

**MINUTES OF A MEETING OF THE SUSTAINABLE GROWTH SCRUTINY COMMITTEE
HELD AT THE FORLI ROOM - TOWN HALL ON 3 DECEMBER 2009**

Present: Councillors M Fletcher (Chairman), S Allen (Vice-Chairman), D Day, S Day, S Lane and J Peach

Also Present: Councillor N Sandford

Officers Present: Shahin Ismail, Head of Delivery
Richard Kay, Strategic Planning Manager
Harj Kumar, Senior Strategic Planning Officer
Carrie Denness, Principal Lawyer
Louise Tyers, Scrutiny Manager

1. Apologies for Absence

There were no apologies for absence.

2. Declarations of Interest and Whipping Declarations

No declarations of interest were made.

3. Request for Call-In of an Executive Decision - East of England Plan to 2031: Scenarios for Housing and Economic Growth Consultation

On 19 November 2009, the Cabinet Member for Strategic Planning, Growth and Human Resources made an executive decision relating to the East of England Plan to 2031. In accordance with the Constitution this decision was published on 20 November 2009. On 24 November 2009, Councillors Sandford, Fower and Trueman submitted a request to call-in this decision on the following grounds:

- (i) The decision is Key but it has not been dealt with in accordance with the Council's Constitution.
- (ii) The decision does not follow the principles of good decision making set out in Article 12 of the Council's Constitution, specifically that the decision maker did not:
 - (a) realistically consider all alternatives and, where reasonably possible, consider the views of the public;
 - (b) understand and keep to the legal requirements regulating their power to make decisions; and
 - (c) follow procedures correctly and be fair.

In support of the request to call-in Councillor Sandford made the following points:

- He apologised for the need to call a special meeting to consider this issue but he had been reassured in the past that procedures had been put in place to prevent this happening.

- The request to call-in was on the grounds of process and not the contents of the response. It had not been made on party political grounds but the Cabinet Member should have had oversight of the process.
- The East of England Plan was a very important document for the City and he had concerns that no members other than the Cabinet had been involved in the development of the response.
- The consultation period had been between 1 September and 24 November but the Cabinet Member Decision Notice (CMDN) had only been published on 20 November which gave no time for call-in if some Members felt that there was a problem with the response. Technically the Council could not submit its response until after the call-in period had ended.
- What had caused the delay between 27 October and 20 November?
- This had also occurred with the response to the East Midlands Plan. Councillor Sandford had raised the issue at Full Council and had been given assurances that procedures would be put in place. The Solicitor to the Council had also given similar assurances.
- The decision should be referred back to the Cabinet Member to make the point that procedures needed to be followed. A report should also be submitted to Council on what will be done to tighten procedures.
- The issue seemed to be that there needed to be a proper oversight of the process. With consultations it was important that scrutiny was involved.

In response to Councillor Sandford's points, the Head of Delivery made the following comments:

- The East of England Regional Assembly (EERA) was consulting on a revision to the Regional Plan. This was the start of EERA's process and there would be lots of opportunities to comment in the future.
- On 14 September, a public consultation event had been held in the Town Hall which had had a good turnout.
- The CMDN was first drafted on 23 October and was an evidence based response. On 26 October it was circulated for sign off by officers and the final sign off had happened on 3 November.
- On 4 November, the CMDN was sent to Councillors Croft, Hiller and Elsey and it was returned by Councillors Hiller and Elsey on 5 and 9 November. During this period Councillor Croft was on leave and it was signed on his return on 18 November. The decision was then published on 19 November.
- The Council's response had been sent to EERA on the strict understanding that it was subject to call-in.
- A proposed way forward could be to set out a time line of when we had to have responses ready for sign off, if there was an issue with time then copies could be sent to Members. The Local Development Framework Scrutiny Group could also be used as a sounding board for future consultations. This specific decision cut across three portfolios but perhaps in future there should not be a requirement to get three signatures.

On behalf of the Solicitor to the Council, the Principal Lawyer confirmed that this issue had been raised with the Solicitor to the Council at a group leaders meeting. Following that meeting Members concerns had been taken to a meeting of the Corporate Management Team on 20 October where a request was made that Directors fed back to relevant staff that a proper timetable should be put in place during the decision making process.

Comments and questions were asked around the following areas:

- Did Councillor Sandford have any particular concerns with the content of the response? *No, it was the process which caused concern.*

- Who set the process off when a decision needed to be made? *It was the responsibility of the lead officer.*
- Should it be the responsibility of officers to have in their diaries when papers needed to be returned? *The Head of Delivery advised that in this case officers did not know that Councillor Croft was not available but she accepted that officers could have been a bit more proactive in seeking a resolution.*

RESOLVED

That the decision relating to the East of England Plan should not be called-in.

RECOMMENDATIONS

Whilst the Committee did not call-in the decision, it wished to make a number of recommendations which it hoped would ensure a smoother process:

That the Leader of the Council and the Solicitor to the Council be recommended that:

- (i) the process relating to Cabinet Member Decision Notices is tightened up by ensuring that all appropriate officers are made aware of the Constitution and reminded that it must be adhered to;
- (ii) the procedures for approving Cabinet Member Decision Notices ensure that there is adequate time for scrutiny programmed in; and
- (iii) an update is provided to the Committee on who oversees the Cabinet Member Decision Notice process and how decisions within the process are tracked.

4. Date of Next Meeting

Monday 18 January 2010

CHAIRMAN
6.30 - 7.00 pm