

Estate Management Scheme Member Group  
6 December 2021

## WELWYN HATFIELD COUNCIL

Minutes of a meeting of the ESTATE MANAGEMENT SCHEME MEMBER GROUP held on Monday 6 December 2021 at 7.30 pm in the Council Chamber, Campus East, Welwyn Garden City, Herts, AL8 6AE

PRESENT: Councillors S.Boulton (Chairman)  
S.McNamara, L.Musk, J.Quinton, J.Ranshaw,  
F.Thomson and F.Wachuku

OFFICIALS Head of Planning (C. Dale)  
PRESENT: Estate Management Scheme Manager (J. Homer)  
Principal Governance Officer (J. Anthony)

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### 1. APPOINTMENT OF CHAIR

It was noted that Councillor S. Boulton was appointed Chair of the Group for the 2021/22 Municipal year at the Cabinet meeting on 15 June 2021

### 2. DECLARATIONS OF INTEREST BY MEMBERS

Councillors S. Boulton and F. Thomson declared a non-pecuniary interest in items on the agenda as appropriate by virtue of being Members of Hertfordshire County Council.

Councillors F. Thomson, S. McNamara, L. Musk and Jane Ranshaw declared a non-pecuniary interest in item 3 as members of the council's Welwyn Garden City Estate Management Appeal Panel.

Councillor F. Thomson declared an interest as a resident residing within the Estate Management Scheme area.

### 3. PROPOSED CHANGES TO THE OPERATION OF THE ESTATE MANAGEMENT SCHEME

Members received a presentation and report from the Head of Planning. Members noted that the Estate Management Scheme (EMS) was created in 1973 in response to the Leasehold Reform Act 1967 which had allowed freeholds to pass to residents. The Scheme was designed to be “administered for the purpose of maintaining and enhancing amenities and values in Welwyn Garden City and with due regard to the convenience and welfare of persons residing, working and carrying on business there”.

The Council had consulted on the future of the EMS in 2016, which revealed broad support for the scheme. In November 2017 Cabinet agreed to the following:

- Principle of creating EMS team to manage and administer the Scheme
- Principle of establishing fees for EMS applications to cover costs of team

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- Production of EMS design guide
- Public consultation to seek views on principles and draft design guide
- Production of report which sets out responses to consultation, plus details of EMS team, fee schedule and adoption of design guide

Members noted that a two-year fixed-term EMS Manager was appointed in May 2019, a draft Design Guide had been published on the website and this cross party group had been established to guide Cabinet in next steps. Members also noted that the Council undertook a further consultation on the future administration of the EMS, between 24 June 2019 and 6 September 2019. Letters were sent to 10,900 known addresses within the EMS areas of Welwyn Garden City. Members were informed that only 231 responses were received.

Officers advised that of the responses received, there was wide support for a more accessible Design Guide. Officers also recommended that changes be made to the way appeals were dealt with, with a proposal that appeals be sent directly to an arbiter for determination, and the Estate Management Appeals Panel be reconstituted to consider EMS applications brought to them by officers and those “called-in” by Members and be renamed the Welwyn Garden City Estate Management Panel.

The following points were raised and noted:

Proposed changes to the appeal panel

- The ability for any application to be “called-in” might create pressures and expectations that Ward Members would call in applications by those applicants who had concerns with their ability to get approval from Officers and did not want to risk having to appeal to an Arbiter (with the potential costs involved). Members expressed concerns that this had the potential to create more work for Officers and Members. Officers confirmed that the process was based on that used for planning applications, and expectations were that the new process would not create significant extra work. However, the exact process for how call-ins operated could be looked at to ensure the process was manageable.
- Members asked whether the removal of the appeals process would prevent Members from learning about potential breaches. Officers advised that the changes proposed had included a new enforcement protocol on how breaches would be dealt with, in part to ensure the Council responded to such breaches in a proportionate manner. However, Officers, and Members, would remain dependent on residents to highlight potential breaches to the EMS.
- Members noted that the current Appeals Panel was problematic because it involved the re-interpretation of the EMS policy once Officers had already taken a decision. The proposed process would allow Members to consider applications which were more complex
- If the Council was to adopt the proposed changes, with appeals being directed to an Arbiter in the first instance, Members recognised the need to ensure the Design Guide was as robust as possible to minimise the need for an Arbiter given the cost to residents and the Council.

### Design Guide

- Members welcomed the proposed publication of a Design Guide in principle. Officers confirmed that the Group would have a continued role in reviewing the Guide and recommending changes to Cabinet.
- Members noted that given the variety of properties in Welwyn Garden City, a 'one size fits all' approach was not appropriate.
- Members noted that they would not be able to determine what would fall under the EMS as this was set out in legislation and the Green Book.
- Members agreed that the Design Guide needed to take account of new technologies such as solar panels and electric charging points for vehicles.
- With regards to the installations of solar panels, Members noted that the Council had declared a Climate Change emergency. Members were unanimous in their support for the policy to permit appropriate installation on any roof orientation (and not just limit it to rear and side facing roofs).
- Members agreed that residents would still need to apply to install solar panel as this fell within the remit of the EMS, and the application process would ensure installations remained appropriate with regards to size and projection.
- A similar view was expressed on the installation of electric charging points, which would usually be required to be installed at the front of a home.
- It was noted that heat pump installations were included in the Design Guide.
- Members noted that Officers should consider appropriate communications to residents if Cabinet decided to change the policy around solar panel installations.
- Members acknowledged that that Council had been pragmatic with regards to the replacement of front gardens in part by hard standings. Members recognised that there was a need to support applications where residents had required changes to accommodate mobility scooters, electric charging points and alleviate parking congestion on their roads. However, Members also recognised that certain mitigating actions could be made a condition of any approval to reduce any harmful impact of such changes, such as retaining or implementing suitable greenery on part of the front garden; and selecting permeable materials and drainage options to help reduce water running off too quickly, to help conserve water and avoid flooding. Officers advised that work would need to be undertaken to identify how the Design Guide could be changed to reflect this approach.
- Members advised that officers in the housing team should be engaged to ensure tenants and leaseholders in council owned blocks were not prevented from making desirable changes to their properties in line with the Design Guide.
- Members noted that the Design Guide would need to be robust to provide a level of certainty of what would and would not be permissible under the

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EMS, given that the appeal process would be assessed on a matter of law and process.

#### Communication and engagement

- Members advised Officers that should the new procedures and administrative arrangements be adopted, there would need to be appropriate communications to residents to ensure they understood the changes.
- Members also expressed a need for a wider communication piece to residents within the EMS area to ensure they understood the EMS objectives and requirements. Members suggested a communication plan, involving the use of the Council's One magazine and social media accounts, as well as leaflets at DIY shops, be launched in spring to help residents be mindful of the EMS at the time they were most likely to be considering home renovations.
- Any communication should also be encouraging to residents who may want to make reasonable alterations to their home. Whilst Members recognised the need for applications to be made to ensure alterations were reasonable and in keeping with policies and design guides, there was a risk that residents may be unduly put off unless there was clear guidance given on what is likely to be permissible.

#### Fee Structure

- Members were supportive of the principle of having a fee structure, but raised concerns with perceived anomalies, especially with a level of ambiguity around what a 'genuine like for like replacement' would constitute and what works would attract a fee.
- Members also raised concerns with the cost of making multiple EMS applications for relatively minor changes.
- Officers confirmed that residents would be advised to seek advice from the EMS team before making an application to confirm an application was needed.

#### RESOLVED (unanimous)

1. The EMS Member Group noted the results of the consultation and the relatively low response rate.
2. The EMS Member Group noted the adoption of the EMS website [www.wgc-ems.org](http://www.wgc-ems.org) as a one-stop portal for residents and other interested parties to access the design guide, EMS policy information and the EMS application process.
3. The EMS Member Group recommended that Cabinet agrees to the adoption of the EMS Design Guide ([www.wgc-ems.org/design-guide/](http://www.wgc-ems.org/design-guide/)) on the understanding that the Group will continue to review and recommend changes to the Design Guide, and with the following amendments;

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- a. The Design Guide should be amended to remove the expectation that solar panels would be located to the rear or side roof slopes and be open to applications which choose an orientation which is more effective in relation to the sun. However, the Design Guide should still state that such installation should be done sensitively, and the projection of any solar panels should be minimised as far as is practicable.
  - b. The Design Guide should be amended to view the installation of standard Electric Charging points at the front of properties to be allowable under the scheme.
4. The EMS Member Group recommended that Cabinet delegate authority to the Head of Planning in consultation with the Executive Member, Environment, Planning, Estates and Development, to make minor changes and improvements to the EMS Design Guide, with such changes being notified to the Group when they are made.
5. The EMS Member Group noted the proposed use of an Arbiter to hear EMS application appeals and recommended to Cabinet that the current terms of reference of the Welwyn Garden City Estate Management Appeals Panel be amended to review cases brought to them by officers and those “called-in” by Members. The Group also recommend that the Panel be renamed the Welwyn Garden City Estate Management Panel and that the operation of the new arrangements be reviewed after one year.
6. The EMS Member Group noted the introduction of application fees and proposed fees as set out in the report. The Group recommended that the proposed fee structure table be amended as follows:
  - a. The “Small Projects” and “Medium Projects” text boxes should include the words “where the alteration is not replacing like for like” to reduce ambiguity with the ‘Replacement – Genuinely Like for Like’ category above; and replace the words “Examples include...” with “Examples may include...”, and the number of examples given be reduced, to avoid the table being too prescriptive.
  - b. a cap be introduced for Small and Medium Projects applications, where there were multiple projects being applied for at the same time by one applicant, with a suggestion of £100 per grouped application.

Meeting ended at 9.28 pm  
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