Cabinet with executive responsibility for communities and partnerships.

The new Leader said that he intended to appoint lead members taking responsibility for specific areas. The first such appointment would be Councillor Menell who would be lead member for families and children.

Councillor Rolfe congratulated Gaynor Bradley, Lisa Lipscombe and Lisa Cleaver for their work in making arrangements for the passage of the Tour de France through the district. He welcomed Daniel Barden who would be covering communications work for Lisa Cleaver while she was on maternity leave.

RESOLVED to elect Councillor Rolfe as Leader of the Council for the remainder of the Council's four year term of office

C22 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman reported on various civic events and functions he had attended. He was present on the day the Tour de France had visited Uttlesford and he said that Saffron Walden should be proud of the number of people who had turned out to watch.

C23 **REPORTS FROM THE LEADER AND MEMBERS OF THE EXECUTIVE**

(i) Councillor Cheetham – Aviation

Councillor Cheetham had submitted a report on airport issues following the annual meeting of SASIG (Strategic Aviation Special Interest Group). She had now received information from the Planning Policy/Development Management Liaison Officer confirming that Government night flight restrictions would be rolled over for a further three years. She would ensure that details would be sent to all members. A meeting of the Stansted Airport Advisory Panel would take place on 19 August to which all members were invited.

(ii) Councillor Barker – Environment

Councillor Barker had submitted a report on her environment portfolio. She added that the outcomes of the gypsy and traveller accommodation assessment would soon be available from Essex County Council and would be reported to all members.

(iii) Councillor Redfern – Housing

Councillor Redfern reminded members of the general invitation to attend a housing workshop on 17 July to review housing allocation policy.

C24

MEMBERS' QUESTIONS TO THE LEADER MEMBERS OF THE EXECUTIVE AND COMMITTEE CHAIRMEN

Councillor Mackman said that he had contacted Councillor Cheetham to express his concerns about a conflict of interest between her role as an executive member and as Chairman of the Planning Committee. Local Government Association guidance was that such an arrangement was contrary to the spirit of regulation and should be the exception rather than the rule. He said that the LGA had no record of cabinet members chairing planning meetings anywhere else and the dual role undertaken by Councillor Cheetham was unfit for purpose. The position would be aggravated by the appointment of Councillor Ranger to an executive position. Councillor Cheetham had not responded to his messages to her.

Councillor Cheetham confirmed that she had taken some time off from council duties but had responded to Councillor Mackman earlier today. She had always sought legal advice where a conflict had arisen and had worked within the law.

The Assistant Chief Executive – Legal advised members that he was not aware of the guidance quoted by Councillor Mackman. LGA guidance on probity in planning stated that it was proper for an executive member to be a member of a planning committee. A conflict might arise in circumstances where a member was actively promoting planning policy.

Councillor Cant asked Councillor S Barker about the correct route to follow in reporting highway dangers such as had arisen recently in Stebbing. She had been told to report parking problems to the parking partnership and road safety matters to Essex County Council. There had been two serious accidents connected to the lack of a pavement and, although representatives from the Parking Partnership had visited the site nothing had happened to resolve the problem.

Councillor S Barker reported that she had met recently to discuss problems in Stebbing with the Assistant Director Planning and Building Control and the lead officer of the partnership. She suggested speaking with Councillor Cant outside the meeting to discuss possible solutions.

Councillor Evans asked what had happened to recommendations on car parking made by a Scrutiny task group.

Councillor Barker said that data had been received from the parking partnership and reported to Cabinet. She would attend a Scrutiny Committee meeting to report on this matter if invited to do so.

Councillor Godwin confirmed that the Scrutiny Committee would revisit the subject of parking later this year.

C25

MATTERS REFERRED FROM COMMITTEES

(i) Annual Report of Standards Committee

Councillor Lemon presented the annual report of the Standards Committee. He read a statement regarding the continuing role of independent persons. This said that concern had been expressed because independent persons were not eligible for re-election to the Committee. It had now been determined that independent persons could be re-appointed as they had no voting rights.

He made the point that better training would help all members to carry out their duties more effectively. In concluding, Councillor Lemon thanked Mr Perry and other officers for the advice they had given.

In referring to the role of independent members, Councillor Knight gave her approval to the move to re-appoint them for a further term. The cost of advertising for new independent persons was considerable and should be avoided if possible.

She also said she was pleased with the decision to retain the code of conduct but there was a need to review procedures followed when a complaint was made.

(ii) Annual Report of the Scrutiny Committee

Councillor Godwin presented the annual report of the Scrutiny Committee. She made particular reference to the review of council owned car parks and thanked Councillor Evans for the work she had undertaken in connection with the task group established for that purpose.

The main focus of the Committee's future work programme would be to review the effectiveness and role of day centres.

Members noted the annual report.

(iii) Recommendation from the Performance and Audit Committee – Revised Financial Regulations

Councillor Howell proposed adoption of the recommendation of the Performance and Audit Committee to adopt revised Financial Regulations.

Councillor Rose asked about the impact of the reduction in audit fees and Councillor Oliver confirmed the sum concerned was in the region of £40,000.

Councillor Artus asked whether the revised processes allowed business rate defaults to be flagged up for consideration. Councillor Howell replied that there was a reporting system in place for this information which, in turn, was reported to Cabinet.

RESOLVED to adopt the revised Financial Regulations as submitted

(iv) Recommendation from the Performance and Audit Committee – Revised Contracts Procedure Rules

Councillor Howell proposed adoption of revised Contracts Procedure Rules as recommended by the Performance and Audit Committee.

Councillor Watson asked about arrangements for payments to suppliers. Councillor Howell told him that the Committee had reviewed payment terms and followed government guidance in this respect. He then confirmed to Councillor Rose that the Council had signed up to a maximum 14 day payment period.

Councillor Knight referred to IT problems associated with centralised procurement and asked whether local contractors were always given the opportunity to tender. In response, Councillor Howell referred councillors to paragraph 4.3 of the Contracts Rules stating that at least one quotation shall be obtained from a local company wherever possible. Local in this context was defined as being within 20 miles radius of either Great Dunmow or Saffron Walden.

Councillor Redfern confirmed that a meet the buyer session had been arranged before letting the contract for the new housing scheme at Stansted. The policy was to use as many local contractors as possible.

RESOLVED to adopt revised Contracts Procedure Rules as submitted

(v) Annual Report of the Performance and Audit Committee

Councillor Howell presented the annual report of the Performance and Audit Committee. He thanked Councillor Oliver for his support as Vice-Chairman and said how reassuring it was to be able to call upon the expertise of a qualified accountant. He also thanked officers for their help and support.

In commenting on the report, Councillor Dean said that he had resigned from the Committee last year over concerns about the thoroughness of the self-assessment exercise undertaken by members. He noted that a number of actions had been identified arising from the self-assessment but said he had not seen this and asked why it had not been included in the report.

He also asked whether the high proportion of missed bin collections was caused by levels of staff absenteeism.

Councillor Howell responded by stating that Councillor Dean had been removed from committee membership and by paying tribute to the work of Councillor Parr during her time as a member.

(vi) Recommendation from the Constitution Working Group – Public Speaking at Planning Committee Meetings

Councillor Menell proposed the recommendation of the Constitution Working Group to revise the procedure for public speaking at Planning Committee meetings and her proposal was duly seconded. The proposal was to limit the number of speakers in respect of each application being considered to no more than three supporters and three objectors, in addition to the applicant/agent and the relevant parish council.

Councillor Cheetham proposed the following amendment:

Council adopts a pilot scheme to allow a maximum of five speakers in favour of an application and five against as well as district, parish and county councillors and the agent. The pilot scheme will run until the end of this council term with a review next spring so that the outgoing Planning Committee can report back to the Constitution Working Group before the council elections next year.

Councillor Perry spoke against the amendment. He said the Council had already decided against any restriction on public speaking and this should be maintained. The rules as operated now allowed everyone a fair hearing. He asked for clarification that the reference to parishes included town council representatives.

Councillor Cheetham agreed to add the word 'town' to the amendment.

Councillor Rich supported the amendment. He said he was in favour of more democracy not less and was concerned at any move to restrict speaking. He would support a pilot scheme on the basis that those wishing to make representations had the means to do so in other ways.

Councillor Watson said the electorate had a right to be heard and it was wrong of the Council to give the impression it did not want to hear from them. Such an impression would be disastrous in terms of public perception.

Councillor Mackman said that any attempt to change what the Council had already decided was equivalent to the Irish referendum question and he could not support it.

In seconding the amendment, the Leader thanked the Constitution Working Group for their careful consideration of this matter. He supported the move to rebalance the number of speakers to more than three for and against each application for a trial period. Unrestricted speaking meant that meetings tended to drag on thus upsetting those waiting a long time for their application to be considered. In his view, five speakers for and against was quite sufficient.

Councillor Godwin said that she had been a member of the Planning Committee for many years and there were very few occasions when as many as five people had registered to speak. She supported the amendment.

Councillor Ranger said the amendment had brought some realism to how the Planning Committee had to deal with applications. There was ample opportunity to access the website to view applications and to read any representations made. It was not difficult for anyone to express their views and these were given the merit they deserved.

Councillor Cant said that she had served on the Planning Committee for 19 years. In her experience, all committee members made the effort to read all of the information included in each report and in the representations made. A recent meeting had required her to leave home at 8am and she had not arrived

home again until nearly 9pm. Thirty-six people had spoken on a single application. This was not the best way for good decisions to be made as only so much information could be taken in.

Councillor Evans said she would support the amendment on a trial basis and asked whether the time scale could be specified.

In responding to this point, Councillor Cheetham confirmed the trial period would run for the duration of the present council term.

The Chief Executive then clarified that the pilot scheme, if approved, would run until the annual meeting of the new council but that it would be reviewed by the Planning Committee and the Constitution Working Group before the end of the Council's term. A recommendation could be submitted to the new council for consideration.

Upon being put to the vote, the amendment was carried by 33 votes to six against. The substantive motion was then carried.

RESOLVED to adopt a pilot scheme for public speaking at Planning Committee meetings to operate until the annual meeting of the Council in May 2015 and to be reviewed before the end of the present Council's term; the pilot scheme to operate as follows:

For each application, interested parties would be invited to speak in the following order:

1. Non-committee councillors
2. Up to five supporters
3. Up to five objectors
4. Town or parish council representative/county councillor
5. Applicant or agent

C26 PERFORMANCE AND AUDIT COMMITTEE – CHANGE OF MEMBERSHIP

Members noted the election of Councillor Dean as leader of the Liberal Democrat group from 16 June 2014. The group had requested a change of membership on the Performance and Audit Committee.

RESOLVED to appoint Councillor Dean as a member of the Performance and Audit Committee in place of Councillor Parr

C27 APPOINTMENT OF SECTION 151 OFFICER

The Chief Executive requested members to appoint Adrian Webb as the Council's Section 151 officer. This was a statutory appointment to make provision for the proper administration of the Council's financial affairs. The position was vacant following the departure of Mr Joyce. Mr Webb was the only qualified candidate.

Councillor Watson said that he had a great deal of experience of investigating corruption and asked for the word 'interim' to be added to the recommendation. Appointing the only possible candidate to a position was not good practice.

Councillor Chambers agreed to propose the recommendation subject to the addition of the word interim.

The Chief Executive said that he respected the Council's position but the appointment of a statutory s151 officer could not be time limited and the term interim was essentially meaningless.

Councillor Chambers stated that he wished to keep the term interim in his proposal. Councillor Watson said he was satisfied with this proposal as the Council would otherwise be taking unnecessary risk.

RESOLVED to appoint Adrian Webb as the Council's Section 151 officer on an interim basis

C28 AMENDMENT TO COMMITTEE TIMETABLE

RESOLVED to amend the timetable to change the meeting of the Scrutiny Committee on Tuesday 14 October to Tuesday 7 October

C29 PUBLICATION OF MEMBERS' ATTENDANCE RECORDS

The Chief Executive presented a report regarding his intention to publish on the website details of members' attendance at all council and other internal meetings to which they were appointed. He had written to members inviting comments and had received considerable feedback in response. In view of some of the comments made to him, he had considered it best to ask members to endorse the intention to publish this information.

During discussion, members made a variety of comments about the proposed publication arrangements. The points made covered the scope of the meetings intended to be included in the publication scheme; the recording of legitimate reasons for not attending meetings, especially long-term illness; and the accuracy of the records being published.

There was general agreement that a record of attendance at meetings should be published for reasons of transparency; that only internal meetings to which members were specifically appointed should be included; and that extended periods of absence due to illness should be acknowledged wherever possible.

RESOLVED to publish members' attendance records with immediate effect

C30 NOTICE OF MOTION

Councillor Dean proposed an amended version of the motion he had submitted on notice for consideration at this meeting. The revised wording included parts

1, 2 and 3 of the motion listed on the agenda but sought to substitute the following wording for part 4:

4. Council therefore resolves that the resolution of the planning committee on June 25th was invalid; that the assistant director of planning & building control was not authorised to write to the planning inspectorate informing them that the council would not be defending the appeal in relation to application UTT/12/0808/OP Elsenham; and that the council will defend the appeal in accordance with long-standing practice.

The Assistant Chief Executive – Legal advised members that the effect of the amendment was unlawful and could not be put to the vote. This was because the Council could not vote upon the legality of its own actions.

Councillor Dean then proposed the motion in the original terms as follows:

- 1. Council notes that the planning committee voted on June 25th 2014 in favour of not defending an appeal by Fairfield against a dual refusal by UDC of 800 homes at Station Road, Elsenham.*
- 2. Council also notes that the matter was tabled on the agenda with obscure wording which prevented members not on the planning committee from knowing what was to be discussed.*
- 3. The planning committee does not have delegated authority from council to determine matters relating to appeals, especially matters of political significance to the local plan, nor to make decisions not to defend a highly controversial appeal against one of its own planning refusal decisions. The planning committee must preserve its independence from executive matters and party politics in line with codes and government regulation.*
- 4. Council therefore resolves to determine this matter itself at the earliest opportunity.*

The motion was seconded by Councillor Morson.

In speaking to the motion, Councillor Dean said that the wording went to the root of why the Council existed. It was vital to retain the confidence and trust of the electorate but that trust had been damaged because of a widespread perception that the planning process had been politicised.

A failure to defend the planning appeal would be unprecedented, especially as the application was twice refused and had been determined in the context of an untested and un-adopted local plan.

He considered it disgraceful that the legal advice had been issued under a disguised heading of ‘appeals’. Councillor Morson had then been told he could not attend the meeting even though the Leader was able to attend.

The power to determine whether or not to defend the planning appeal was delegated from Full Council to the Assistant Director Planning and Building Control and so the decision could not properly be made by the Planning Committee. The matter should have been referred to Council in the first place.

As a result there was no proper authority for the decision and it should now be determined by Council.

In supporting the motion, Councillor Perry said that politics should play no part in planning issues. The Fairfield application had been refused by the Planning Committee and the decision made undermined the committee's role. His request for a second legal opinion had been refused.

The public deserved a greater say in planning matters and this had been denied. He had been elected to serve the people of Uttlesford and believed in the principles of openness, transparency and fairness. As a result of the actions taken by the Council the Conservatives would face a difficult time at next year's election.

In concluding his remarks, Councillor Perry requested a recorded vote.

Councillor S Barker tabled an amendment in the following terms:

Council notes that the planning committee voted on June 25th 2014 in favour of not defending an appeal by Fairfield against a dual refusal by UDC of 800 homes at Station Road, Elsenham.

The planning committee must preserve its independence from executive matters and party politics in line with codes and government regulation.

She said it was clear the Assistant Director had delegated authority to make the decision but sensibly sought the opinion of the Planning Committee. None of the members of the Cabinet had any say or influence over the decision made and she herself had seen the report for the first time only the previous week. She agreed that the Planning Committee must preserve its independence and the decision made had been arrived at entirely correctly.

Councillor Parr said the changing of the Council's position on the Fairfield application had caused great stress in the Elsenham and Henham communities. As a result the Council's reputation was in the gutter. The Planning Committee's original decision had offered the community great hope where there was none and people now felt let down. She urged members to support the interests of the local communities by changing the appeal decision.

Councillor Mackman also spoke in support of the original motion. He had been unable to attend the planning meeting owing to a road accident that day and he could not therefore be associated with the decision. The Fairfield application had been refused on robust grounds. He should be allowed to discuss the grounds for not defending the appeal as all planning decisions should be unbiased.

At this point in the meeting, the Chairman warned members that any discussion on the content or merits of the legal opinion could be discussed only in part 2.

Councillor Morson said it was a cause of great concern that the Council would not be defending its own decision to refuse the Fairfield application. He did not

dispute that the Assistant Director had the necessary authority to take the decision but expressed concerns over the way that decision had been taken.

The building of 800 houses on the Fairfield site would lead eventually to 3,000 houses. The process for allowing that to happen should be done in a more open and transparent manner. The fact was that he had not known the Fairfield appeal would be discussed at the planning meeting as not all councillors had been allowed access to the legal opinion. Only planning committee members had seen the report on the grounds that no-one else needed to do so. This was wrong.

This was the first time in his knowledge the Council had refused to support its own case on appeal. There had been interference with the independence of planning members as the original refusal decision had been referred back on the grounds that officers needed to be sure of the reasons for refusal.

Full Council must now reclaim the authority to overcome the secret and covert processes employed not to defend the refusal decision.

Councillor Rich made the point that much of the work of councillors was concerned with mundane matters on behalf of the people they represented. It was important to see the right thing being done. In this case the outcome would be the construction of hundreds of homes in the community.

The problem had arisen because the Planning Committee was minded to refuse the application but had not been given the assistance needed to produce stone cold reasons for refusal. In similar terms, the Bentfield Green application in Stansted had been resisted but the Council had not made a good job of presenting its case. In contrast, local pressure groups had done a fantastic job of defending the appeal.

The Council must feel able to fight its corner on local planning issues regardless of the local plan. This could be accomplished without prejudicing the local plan process.

Councillor Evans agreed with other speakers that the decision not to support the appeal case was unprecedented. The Council's position had led to a loss of trust and to a position where villages had been left to defend the refusal on their own.

Councillor Dean said that he wished to speak against the amendment as he claimed this was a negation of the original motion.

Councillor Eden told members that he had been present at all three planning meetings. His view was that the committee had made an error of judgement and had now finally got it right.

Councillor J Ketteridge said he was disappointed by many of the comments made in the debate. Cabinet members had played no part in the decision of the Planning Committee which had been made in good faith. The fact was that

politics had no part to play in individual planning decisions but did have a role in strategic planning.

He referred to recent decisions made by Cambridge City Council which had recently decided not to defend its refusal of an application resulting in an award of costs of £117k. The Planning Committee had reached its decision not to defend the appeal properly and after considering the advice given.

Some members questioned the wording in the amendment stating that it was a Conservative amendment.

The Leader confirmed that the Assistant Director was legally empowered to make the decision not to defend the appeal but had correctly referred it to the Planning Committee for endorsement. The Planning Committee was entirely independent of the executive. He confirmed that he had not seen the part 2 report in advance of other members.

Councillor Ranger criticised other members for the adverse comments they had made about the process followed. He stressed that the decision had been made on solid grounds and was not political.

The Chairman then called for a recorded vote to take place on the amendment. The voting was as follows:

For the amendment – Councillors Artus, G Barker, S Barker, Chambers, Cheetham, Davies, Eden, Felton, Freeman, Howell, A Ketteridge, J Ketteridge, Menell, Oliver, Ranger, Redfern, Rolfe, Rose, Sadler, Salmon, Smith, Walters and Wells

Against the amendment – Councillors Dean, Evans, Foley, Lemon, Mackman, Morson, Parr, Perry, Rich and Watson

Abstained – Councillors Cant, Davey, Eastham, Godwin, Jones and Knight

The amendment was carried by 23 votes to ten against with six abstentions.

Councillor Dean then summed up the debate. He had been interested to hear from members across the chamber. It was clear that there were reservations about what had happened. Officers had got what they wanted and the processes needed to be looked at carefully. The new Leader should examine these events as the public did not understand what had occurred. There was no comparison between this case and the Cambridge example quoted by Councillor J Ketteridge. He would stand on principle to vote against the substantive motion.

The Chairman then called for a recorded vote on the substantive motion. The voting was as follows:

For the motion – Councillors Artus, G Barker, S Barker, Chambers, Cheetham, Davies, Eden, Felton, Freeman, Howell, A Ketteridge, J Ketteridge, Menell, Oliver, Ranger, Redfern, Rich, Rolfe, Rose, Sadler, Salmon, Smith, Walters and Wells

Against the motion – Councillors Dean, Evans, Foley, Lemon, Mackman, Morson, Parr, Perry and Watson

Abstained – Councillors Cant, Davey, Eastham, Godwin, Jones and Knight

The substantive motion was passed by 24 votes to nine against with six abstentions.

The effect of the vote was to leave Council policy in relation to the Fairfield planning appeal unchanged.

The Chairman thanked members for their attendance and closed the meeting.

The meeting ended at 10.10pm.

PUBLIC STATEMENTS

Dr Jean Johnson

Dr Johnson said she was speaking on behalf of all of the residents of the properties concerned. Temporary planning permission had been granted for eight static mobile homes at the site adjoining her property. This had caused drainage problems and contamination of the land. She had been vilified and told she was a nuisance. The Council had ignored her complaint. She and her neighbours had been advised to refer the matter to the Local Government Ombudsman and had done so.

The Ombudsman had concluded the Council's handling of the application was at fault. Had steps been taken to obtain more information on drainage and flood risk, the Ombudsman felt that councillors may have reached a different view and therefore a different decision.

Arising from the Ombudsman's final decision notice, the Council had agreed to apologise and pay to her and her neighbours agreed sums of compensation. They had also agreed to place a note of the Ombudsman's concerns on the planning file.

The Council had also been found by the Information Commissioner to have wrongly withheld information from her and other residents.

Many matters remained unresolved as they were outside the jurisdiction of the Ombudsman to investigate. She wished all members of the Council to be aware of the outcome of her complaints to the Local Government Ombudsman and the Information Commissioner.

Councillor Derek Jones

To: Chairman and fellow Councillors

I stand before you this evening, in this public speaking part of the meeting, to add my support to what you have just heard from Dr Jean Johnson. I want to put on record my disquiet and disgust at the way that this authority, in company with other statutory authorities, has been utterly useless in matters of planning, and/or enforcement, in relation to physical changes at the property adjacent to her property.

In essence, this Council, with others, has permitted an important drainage ditch to be filled in allowing the land in which the ditch was situated to be raised by some 80 centimetres on average (over two and a half feet). It has largely ignored the fact that in excess of 100 lorry loads of developers 'muckaway' has been imported to achieve this and tried to argue that pollutants, including arsenic, lead and benzopyrenes, included in the 'muckaway', present no hazard to the land and neighbouring land. It has ignored the fact that water goes downhill and if you remove a drainage ditch between properties and raise the land, on one side, then some water will end up flooding onto the, now lower, adjacent property.

Not content with this inaction, when trying to unearth facts relevant to this situation held within the files of this Council, Dr Johnson found officialdom getting in her way. A Freedom of Information request was not responded to fully. Information provided was heavily redacted. Information that was provided made it clear that other information had been withheld, when it should not have been withheld.

In a huge effort for local residents, Dr Johnson and a neighbour made strenuous efforts to ensure that all relevant information was placed in front of Councillors of the Planning Committee. Our current Chairman of the Council, and I have tried on several occasions to get some kind of enforcement action undertaken, all without success.

Dr Johnson has successfully referred problems encountered to the Information Commissioner and to the Local Government Ombudsman. Both referrals have resulted in findings largely in her favour. However, these are minor, perhaps 'pyrrhic' victories in themselves, because unless there is some kind of physical action taken to restore normality to the properties concerned, they (including the property where the problems were created) have become virtually unsaleable, as any proper sale process will necessarily disclose the un-remediated problems and hence the 'legacy'.

I am mindful of the fact that there is currently a further Planning Approval for the site concerned, which is subject to Discharge of Conditions before it can be implemented. Although this seems, currently, to be preventing the Approval from proceeding, it in no way corrects the unsatisfactory situation that has been allowed to happen.

I call upon Uttlesford District Council to:

- 1 Disclose the findings of the Information Commissioner and the Local Government Ombudsman to ALL Councillors
- 2 Appoint a sub-Committee or other appropriate grouping of Councillors with appropriate experience to view the findings of
 - the Information Commissioner and
 - the Local Government Ombudsmanand to check that remedies are in place within the Council to ensure similar issues do not arise in the future
- 3 Try all means possible, to engage with other Statutory Authorities including Essex County Council and the Environment Agency with a view to resolving, with utmost expediency, the problems caused by filling in the drainage ditch and the raising of the land, compounded by the fact of pollutants introduced onto the land. Ideally, residents should also be included in any discussions to resolve the issues
- 4 Strive to improve the experience of residents who have dealings with the Council, by bringing greater clarity to procedures and exchanges between parties and wherever possible removing obfuscation.

**EXTRAORDINARY COUNCIL MEETING held at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN on 5 AUGUST 2014 at 7.30pm**

Present: Councillor J Salmon – Vice Chairman.
Councillors G Barker, S Barker, R Chambers, J Cheetham, J Davey, P Davies, A Dean, R Eastham, K Eden, M Felton, M Foley, E Godwin, S Harris, E Hicks, S Howell, D Jones, A Ketteridge, J Ketteridge, T Knight, R Lemon, J Loughlin, K Mackman, J Menell, D Morson, E Oliver, J Parry, D Perry, V Ranger, J Redfern, J Rich, H Rolfe, J Rose, A Walters and L Wells.

Officers in attendance: J Mitchell (Chief Executive), R Auty (Assistant Director Corporate Services), R Dobson (Principal Democratic Services Officer), R Harborough (Director of Public Services), M Perry (Assistant Chief Executive – Legal) and A Webb (Director of Corporate Services).

CHAIRMAN'S ANNOUNCEMENTS

The Vice Chairman welcomed all those present. He informed members that Part 1 of the meeting would be streamed live, and recorded and made available on the internet.

C31 PUBLIC SPEAKING

Jen Beaton made a statement, a summary of which is appended to these minutes.

C32 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Artus, Cant, Evans, Smith and Watson.

Councillor Lemon declared a non-pecuniary interest in that the public speaker was married to his nephew.

Councillor Dean raised a point of order. He said the meeting had not been properly convened, and members of the public had only found out what the meeting was about by asking officers. He said there was nothing of substance in Part 1 to tell the public what the business to be discussed was, and this was unsatisfactory. He understood there was to be a presentation in Part 1 of which the public had not been made aware. It was wrong not to publicise an agenda without it being clear what the business was. Alternatively a press release should have been issued about the Part 1 presentation. He proposed the meeting should be adjourned and be reconvened properly.

Councillor Lemon seconded the proposal.

Councillor Rolfe said in opposing the motion that the meeting had been called by the Chairman. Matters of this nature were ideally discussed in full forum of Council and the meeting had to be called quickly as there was some urgency due to the deadline for submissions regarding the appeal of 29 August 2014. The Chief Executive's presentation would be heard in Part 1 of the meeting and would be broadcast on the website. He would take questions in Part 2. Councillor Rolfe said there was a need for a full debate on these issues, and he opposed holding that debate in Part 1.

The Assistant Chief Executive-Legal said it was wrong to state no proper notice of the meeting had been given or that because there was a Part 2 this indicated to the public they should not attend. The public could attend and see whether the meeting went into Part 2 or not. The agenda and the meeting were properly constituted.

Councillor Morson said in support of the motion that there was a principle that the public should be made aware of any extra information to be considered other than the Part 2 item. He understood the decision to have a presentation was only made today. He asked how the public could make up their minds whether to attend or not if the agenda was not clear on the substance. The process had been mishandled.

Councillor S Barker moved to vote on Councillor Dean's proposal.

The voting was 5 in favour, 24 against. The motion was therefore defeated.

The Vice Chairman then asked the Chief Executive to give a presentation.

The Chief Executive gave a presentation setting out the situation and providing information about the current position in relation to the appeal.

The presentation ceased in order to permit consideration by Members whether the meeting should continue in Part 2.

Councillor S Barker said members felt the pressures of this issue so would wish to discuss counsel's advice, and she proposed that the meeting move to Part 2 accordingly.

Councillor Ranger seconded the proposal.

Councillor Dean, speaking against the proposal, said the Chief Executive had indicated to him in correspondence that if the legal advice went in the public domain it would undermine the case of an organisation to fight this appeal. That organisation had written to him stating the item should be in the public domain and that they assumed the appellant knew all the arguments already. He was inclined to agree. There were important matters about the process leading to this full council meeting tonight, and it seemed a process which was previously unprecedented was becoming something of a habit. Aside from the Part 2 matter there were important issues about process and principle, and he would vote against Part 2 at this stage.

Councillor Redfern, speaking in support of the proposal, said it made no sense not to go into Part 2. The rationale was not to do with another third party whose case might be undermined but because the Council's own case might be. There had to be meaningful debate and this could only be done in Part 2.

Councillor Cheetham agreed with Councillor Redfern that it was important to have a full and frank discussion, there was sensitive information in these papers and it would be ridiculous to consider them except in part 2.

Councillor Rolfe proposed the meeting go to the vote.

Councillor Dean requested a recorded vote.

Upon being put to the vote, the motion was carried by 24 votes to 7 against, with 3 abstentions.

For the proposal: Councillors G Barker, S Barker, Chambers, Cheetham, Davey, Davies, Eastham, Eden, Felton, Harris, Hicks, Howell, A Ketteridge, J Ketteridge, Menell, Oliver, Ranger, Redfern, Rich, Rolfe, Rose, Salmon, Walters and Wells.

Against the proposal: Councillors Dean, Godwin, Lemon, Loughlin, Mackman, Morson and Parry.

Abstain: Councillors Jones, Knight and Perry.

C33 **EXCLUSION OF THE PUBLIC**

RESOLVED under Section 100I of the Local Government Act 1972 that the public be excluded for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

C34 **LEGAL ADVICE ON APPEAL**

Members discussed legal advice on appeal in relation to the matters detailed in the report.

Councillor Howell proposed the following motion:

That having considered counsel's advice, the Council instruct the Assistant Director of Planning & Building Control not to defend the appeal.

Following discussion by members, Councillor Redfern proposed the following amendment:

That the Council take second independent counsel's advice on the likely outcome of defending the decision at appeal; if this advice is consistent with existing counsel's advice, then the decision not to defend the appeal stands and is delegated to the Assistant Director of Planning & Building Control.

Discussion took place on the amendment, which was put to the vote and carried by 30 votes to 5 against.

A recorded vote was requested and voting was as follows:

For the proposal: Councillors G Barker, S Barker, Davey, Davies, Dean, Eastham, Eden, Felton, Foley, Godwin, Harris, Howell, Jones, Knight, Lemon, Loughlin, Mackman, Menell, Morson, Oliver, Parry, Perry, Ranger, Redfern, Rich, Rolfe, Rose, Salmon, Walters and Wells.

Against the proposal: Councillors Chambers, Cheetham, Hicks, A Ketteridge and J Ketteridge.

Abstain: none.

The amendment having become the substantive motion, further discussion was held.

The substantive motion being on the table, a Member raised a point of order about whether a further amendment could be made that the meeting be adjourned until after receipt of the second legal opinion.

Following advice from the Assistant Chief Executive-Legal that where a motion had been proposed and a proposal for it to be amended was made, it could then be debated if it became the substantive motion. Councillor Redfern's amendment was now the substantive motion and this was what was now being discussed.

An amendment was proposed to the substantive motion, as follows:

To delete the words "if this advice is consistent with existing counsel's advice, then the decision not to defend the appeal stands and is delegated to the Assistant Director of Planning & Building Control" and to substitute the words "and this meeting is adjourned until such time as this advice is received".

The amendment was put to the vote, and lost by 17 votes to 18 against.

A recorded vote was requested.

For the proposal: Councillors Davey, Dean, Eastham, Eden, Foley, Godwin, Jones, Knight, Lemon, Loughlin, Mackman, Morson, Oliver, Parry, Perry, Rich, Salmon.

Against the proposal: Councillors G Barker, S Barker, Chambers, Cheetham, Davies, Felton, Harris, Hicks, Howell, A Ketteridge, J Ketteridge, Menell, Ranger, Redfern, Rolfe, Rose, Walters and Wells.

The substantive motion was then proposed and put to the vote in the original terms as follows:

That the Council take second independent counsel's advice on the likely outcome of defending the decision at appeal; if this advice is consistent with existing counsel's advice, then the decision not to defend the appeal stands and is delegated to the Assistant Director of Planning & Building Control.

A recorded vote having been requested, the substantive motion was carried, by 33 votes to 2 against.

For the proposal: Councillors G Barker, S Barker, Cheetham, Davey, Davies, Dean, Eastham, Eden, Felton, Foley, Godwin, Harris, Hicks, Howell, Jones, A Ketteridge, Knight, Lemon, Loughlin, Mackman, Menell, Morson, Oliver, Parry, Perry, Ranger, Redfern, Rich, Rolfe, Rose, Salmon, Walters and Wells.

Against the proposal: Councillors Chambers and J Ketteridge.

RESOLVED that the Council take second independent counsel's advice on the likely outcome of defending the decision at appeal; if this advice is consistent with existing counsel's advice, then the decision not to defend the appeal stands and is delegated to the Assistant Director of Planning & Building Control.

The meeting ended at 9.30pm.

PUBLIC SPEAKING

Summary of statement of Jen Beaton:

Thank you for the opportunity to speak on behalf of We Are Residents. I understand members will be considering legal advice on the Kier application and that it is likely the Council will not defend the appeal. We have written to the Council about our concerns, which are that we consider the legal advice is likely to be weak and has not been independently verified. We consider there are strong reasons for refusal, including DEFRA advice. If in Part 2 you take the irregular step of not fighting the appeal you are overriding the Planning Committee. Saffron Walden expects you to take decisions for the right reasons. I would ask you to act as an independent decision making body and uphold the democratic process. Please defend the appeal.

**EXTRAORDINARY COUNCIL MEETING held at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN on 19 AUGUST 2014 at 7.30pm**

Present: Councillor K Artus – Chairman.
Councillors G Barker, S Barker, C Cant, R Chambers, J Cheetham, J Davey, A Dean, R Eastham, M Felton, M Foley, J Freeman, E Godwin, S Harris, E Hicks, D Jones, A Ketteridge, J Ketteridge, R Lemon, K Mackman, J Menell, D Morson, J Parry, D Perry, V Ranger, H Rolfe, J Rose, J Salmon, A Walters and L Wells.

Officers in attendance: J Mitchell (Chief Executive), M Cox (Principal Democratic Services Officer), R Harborough (Director of Public Services), M Perry (Assistant Chief Executive – Legal) and A Taylor (Assistant Director Planning and Building Control).

C35 PUBLIC SPEAKING

Dan Starr made a statement, a copy of which is appended to these minutes.

C36 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Eden, Evans, Howell, Loughlin, Knight, Parr, Redfern, Rich, Smith and Watson.

Councillor Chambers proposed that the meeting move to Part 2.

C37 EXCLUSION OF THE PUBLIC

RESOLVED under Section 100I of the Local Government Act 1972 that the public be excluded for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

C38 LEGAL ADVICE ON APPEAL – LAND SOUTH AND NORTH OF THAXTED ROAD SAFFRON WALDEN

The council was advised of the current position in relation to the appeal following the decision to take second independent counsel's advice.

Councillor S Barker proposed the following motion:

That having taken counsel's advice from two independent barristers and having considered the views of the council's own professional planning officers, this council resolves not to defend the appeal.

Discussion took place on this proposal, which was put to the vote and carried by 21 to 7 with 2 abstentions.

A recorded vote was requested and the voting was as follows:

For the proposal: Councillors Artus, G Barker, S Barker, Chambers, Cheetham, Davey, Eastham, Felton, Freeman, Harris, Hicks, Jones, A Ketteridge, J Ketteridge, Menell, Ranger, Rolfe, Rose, Salmon, Walters and Wells.

Against the proposal: Councillors Dean, Foley, Lemon, Mackman, Morson, Parry and Perry.

Abstain: Councillors Cant and Godwin.

RESOLVED that having taken counsel's advice from two independent barristers and having considered the views of the council's own professional planning officers, this council resolves not to defend the appeal.

The meeting ended at 8.20pm.

PUBLIC SPEAKING

WeAreResidents.org statement to Full Council 19th August 2014
Good evening. During your Part 2 meeting tonight you will review and discuss the second legal opinion on Kier. It is likely that you will then be asked to vote on a motion not to defend the Council's refusal. We believe that the Council should defend its refusal.

Firstly I'd like to thank you for your decision of the 5th August. In asking for a second opinion, you sent a clear message that Members expect full, unbiased and proper advice that considers at all the evidence. But basing that second advice only on one sexed-up, dodgy dossier won't have created a valid opinion.

What do I mean when I say that? We have sent each of you a detailed letter, but here are 5 summary points to consider:

1. The second legal opinion is incomplete: Errors and misinformation in the Officer's Reports were not corrected. Other key reports, that the Planning Committee used to make their refusal, were purposely withheld from lawyers, including those from the Town Council, DEFRA, and others;
2. The likelihood of winning is, therefore, almost certainly higher than you are being told: To reach a balanced opinion, any law firm needs to see the reasons for and against – and all detailed supporting evidence on both sides of an argument. By only considering one side, the recommendation for approval, the stated odds of success will be overly pessimistic;

3. Statements recently made to Full Council were wrong: In spite of what you were told at last Full Council, the draft Local Plan does not carry significant weight; it is almost inconceivable that any costs would be awarded against UDC; and the proposed section-106 obligations do not come close to providing the required infrastructure;
4. There is a strong, defensible case for refusal and fighting the appeal will be widely supported by the public: If all of the evidence had been considered by the lawyer, it would be clear that this appeal is very defensible. But now the case is even stronger. Since refusal, 360 additional homes have been approved on the east of Walden, and so Kier has a bigger challenge in meeting its sustainability obligations. And the 5-year land supply has been assured – with a 20% safety buffer;
5. The Planning Committee will be irrevocably broken: If you take the highly irregular step to decide not fight this appeal, you will be condoning the meddling of a few, and undermining the legitimate and party-politically independent operation of the Planning Committee.

So in summary:

The second opinion, although likely to be better than the first, is still incomplete. This appeal is highly winnable. If you pull the plug on your defence, you would be doing so for the wrong reasons. Please resist the pressure on you from what is seen by the voters of Uttlesford as an increasingly desperate oligarchy. We ask that you continue to defend the appeal.

Thank you for your consideration tonight.

Portfolio Report to Full Council
Cllr Alastair Walters – Community Safety

Emergency Planning, Crime Overview, ASB, LHP and Rangers

1) Emergency Planning

Flooding Issues:

Sandbags

Uttlesford has now delivered over 1000 sandbags to 20 parish councils. Parishes are aware this is not a continuous stream of funding and as a one off project was designed to give those who requested a supply, a head start for this winter. All parishes were contacted several times.

2) Community Engagement

Resilience Roadshow

This is designed to engage with the public to raise awareness of community, family and individual resilience. Also to promote the shared partnership and allow networking for all services and voluntary groups that may only come together in an emergency otherwise. Being so successful this year in Saffron Walden and being a county wide project, the roadshow will be making an appearance in Brentwood next year and to a format designed by Lisa Lipscombe, UDC Emergency Planning Officer, and a Fire Officer from ECFRS.

Parish Council workshops

Focus is on local risk assessment, plan writing and to encourage a better understanding of community resilience and localised emergency planning.

They are multi-agency and include Essex Fire, Environment Agency, Essex Police, voluntary sector, district colleagues and Essex County Flood Protection Team.

3) Essex Police Update

Restructure

The police structure has changed in terms of Neighbourhood Policing. Details were provided by Essex Police at recent Area Community Forums. In summary there are more officers working across Uttlesford, but their management will now come under one senior officer each shift.

Crime Figures for Uttlesford District for 1st April - 19th September 2014 v 2013.

Total crimes recorded 1220 for Uttlesford District, 94 offences (7%) reduction over same period in 2013

Burglary Dwelling	48% reduction	-52 less offences
Burglary Other	20% reduction	-48 less offences
Theft from M/V	37% reduction	-59 less offences
Theft of M/V	36% reduction	-15 less offences
Theft Other	11% reduction	-19 less offences

Town Link Radio Scheme

This new initiative went 'live' on 22nd August and provides better communication for reduction of crime within the town centre. The scheme will allow users to communicate amongst themselves and provide reassurance to members of the public dealing with welfare matters.

Domestic Violence

Response Times for Uttlesford for period 1st April - 19th September 2014

Rural emergency (arrival within 20 minutes of despatch) -450 calls 79% achievement
 Priority (arrival one hour) -1441 calls 69% achievement

Of the Rural Emergency calls 98 were call headed as domestic abuse
Of the Priority calls 203 were call headed as domestic abuse

4) **Anti Social Behaviour**

Incidents of ASB in the District have dropped. Most of the issues UDC is dealing with are neighbour nuisance, and boundary disputes.

Recent ASB Incident

ASB issue within the Saffron Walden castle grounds, well publicised recently in local media, concerning noise, underage drinking and very offensive graffiti on new picnic tables put in for the enjoyment of visitors. This was caused by a handful of young people. Partnership approach by local police and UDC ASB co-ordinator resulted in arrests and parents informed.

New ASB, Crime and Policing Act 2014

New legislation will come into effect this month.

The legislation has been updated to give more of a victim focus response to ASB. One of the tools available to residents will be the Community Trigger (Essex ASB Review). This provides victims and communities with the right to require action is taken when ongoing ASB has not been addressed ensuring victims are not 'forgotten'.

5) **Local Highway Panel and Rangers**

The LHP is responsible for considering and prioritising a variety of small highway schemes requested by towns and parishes in Uttlesford. It also has the responsibility of organising and administering the Highway Rangers, it is funded by Essex Highways.

LHP schemes

During the 2014-15 financial year the budget allocated was £472,041, the same as the previous year. The following is a breakdown by description of the work recommended by the LHP to be carried out:

- 4 Safety Schemes consisting of signage and lining, and designs for safety improvements. These are statistics lead.
 - 4 Passenger Transport schemes consisting of raised kerbs to allow passengers to disembark from buses safely, new bus shelters, dropped kerbs for pedestrians crossing the road.
 - 6 Public Right of Way schemes - improvement in surfaces with 3 PROWs in Uttlesford included in long awaited winter closure trial.
 - 15 Traffic management schemes including installation of VAS signs, road realignment, feasibility study and design, mini roundabout (Hatfield Heath)
- The budget for 2014/2015 has been fully allocated. Full details of schemes and location contained in LHP agenda and reports.

Highway Rangers

The Rangers are working very effectively completing the requests received from the Parishes, undertaking jobs which might not previously have been considered a priority by Essex Highways.

In addition to the specific requests received, the Rangers are very proactive in identifying works which require attention.

The complexity of some of the requests means that some works take substantially longer, however prudent investment in equipment has helped to increase the efficiency of the turnaround of jobs.

Breakdown of type of work carried out;

Vegetation	76%	Footpaths	2%
Sign cleaning	2%	Weed clearance	2%
Painting	7%	Adhoc	11%

Committee: Council

Agenda Item

Date: 21 October 2014

9.1

Title: Constitution Working Group review of the effectiveness of the Cabinet system including the operation of overview and scrutiny arrangements

Author: John Mitchell, Chief Executive, 01799 510400

Item for discussion

Summary

1. Cabinet governance was introduced to Uttlesford as recently as May 2011. Prior to then the Council had operated under a committee system, which changed over the years. The Constitution Working Group has met on a number of occasions since July to look at the working of the Cabinet.

Recommendations

2. That Members consider the report and the minutes of the Constitution Working Group.

Financial Implications

None

Background Papers

None, but see agendas and minutes of Constitution Working Group

Impact

3.

Communication/Consultation	None at present
Community Safety	None
Equalities	Not at present, but an EqIA will be needed
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	All
Workforce/Workplace	None

Situation

4. The Constitution Working Group (CWG) had a long debate about the pros and cons of cabinet working, having looked at all the models of local government. The debate was informed by an analysis of the type and number of meetings before and after the adoption of the cabinet system, and by the scrutiny review survey sent to all members in 2012: 28 replies were received.
5. Some of those who replied felt disconnected from the decision making process and the matter of member engagement in the decision making process became the focus of the debate at CWG. CWG concluded that it did not feel it would be appropriate to recommend a change to governance; this would doubtless be a consideration for the new Council following the election in May 2015.
6. The cabinet model, however, explicitly requires robust scrutiny and review; this is where non-executive Members can call the cabinet to account. Therefore the CWG invited the views of the Leader and the Chairs of Scrutiny and Performance and Audit Committee for their views. The accompanying minute sets out the discussion which took place.
7. The organisation and structure of the political groups will to a large extent determine members' involvement in decision making. It is the conclusion of the working group that better scrutiny is a key to enhanced member engagement with the cabinet system. This does not mean that the Scrutiny Committee is not working properly and there will always be some members who do not wish to engage, indeed there are 5 members who have chosen not to be on any committee. However, it is felt that wider opportunity to scrutinise Council policy well before a decision is made would be valuable, by bringing reports forward at a much earlier stage. This would require considerable cultural shift across the organisation from officers to members at all levels, as follows
 - a) Officers will need to draft reports at a much earlier stage, accepting there will inevitably be some urgent items which prevent this.
 - b) Cabinet will need to adopt and adhere to a work programme 4-6 months in advance to allow time for pre-scrutiny.
 - c) The scrutiny function will need to be accepted and welcomed by all as a means of improving policy rather than a means of thwarting the ambitions of the Administration.
 - d) There will need to be a code of practice to cover the matters for pre-scrutiny.
 - e) The procedure for call in needs to be reviewed. Concern has been expressed that only members of the Scrutiny Committee can exercise call-in. It was felt that all non-executive Members should, in appropriate circumstances, be able to call in a matter which concerned a material number of them. Any widening of the

opportunity for other Members to exercise call in could, for example, be tempered with an annual limit on the number of times call-in powers could be exercised

8. Another suggestion designed to increase inclusion, employed, it is understood, by Braintree Council, might be to permit councillors who are not members of the Scrutiny or Performance & Audit Committees to be allocated to the committee's task and finish groups.
9. Points a and b are already being worked on. Points c, d and e will require more consideration. This need not be determined now but could perhaps be the subject of a Member workshop and subsequently an agenda item for a future Full Council meeting.

Risk Analysis

10. None at this stage

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

CONSTITUTION WORKING GROUP held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 6.00pm on 16 SEPTEMBER 2014

Present: Councillors J Davey, J Menell and D Watson.

Also present: Councillor H Rolfe

Officers present: J Mitchell (Chief Executive), M Perry (Assistant Chief Executive - Legal) and M Cox (Democratic Services Officer).

CWG5 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors A Ketteridge, D Morson, J Rich and L Wells.

CWG6 MINUTES

The Minutes of the meeting held on 1 July 2014 were approved and signed by the Chairman as a correct record.

CWG7 CONSIDERATION OF THE EFFECTIVENESS OF THE CABINET SYSTEM

Councillor Rolfe, the Leader of the Council, had been invited to the meeting to discuss the effectiveness of the Cabinet system especially in relation to the operation of the overview and scrutiny function. Having given thought to this question, Councillor Rolfe believed the key issues to be efficiency, involvement and participation.

In relation to efficiency, he thought it was unequivocal that the Cabinet system was the most efficient model in terms of clear and fast decision making. However, as there was considerable pre-discussion before the meeting, this had the effect of nullifying the event itself and he appreciated that it was always not a good public spectacle.

There appeared to be a difference in the extent of involvement in the decision making process between the Administration and the opposition groups. He explained that every item that went to Cabinet was first discussed by his group but he was aware that the opposition groups were less involved.

To assist with this he suggested changing the cabinet members' presentations to Full Council. The cabinet members would report on their activities but also give an indication of upcoming decisions. Members of the council would have the opportunity to put questions to the cabinet members on any matters within their portfolio.

Looking at participation there were 7 cabinet members plus 6 deputies (currently 1 vacancy) and he had recently appointed member leads for areas

where they had a particular interest. There were opportunities for members to be involved in other committees and working groups, but he was also aware that some members had other commitments and were content to focus on ward councillor duties. Going forward he aimed to develop member involvement.

Members discussed the working of the Cabinet system and raised the following issues

Councillor Watson asked how the current Cabinet positions had been arrived at, questioned the loose definitions and also felt that chairs of regulatory committees should not be a member of the cabinet. There was a perception of a 'them and us' situation and that decisions made at Cabinet appeared to be a *fait accompli*. He was concerned at the disengagement of other members of the council over decisions on important matters. He also felt there were too many cabinet members on the cabinet working groups.

Councillor Davey questioned the emphasis on talking to the Administration group when the executive should be engaging with the wider council particularly as many issues were non-political. He felt that Councillor Rolfe's suggestion regarding questions to cabinet members could prolong the council meetings.

Councillor Rolfe agreed that there could be some reshaping of the portfolio holder areas and after the election a slimmed down Cabinet might be more appropriate. He said he wished to improve dialogue with the rest of the council but still felt that the cabinet system was the best decision making model.

The Chief Executive said that the group had agreed to look at how to address members' concerns at lack of involvement and to consider measures to enable a more engaging process up to the next election. However, it would be up to the new council to decide the future direction.

The working group then discussed the Council's overview and scrutiny arrangements.

Members raised the following points

Councillor Rolfe said he saw the scrutiny role as monitoring and challenging the council's decision making. Some good and worthwhile pieces of work had been undertaken, in particular the review of car parking and day centres. However, he questioned the review of health care providers and other services over which the council had no control and pointed to the difference between receiving a report and actually scrutinising a service. He thought the Scrutiny Committee should concentrate on the council's own services and policies.

Councillor Watson spoke of his frustration with the council's performance indicators, which were often time based and had little qualitative assessment

which was a more realistic measure. He was concerned that neither the Scrutiny nor the Performance and Audit committees seemed prepared to address this matter.

The Chief Executive said that a good cabinet system required good scrutiny. To assess the effectiveness of the current system, members should consider how far scrutiny had influenced the decision making of the council. One suggestion for improvement could be more timely pre- scrutiny although this would involve a culture change in terms of forward planning. These issues could be addressed at the next meeting when the Chairs of the two overview and scrutiny committees would be attending the meeting.

CWG8

NEW STRUCTURE OF THE COUNCIL FROM MAY 2015

The working group was asked to consider a process to consider and recommend a new structure of the council after the district elections in May 2015. The number of members on the new council would be reduced from 44 to 39 and a system would need to be devised to accommodate this change.

Under the constitution the new council would decide the size and terms of reference for those committees it wished to establish. However, it would be helpful to have a proposed draft proposal on the table for the new council to consider.

Councillor Watson asked if this work was premature as the new council might decide to opt for a committee system. He was advised that this would be a decision for the new council, but if it did opt for this, there was a statutory process to be undertaken and the new system could not be introduced until the following council year.

In order to progress this matter, it was AGREED to bring to a future meeting

- 1) The council's committee structure, setting out the current committees and working groups for members to review.
- 2) A propose new structure based on 39 seats to include
 - Suggested committees and working groups
 - The number of members on each committee on the basis that there was at least one seat for each member.
 - A timetable for the frequency of meetings.
- 3) Members would also need to agree a timetable for presenting a draft proposal to council.

The meeting ended 7.00 pm

CONSTITUTION WORKING GROUP held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 6.00pm on 2 OCTOBER 2014

Present: Councillor J Menell (Chairman)
Councillors J Davey, I Evans, J Menell, D Morson and L Wells.

Also present: Councillor E Godwin.

Officers present: J Mitchell (Chief Executive), M Perry (Assistant Chief Executive - Legal) and M Cox (Democratic Services Officer).

CWG9 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors A Ketteridge, J Rich, D Watson and S Howell.

CWG10 MINUTES

The Minutes of the meeting held on 16 September 2014 were approved and signed by the Chairman as a correct record, subject to recording that Councillor Evan's had sent apologies for this meeting.

CWG11 OVERVIEW AND SCRUTINY CAN UNDER AN EXECUTIVE SYSTEM OF GOVERNANCE

Councillor Godwin, Chairman of the Scrutiny Committee had been invited to the meeting to discuss how overview and scrutiny could work more effectively under the cabinet system.

The Chief Executive set out the background to this meeting. The working group had previously considered the operation of the cabinet system and the extent that it worked within UDC. It was recognised that it was for the new Administration to decide its governance system but for now the cabinet system would continue and the working group would report to Full Council on ways in which the opposition and backbench members could be more involved, particularly through overview and scrutiny.

Councillor Godwin gave her views on the council's current arrangements for scrutiny. She felt that the scrutiny function was hampered by the Administration's large majority. It was often difficult for majority group members on the scrutiny committee to be objective and they tended to defend rather than challenge the party line. This was why the Scrutiny Committee had tended to move away from internal matters to focus more on non – political external issues, around the provision of services which were important to the residents of Uttlesford.

She said that items were very rarely called in, as there was a perception that it was pointless to do so. Also, the reports from the scrutiny sub-groups were

not taken seriously or acted upon. The approach she would like to see was for Scrutiny Committee members to sit down with cabinet members some time before the Cabinet meeting and discuss the issues and decisions coming forward.

Councillor Wells said she had been a member of a scrutiny committee under the previous committee system. This had discussed a lot of issues but had been largely ineffective. She asked about the current system and how the committee decided what to include on the agenda. Councillor Godwin said items came forward, triggered by events or perception of need and were proposed by the Chairman and Vice Chairman in consultation with the officers. Councillor Wells questioned whether the committee had any influence in relation these subject areas. She said it was clear that scrutiny should have more of a role under the cabinet system and suggested that the Scrutiny Committee should be looking at major council decisions coming forward.

Councillor Morson said the Scrutiny Committee had looked at internal issues, but these discussions should not be in isolation but fed into future discussion at the Cabinet meeting. He questioned the current approach to managing the committee's meetings. At the beginning of the year the committee set its work schedule and he felt it was too anxious to book up reviews/presentations in advance, which allowed no room to include additional items that might arise during the year.

Although the committee still had a role in questioning outside organisations, he felt the focus should be more on the council's internal policies and decisions and understanding why these matters had come forward. He suggested that the Scrutiny Committee should have access to the Cabinet reports at least two weeks before the meeting and have the opportunity to question cabinet members.

He then mentioned the rules for call – in and said it was difficult for these arrangements not to be political. The two call-ins that had occurred had both been by opposition members. He would like to see all back bench members of the council having an opportunity to call in a cabinet decision.

The Assistant Chief Executive – Legal explained that the legislation had been drawn to ensure that call-in was not abused and disrupted the business of the council. Uttlesford was quite lenient with its drafting as many other authorities had a limit on the number of call-ins permitted. Thought might need to be given to imposing a restriction if call-in was extended to all members of the council.

Councillor Evans said she found the Cabinet meetings very formulaic and business appeared to be done and dusted beforehand. The authority gave lip service to pre scrutiny but this was not effective. For example the budget papers were given to the scrutiny committee a week before the Cabinet meeting. The information provided was extensive and detailed but the committee had no part in the preparation or any understanding of how the decisions had been arrived at.

She said the committee had received some really good scrutiny training but Uttlesford did not work to that model. It had no power to influence anything but instead was a passive group looking at a fait accompli. It should be acting as a critical friend to the Cabinet, taking a step back, asking for evidence behind a decision and questioning whether it was right.

In relation to the scrutiny task groups, she said that both members and officers had put in a tremendous amount of work on the car parking and day centre reports. It was disappointing that these reports had not been taken forward by Cabinet. She thought there should be a process to monitor the effectiveness and usefulness of the reports. The Chief Executive pointed out that under the current scrutiny rules members did have the authority to summon the relevant portfolio holder to explain the action being taken.

The Chief Executive said the council had come only recently to the cabinet system and whilst it had the systems and processes in place it had never really grasped the concept of scrutiny. There needed to be a culture change in forward planning, preparing items at an earlier stage and more appropriate timetabling of meetings.

The next stage was to prepare a report for full council recommending a way forward based on the discussion and the suggestions made at the last three meetings of the working group.

Councillor Howell the Chairman of the Performance and Audit Committee had unfortunately been unable to attend the meeting but the Chief Executive would ask for his views and feed this into the report.

It was AGREED that the draft report be circulated to Members of the working group for comment and a further meeting be arranged if necessary.

CWG11 NEW STRUCTURE OF THE COUNCIL FROM MAY 2015

The working group agreed that a meeting should be arranged for December 2015 to receive the following information as agreed at the last meeting

- 1) The council's committee structure, setting out the current committees and working groups for members to review.
- 2) A propose new structure based on 39 seats to include
 - Suggested committees and working groups
 - The number of members on each committee on the basis that there was at least one seat for each member.
 - A timetable for the frequency of meetings.

The meeting ended 7.00 pm

Item 9.2 – Item referred from the Standards Committee

Committee: STANDARDS **Agenda Item**
Date: 13 October 2014 **9.2**
Title: INDEPENDENT MEMBERS
Author: Michael Perry, Assistant Chief Executive Item for decision
Legal, 01799 510416

Summary

1. This report is to inform members of the resignation of one of the independent members from the Standards Committee.

Recommendations

2. That:
 - (a) Members consider the job description and Person Specification for Independent Persons and determine whether to recommend any changes thereto.
 - (b) Members recommend to Full Council that a sub-committee of the Council be appointed for the purpose of recruiting new independent persons, to include one of the independent persons of the Standards Committee.
 - (c) That members recommend appointing two independent persons as soon as possible.

Financial Implications

3. There is no budget for the Standards Committee. However, it will be possible to fund the necessary costs by a virement from Legal Services budget.

Background Papers

4. Job description and person specification for the role of independent person (attached).

Impact

- 5.

Communication/Consultation	None
Community Safety	None

Equalities	None
Health and Safety	None
Human Rights/Legal Implications	As set out in the body of this report.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. Under the Localism Act 2011 councils have a duty to promote high standards of conduct on the part of its members. There is no requirement under the Act for a council to appoint a Standards Committee but in practice the vast majority of councils have done so.
7. The Act also requires that there should be at least one independent person appointed. The statutory functions of the independent person are to give their views to a council before it makes a decision on an allegation that it has decided to investigate and whose views may be sought by the council in relation to an allegation which it has decided not to investigate or by a member who is the subject of a complaint. The latter role extends to parish councillors whose parishes are within the district.
8. In practice Uttlesford has placed greater weight on the role of the independent person than that required by statute. The council has appointed three independent persons and when an allegation of a breach of the Code is received they are allocated to the functions of:
 - (a) Working with the Monitoring Officer in determining whether or not the investigation should be investigated.
 - (b) Being available to give their views to the subject member, and
 - (c) Being available to give their views to the committee if a hearing is required.

The independent persons fulfil these roles in rotation.

9. The independent persons are also non-voting members of the Standards Committee and attend on a regular basis assisting the Standards Committee in formulation of policy.
10. Due to relocation to a different part of the country, one of the independent persons has resigned. This gives rise to an immediate vacancy. Whilst it would be possible to continue to work with only two independent persons,

difficulties may arise if one of those persons had a conflict of interest with regard to any complaint which has been received.

11. With regard to the remaining two independent persons I am pleased to say that one has indicated that she is prepared to accept re-appointment. However, the other had indicated that he intends to stand down after the elections in May 2015.

12. When appointing independent persons after the adoption of the new Code of Conduct the council received a large number of applications from high quality applicants. However, the process of advertising the post, short-listing and interviewing is time-consuming. I therefore consider it prudent that if members agree that a new independent person should be recruited as soon as possible then it would be appropriate to appoint two candidates. This will enable both to obtain experience of being an independent person prior to the departure of one of the remaining two in May 2015.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
The council fails to appoint independent persons.	1, past experience is that it should not be difficult to attract suitable candidates.	3, the council have difficulty performing its functions with regard to standards under the Localism Act.	Council go out to advertisement and appoint as soon as possible bearing in mind that there may well be other authorities advertising for independent persons in May 2015.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

JOB DESCRIPTION

For Independent Members of the Standards Committee

Main Role

1. To give the Council advice on adopting a local Code of Conduct.
2. To monitor the effectiveness of the Code.
3. To train Members on the Code or to arrange for such training.
4. To promote and maintain high standards of conduct for Members.
5. To help Members to follow the Code of Conduct.
6. To receive and consider appeals from decisions of the Monitoring Officer on requests for dispensations from compliance with the Code.
7. To attend meetings of the Standards Committee on a regular basis.
8. To assist the Monitoring Officer to determine whether allegations of a breach of the Code of Conduct should be investigated
9. To participate in hearings to consider allegations of a breach of the Code of Conduct.
10. To be available to give their views to Members of the District Council and Members of Town and Parish Councils within the district who are the subject of allegations that they may have breached the Code of Conduct.
11. To undertake the above referred to functions with regard to Town and Parish Councils within the District.

PERSON SPECIFICATION

For independent members of the Standards Committee

Essential Requirements

A person may be an independent representative on a Standards Committee only if he or she:

1. has not been a Member, co-opted member or employee of the Council or of any town or parish council in the district within the five years immediately before the date of appointment.
2. is not a Member, co-opted member or Officer of any town or parish council within the district nor a relative or close friend of any such person.
4. is able to make objective judgements concerning allegations of misconduct against Council Members.
5. has a positive commitment to high standards of conduct in local government and to assist Council Members to work within the ethical framework.

Desirable Criteria

1. Familiarity with ethical dilemmas.
2. Experience of Committee work.
3. Questioning skills.
4. An assertive nature
5. Not a member of any political party.
6. Experience of working in an advisory capacity.
7. Experience of working in a regulatory capacity or within such a framework.

