

MUNICIPAL YEAR 2007/2008 REPORT NO. 132

MEETING TITLE AND DATE:

Council – 7 November 2007

REPORT OF:

Director of Finance & Corporate Resources

Agenda – Part: 1

Item: 12

**Subject:
Green Belt Forum – Revised arrangements**

Wards: Various

Cabinet Member consulted: Councillor Rye

Contact officer and telephone number:

Joe Keys/John Austin – 020 8379 1612 and 020 8379 4094

E mail: john.austin@enfield.gov.uk

1. EXECUTIVE SUMMARY

This report reviews the arrangements for the Green Belt Forum and sets out proposals for its future operation. The proposals were considered by the Constitution Review Group on 18th October, and its views are contained within paragraph 5.1(b).

2. RECOMMENDATIONS

2.1 That the future arrangements for the Green Belt Forum as set out in paragraph 5.1 (a-e) relating to terms of reference, membership, community participation, frequency, rules of meetings and officer support be approved – in particular:

- (a) the terms of reference of the Forum be widened to include all green belt land in the borough
- (b) the Forum's role will be to:
 - comment on strategic and policy issues affecting the green belt in Enfield, such as government, regional or local policies, and changing patterns of usage
 - consider and comment on major developments which are likely to affect the character or appearance of the green belt.
 - comment on the Council's various enforcement policies which are likely to affect the character and appearance of the green belt
 - keep under review the Council's overall management of the green belt in the Borough

- (c) the membership of the Forum comprises 7 councillors – 4 Conservative members and 3 Opposition - 6 of whom were nominated at Annual Council on 9th May 2007 (Councillors Dreblow, Giladi, Hasan, Pearce, George Savva, and Terence Smith).

Council is therefore recommended to nominate an additional Conservative member

- (d) in the light of Counsel's opinion summarised in paragraph 8.2, the Council agree that councillors who are members of the Green Belt Forum should not be members of the Planning Committee (as with the Conservation Advisory Group) and that the Constitution be revised accordingly.
- (e) the Forum meetings take place in public, with an open invitation to local interest groups.

3. BRIEF HISTORY AND TERMS OF REFERENCE OF THE FORUM

- 3.1 Cabinet of 13 December 2006 considered a review by consultants of the management of the green belt and agreed to engage external agents to manage the Council's green belt portfolio and to make proposals about longer term management of the estate. Knight Frank were duly appointed. At the same time, Cabinet recommended that the scope and terms of reference of the Green Belt Forum be reviewed. This report reviews arrangements for the Forum and seeks decisions in relation to its future operation.
- 3.2 The origins of the Forum go back to the Council's Property Services Sub-Committee of 14 December 1994, when it considered a report on the management of the green belt estate since the transfer of agricultural land on the demise of the GLC. The Sub-Committee resolved that a consultative forum be established to consider future management policy and that the forum be initially set up with representatives from local organisations, Council officers and 3 elected members.
- 3.3 Since its inception, the Forum has met on an irregular basis with, for example, 5 meetings in 1996 but none in 2002. It is understood that the last meeting was on 29 November 2006. The current terms of reference are "to discuss green belt issues in relation to land owned by the Council".
- 3.4 Over the years, the Forum has considered a wide range of matters, including reviews of the Leisure Tourism Strategy, the green belt estate management plan, educational opportunities and recreational activities in the green belt. More recently, the Forum had a presentation from consultants of Tottenham Hotspur Football Club on their proposals for land off Bulls Cross and Whitewebbs Lane. The Forum has also considered and commented on a

variety of maintenance, planning enforcement, estate management and highways matters.

- 3.5 The meetings have been chaired by an elected member. There are about 50 people on the most recent mailing list for invitations, although attendance appears to be about 20 – 25 people. However, in 1996, over 250 people attended public meetings arranged by the Forum to consider the Capel Manor development proposals at Forty Hall Farm.
- 3.6 Historically, green belt tenants have not been included in the Forum, although it is understood that tenants who have had development or diversification proposals have been invited to put these proposals to the Forum. They will be welcome to attend future meetings along with other interested parties.

4. **PARTICIPATION**

- 4.1 The Councillors nominated to the Forum for 2007/08 are Councillors Dreblow, Giladi, Hasan, Pearce, George Savva, Terence Smith. These members have been consulted on the proposals.
- 4.2 Representatives from a variety of conservation and amenity bodies have also attended meetings. Examples of such groups are:

Friends of the Earth
Greenpeace
Enfield Archaeology Society
Enfield Sports Advisory Council
Enfield Angling Council
Enfield Preservation Society
London Green Belt Council
London Wildlife Trust
Forty Hill and Bulls Cross Study Group
Enfield Conservation Trust
Crews Hill Residents Association

- 4.3 It is proposed that the number of councillors be increased to 7 with an additional member being nominated from the Conservative Group. Meetings will be held in public with an open invitation to local interest groups.
- 4.4 Interested parties will be able to register their interest with the Council and will be sent agendas for each meeting by way of invitation.

5. **FUTURE OF THE FORUM**

- 5.1 It is suggested that the Forum operates as follows:

(a) **Terms of Reference**

To be extended to cover all green belt in the Borough – not just that owned by the Council.

The Forum will not have executive decision making powers but will be an advisory/consultative body with the following terms of reference:

- To comment on strategic and policy issues affecting the green belt in Enfield, such as government, regional or local policies, and changing patterns of usage
- To consider and comment on major developments which are likely to affect the character or appearance of the green belt.
- To comment on the Council's various enforcement policies which are likely to affect the character and appearance of the green belt
- To keep under review the Council's overall management of the green belt in the Borough

(b) **Membership**

7 members of the Council – 4 Conservative and 3 Opposition

Given the Forum's proposed role in considering and commenting on major developments which are likely to affect the character or appearance of the green belt (see 2nd bullet point above), the Council is asked to consider whether it would want to apply the same rule as for the Conservation Advisory Group - that a councillor cannot be a member of both the Green Belt Forum and the Planning Committee. This is to avoid any compromise of the planning process and to minimise the likelihood of allegations of predetermination and bias.

The Constitution Review Group considered the review of the Forum on 18th October 2007 and generally concurred with the proposals. The Group agreed that dual membership should be permitted and opted to delete a sentence proposed within the draft terms of reference to restrict the Forum from involving itself in individual planning applications. The Group felt that any relevant situations could be dealt with by members declaring interests. In doing so however, the Group asked officers to seek Counsel's opinion.

Counsel's opinion has been sought and this is summarised in paragraph 8.2 below. Based on the clear advice received, it is the view of the Council's Monitoring Officer that such dual membership should not be permitted, particularly if the Forum is likely to involve itself in individual planning applications. Hence the recommendation in paragraph 2.1(d).

From the membership agreed at Annual Council (see paragraph 4.1 above), Councillors Dreblow, Hasan, Pearce and T. Smith are currently members of both the Forum and the Planning Committee.

(c) **Frequency of Meetings**

Two meetings per year. Additional meetings can be called by the Democratic Services Team, in consultation with the Chairman, if matters of an urgent nature need to be considered.

(d) **Rules for Meetings**

Notices of meetings and relevant supporting papers will be distributed to all on the agreed circulation list a minimum of 5 clear working days before the meeting. They will, at the same time, be posted onto the Council's website and made available in hard copy at the Civic Centre and main Council libraries.

Minutes of each meeting will be kept and made publicly available in the same way as agendas and supporting papers. Such minutes will be submitted to the subsequent meeting for approval and signature by the Chairman.

Meetings will take place in public. Interest groups and the public generally will be able to speak, but at the discretion of the chairman. The chairman will have the right to exclude anybody who disrupts the meeting or attempts to do so and/or adjourn the meeting for as long as he/she thinks necessary.

Councillors are subject to the rules with regard to personal and prejudicial interests as required by their Code of Conduct 2007.

(e) **Support to the Forum**

Over recent years, the Forum meetings have been supported administratively by staff in Property Services. It is recommended that the arrangements are put on a more formal footing, and that the Democratic Services Team take on this role. Senior officers from Property Services and other Council departments will continue to support the Forum in their professional capacity.

6. ALTERNATIVE OPTIONS CONSIDERED

6.1 To continue with the Forum in its present form.

This is not considered a viable option given the wishes of Cabinet to review arrangements.

6.2 To discontinue the Forum

This is not considered a viable option given the wishes of Cabinet to review arrangements.

7. REASONS FOR RECOMMENDATIONS

To implement the decision of Cabinet in December 2006.

8. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

8.1 Financial Implications

Any costs arising from the proposals within this report could be met from within existing departmental resources.

8.2 Legal Implications

8.2.1 Counsel's opinion has been sought on the principle of whether councillors should be members of both the Green Belt Forum and the Planning Committee, particularly in view of the revised and extended terms of reference of the Forum. The new terms of reference for example will permit the Forum to consider and comment on major developments that are likely to affect the character and appearance of the green belt.

8.2.2 Counsel's advice includes the following:

"Whilst the terms of reference of the Green Belt Forum are not identical to the Conservation Advisory Group and do not include an expressly stated advisory role, it is reasonable to assume that the purpose of the Forum considering and commenting upon planning applications is not intended to exist in a vacuum. The purpose of considering and commenting upon planning applications must therefore include the possibility of those comments being used to influence the decision making process by the Planning Committee on such applications. To that extent, in my view, the same mischief that underlay the case of *Georgiou v. London Borough of Enfield and others* [2004] EWHC 779 (Admin) is likely to arise if members of the Green Belt Forum are permitted also to be members of the Planning Committee.

If permitted, any member of the Council who is both a member of the Green Belt Forum and a member of the Planning Committee, who is associated with comments made in respect of a planning application by the Green Belt Forum will inevitably find it difficult to demonstrate that they are approaching the determination of the planning application with an open mind. In my view, it is very likely that the risk of predetermination will arise.

The Council has overcome the difficulties associated with dual membership of the Conservation Advisory Group and the

Planning Committee by prohibiting the same. This, in my view, is the preferable way forward in respect of the revisions to the terms of the reference of the Green Belt Forum.

The fact that the Green Belt Forum may not take a vote in relation to the planning application does not matter. “

8.2.3 Counsel has also addressed the option of allowing dual membership and relying on the members declaring personal and prejudicial interests where appropriate. He comments as follows:

“The prospect of a member of the Green Belt Forum subsequently having to disassociate himself/herself in the process of the consideration of the planning application by Planning Committee with comments made by the Green Belt Forum, seriously, if not fundamentally, calls into question the value of the Members' participation in the Green Belt Forum. I am also wholly unconvinced that merely disassociating oneself with earlier comments will be sufficient to avoid the appearance of bias due to illegitimate predetermination.

The Green Belt is a planning concept and is an area of planning which gives rise to considerable controversy when inappropriate development is proposed within the Green Belt. The protection of the Green Belt involves careful assessment of competing interests of acknowledged planning importance, which in any particular case, are not likely to be fully presented when the Green Belt Forum considers any application for planning permission.

I am also unconvinced that the mischief associated with predetermination can be adequately addressed by the provisions of the Members' Code of Conduct as it relates to personal and prejudicial interests. The mere fact that a member of the Planning Committee is also a member of the Green Belt Forum will not necessarily mean that the Member involved will have a personal interest in a planning application that the Green Belt Forum has considered and commented upon.

In addition, the new Members' Code of Conduct provides an exemption where a Member's interest arises solely from his/her membership on a body to which the Member was appointed by the Council. In such circumstances, as long as the Member does not have a prejudicial interest, there is no need to disclose the personal interest unless the Member speaks on the matter. It is possible therefore that Members may take that view that saying nothing will avoid the appearance of bias. It may not do so in any particular case.

Accordingly, on the basis of the proposed revisions to the Green Belt Forum's terms of reference, I consider that dual

membership of the Green Belt Forum and the Planning Committee should not be permitted. The wider terms of reference of the Green Belt Forum are also likely to give rise to circumstances in which Members become associated with a particular attitude or position in relation to the Green Belt in the Council's area more generally.

Such circumstances are in my view objectively capable of amounting to an appearance of bias. It may also affect the efficient running of the Planning Committee if members of the Committee who are also members of the Green Belt Forum find it necessary to exclude themselves from applications for planning permission for development in the Green Belt generally.

Moreover, Members insistence that the Green Belt Forum's terms of reference should not include a statement to the effect that the Green Belt Forum generally should not involve itself with individual planning applications clearly indicates that it is intended that the Green Belt Forum will comment upon individual planning applications. If such a statement is not to be included in the terms of reference, I consider that it is essential that dual membership be prohibited. "

8.3 Property Implications

It is noted that the Forum is proposed to have an advisory and consultative role and that this would extend to all green belt land. The Council's own land holdings in the green belt include the tenanted agricultural estate which is managed by Knight Frank on behalf of the Authority. The agents report to the Council's Property Service on these responsibilities. The Forum may provide a consultative mechanism on issues in the green belt and give an opportunity to understand relevant estate management matters.

9. PERFORMANCE MANAGEMENT IMPLICATIONS

Enfield wants to continue to protect its green spaces and conservation areas by giving it priority in the Council's corporate aims and objectives. By revising the arrangements for the Green Belt Forum, Enfield is reaffirming its commitment and support to safeguarding Enfield's environment.

10. PUTTING ENFIELD FIRST

Aim 1 – A cleaner, greener Enfield

Aim 5 – Supporting the delivery of excellent services

Background Papers

Cabinet and Property Services Sub-Committee reports and minutes as referred to in this report.