

BABERGH DISTRICT COUNCIL

Minutes of the meeting of the **BABERGH OVERVIEW AND SCRUTINY COMMITTEE**
held in the Virtual Meeting on Monday, 15 February 2021

PRESENT:

Councillor: Alastair McCraw (Chair)
Adrian Osborne (Vice-Chair)

Councillors: Siân Dawson Jane Gould
Kathryn Grandon Mary McLaren

In attendance:

Guest(s): Mr Thomas Morelli – Lead Petitioner
Councillor Jack Owen – Mayer of Sudbury
Councillor Sue Ayres – Sudbury Town Councillor

Officers: Assistant Director Law and Governance and Monitoring Officer (EY)
Corporate Manager - Governance and Civic Office (JR)
Senior Governance Officer (HH)

Apologies:

None

10 WELCOME - THE CHAIR TO THE COMMITTEE

The Chair, Councillor McCraw, welcomed Members and guests to the meeting.

- 10.1 He informed Members that this meeting had been called as the Petitioner and Organiser, Mr Thomas Morelli, of the petition received on the 11 January 2021, had requested that a review of the steps taken by the Council in respect of the validation of his petition be undertaken by the Committee.

11 DECLARATION OF INTERESTS

There were no declarations made.

12 PROTOCOL FOR REVIEWING PETITIONS VALIDATION PROCESS

- 12.1 The Chair drew Members' attention to the attached protocol for the meeting.

- 12.2 Councillor Grandon proposed the motion that the protocol be approved, which was seconded by Councillor Gould.

By a unanimous vote

It was RESOLVED:-

That the Protocol for reviewing the procedure be approved by the Overview and Scrutiny Committee.

13 B/RP/20/1 VALIDATION OF PETITIONS

13.1 The Chair invited the Corporate Manager for Governance and Civic Officer to provide details of the process for the validation of petitions and the process taken for the validation of Mr Morelli's petition.

13.2 The Corporate Manager – Governance and Civic Office provided the following statement:

You have before you my report that details the validation process of petitions. I would like to highlight the following key points:-

The Council does not have a statutory requirement to provide a petitions process but chooses to have one because it welcomes the views of its residents and recognises it is a method where they can raise their concerns.

The Council adopted the Model Petitions Policy that was formulated by the now amalgamated department of the DCLG and confirmed in the Local Democracy, Economic Development and Construction Act 2009.

A number of other councils have also adopted this model petitions scheme. We are not the only Council that sets out these requirements.

Our petition scheme is clearly set out in the Constitution under Part 3, Paragraph 2.2 and lists the criteria that the petition must meet to ensure that the petition is valid.

Mr Morelli's petition was assessed by the Committee Officer and was rejected for validation because the full address of the persons supporting the petition had not been submitted as detailed in Part 3 Paragraph 2.2 where it clearly states that this is a requirement of the Petitions Process and as advised in the check form and example attached to the Petitions Process.

It is important that the Council validates each petition to ensure that the petitioners, live, work or study in the area and that the petition is genuine. It is also essential that the Council has the full name and address of the petitioners so that it is able to contact them to provide them with any further information regarding the petition or if the Council wishes to consult with the petitioners further. This cannot be done from a postcode.

Provision of the full name and address enables the Council to be able to validate the petition to avoid any fraudulent submissions that may result in the Council taking a decision based on incorrect representation and incorrect information. It is also important that the validation process is consistent and in line with Council procedure.

Once the Committee Officer realised that he was unable to validate the petition, he consulted with myself, as the Deputy Monitoring Officer, and immediately wrote to Mr Morelli explaining that a postcode did not provide sufficient detail for due diligence to be carried out. This approach is consistent with other petitions that had been rejected.

A further complication was not all of the petitioners had endorsed all three issues and the signature count was different for each of those issues. This could lead to confusion and misrepresentation and this was explained to Mr Morelli. The Committee Officer also offered advice and assistance to Mr Morelli on how to enable the petition to be validated so that it could be actioned. Mr Morelli was also signposted to the E petitions scheme which enables the petition to be completed electronically for convenience and also to comply with the current COVID-19 lockdown restrictions.

The Lead Petitioner contacted the Council to say he was not prepared to provide twenty names and addresses to validate the petition.

At this point recognising the work and the effort the Lead Petitioner had put in to collecting the signatures, Mr Morelli was invited to the next full council meeting to address the Council on the parking element of his petition this being the only element of the petition that was yet to be resolved.

Whilst the Council applauds the work that Mr Morelli has carried out to capture public feeling and recognises his strong feelings on the subject and those of our residents, the Council must follow the rules within its own Constitution and apply a fair consistent process when validating petitions across the board. As the Corporate Manager for Governance and Civic Office and the Deputy Monitoring that oversees this process, I am satisfied that the Council did follow this process correctly in an impartial fair and consistent manner.

Although the Council has been unable to validate the petition in its current form the Council has worked hard to ensure that Mr Morelli had the ability to address full Council, to air the views of the residents which would have been the same outcome if the petition had been validated.

- 13.3 The Chair invited Members to ask questions of the Corporate Manager – Governance and Civic Office.
- 13.4 Councillor McLaren asked for clarification of the requirements for a name and address for each petitioner including the address of work or study for petitioners who did not live in the area.
- 13.5 The Corporate Manager – Governance and Civic Office confirmed that this was correct and that anybody could start a petition, but petitioners had to provide a name and address and those who lived outside the area had to provide a work or place of study address in the area.
- 13.6 Councillor McLaren questioned further how the Council would establish the validity of petitioners' full address for work or study if they lived outside the

area and whether this would be through accessing the electoral roll, or the council tax records.

- 13.7 The Corporate Manager – Governance and Civic office responded that it would not be through the electoral roll, but the Council could write to the place of work or study if necessary, to confirm that the petitioner's information was valid. Officers could also undertake a sample check of such addresses to establish validity.
- 13.8 Councillor McLaren asked for clarification of 'area' and the Corporate Manager – Governance and Civic Office established the area was within Babergh District.
- 13.9 Councillor McLaren referred to 3.1b (page 16) and in what circumstance would an ordinary petition go to Council for debate following validation.
- 13.10 The Corporate Manager – Governance and Civic Office responded that when an ordinary petition was received by the Council which had 1000 or more valid signatures, it would be reported to and debated at a meeting of the Council. However, if the subject had been debated in the previous twelve months, the petition would not be debated at Council again.
- 13.11 Councillor Gould referred to Petition Scheme paragraph 2.2 (page 14) and that the Scheme stated name, address or place of work or study, she queried whether a petitioner could either supply an address of residence, place of work or study, to which the Corporate Manager – Governance and Civic Office confirmed as correct, and that the key point was to have an address for contact purposes.
- 13.12 Councillor McLaren noted that the date on the petition scheme was the adopted by Council 19 March 2019 and asked whether the scheme was reviewed annually.
- 13.13 The Corporate Manager – Governance and Civic Office responded that the Council had within the Constitution that the Council had a duty to review the Constitution on an annual basis and that the last review was a thorough line by line review. The Constitution working Group undertook this review, and their suggested amendment and updates were presented to Council for approval on an annual basis. She further detailed, as an example that the previous reviews including the most recent updates relating to virtual meetings.
- 13.14 Councillor Gould then questioned if a more detailed review was thought necessary by a Member of the Council, could that Member suggest this to Council.
- 13.15 The Corporate Manager of Governance and Civic offices confirmed that this was possible and should be reported to the Monitoring Officer, who would evaluate if the request was appropriate before referring the request to the Constitution Working Group.

- 13.16 Councillor Dawson sought clarification over identification of an address by the postcode and if it would not be easy to identify a specific address by the postcode.
- 13.17 The Corporate Manager for Law and Governance explained that a postcode covered a group of houses in of a street.
- 13.18 Councillor Dawson thought that the postcode and a last name would be sufficient to identify a single address for validation.
- 13.19 The Corporate Manager – Governance and Civic Office explained further that the Council would not have enough officer resource to combe though addresses to identify a petitioner by their name. In some areas there would be several addresses, some the same last names, as some families lived close to each other. However, the petitioner’ full names and addresses were required so that the Council could contact the petitioners.
- 13.20 Councillor Dawson asked if all addresses were checked and the Corporate Manager responded that a sample would be checked.
- 13.21 The Chair added that postcodes could cover up to twenty houses and not all in one street, postcodes were not all encompassing as some thought.
- 13.22 Councillor Dawson questioned the sample method with regards to fraudulent addresses and the Corporate Manager explained that the sample was to check for fraudulent addresses but mainly to ensure that petitioners could be contacted.
- 13.23 Councillor Grandon referred to 2.2 in the report and that it might be considered ambiguous that the text did not state *full address* for clarity, as some people might consider that a post code would suffice and leave the Council open to the current situation.
- 13.24 The Corporate Manager – Governance and Civic Office responded that going forward this could be considered as update to the Constitution for both the Petition Scheme and the forms attached.
- 13.25 Councillor McCraw asked for clarification for the use of the word ‘must’ both in the constitution and on the form and added that everybody might know their address, but not necessarily their post code.
- 13.26 The Corporate Manager – Governance and Civic Offices stated that the term ‘must’ was used in many places in the Constitution and if there had been any ambiguity about the need for addresses the term ‘might’ would have been used.
- 13.27 The Chair invited Mr Morelli to present to Members why he felt that the steps taken to validate his petition were inadequate.

13.28 Mr Morelli provided the following statement:

As Members of this Committee may be aware, in the run-up to this meeting, I learnt that the Monitoring Officer took a much narrower view than myself on the remit of the review to be carried out by this Committee. Because of the limited remit which this Committee has now been advised that it has, I am unsure if the Committee – through no fault of its own – will be able to conduct a full and fair review of my petition's rejection.

In addition, to have the same people who oversaw Babergh's refusal to accept my petition – the Monitoring Officer and the Deputy Monitoring Officer – be advising the Committee on what it is and isn't allowed to do in its review, and what is and isn't in its remit, seems likely to me to be a conflict of interest.

However, with this dispute over the Committee's remit, and all the other roadblocks upon roadblocks that I have faced in appealing Babergh's decision, it is easy to lose sight of the most important part of all of this – the actual points raised within the petition. Democracy is damaged when processes become more important than issues themselves – as has happened here, in the dispute over my petition's validity.

These issues *will* affect real people – from the businesses that would be harmed with the rash removal of free parking from Sudbury to the heritage that could be lost if the Belle Vue land sale is not handled with care, to the most vulnerable in our community that will suffer from Babergh's plans to move the Customer Access Point to Sudbury Library and staff it for only 2 full days a week. This is why I find it disgraceful that Babergh – instead of focusing on the actual issues at hand – has continuously placed barrier after barrier in the way of allowing the issues at the heart of all of this to be properly heard at all. This is why I am pushing for this petition to be accepted – so that these issues, which *will* affect real people, can be properly heard and debated at Babergh Full Council.

Babergh District Council are fully aware of the strength of feeling that has been transmitted through this petition, whether they choose to accept it or not. They know that over one thousand, six hundred signatures have been obtained during a time in which Sudbury was in Tier 4 – and then lockdown – restrictions. To quote an email to Babergh from the Chair of the Sudbury Society, in which they comment about the individual sheets of paper that make up this petition:

You can throw them away, burn them or just disregard them but the opposition they represent won't go away and you know it.

I'd like to take the opportunity to address some inaccuracies and confusing statements in report B/RP/20/1 from the Monitoring Officer, presented to this Committee. With the time limit I have for this speech, I am not able to respond to every statement in the report that I object to, so I will respond to the ones that I believe are the most inaccurate.

Paragraph 4.7 in this report states that signatories' names and addresses are checked against the open electoral register. However, this method of signature verification is still possible when only postcodes are provided –

even without full addresses, the postcodes can

still be matched against the electoral roll. It is not explained within the report why such a method of verification is not possible with only postcodes provided.

Paragraph 4.11 states that, quote, “the validation of the full name and address of each signatory also enables the council to avoid accepting any signatures which may have been submitted fraudulently”. However, no information is given for how this would be possible at all, and for why it is not possible with postcodes instead of full addresses.

Paragraph 4.13 states that, quote, “not all of the petitioners had endorsed all three issues contained in the petition”. This statement is misleading and seems to deliberately lack context. Babergh District Council know full well that only 11 signatories signed a ‘partial petition’. This is in comparison to the 1,662 people that signed the petition as-is. Without the context, I accept that this could be seen as a problem – but when the context is provided, it becomes clear that this issue is so minor as to be completely irrelevant.

Paragraph 4.17 states and strongly implies that my invitation to attend Full Council would have produced the same outcome as, quote, “if the petition had been validated”. This is patently false. It was made clear to me that, if I attended the Full Council debate on the Hadleigh car parking petition, car parking would be the only matter allowed for discussion – not any of the two remaining issues on my petition. If my petition is accepted, I would be able to address a Full Council debate on all three issues. It is therefore clear to see that the opportunity I was given to address Full Council would not, quote, “have been the same outcome”, end quote, as if this petition had not been rejected.

To close, I mentioned earlier in my speech that I was unsure if the Committee would be able to conduct a fair review of my petition’s rejection, with the remit that it has been told that it has. However, I still hold out hope. I urge this Committee to recommend to Full Council that this petition be accepted – so that the issues raised, all of which *will* affect real people, can be properly debated by the Full Council.

13.29 The Chair invited Councillor Owen, Mayor of Sudbury to speak.

13.30 Councillor Owen addressed the Committee in relation to the topic of the petition in question. Whilst he understood a consistent level of approach to the petitions, he thought that a constant level of circumstance could help in that process. He suggested that trying to abide by the rules during the Pandemic, lockdown and stay at home reactions coupled with the different timings of the three issues in the petition, did not leave an easy environment for democracy to flourish. He referred to a consultation survey conducted by Babergh last year which only required a post code and he felt that petitions and surveys were a way for residences to express their feelings and views over a chosen topic. The first conducted by the Council seeking to change things and the latter conducted by a member of the public opposing changes. He thought a need to apply consistency irrespectively of who was

conducting the survey/petition should be the case. He thought that a common sense should be applied taking into consideration the circumstances, timings, and the extraordinary efforts of the Lead Petitioner in obtaining so many signatures in difficult times to seek out democracy. He urged the Committee to overturn the decision of the Council for the Petition.

13.31 The Chair thanked Councillor Owen and added that there was no doubt of the efforts of Mr Morelli in obtaining the signatures. He then invited Councillor Ayres, Town Councillor in Sudbury to speak.

13.32 Councillor Ayres thanked Mr Morelli for his efforts. Had it not been a period of Lock-down she would have been outside the Town Hall collecting full names and addresses. However, she was more concerned of the impression young people were getting of democracy and thought this was bureaucracy gone barmy. She questioned how many times the names and addresses were checked on petitions. She had offered to check all the names and addresses, and she felt that this petition should be listened to in light of the current circumstances.

13.33 The Chair invited questions from Members to Mr Morelli.

13.34 Councillor Dawson thanked Mr Morelli. She asked why Mr Morelli had not provided the 20 names and addresses to validate the petition and why he had declined to speak at Full Council, which she thought was a shame, as he had missed opportunities for expressing the views in the petition.

13.35 Mr Morelli responded that by only submitting 20 names and addresses the petition would be validated on those names only and would not be eligible to go to Full Council for debate. This had been confirmed by the Monitoring officer. He therefore felt that this had not been an appropriate action to take.

13.36 The Chair asked Officers to confirm that that this was correct and the Corporate Manager – Governance and Civic Office explained that had the petition been validated with valid 20 names the Council would have had to take action through the petition process, and it would have been up to the Portfolio Holder and Assistant Director to take this forward. The validated petition would have been reported to Full Council but not debated.

13.37 The Chair thought that it had been agreed with the Portfolio Holder for Environment, Councillor Malvisi, that Mr Morelli could address the Council on at least one of the subjects of his petition.

13.38 The Corporate Manager – Governance and Civic Office confirmed that Mr Morelli had been invited to Full Council to speak on the Town Centre Parking in Babergh. She confirmed that an ordinary petition which was validated would be presented to the Senior Leadership Team and the Portfolio Holder for that area and there were a number of actions they could take, one being that the petition be debated at Full Council.

13.39 Mr Morelli confirmed that he had been offered the opportunity to speak at Full

Council on the Car Parking issues but that he would not had been able to speak on the Sudbury Customer Access Point or on Belle Vue. He felt that this was a disservice to the petitioners, as the petition had covered these issues too. He thought that there was confusion between the statutory rights for the petitions and the offer made by the Council for him to speak.

13.40 Councillor Grandon stated that she was also Chair of the Council and was disappointed that Mr Morelli had not taken the opportunity to speak at Full Council. She and Officers had been mindful of the efforts put into the collection of the signatures and were keen to give democracy a chance. Efforts had been made to allow Mr Morelli to speak despite that the petition process had not been followed correctly. She was disappointed that he had not taken up the opportunity. She made it clear there may have been an opportunity to speak on the Belle Vue in the future and that the Sudbury Customer Access Point item had now been resolved.

13.41 Mr Morelli acknowledged that exceptions had been made to provide him with an opportunity to speak at Full Council. He felt that it had not been made clear to him that there might have been an opportunity to speak on Belle Vue later. However, he maintained that it was not satisfactory for the petitioners to only speak on one subject of the petition. He had hoped that the Council would have made an exception for the petition due to the circumstances in line with his suggestions and similar to the decision made by Braintree Council, as outlined in the appendices.

13.42 Councillor Grandon stated that had Mr Morelli attended the Full Council meeting it would have provided him with the same opportunities as a petition with a thousand signatures.

13.43 Mr Morelli responded that this was not the case, as he would only have had the opportunity to present one subject of this petition and the subject would not have been included as a separate agenda item.

13.44 Councillor Gould thought that it was a missed opportunity that Mr Morelli had not attended Council and that Councillors had been looking forward to hearing his speech. She queried the issue of twenty signatures and that it would not have been up to the Cabinet Member for Environment to decide what happened to the petition had it only been validated with twenty signatures. She pointed out that the petition in Braintree had been validated and on that basis the petition had been presented to Braintree Council.

13.45 Mr Morelli responded that it had not been really made clear to him what would have happened after the Council had received the twenty valid signatures. The example of petition presented to Braintree Council was to show that Councils could take different actions if they wished.

13.46 Councillor McLaren enquired if Mr Morelli had visited the Council's Website to look at the Petition Schemes before starting his petition.

13.47 Mr Morelli responded that he had not, as he had not been aware that the

Council had a Petition Scheme nor that it was on the Website. He had accessed the Government's Website and had obtained the information for his petition from this site. He had assumed that a Government requirement of postcodes only would apply.

- 13.48 Councillor McLaren asked what Mr Morelli had thought would happen to his petition once it had been received by the Council.
- 13.49 Mr Morelli thought that the issues would be addressed and that once the petition reach a thousand signatures, it would be debated at Full Council.
- 13.50 Councillor Dawson referred to 4.6 on page 18 of the report and that the petition did not fall under these reasons for objection, so she therefore thought that the Council should have taken the action under section 5.1. As the Council had not taken any of these actions it suggested to her that the process was not followed correctly.
- 13.51 The Corporate Manager – Governance and Civic Offices explained that those sections were for a valid petition, however the petition in question was not valid and had therefore not reached this part of the Petition Scheme process.
- 13.52 Councillor McCraw enquired if the petition would have not been better if Mr Morelli had accessed the Petition Scheme information on the Website.
- 13.53 Mr Morelli responded that he had not been aware that Babergh District Council had a petition scheme. However, he considered whether all petitioners would have signed the petition if they had to provide a full address to the Council.
- 13.54 Councillor McCraw thought this would imply that petitioners would wish to be associated with the petitions. He asked further if Mr Morelli had received advice to organise the petition and how he had undertaken the petition during the current lockdown restrictions.
- 13.55 Mr Morelli responded that some people could be deterred by providing all address information, as it might make them feel uneasy about repercussions. In response to the second question, Mr Morelli had received advice from friends regarding the petition. In response to the last questions, he had considered the restrictions under the Level 4 lockdown rules and had taken precautions in accordance with these rules, as far as he was able.
- 13.56 The Chair invited Mr Morelli and the Corporate Manager – Law and Governance to provide a brief summing up.
- 13.57 Mr Morelli stood by the letter to the Committee, which he had submitted, and he emphasized the precedent set by Braintree Council to take action for a petition, which was non-compliant be it by numbers or addresses and that it reaffirmed the ability of a Council to take such an action.

- 13.58 The Corporate Manager – Governance and Civic Office reiterated that the Council must follow the rules set within its Constitution and must apply them fairly and consistent across the board. She admired the work of Mr Morelli. The Council welcomed petitions and this had never been a question about democracy as such but about following the rules consistently.
- 13.59 The Chair invited Members to debate the issue as to whether the validation process was followed correctly, and the petition had been dealt with adequately.
- 13.60 Councillor Grandon said as Chair of the Council, she had been able to observe the action taken place in attempting to validate this petition and she thought that the Council and its officers had done everything to help this process. She thought that the scheme had been followed correctly from the Council's point of view, whilst the Council had provided an opportunity for Mr Morelli to speak at Council, as if the petition had been validated.
- 13.61 Councillor Dawson agreed and thought it was a shame the Mr Morelli had not provided the 20 names and addresses. However, this was a matter of process. She hoped that the Council would act differently in the future, as people felt uncomfortable by providing full addresses. She commended Mr Morelli on his work and asked that he followed procedures in the future.
- 13.62 Councillor Gould agreed that she thought the Council had followed the process correctly. However, if Members thought that Petition Scheme required updating to be more robust, perhaps further recommendations could be made.
- 13.63 Councillor McLaren thought that Mr Morelli had been supported by people, who could have directed him better during this process.
- 13.64 Councillor Adrian Osborne felt that it was unfortunate that he had not received the correct advice from those who supported him, nor that he had seen the petition scheme on the website. He supported that the correct process had been adhered to.
- 13.65 Councillor McCraw noted that e-petition was available in section 6 and that officers were always helpful. The electoral roll was organised in street order and not in post code order. This had not been an arbitrary decision and the Council had followed the process correctly.
- 13.66 Councillor McCraw proposed that the validation process had been followed correctly and that the petition was dealt with adequately and that the petition scheme only be reviewed.
- 13.67 Councillor Grandon seconded the recommendation.

By a unanimous vote

It was RESOLVED:-

That the Council followed the Validation Process correctly and that the Petition was dealt with adequately and that the Babergh Overview and Scrutiny Committee recommends to the Constitution Working Group that the Petition Scheme only be reviewed and recommendations be reported to Full Council (in line with the comments made at this Committee).

14 LETTER TO COMMITTEE AND EVIDENCE PACK

15 EXCLUSION OF THE PUBLIC (WHICH TERM INCLUDES THE PRESS)

The Committee did not go into closed session during the meeting.

16 B/RP/20/1 VALIDATION OF PETITION - CONFIDENTIAL APPENDIX E

17 LEAD PETITIONER - CONFIDENTIAL LETTER TO COMMITTEE AND EVIDENCE PACK

The business of the meeting was concluded at 5:25 pm.

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Chair