

**By:** Alex King – Deputy Leader  
Peter Sass – Head of Democratic Services and Local Leadership

**To:** Selection and Member Services Committee – 23 January 2009

**Subject:** WEBCASTING OF COMMITTEE MEETINGS

**Classification:** Unrestricted

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**Summary:** To consider the representations made by the Chairmen of the Planning Applications Committee and Regulation Committee in the light of the decision taken by this Committee on 4 July 2008.

## **FOR DECISION**

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### **INTRODUCTION**

1. Kent County Council has embraced the opportunities offered by modern communications technology to broadcast many of its meetings live to the internet. The webcasting of meetings helps to spread participation and information about democracy to those people who are able to access the service over the internet. This service is particularly important given the sheer size of the County and the fact that many people would otherwise have to travel a long way to actually be present at meetings taking place in County Hall. Most of the Council's Committees are already being broadcast. Two exceptions are the quasi-judicial Planning Applications and Regulation Committees.
2. The content of these two Committee meetings is varied and would be of interest to the wider public. These considerations led this Committee on 4 July 2008 to express its support for them to be webcast, subject to the usual safeguards about disclosing exempt or confidential information.
3. The two Committee Chairmen have asked this Committee to also note that the broadcasting of such Meetings would become material to the outcome of any Public Inquiry or Court case arising from the business of these Committees. It could also form the base of any third party legal challenge. They also draw attention to Health & Safety issues.

### **CHAIRMEN AND OFFICER RESERVATIONS**

4. Mr Harrison, Chairman of Regulation and Mr Richard King, Chairman of Planning Applications Committee hold reservations on webcasting in this context. They have explained their reservations to me. The Head of Planning Applications Group has also communicated a number of concerns relating to Health and Safety issues; an increased exposure to legal challenges and a potentially detrimental change to the dynamics of each Committee.

## **HEALTH & SAFETY CONCERNS**

5. The Health and Safety considerations are over the potential physical dangers to Officers working within the Enforcement Team of the Planning Applications Group, who have on occasion been the target of physical threat and actual assault in the past. It is estimated that this has occurred 10 times in the past three years, which illustrates the existing exposure of Enforcement staff.
6. Owing to the allegedly organised and criminal nature of some of the people they come into contact with, it is feared that easily available images of members of this Team would significantly increase the threat of such incidents.
7. Enforcement officers have to operate on a discrete and security aware basis. By contrast, webcasting would link individual officers to enforcement actions and circulate that fact to the widest possible audience. It is feared that the risk to officer safety would escalate accordingly.
8. One factor that the Committee needs to consider is the fear of this threat amongst the Officers themselves. Every step therefore needs to be taken to avoid publicly linking individual officers to actions
9. There is also considered to be potential for recriminations against both Members and Officers presenting to the Planning Applications Committee on controversial cases. In this context it is pointed out that on the one occasion when a Committee meeting was broadcast, the planning officer assigned to the case was verbally abused afterwards.
10. It is of course the case that the public currently have access to both the Planning Applications and Regulation Committee meetings (except for exempt items) and there are no arrangements in place currently to protect the identity of the individuals involved. Nor are the reports to the Committee censored in any way to withhold the identity of the officers involved in enforcement action. However, the point being made by the Chairmen and their officers is that the introduction of webcasting increases the risks to individuals, as highlighted in this section.

## **LEGAL CHALLENGES**

11. The Planning Applications Committee's decisions attract an increasing amount of litigation. Mr King, the Chairman, has passed on the concerns of the Head of Planning Applications Group that any chance remark that could be seen as unrelated to legitimate land use planning considerations, could be used by litigants as grounds for disputing the entire process by which the Committee had reached its decision. Only one Planning Applications Committee meeting has been webcast to date. One particularly irrelevant remark was made during that meeting on a very sensitive application. This could potentially have led to the Committee's decision being rendered invalid. The quasi-judicial nature of the Planning Applications and Regulation Committees leaves very little room for error.
12. The Committee will need to treat this particular point with caution. In terms of conduct by Officers and Members, every meeting where business is held in the open must be treated with the same level of propriety, no matter whether or not its content is broadcast. There are no different levels of openness. It is the role of the Chairman and Officers to clarify the need for consideration of any matter by a Committee to be limited to relevant factors. They must not allow greater latitude simply because no members of the press or public happen to be in the gallery. For this reason, the Committee must not consider the question of vulnerability to

judicial review *per se* when deciding on the advisability of webcasting, although the *degree* of vulnerability can be considered.

### **COMMITTEE DYNAMICS**

13. Concern is also expressed that because Officers and Members would be more aware that the content of the meetings could be material evidence, their nature and flow would be affected. Officers and Members could become inhibited in what they say, whilst the ability to give trainee planners experience of speaking to the Committee might also be lost or curtailed.
14. There is a possibility that members of the public might be inhibited from requesting to speak (even with the safeguards set out below).
15. Finally, some 20% of the Regulation Committee's business is taken under the heading of Exempt Business. This safeguards the integrity of planning enforcement actions and allows free discussion of strategy. The Head of Planning Applications Group estimates that, bearing in mind the scope for and vulnerability to legal challenge arising out of webcasting, the amount of Exempt Business would need to quadruple.

### **A POSSIBLE WAY FORWARD : CAN THESE CONCERNS BE MANAGED?**

16. The County Council has agreed that webcasting is a very important mechanism to enable the public to participate in the democratic process. Accordingly, I have investigated whether there is a way of web casting these meetings whilst meeting the concerns expressed.
17. Epping Forest District Council, for example, has a protocol (**Appendix 1**) for webcasting council meetings. This enables parts of the meeting to take place with the webcast being suspended. A similar, suitably worded protocol for KCC meetings could include a clause that the Committee can decide to suspend webcasting if there was a "*concern for the Health and Safety of the Officers producing the report*".
18. It is also possible to instruct the Webcasting Team that they must not film certain Officers at any stage of the meeting by, focusing instead on either the Chairman or a wide-angle shot of the whole Committee, where it is very difficult to clearly see any individual. Care would need to be taken, however, that particular individuals were not filmed inadvertently, on those occasions where they might be called to the Chairman's side to assist with committee matters. This could lead to a situation where their exemption from being filmed would be prejudiced.
19. It is also possible that some of the legal qualms can be addressed through an explanation by Planning Officers or the Chairman that a particular statement (whenever it occurs) is not one that the Committee or indeed the Member concerned should give weight to. This would require very tight management of the business of the Committee and require significant alertness by officers.
20. Should Members be minded to trial webcasting of these Committees, it would be advisable in view of the concerns expressed to build a suitable lead-in period into the implementation process. This would consist of the next meeting of both Committees being filmed but not broadcast. A DVD would then be produced which would be reviewed to ascertain whether or not it met all the necessary requirements. If necessary, adjustments could then be made prior to a second "lead-in" (if considered necessary) or straight to full webcasting.

## **CONCLUSION**

21. Both Chairmen have expressed the wish to speak in person to the Committee in order to explain their views in greater detail. It would therefore be inappropriate of me to pre-empt their views by recommending the approach set out in the previous section of the report before they have done so. The Committee will need to balance the need for greater public awareness of local democracy against the reservations of the two Chairmen and Officers when reaching its decision.

## **RECOMMENDATION**

22. I recommend that the Committee considers the proposed way forward set out in paragraphs 16 – 20 of this report in the light of the representations made by the Chairmen of the Regulation and Planning Applications Committees.

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*Background Documents:*

*Report of the Head of Democratic Services and Local Leadership to the Selection and Member Services Committee – 4 July 2008*