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**Minutes of the meeting of the Place Services and Economic Growth Scrutiny Committee, held in Committee Room 1 County Hall, Chelmsford, Essex on Monday, 12 September 2016**

**Present:**

Councillor D Louis (Chairman)	Councillor N Hume
Councillor K Bobbin	Councillor J Huntman
Councillor T Cutmore	Councillor S Robinson
Councillor A Erskine	Councillor C Sargeant
Councillor I Grundy	Councillor C Seagers
Councillor T Hedley	Councillor A Wood
Councillor T Higgins	

The following Officers were present in support throughout the meeting:

Paul Turner	Monitoring Officer (Items 1-6 only).
Christine Sharland	Scrutiny Officer
Ian Myers	Committee Officer

**1 Membership of the Committee**

The Committee noted its revised membership as agreed by Full Council in July 2016. Councillor Anne Turrell had replaced Councillor Tony Durcan as a member of the Committee

**2 Apologies and Substitution Notices**

The Committee Officer reported the following apologies:

- Councillor Chris Pond, who was being substituted by Councillor Colin Sargeant
- Councillor Susan Barker, who was being substituted by Councillor Andy Erskine
- Councillor Kay Twitchen, who was being substituted by Councillor Norman Hume
- Councillor Carlo Guglielmi, who was being substituted by Councillor Colin Seagers
- Councillor David Kendall, who was being substituted by Councillor Theresa Higgins
- Cllr Anne Turrell

**3 Minutes**

The minutes of the meeting held on 26 May 2016 were agreed as a correct record and signed by the Chairman.

**4 Declarations of Interest**

Councillor Susan Barker mentioned that she was attending the meeting as an Uttlesford District Council representative.

Councillor Theresa Higgins mentioned that she was a Member of Colchester Borough Council.

## **5 Questions from the Public**

There were no questions from the public.

## **6 Call In of Decision FP/556/07/16: The North Essex Parking Partnership Joint Committee**

The Committee considered report PSEG/17/16 setting out the background to the call in of the above decision by Councillor C Pond.

At the outset the Chairman confirmed the options available to the Committee when it reached its conclusions on the call in. He indicated that the Committee intended to consider the matter as follows:

- A statement from Councillor Pond, who had submitted his apologies.
- Councillor Lodge, as the local member, and his supporters would receive up to 30 minutes to present their case for calling in the decision.
- Representatives of the North Essex Parking Partnership (NEPP) would receive up to 30 minutes to respond to the call in.
- The Committee would then proceed to ask questions and debate the item
- To reach its conclusion on the call in the Committee would then have to agree to one of the following options:
  - To refer the decision back to the decision maker namely the NEPP Joint Committee, giving clear reasons for the referral, or
  - To refer the matter to Full Council, or
  - To accept the decision be implemented.

A substantial amount of information had been circulated to the Committee prior to the meeting in addition to the material circulated with the papers, including:

- Saffron Walden Occupancy Survey, commissioned by Colchester Borough Council, August 2016
- The Committee had been copied into various exchanges of emails initiated by Councillor Lodge around some of the evidence submitted by the NEPP.

On behalf of Councillor Pond, Councillor Sargeant read out the following statement:

"My part in this call in has been entirely accidental. As well as giving rights to members of the relevant scrutiny committee, the Constitution permits a Member to call in a decision him or herself if the decision affects his/her local division particularly adversely. The Constitution, however, also requires in such an eventuality that the assent of the chairman of the committee be obtained. Since Councillor Louis was uncontactable during the prescribed period, I agreed to call in the decision myself purely so that

the time limits could be adhered to. I attended the informal meeting, and handed over the conduct of the case there entirely to Councillor Lodge.

This meeting had to be held at a time I could not make on September 12 to suit the main protagonists and because of time constraints. Therefore it will be Councillor Lodge who again conducts his own case. Councillor Chris Pond."

### **The case presented by Councillor Lodge in support of the call in**

Councillor Lodge stated that the proposed waiting restrictions were complex and the situation was some eight years old. There was much supporting documentation, nevertheless he said that in his view the case hinged on whether the traffic regulation order (TRO) was old, amended or brand new. He believed there was substantial evidence to support his case that it was a new proposal dating from late 2015 and, as such, should be subject to newly adopted procedures which, he stated, that had to be adhered to before it could be taken forward.

Councillor Lodge called two local witnesses who read out statements to the Committee challenging various aspects of the NEPP decision to implement any new waiting restrictions in Saffron Walden.

Dan Starr, Chairman of WeAreResidents at Saffron Walden challenged the proposed TRO for various reasons that included:

- The scheme was a poorly conceived and would adversely impact upon local amenity affecting a mile of road. He claimed that if a similar scheme was imposed in Chelmsford it would have the effect of removing 2000 parking places from that town.
- The TRO was opposed by over 90% of consultation responders.
- No process documentation had been produced in response to a Freedom of Information (FOI) request.
- The NEPP Joint Committee had been misled by the applicant on a number of occasions as there was no evidence to substantiate the proposals. Consequently the Joint Committee decision was faulty. Claims that the waiting restrictions were a feature of Section 106 obligations from a 2008 planning approval were incorrect, the proposals were not required as a result of local development.
- He challenged that the roads in question were dangerous, and asserted that no sound reasons had been put forward to substantiate the proposals. They were not part of a local air quality action plan.
- The routes did not comply with the Essex County Council intervention policy, and there have been no complaints by the emergency services or LGV operators
- Legislation changes in early 2015 that were introduced to give communities more voice had been ignored.

Councillor Lodge reiterated that no account had been taken of the fact that Saffron Walden Town Council had been unanimous across the political

parties in its opposition to the proposals, and those calling in the decision perceived that its consent was necessary for the TRO to be implemented. All the town's Councillors on Uttlesford District Council and himself as the Local County Councillor were opposed to the restrictions.

Councillor Paul Gadd, a local Town Councillor and resident focussed on the procedural irregularities he perceived on the way the TRO had been promoted, and the local opposition to its implementation. He included the following points in his presentation:

- The proposal was first presented in October 2015; he stated that there was no documentation relating to the proposal before then.
- Uttlesford District Council (UDC) had claimed no consent was necessary as it started before 2013.
- NEPP cannot produce any documents or details relating to a 2008 scheme.
- He drew attention to a flowchart adopted by the NEPP in October 2015 to describe the processes around TRO proposals, including reference to the submission of an application form, or 50% local support for the scheme as referred to in the 2013 Policies.
- In his opinion there had been a complete failure of process.

Councillor Lodge disputed any NEPP claims that the TRO was for an essential scheme as there was no evidence to support such a view. He drew particular attention to various quotes from sections of Appendix D to reinforce the points made by his witnesses, opposition to the implementation of the TRO, and support for his interpretation of the situation in that the decision was faulty as it was based on a new scheme where proper procedural requirements had not been complied with.

Upon questioning by the Chairman Cllr Lodge acknowledged that there was no procedural requirement in the NEPP policy which stated that the town council's consent had to be obtained. Cllr Lodge stated that the Chairman of the Committee had answered an oral question at a meeting of the committee and said that parish/town council consent should be obtained. This was not however incorporated in the published procedure..

### **The NEPP response to the call in**

At the meeting the NEPP was represented by Councillor Robert Mitchell, Chairman of the NEPP Joint Committee; District Councillor Susan Barker as the Uttlesford District Council representative on the Joint Committee; and Trevor Degville, an Officer representing NEPP.

Councillor Barker introduced the NEPP case by explaining some of the history and the makeup of the proposed TRO and the subject of the Joint Committee decision that had been called in.

- A number of the roads in the TRO were included in the Air Quality Monitoring Programme that was to be submitted for Uttlesford District Council approval that same week.

- The scheme dates back to 2008 and has been designed to improve pedestrian safety. The supporting information provided by the NEPP included various exchanges of emails to illustrate this fact. An audit trail had been included together with a timeline of how the proposed TRO had evolved. A number of proposals that had emerged at different times had been collated into the one Order to present a whole picture of restrictions in the town, rather than advertising individual proposals on an ad hoc basis.
- It was acknowledged that the proposed TRO had become a very emotive topic. Nevertheless it had been the subject of local discussions as it had evolved over a long period of time and those discussions had included the Town Council.
- Irregular parking along some of the affected roads prevented them from being used as an east-west link for HGVs travelling from one side of Saffron Walden to the other avoiding the town centre, which is within an air quality management zone.
- There are existing waiting restrictions on some of the roads affected. Consequently she estimated that around 60 potential places might be affected rather than the 200 vehicles as claimed.
- The Amendment No 40 TRO has been advertised in line with statutory legal requirements. It is an amendment to an existing 2008 TRO. Contrary to the claims made by those calling in the decision, it was not a new scheme

Trevor Degville confirmed that the making of the TRO complied with NEPP policies and legal requirements, which was reflected in the report considered by the Joint Committee on 30 June.

Councillor Mitchell, the Joint Committee Chairman, highlighted to the Committee that:

- The Essex Parking Partnerships had in fact only been established in 2011, and the NEPP had inherited proposals from Essex County Council including a number of restrictions for Saffron Walden that dated back to 2008. He drew attention to the numbering regime used by the NEPP to identify proposals, which provided an indication of their history. In Uttlesford District proposals have a '100' prefix followed by 3 unique numbers. Reference to scheme '552' confirmed that it predated the establishment of the Joint Committee.
- Proposals for waiting restrictions at Saffron Walden had been co-ordinated and developed by the NEPP since it was established in 2011, and had culminated in the Uttlesford TRO now under consideration.
- Proposals do take time to design and develop for the purpose of inclusion in a TRO.
- He drew attention to steps that are being taken by the NEPP to develop a database to track the progress of proposals to improve transparency on individual schemes. It was intended that the database would be available on the NEPP website for the public.
- The NEPP adopted new protocols in October 2015, but again he stressed that the TRO that had been approved by the Joint Committee was not a

new scheme.

### Committee debate

Following the cases presented by both parties, the Committee proceeded to cross examine the evidence and ask questions to clarify understanding on the background to the NEPP Joint Committee decision. In summary it was confirmed that:

- Part of the scheme was being funded by Section 106 money.
- Saffron Walden Town Council was a consultee in the TRO making process, but its consent was not required for the implementation of proposals.
- There are no legal requirements to secure local support for the TRO to go ahead.
- The NEPP approach is to have one current TRO in each district that consolidates all waiting restrictions across that district. Whenever NEPP wishes to change the restrictions in the order it brings forward proposals for amendments to that order. Those amendments are brought forward in batches – each batch results in a single amendment order, with each amendment order being allocated a number. The proposals which have been called in are those included in Amendment no 40 to the Uttlesford order. .
- Some Members did question whether or not the use of the term ‘amendment’ to describe TROs could confuse the public particularly in this case where there was local opposition to proposals that were perceived by some to be new proposals in Saffron Walden. It was confirmed that this was the correct description.
- Clarification had been sought on the role of the flowchart ‘Procedure flowchart for the introduction of TRO showing approval by Localism Panel or district Committee/Cabinet to support schedules going forward’ that had been referred to by Councillor Lodge. NEPP confirmed that it had been developed by officers last year as a way of illustrating the latest reiteration of NEPP Policies. It had been produced to assist understanding of the process involved for schemes that would come forward in the future rather than being applicable for historical schemes including those inherited from the County Council.
- It was confirmed that proposals for new schemes could originate from different sources. While Councillor Lodge had emphasised schemes coming forward from residents requiring 50% local support, other schemes could be brought forward by Essex County Council as the Highway Authority or by the NEPP itself on highway and road safety grounds.
- In the reasons given for the call in, attention was drawn to reason 8 that accused the applicant of deliberately misleading the Joint Committee debate. Councillor Barker, UDC, identified herself as having been described as ‘the applicant’ and pointed out that Councillors Pond and Lodge had not been present at the Joint Committee meeting on 30 June. She explained her role in the meeting, reasons for the advice she had given, and why she did not believe that she had misled the Joint

Committee.

- There were differences of opinion between the parties as to the length of road and number of parking places 'lost'. However, NEPP representatives stated that the majority of properties fronting the roads affected did have their own off street parking facilities. Some of the parking arose due to residents who lived closer to the town centre with limited parking facilities.
- Attention was drawn to comments in some of the letters of support and objection referred to in the Joint Committee report dated 30 June 2016, for instance the highways infrastructure at Saffron Walden and diverting traffic away from the town centre.. A Committee Member pointed out that improved traffic movement does contribute to reduced vehicle emissions and improved air quality.
- In response to questions from the Committee, it was ascertained that a majority of local Town and District Councillors had objected to the proposals rather than there being unanimous opposition.

The Chairman reminded those present of the options available to the Committee by way the action it could take in respect of the NEPP Joint Committee decision.

Before the Committee made its decision, the Chairman gave both parties a final opportunity to highlight the main points of their cases:

#### **Councillor Lodge**

- There have been many assertions that this is an old scheme, but those calling in the decision consider that there has been no evidence to support such a view.
- Morally, the new TRO was a new scheme requiring the new Policy procedures to be invoked.
- There is no application form to support the scheme, and no local consultation in line with the TRO making processes.

#### **NEPP Chairman**

- The NEPP had clearly evidenced in its written submissions the make up of the Amendment No 40 TRO, including the old Essex County Council scheme.
- The legal procedures had been followed, and application forms were not required in this case.
- Professional officers have designed and developed proposals, and schemes can and have been brought forward by the County Council.
- The proposed restrictions are sensible as they address some of the existing highways concerns in and around Saffron Walden including pedestrian safety, traffic flow, and air quality.
- There is alternative parking available in Saffron Walden

During consideration of the evidence put forward by all parties, the Committee took into account all the various information submitted for its attention

A motion was put forward by Councillor Wood that was seconded by Councillor Seagers that no further action be taken by the Committee in respect of this call in.

Upon a vote being taken with seven (7) in favour, four (4) against and one (1) abstention, it was agreed that no further action be taken by the Committee on this

call in. Therefore the decision of the NEPP Joint Committee would be confirmed and implemented.

At the close of the item Councillor Louis expressed his hope that both parties to the call in felt that they had had a fair hearing. In turn those parties agreed that the proceedings had been conducted fairly.

**7 Call in: Decision FP/566/08/16: Tackling the Illegal Disposal of Waste at RCHW Centres**

The Committee noted report PSEG/18/16 concerning the call in of the above Cabinet Member decision to tackle the illegal disposal of waste at Recycling Centres for Household Waste (RCHW) by Councillor Pond.

Following an informal meeting with the Cabinet Member, Councillor Walsh, and Councillor Pond had withdrawn his call in as detailed in the report.

**8 Local Highways Panels**

The Committee noted report PSEG/19/16 concerning its workshop held in June 2016, which had included a briefing on the Local Highways Panels (LHPs).

Following the workshop the Committee was consulted upon the proposed new terms of reference for the LHPs, and Members' responses to the Cabinet member were set out in the report.

**9 Local Bus Consultation: Local Bus Tender Round 2017**

The Committee noted report PSEG/20/16 concerning the Local Bus Consultation - Tender Round 2017.

It was confirmed that Helen Morris, Director for Place Commissioning, would be attending the meeting on 22 September to provide an update on passenger transport matters.

**10 Highways Surface Dressing Site Visit**

The Committee noted report PSEG/21/16 providing a record of its Highways Surface Dressing site visit that took place in June.

**11 Date of Next Meeting**

It was noted the next meeting of the Committee will be held on Thursday 22 September 2016

There being no further business the meeting closed at 1.10pm

**Chairman**