

committee agenda



**Epping Forest
District Council**

***District Development Control Committee
Wednesday, 11th December, 2013***

You are invited to attend the next meeting of **District Development Control Committee**, which will be held at:

**Council Chamber, Civic Offices, High Street, Epping
on Wednesday, 11th December, 2013
at 7.30 pm .**

**Glen Chipp
Chief Executive**

**Democratic Services
Officer**

Simon Hill, The Office of the Chief Executive
Tel: 01992 564249 Email:
democraticservices@eppingforestdc.gov.uk

Members:

Councillors B Sandler (Chairman), J Wyatt (Vice-Chairman), A Boyce, J Hart, Ms J Hart, Mrs S Jones, Ms H Kane, J Knapman, Ms Y Knight, J Markham, R Morgan, J Philip, Mrs C Pond, B Rolfe and J M Whitehouse

**A BRIEFING WILL BE HELD FOR THE CHAIRMAN, VICE-CHAIRMAN AND GROUP
SPOKESPERSONS OF THE-COMMITTEE, AT 6.30 P.M.
IN COMMITTEE ROOM 1 PRIOR TO THE MEETING**

SUBSTITUTE NOMINATION DEADLINE:

18:30

WEBCASTING/FILMING NOTICE

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed. The meeting may also be otherwise filmed by third parties with the Chairman's permission.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the

Council's published policy.

Therefore by entering the Chamber and using the lower public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for web casting and/or training purposes. If members of the public do not wish to have their image captured they should sit in the upper council chamber public gallery area or otherwise indicate to the Chairman before the start of the meeting.

If you have any queries regarding this, please contact the Senior Democratic Services Officer on 01992 564249.

1. WEBCASTING INTRODUCTION

1. This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking.

2. The Chief Executive will read the following announcement:

“This meeting will be webcast live to the Internet and will be archived for later viewing. Copies of recordings may be made available on request.

By entering the chamber's lower seating area you are consenting to becoming part of the webcast.

If you wish to avoid being filmed you should move to the public gallery or speak to the webcasting officer”

2. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING COMMITTEES (Pages 5 - 6)

General advice to people attending the meeting is attached together with a plan showing the location of the meeting.

3. APOLOGIES FOR ABSENCE

4. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

5. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

6. MINUTES (Pages 7 - 42)

To confirm the minutes of the last meeting of the Committee held on 16 October 2013 (attached).

7. **PLANNING APPLICATION EPF/2163/13 - SIR WINSTON CHURCHILL PUBLIC HOUSE AND ADJOINING LAND, THE BROADWAY, LOUGHTON - DEMOLITION OF PUBLIC HOUSE AND GARAGES AND REPLACEMENT WITH CONSTRUCTION OF A MIXED USE DEVELOPMENT (Pages 43 - 72)**

(Director of Planning and Economic Development) To consider the attached report.

8. **PLANNING APPLICATION EPF/2213/13 - GRASS VERGE OPPOSITE 72 HONEY LANE, WALTHAM ABBEY - REPLACEMENT TELECOMMUNICATIONS MAST, REPLACEMENT CABINET AND ANCILLARY DEVELOPMENT. (Pages 73 - 78)**

(Director of Planning and Economic Development) To consider the attached report.

9. **PLANNING APPLICATION EPF/1891/13 - LAND R/O 59-61 HIGH ROAD, NORTH WEALD - ERECTION OF BUNGALOW (RESUBMITTED APPLICATION) (Pages 79 - 94)**

(Director of Planning and Economic Development) To consider the attached report.

10. **PLANNING APPLICATION EPF/0247/09 - LAND ADJACENT TO COPPERFIELD LODGE, HAINAULT ROAD, CHIGWELL - ERECTION OF 5 BEDROOM DETACHED HOUSE (Pages 95 - 102)**

(Director of Planning and Economic Development) To consider the attached report.

11. **LOCAL ENFORCEMENT PLAN (Pages 103 - 104)**

(Director of Planning and Economic Development) To consider the attached report and plan.

12. **SCHEME OF OFFICER DELEGATION FOR DEVELOPMENT CONTROL FUNCTIONS - OPERATION OF APPENDIX A (PARAGRAPH G) OF OFFICER DELEGATION OF POWERS TO DETERMINE PLANNING APPLICATIONS (Pages 105 - 118)**

(Director of Planning and Economic Development) To consider the attached report.

13. **ANY OTHER BUSINESS**

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council Procedure Rules contained in the Constitution requires that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

14. **EXCLUSION OF PUBLIC AND PRESS**

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government

Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

Advice to Public and Speakers at Council Planning Subcommittees

Are the meetings open to the public?

Yes all our meetings are open for you to attend. Only in special circumstances are the public excluded.

When and where is the meeting?

Details of the location, date and time of the meeting are shown at the top of the front page of the agenda along with the details of the contact officer and members of the Subcommittee.

Can I speak?

If you wish to speak **you must register with Democratic Services by 4.00 p.m. on the day before the meeting**. Ring the number shown on the top of the front page of the agenda. Speaking to a Planning Officer will not register you to speak, you must register with Democratic Service. Speakers are not permitted on Planning Enforcement or legal issues.

Who can speak?

Three classes of speakers are allowed: One objector (maybe on behalf of a group), the local Parish or Town Council and the Applicant or his/her agent.

Sometimes members of the Council who have a prejudicial interest and would normally withdraw from the meeting might opt to exercise their right to address the meeting on an item and then withdraw.

Such members are required to speak from the public seating area and address the Sub-Committee before leaving.

What can I say?

You will be allowed to have your say about the application but you must bear in mind that you are limited to three minutes. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Sub-Committee members.

If you are not present by the time your item is considered, the Subcommittee will determine the application in your absence.

Can I give the Councillors more information about my application or my objection?

Yes you can but it must not be presented at the meeting. If you wish to send further information to Councillors, their contact details can be obtained through Democratic Services or our website www.eppingforestdc.gov.uk. Any information sent to Councillors should be copied to the Planning Officer dealing with your application.

How are the applications considered?

The Subcommittee will consider applications in the agenda order. On each case they will listen to an outline of the application by the Planning Officer. They will then hear any speakers' presentations.

The order of speaking will be (1) Objector, (2) Parish/Town Council, then (3) Applicant or his/her agent. The Subcommittee will then debate the application and vote on either the recommendations of officers in the agenda or a proposal made by the Subcommittee. Should the Subcommittee propose to follow a course of action different to officer recommendation, they are required to give their reasons for doing so.

The Subcommittee cannot grant any application, which is contrary to Local or Structure Plan Policy. In this case the application would stand referred to the next meeting of the District Development Control Committee.

Further Information?

Can be obtained through Democratic Services or our leaflet 'Your Choice, Your Voice'

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: District Development Control Committee **Date:** 16 October 2013

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.30 - 9.30 pm

Members Present: B Sandler (Chairman), J Hart, Mrs S Jones, Ms H Kane, J Knapman, Ms Y Knight, J Markham, R Morgan, J Philip, Mrs C Pond, B Rolfe, D Stallan, G Waller and J M Whitehouse

Other Councillors: C Whitbread

Apologies: J Wyatt and A Boyce

Officers Present: N Richardson (Assistant Director (Development Control)), S G Hill (Senior Democratic Services Officer) and R Perrin (Democratic Services Assistant)

22. WEBCASTING INTRODUCTION

The Assistant to the Chief Executive reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

23. VICE CHAIRMAN FOR THE MEETING

Resolved:

That Councillor R Morgan be appointed Vice Chairman for the duration of the meeting in the absence of Councillor Wyatt.

24. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor Waller was substituting for Councillor Wyatt and that Councillor Stallan was substituting for Councillor Boyce at the meeting.

25. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Members Code of Conduct.

26. MINUTES

Resolved:

That the minutes of the meeting held on 21 August 2013 be taken as read and signed by the Chairman as a correct record.

27. PLANNING APPLICATION EPF/0981/13 - 13 FOREST DRIVE, THEYDON BOIS, ESSEX, CM16 7EX - RETROSPECTIVE APPLICATION FOR RETENTION OF REAR CONSERVATORY STORE AND EXTERNAL WALL MOUNTED AIR CONDITIONING UNITS AT THE REAR

The Committee considered an application referred to it by Area Plans Subcommittee East on 14 August 2013. The application sought the retention of a conservatory and air-conditioning units at the rear of the premises.

The Committee heard from an objector to the application and noted that complaints had been made about noise from an unapproved extractor fan and flue at the premises which was not the subject of the application. This matter was subject to consideration for enforcement action.

The Committee were of the view that the conservatory building was not an ideal solution to storage and that light spill from the store room would affect neighbouring properties in the evening. They requested that a condition be placed to ensure that the windows of the conservatory were obscured. The committee also expressed the view that they expected officers to take action to remove the unauthorised extractor and flue at the premises.

Resolved:

(1) That application EPF/0981/13 at 13 Forest Drive, Theydon Bois be granted planning permission subject to the following conditions:

(a) The rear conservatory hereby approved shall only be used for storage in connection with the A3 restaurant use of 13 Forest Drive and shall not at any time be used as a seating/dining area

Reason:- In the interests of neighbouring amenity.

(b) The rating level of noise (as defined by BS4142:1997) emitted from the air conditioning unit shall not exceed 5dB(A) above the prevailing background noise level. The measurement position and assessment shall be made according to BS4142:1997.

Reason: To protect nearby noise sensitive premises from significant loss of amenity due to noise.

(c) Within 3 months of the date of this decision, the glazed side and rear elevations of the retained rear conservatory shall be infilled so as to prevent views into and out of the conservatory, and shall be retained as such thereafter.

Reason: To ensure the conservatory is used for ancillary storage only, in the interests of neighbouring amenity.

(2) That the Committee strongly recommend that immediate enforcement action is taken to secure the remove of the unauthorised extractor and flue at the premises.

28. PLANNING APPLICATION EPF/0735/13 - LAND AT 40A HAINAULT ROAD, CHIGWELL - CHANGE OF USE FROM VACANT FORMER AGRICULTURAL LAND TO USE FOR CAR PARKING ANCILLARY TO THE USE OF VICTORY HALL AND WORKS TO CONSTRUCT CAR PARK INCLUDING LOWERING OF LAND LEVELS AND REMOVAL OF TREES.

The Committee considered and approved a further application for the construction of a 19 space car park on land adjacent to Victory Hall in Hainault Road, Chigwell. The matter had last been considered by the Committee on 2 December 2009 but the approval had not been implemented and had lapsed.

Members asked that officers ensure that the approval contain proposals for the appropriate replanting of trees on the site.

Resolved:

That planning application EPF/0735/13 be granted for the change of use of the land for car parking in association with Victory Hall and the submitted layout of 17 car parking spaces be approved subject to the following conditions:-

(1) The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

(2) No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with the guidance contained within the National Planning Policy Framework and policies CP2 and LL11 of the adopted Local Plan and Alterations.

(3) The development, including site clearance, must not commence until a tree protection plan, to include all the relevant details of tree protection has been submitted to the Local Planning Authority and approved in writing.

The statement must include a plan showing the area to be protected and fencing in accordance with the relevant British Standard (Trees in Relation to Construction-Recommendations; BS.5837:2012). It must also specify any other means needed to ensure that all of the trees to be retained will not be harmed during the development, including by damage to their root system, directly or indirectly.

The statement must explain how the protection will be implemented, including responsibility for site supervision, control and liaison with the LPA.

The trees must be protected in accordance with the agreed statement throughout the period of development, unless the Local Planning Authority has given its prior written consent to any variation.

Reason:- To comply with the duties indicated in Section 197 of the Town & Country Planning Act 1990 so as to ensure that the amenity value of the existing tree is potentially maintained by the provision of an adequate replacement tree.

4 The parking area shown on the approved plan shall be constructed as shown on the approved plan EPL_20 rev. D (unless otherwise agreed in writing) and shall be retained free of obstruction for parking in association with Victory Hall and other public buildings on the adjacent site thereafter

Reason:- In the interests of highway safety.

5 All material excavated from the below ground works hereby approved shall be removed from the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to control any alteration to levels or spreading of material not indicated on the approved plans in the interests of amenity and the protection of natural features.

29. LOCAL ENFORCEMENT PLAN

The Committee considered a draft Local Enforcement Plan (LEP) which set out the Council's vision for planning enforcement. It was noted that the Planning Services Scrutiny Panel had reviewed the proposed document at its meeting on 10 September 2013 and had endorsed its adoption.

The Committee made suggestions as to minor redrafting of the plan but expressed their concern that in implementing the plan, the Cabinet should allocate sufficient funding to allow its full implementation particularly in the area of direct action where insufficient budget provision existed currently.

It was also noted that during the Local Council consultation period some authorities had been omitted. It was agreed that any subsequent comments should be considered by the Assistant Director of Planning Services and brought back to this Committee if he considered material changes were needed to the plan.

Resolved:

- (1) That the Local Enforcement Plan (LEP) (as amended attached) be adopted in conformity with the suggestion for such a plan contained within the National Planning Policy Framework;
- (2) That the Committee calls upon the Cabinet to allocate sufficient funding to ensure that the Local Enforcement Plan can be properly implemented; and
- (3) That the Assistant Director Planning Services be authorised to consider further comments of Local Council's and report further to this Committee if material changes to the plan were required.

30. SCHEME OF OFFICER DELEGATION FOR DEVELOPMENT CONTROL FUNCTIONS - PROPOSED CHANGES

The Committee were asked to agree to extend the scheme of officer delegation to allow the Director of Planning and Economic Development to determine all prior approval applications types submitted following the recent changes to permitted development rights through the introduction of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013. Members also noted that two other minor changes had been made to the schedule regarding list buildings and to reflect the publication of applications in the weekly list.

Members agreed that the changes were acceptable but asked that ward members be consulted before decision in those prior applications cases where officers were minded to approve the application and a valid objection had been made.

Resolved:

That a report be submitted to Council recommending:

- (1) Approval of the changes to officer delegation in respect of Council Development Control Functions (as amended) as set out in Appendix 1 to these minutes (changes underlined); and
- (2) The consequential amendment of the Constitution.

31. THREAT OF SPECIAL MEASURES AND REFUNDING OF PLANNING FEES

The Committee noted that from 1 October 2013, the Government had introduced a policy with a requirement for local authorities to refund any planning fees if a council failed to decide an application within 26 weeks from an application being made valid.

This formed part of the government's "planning guarantee" initiative to speed up the delivery of development. The policy went further, in that those local planning authorities with 20 per cent or lower major development appeal decisions dismissed or fewer than 30 per cent of major applications decided within 13 weeks over a rolling 2-year period were to be placed in special measures, which would allow an applicant to submit any future major planning applications and its fee direct to the Planning Inspectorate.

Officers would monitor the turnaround time of planning applications to safeguard against any refund of planning fees or loss of income through designation of special measures. Officers would also encourage applicants to sign up to pre and post application agreements.

The Committee noted that decision making at planning committees including a deadline for any signing of section 106 legal agreements would need to be strictly adhered to. It was agreed therefore that the report be brought to the attention of the planning subcommittees, where there was potential for delays on decision making particularly in cases where applications were deferred for site visits and submission of further information. It was felt that this should only be done in very exceptional cases and planning officers would look to encourage any formal Members site visits to be taken before the committee meeting.

Resolved:

- (1) That the Committee notes the new threat from the Governments "Planning Guarantee" of returning planning fees where planning applications are not decided within 26 weeks from being made valid,
- (2) That Committee notes the threat of "special measures" in respect of not achieving a timely decision on Major category planning applications and the extent to which such decisions are overturned on appeal,
- (3) That (1) and (2) are brought to the attention of the three Area Plans sub-committees and Planning Officers in determining planning applications in a timely manner; and
- (4) That the Assistant Director (Development) encourages applicants, when necessary, to sign up to pre and post application agreements to extend the time period for determination so as to avert the return of planning fees or the Authority falling into "special measures".

32. ANY OTHER BUSINESS

It was noted that there was no further to be transacted at the meeting.

CHAIRMAN

Epping Forest District Council

Planning & Economic Development

Local Enforcement Plan

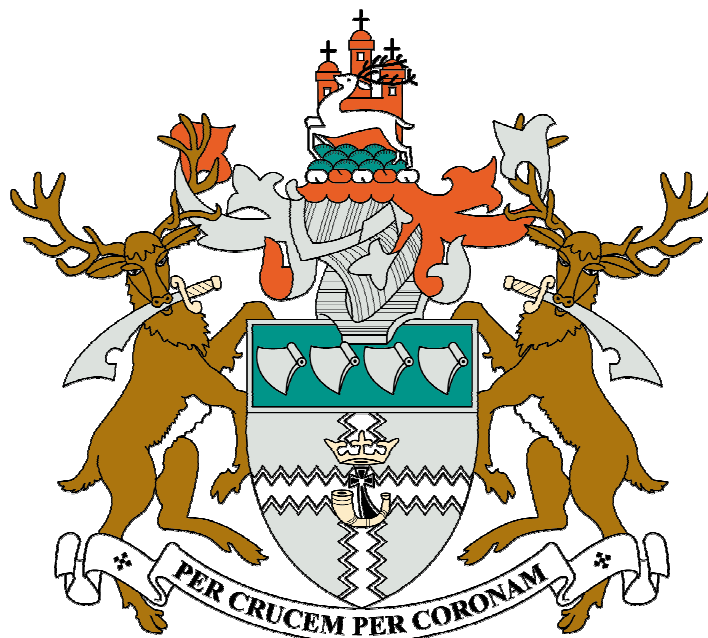


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1. Introduction

Our vision for planning enforcement

- 1.1 The planning system operates to regulate development and the use of land in the community's interest having regard to the development plan and other material planning considerations. The effective and proper enforcement of planning control is essential to community confidence in the planning system. It is important that the local environment is protected, as are the interests of residents, visitors and businesses of the District from the harmful effects of unauthorised development.
- 1.2 The Council has a duty to investigate alleged breaches of planning control and has powers to remedy proven breaches. We view breaches of planning control very seriously. It is our policy to exercise powers appropriately, proportionately and rigorously so that development takes place in accordance with the appropriate legislation or the planning conditions and limitations imposed on any planning permission through the development control process.
- 1.3 However, the planning enforcement system does not exist to simply punish those responsible for a breach of planning control. It is an important principle of the planning system that the use of formal planning enforcement action is a discretionary power of the Council.
- 1.4 The integrity of the development control process depends on the Council's readiness to take effective enforcement action when it is justifiable. The community's confidence of the planning process is quickly undermined if unauthorised development is allowed to proceed without any apparent attempt by the Council to intervene.
- 1.5 The purpose of this document is to set out the Council's specific plan for the enforcement of planning control. This policy will ensure that Councillors and Officers, external agencies and the community are aware of our general approach to planning enforcement.

Principles of Good Enforcement

- 1.6 Proportionality – Officers will consider the full range of powers when conducting investigations (this includes appropriate negotiations and retrospective planning applications) and where appropriate take immediate action.
- 1.7 We will minimise the costs of compliance by ensuring that any action we require is proportionate to the breach. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering the expediency of taking action.
- 1.8 Where practicable we will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense.

- 1.9 Normally we will prosecute individuals or organisations who do not comply with any formal notice served on them with rigour, and when appropriate will take direct action, having regard to degree of harm and public safety.
- 1.10 Consistency – We will carry out our duties in a fair, equitable and consistent manner. While staff are expected to exercise judgement in individual cases, we have arrangements in place to promote consistency including effective arrangements for liaison with other authorities and enforcement bodies.
- 1.11 We will consider each individual matter on its merits. There will be a consistent approach to enforcement action against breaches of similar nature and circumstance.
- 1.12 Standards – We will draw up clear standards, setting out the level of service and performance that customers can expect to receive in this plan. We will review performance regularly.
- 1.13 The enforcement plan will be subject to review at least every three years, but the plan may be reviewed on a more regular basis if circumstances dictate. The plan will be available on our web site.
- 1.14 Openness – Information and advice will be provided in plain language on the rules that we apply and we will publish this as widely as possible.
- 1.15 We will discuss general issues, specific compliance failures or other problems with anyone with an interest with our service, subject to it not being covered by privacy and data protection policies.
- 1.16 Helpfulness – We believe that prevention is better than cure and that we should work with customers to advise and assist with compliance.
- 1.17 Officers will provide a courteous, prompt and efficient service and emails/letters will provide a contact point and telephone number for customers to contact when seeking advice and information.
- 1.18 We will ensure that services are effectively co-ordinated to minimise unnecessary overlaps and time delays.
- 1.19 Officers will not tolerate abusive language or behaviour either in person or in correspondence.
- 1.20 Complaints about the service – We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

2 Breaches of planning control

Legislative background

- 2.1 The primary legislation for planning enforcement is set out in Part VII of the Town and Country Planning Act 1990, which includes amendments set out in the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004. Hereafter these are collectively referred to as the Town and Country Planning Act (as amended).
- 2.2 The Town and Country Planning Act (as amended) sets out that planning permission is required for development. Section 55 defines development as:
- “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”
- 2.3 A breach of planning control is defined at Section 171A as “the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted”.

What is a breach of planning control?

- 2.4 The majority of planning enforcement investigations therefore involve one of the following alleged breaches:
- development (either operational or a material change in use of land) has taken place without planning permission
 - development has not been carried out in accordance with an approved planning permission
 - failure to comply with a condition or legal agreement attached to a planning permission.
- 2.5 Other matters which also fall under the scope of planning control are:
- demolition taking place in conservation areas, without conservation consent, when it is required
 - works carried out to a listed building which affect the historic character or setting, without listed building consent being granted
 - removal of, or works carried out, to protected trees and hedgerows without consent being granted or proper notification given
 - advertisements, which require consent under the advertisement regulations, which are displayed without express consent
 - failure to comply with the requirements of a planning notice, e.g. enforcement, discontinuance, stop notice, breach of condition notice, or other statutory notice
- 2.6 The basic principle of planning law is that it is **not an offence to carry out works without planning permission** (with certain exceptions for Listed Buildings and Trees). Whilst such development is unauthorised, councils must consider the expediency of taking formal action. This is important to remember as members of the public often refer to illegal development or works. This is

incorrect as development may well be unauthorised. It will not be illegal unless a statutory notice has first been issued and the owner or occupier has failed to comply.

What is not a breach of planning control?

2.7 We often receive complaints regarding matters that are not breaches of planning control. Often this is where other legislation covers and controls the matter. The following are examples of what we cannot become involved in through our planning enforcement service:

- neighbour nuisance/boundary and land ownership disputes – these are civil matters that the Council can not get involved in. Further advice on these matters should be obtained from a solicitor or the Citizens Advice Bureau
- use of/development on the highway, footway or verge that is covered by highway legislation – please contact Essex County Council on 0845 6037631
- dangerous structures – please contact our Building Control section on 01992 564141
- any matter covered by other substantive legislation such as fly tipping, noise and smell – Please contact our Environmental Health Section on 01992 564497

Priorities

2.8 To make the most effective use of resources, all reports of suspected breaches of planning control will be investigated and progressed in accordance with the priority rating below. This is not an exhaustive list.

Category A - implies a severe and/or urgent case requiring immediate attention. This would include harmful works to a listed building or new physical development which would present a serious danger to members of the public; a Gypsy, Roma or Traveller incursion; works to a tree subject to legal protection; and works to a protected hedgerow. A site visit should be carried out within 7 working hours.

Category B - covers all other cases that are a less severe and/or less urgent case requiring prompt attention, and a site visit should be carried out within 14 working days.

2.9 Individual cases may be re-prioritised as the investigation progresses and as new evidence comes to light.

3 Investigation of suspected breaches of planning control

Receipt of complaint

- 3.1 To start a planning enforcement investigation, complaints from the community should normally be made in the following ways:
- by email at contactdcenf@eppingforestdc.gov.uk
 - filling out the standard form on our web site
 - over the phone on 01992 564527
 - by letter to the Planning Enforcement Section, Epping Forest District Council, High Street, Epping, Essex CM16 4BZ
 - or in person at the planning reception area at the Council Offices, opening hours are 0900 – 1300 Monday to Friday
- 3.2 When a complaint is received it is recorded on our database so it is important that we have the following information:
- name and contact details of complainant, including email address
 - full address of the alleged breach of planning control
 - nature of the breach and the harm it may be causing
- 3.3 All enforcement complaints are logged onto our computer system with a unique reference number so that each complaint can be monitored and the complainant updated on progress.
- 3.4 To avoid the unnecessary use of resources, hampering of investigations and dealing with malicious complaints, anonymous reports of suspected breaches of planning control will not be taken.
- 3.5 Confidentiality is vital; a complaint's identity will not be revealed to any third party.

Time frame for site visit

- 3.6 A site visit will be required in most cases to establish whether or not a breach of planning control has occurred. Most initial site visits will be unannounced so as not to alert persons on site that a complaint has been made, which would give them an opportunity to hide or cease breaches of planning control.
- 3.7 Although there will need to be some research around the case prior to a site visit the initial site visit (where necessary) will be conducted within the following timescales.
- Category A – within 7 working hours
 - Category B – within 14 days

We will aim to meet these timescales in all cases investigated to ensure cases progress without undue delay from the outset.

- 3.8 These targets allow officers to carry out the required level of research before visiting a site. If carrying out the initial site visit within these time frames is problematic on a specific case the officer will notify the complainant.

- 3.9 On completion of the initial site visit, the findings will be assessed and a view taken as to how the investigation will proceed. This may include taking legal advice about the case.

If no breach of planning control is established

- 3.10 A significant number of investigations are closed as there is no breach of planning control established. This can occur for a number of reasons, for example:

- there is no evidence of the allegation
- development has taken place but planning permission is not required, usually as it benefits from planning permission granted under the Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- the development already benefits from planning permission granted by the Council

- 3.11 It may also be the case that whilst a technical breach of planning control has been found the breach is so minor that it has no or very little impact on amenity, for example a domestic television aerial. Such a breach would be considered de-minimus in planning terms and no formal action could be taken in this respect.

- 3.12 Where this is the case the person reporting the suspected breach of control will be notified either verbally or in writing within 10 working days of the initial site visit that no further action will be taken. The complainant will be provided with an explanation of our reason(s).

- 3.13 When we receive a complaint, the case officer will check to see if the issue constitutes a breach of planning control and that legislation allows us to take action. Each case is judged on its individual merits. There are some cases where it would not be expedient for the Council to take enforcement action for example:

- the complainant believes there is breach of planning, but in fact is covered under permitted development legislation, therefore no action is required
- there may be cases where development has taken place but it is clear following an assessment, that retrospective planning permission or a certificate of lawfulness is likely to be granted. Should applications be made and approved, enforcement action will not be taken.
- where a fence is, for example, 2.1 metres high, not adjacent to the highway and the visual amenity and the character of the area is unaffected – the Council would need to decide if this could be considered to be de minimis and not be expedient to pursue enforcement action. In these cases we will advise the owner/occupier of the land/building of this saying that a note will be placed on the land charge record
- when there has been a change of use for a building or a breach of condition has taken place over 10 years ago the Council is unable to take action as there are time limits set out in planning legislation (either four or 10 years)

- 3.14 Criteria that would be used to determine a course of action include:

- whether planning permission required?
- what impact would the breach have on the visual amenity and character of the area affected, for example would it be minimal or significant?
- are the works permitted by planning legislation for example permitted development?
- is the breach contrary to any established planning policies?
- has there been a material change of use?

Where further investigation is required

3.15 There are cases where the initial site visit does not provide sufficient evidence to prove whether a breach of planning control has taken place. Examples of these can include:

- business operated from home and whether this constitutes a material change of use. This will often depend on the level of intensity and this may not be immediately apparent from the initial site visit
- alleged breaches of working hours conditions. If the operator denies the activity further investigations will be required
- building works are taking place but the owner claims it is to repair a previously existing structure. The officer will need to establish what, if anything, previously existed

3.16 Further investigation may involve additional site visits, documentary research, seeking advice from other services or agencies, seeking information from the person reporting the suspected breach of control, or the owner or other persons responsible for the land or building.

3.17 In some cases, we may ask the person reporting the suspected breach for further details. If the person reporting the suspected breach of planning control is unwilling to assist, this may result in the Council not being able to pursue the investigation due to insufficient evidence.

3.18 We will also consider serving a Planning Contravention Notice to obtain information relating to the suspected breach. Drafting such a notice correctly can take time. Equally a person on whom it is served has 21 days to respond. Therefore it may be several weeks until the appropriate evidence can be collected.

Where there is a breach of planning control

3.19 Where a breach of planning control is established, the first step is to consider whether it would be expedient to take formal enforcement action. Expediency is a test of whether the unauthorised activities are causing serious harm having regard to the Development Plan policies and other material planning considerations. The planning enforcement officer investigating the case will consider this in conjunction with the principal planning enforcement officer. The outcome of this consideration will generally inform the course of the investigation. Taking formal enforcement action is only one option with other courses open to the Council. Most planning enforcement investigations will involve one of the following courses of action.

Retrospective planning applications

- 3.20 Where officers consider that planning permission is likely to be granted for an unauthorised development, or that the imposition of conditions could reduce the harm to amenity, a retrospective planning application will be requested for the development. Section 73A of the Town and Country Planning Act (as amended) sets out the provisions for dealing with retrospective applications.
- 3.21 In determining retrospective planning applications the Council can not refuse an application simply because the development has already been carried out. Many breaches of planning control occur because the applicant simply did not realise permission was required. A retrospective planning application enables the Council to regularise acceptable development without arbitrarily penalising the applicant. We receive between 130 and 160 retrospective applications per year out of approximately 2500 applications. This demonstrates the important role retrospective applications play in resolving breaches.
- 3.22 Generally we will not seek a retrospective planning application if we feel the development is unacceptable. However, there are cases where it is initially unclear as to whether a development is acceptable in planning terms. An example is where a development is in the early stages of construction. In these cases an application may be necessary to obtain full details of the intended development. Once this information is received it would allow for a full assessment of the planning merits. We cannot refuse to deal with a retrospective planning application, even if it is felt that there is no merit in such an application, unless it falls within the conditions laid out in para 3.23 below.
- 3.23 The recent Localism Act 2011 has introduced an additional power to the Council in respect of retrospective planning applications **where an enforcement notice has already been issued** after 06 April 2012. Section 70C to the Town and Country Planning Act (as amended) now specifies:
- ‘a local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.’
- 3.24 We will use these powers where appropriate to prevent delays in cases where enforcement action is being taken. However, we will also have regard to each specific case and consider whether granting permission for part of the development would result in an acceptable resolution.

Not expedient to pursue formal action

- 3.25 While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice should not be issued solely to regularise development which is acceptable on its planning merits, but for which permission has not been sought. In such circumstances the Council will seek to persuade an owner or occupier to seek permission. This could include using a planning contravention notice. However, it is generally regarded by the Courts as unreasonable for a council to issue an enforcement notice solely to remedy the absence of a valid planning permission if there is no significant planning objection to the breach of planning control. See paragraphs 3.13 and 3.14 above and paragraphs 3.27 below for further information.

- 3.26 Where this is considered to be the case the officer will produce an expediency report to clearly setting out that no planning harm is caused by the development. As part of this process a planning contravention notice may be served to ensure we have all relevant information. Where officers conclude that it is not expedient to take action the case will be closed in accordance with the scheme of delegated powers as set out in the Council's Constitution.
- 3.27 Another criteria of expediency is to ensure that any action is proportionate to the breach. We investigate many technical breaches of planning control. Common examples of these include the construction of a fence or the construction of an out building in a residential curtilage slightly higher than allowed under permitted development regulations. In these cases it would clearly not be proportionate to require the removal of an entire building or fence where a slightly lower structure could be constructed without permission. As such the expediency test for taking action would not be met. We will work with owners to regularise or remedy the works but ultimately it is highly unlikely that formal action could be warranted in the case of a technical breach of planning control.

Negotiation

- 3.28 Where it is considered that the breach of planning control is unacceptable, officers will initially attempt to negotiate a solution without recourse to formal enforcement action, unless the breach is causing irreparable harm to amenity. Negotiations may involve the reduction or cessation of an unauthorised use or activity, or the modification or removal of unauthorised operational development.
- 3.29 In carrying out negotiations officers will have regard to the specific circumstances of the individual case. For example where there is an unauthorised business activity officers will consider whether relocation is possible and if so will seek to put a reasonable timescale in place.
- 3.30 Where initial attempts at negotiation fail, formal action will be considered to prevent a protracted process. We will also consider using temporary stop notices to prevent the breach becoming more severe.
- 3.31 Where we are unable to negotiate an acceptable solution within a reasonable timescale, or it is clear at the outset that the breach is not capable of being remedied through negotiation, we will proceed with formal enforcement action where it is expedient to do so.

4. Taking formal enforcement action

- 4.1 Once the decision to take formal action has been made we will tell the complainant either verbally or in writing/email within 10 working days from the date on which the decision to take action was made. We will consider the full range of powers available to ensure the most proportionate and expedient resolution. We will also consider whether any other public authority is better able to take remedial action. For example Essex County Council or the Environment Agency.
- 4.2 A full planning enforcement toolkit is available to officers when taking formal action, the use of these can vary depending on the nature of the breach and the level of harm caused.

Powers available

Enforcement notice

- 4.3 Section 172 of The Town and Country Planning Act (as amended) allows the service of an enforcement notice where unauthorised operational development or a change of use has taken place and it is considered expedient to do so. We are required to serve enforcement notices on the owner, occupier and any other person with an interest in the land which is materially affected by the notice.
- 4.4 An enforcement notice shall specify the steps which we require to be taken, or the activities which we require to cease, in order to achieve, wholly or partly, any of the following purposes:
- remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - remedying any injury to amenity which has been caused by the breach.
- 4.5 The notice will specify time periods for compliance for each of the steps from the date on which the notice comes into effect. A notice comes into effect after a minimum period of 28 days following service. There is a statutory right of appeal against the notice during this period to the Planning Inspectorate. Once the Planning Inspectorate has received a valid appeal, the enforcement notice has no effect until the appeal has been determined.
- 4.6 There are seven grounds of appeal against an enforcement notice. Any appeal may include one or all of these grounds:
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged
 - (b) that those matters have not occurred
 - (c) that those matters (if they occurred) do not constitute a breach of planning control
 - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters
 - (e) that copies of the enforcement notice were not served as required by section 172

- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

4.7 Given these rights of appeal it is important that all relevant matters are taken into account before serving an enforcement notice. This includes being clear in respect of; the specific breach of planning control; the steps required to remedy the breach; and the time required for compliance. An enforcement report will be produced by officers specifically to consider these issues. As with an appeal against a planning application costs can be applied for in cases where the other party has acted unreasonably.

4.8 If the breach of planning control relates to a listed building, or unauthorised demolition within a conservation area, we will consider the expediency of serving a listed building enforcement notice or a conservation area enforcement notice and where appropriate, commence a prosecution in the Courts. The enforcement notice will specify the reason(s) for its service, the steps required to remedy the breach, the date that it takes effect and the time period for compliance.

4.9 All enforcement notices are placed on the Council's enforcement register which is available to view on the Council's website at <http://planpub.eppingforestdc.gov.uk/AnitelM.websearch/Home.aspx>

Planning Contravention Notice (PCN)

4.10 Section 171C of the Town and Country Planning Act (as amended) provides the power to issue a PCN. This can be served on the owner or occupier of the land in question or a person who is carrying out operations in, on, over or under the land or is using it for any purpose and where a suspected breach of planning is believed to exist. The PCN will require the recipient to provide the information requested within 21 days relating to the breach of planning control alleged. Failure to comply with any aspect of the PCN is an offence for which the recipient can be prosecuted with the maximum fine of £1,000. To knowingly provide false information on a PCN can result in a fine of up to £5,000.

4.11 A PCN will be served in most cases as a precursor to an enforcement notice to ensure all relevant information has been obtained.

Other requisition for information notices

4.12 Under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 the Council can require the recipient of a requisition for information notice to supply in writing details of their interest in a property and provide details of anyone else having an interest in the property. A reply must be supplied within 14 days. A person who fails to comply with the requirements of a notice or makes a false statement in a reply is guilty of an offence punishable by a fine of up to £5,000.

4.13 Under section 330 of the Town and Country Planning Act 1990 the Council can require the recipient to state in writing the nature of their interest in a property and to state in writing the name and address of any other person known to them as having an interest in the property, as a freeholder, mortgagee, lessee or otherwise. Failure

to return the form or to provide a miss statement is an offence punishable by a fine up to £1,000.

Breach of Condition Notice (BCN)

- 4.14 Section 187A of the Town and Country Planning Act (as amended) provides the power to serve a Breach of Condition Notice (BCN) where a planning condition has not been complied with. Consideration should be given to the type of condition and the steps required to secure compliance with the condition. Once issued the notice does not take effect for 28 days. There is no appeal against a BCN and therefore can offer a more expedient course of action than issuing an enforcement notice. The failure to comply with the notice is dealt with by a prosecution in the Magistrates Court. The maximum fine has recently been increased to a level 4 fine (£2,500). The BCN is ideal for matters where the steps to be taken are relatively simple and can be readily achieved.
- 4.15 Where the breach of planning control relates to non-compliance with a condition on a planning permission or a limitation on a deemed planning permission has been exceeded, we will consider the expediency of serving a BCN. The breach of condition notice will specify the steps required to comply with the condition(s) or limitation(s), the date that it takes effect and the time period for compliance.

Stop Notice

- 4.16 Section 183 of the Town and Country Planning Act (as amended) provides for the service of a stop notice. A stop notice must be served at the same time or after the service of an enforcement notice. We will consider serving a stop notice where urgent action is necessary to bring about a cessation of a relevant activity before the expiry of the period of compliance of the related enforcement notice.
- 4.17 The stop notice must refer to the enforcement notice, specify the activity or activities that are required to cease and the date that it takes effect. Failure to comply with the notice is an offence. The maximum fine on summary conviction is £20,000.
- 4.18 The Council must consider the use of stop notices carefully as they carry with them significant statutory compensation provisions.

Temporary Stop Notice (TSN)

- 4.19 Section 171E of the Town and Country Planning Act (as amended) provides councils with the power to serve a TSN. A TSN which can be issued without the need to issue an enforcement notice and is designed to halt breaches of planning control for a period of up to 28 days.
- 4.20 Whilst TSNs also carry some compensation provisions these are significantly lower than with a stop notice and therefore the risk to the Council is reduced.
- 4.21 All stop notices are placed on the Council's enforcement register.

Time limits for taking formal action

- 4.22 Section 171B of the Town and Country Planning Act (as amended) sets out time limits for taking enforcement action. The Council cannot serve a notice after four years where the breach of planning control involves building operations, for example

extensions to dwellings, new buildings and laying hard standings; or the change of use of any building to a single dwelling house, from the commencement of the breach. Other unauthorised changes of use and breaches of conditions are subject to a 10 year time limit.

- 4.23 After these periods the Council cannot take action and the use becomes lawful. The landowner can apply for a Certificate of Lawful Existing Use or Development (CLEUD) after this period and if the evidence is clear regularise the situation.
- 4.24 Serving an enforcement notice in respect of a particular development stops the clock in relation to these time limits. Therefore where the Council feel a breach may be close to the relevant time limit it may seek to take urgent enforcement action to prevent a lawful development situation.
- 4.25 The Localism Act has introduced a new enforcement power in relation to time limits. This allows councils the possibility to take action against concealed breaches of planning control even after the usual time limit for enforcement has expired (see below).
- 4.26 The Council can, within six months of a breach coming to their attention, apply to the magistrate's court for a planning enforcement order. A planning enforcement order would give us one year to then take enforcement action. In agreeing to a planning enforcement order, the court need only be satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons. In other words:
- concealment of only part of the breach is sufficient to render it all open to enforcement
 - the deliberate concealment could be to an almost negligible extent
 - the concealment may be by anyone – it could have been by a past owner, it could even have been by a third party.

Failure to comply with formal notices

- 4.27 Where a notice has been served and has not been complied with there are three main options available to the Council to pursue to attempt to resolve the breach.

Prosecution

- 4.28 We will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the following notices where the date for compliance has passed and the requirements have not been complied with:
- enforcement notice
 - listed building enforcement notice, conservation area enforcement notice
 - planning contravention notice
 - breach of condition notice
 - section 215 notice
 - stop notice
- 4.29 Cases involving unauthorised works carried out to a Listed Building and unauthorised demolition in a Conservation Area also constitutes an offence in their own rights. We

will consider whether it would be expedient to prosecute for these works rather than issuing a notice on a case by case basis.

- 4.30 Before commencing any legal proceedings we need to be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. We will take advice from the Councils Legal Section and from Independent Counsel where required to ensure that we act correctly.

Direct Action

- 4.31 Where any steps required by an enforcement notice or section 215 notice have not been taken within the compliance period (other than the discontinuance of the use of land), we will consider whether it is expedient to exercise our powers under section 178 of the Town and Country Planning Act (as amended) to:

- enter the land and take the steps to remedy the harm; and
- recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

- 4.32 In most cases the Council will seek to prosecute the failure to comply with a notice before seeking to initiate direct action.

Injunction

- 4.33 Where an enforcement notice has not been complied with and, because of the special circumstances of the case, either direct action or prosecution would not be an effective remedy, we will consider applying to the Court for an Injunction under section 187B of the Town and Country Planning Act (as amended).

- 4.34 An injunction can also be applied for where there is clear evidence that a breach of planning control is anticipated but has not actually occurred. Such action will only be considered if the breach, actual or anticipated, is particularly serious and is causing or likely to cause exceptional harm.

5. Special Controls

Advertisements

- 5.1 Unlike most spheres of planning control the display of advertisements without consent is a criminal offence. Therefore we have the power to initiate prosecutions without the need to issue a notice. Where it has been considered that an advertisement should be removed an offender will normally be given one written opportunity to remove the advertisement voluntarily. Failure to do so will normally result in further action being taken without further correspondence.
- 5.2 Section 225 of the Town and Country Planning Act (as amended) provides powers to remove or obliterate posters and placards. We will consider using these powers as appropriate as an alternative or in conjunction with prosecution action.
- 5.3 The recent Localism Act has introduced several new provisions in respect of dealing with advertisements. These are Removal Notices, Action Notices and the powers to remedy the defacement of property. Each provision includes rights of appeal to the Magistrates Court.

Removal notices

- 5.4 This provides the power to seek removal of any structure used to display an advertisement. Where the notice is not complied with we may undertake the works in default and recover the expenses for doing so.

Action notices

- 5.5 Where there is a persistent problem with unauthorised advertisements an action notice can be issued specifying measures to prevent or reduce the frequency of the display of advertisements on the surface. Again where the notice is not complied with we may undertake the works in default and recover the expenses for doing so.

Power to remedy defacement of premises

- 5.6 Where a sign has been placed on a surface that is readily visible from somewhere the public have access, and is considered by us to be detrimental to the amenity of the area or offensive, a notice may be issued requiring the removal or obliteration of the sign. As with the above provisions failure to comply with the notice will allow us to undertake the works in default and recover costs (costs can not be recovered where the sign is on a flat or house or within the curtilage of a house)

Trees and Hedgerows

- 5.7 The lead section for all Tree and Hedgerow investigations is the Landscape Section who can be contacted on 01992 564452. Enforcement provides investigative support to their investigations where appropriate.
- 5.8 Legislation protects trees which are the subject of Tree Preservation Orders (TPOs) or are within a Conservation Area from felling or other works unless appropriate consent is first obtained. As with advertisements such works are an offence and therefore prosecution can be sought without the requirement to issue a notice. However, such action would not remedy the harm caused.

- 5.9 Section 207 of the Town and Country Planning Act (as amended) provides for a replacement notice to be issued. This will require an appropriate replacement tree to be planted where a tree covered by a TPO has been removed.

Section 215 Notice

- 5.10 In cases where the amenity of an area is adversely affected by the condition of land or buildings, we will consider serving a notice under Section 215 of the Town and Country Planning Act (as amended). The notice will specify the steps required to be taken to remedy the condition of the land or buildings, the time period within which the steps must be taken and the date that it takes effect.
- 5.11 A section 215 notice takes effect after 28 days service during which time an appeal can be made in the Magistrates Court.

6. Other powers

Entry onto land

- 6.1 Under the provisions of Section 196A, B and C of the Town and Country Planning Act (as amended) officers have the right of entry onto land and buildings land when pursuing effective planning control for the following purposes:
- (a) to ascertain whether there is or has been any breach of planning control on the land or any other land;
 - (b) to determine whether any of the powers conferred on a local planning authority should be exercised in relation to the land or any other land;
 - (c) to determine how any such power should be exercised in relation to the land or any other land;
 - (d) to ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to the land or any other land;
- and to determine whether an enforcement notice should be served on that or any other land.
- 6.2 Twenty four hours notice in writing must be given for the need to access to a residential building if entry is refused. If access is still denied, or the matter is urgent, a warrant can be applied for from the Magistrates Court. Officers will exercise these powers where appropriate particularly where their use is essential to the collection of evidence relating to an alleged breach of planning control. An obstruction of these powers is an offence which is subject to prosecution.
- 6.3 Section 324 of the of the Town and Country Planning Act (as amended) gives officers general powers of entry to sites to:
- To undertake surveys in connection with;
- a) Statutory plans;
 - b) Applications for planning permission;
 - c) Applications for consents under Tree Preservation Orders; and
 - d) Applications under Advertisement Regulations.
- 6.4 Similar Powers of entry exist for Listed Buildings, hedgerows, trees and advertisements.

7. Legislation/guidance

- Town and Country Planning Act 1990 – This forms the current primary legislation
- The Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 – these two Acts are secondary legislations which amend and add to the provisions of the Town and Country Planning Act 1990. Where specific sections from these Acts are referenced in the enforcement plan they are collectively referred to as the Town and Country Planning Act (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Localism Act 2011
- National Planning Policy Framework (NPPF)
- Circular 3/09 – Cost awards in appeals and other planning proceedings
- Circular 1/95 - Use of conditions in planning permission
- Circular 10/97 - Enforcing Planning Control
- The Town and Country Planning (Development Management Procedure) (England) Order 2010
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Use Classes) Order 1995 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Regulation of Investigatory Powers Act 2000
- Police and Criminal Evidence Act 1984

**PLANNING DIRECTORATE – DELEGATION OF
COUNCIL FUNCTIONS**

Schedule 1 – Development Control

Schedule 2 – Forward Planning and Related Functions

DEVELOPMENT CONTROL FUNCTIONS

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
Care of the Environment District Development Control Committee (Minute 30 – 7.12.10)	Town and Country Planning (Environmental Impact Assessments) (England and Wales) Regulations 1999 Planning (Hazardous Substances) Act 1990, Section 36, 36A and 36B Planning (Hazardous Substances) Regulations 1992	To determine the need for and scope of environmental impact assessments required under the Town and Country Planning Acts. To determine applications for hazardous substances consent except those where there are objections from interested parties, which shall be determined by the relevant Area Planning Sub-Committee. To obtain and use necessary powers of entry to the land in relation to the above.	No
Development Control District Development Control Committee (Minute 30 – 7.2.10) Council Minute 29 – 28.6.11	Town and Country Planning Act 1990 Section 70, 70(A), 191-3 etc Planning and Compensation Act 1991, Section 10 Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Part 1, Reg. 16-19 Town and Country Planning (Development Management Procedure) (England) Order 2010, Part 6, Article 35 Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 3, Reg. 14-15	1. Subject to Appendix A below, which are matters to be determined by Committee, to determine or decline to determine any: (a) planning applications; (b) applications for approval of reserved matters; (c) applications arising from any condition imposed on any consent, permission order or notice; (d) advertisement consents; and <u>(e) listed buildings;</u> 2. To agree the precise wording of additional/revised conditions to be attached to planning permissions, at members' request, and discharge of conditions.	Yes (See Appendix A to this Schedule)

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
	<p>Town and Country Planning General Permitted Development Order 1995, Part 6 and Part 31 of Schedule 2 as amended by SI 2008 No. 2362 and <u>SI 2013 No. 1101</u></p> <p><u>Town and Country Planning (Development Management Procedure) (Amendment) (England) Order 2013</u></p>	<p>3. To determine whether prior approval of the method of any proposed demolition and any proposed site restoration is required and to give such approval where required except where objections from interested parties are received, which shall be determined by the Area Plans Sub-Committees.</p> <p>4. In relation to telecommunications equipment, to determine, after prior consultation with ward Councillors, whether the prior approval of the Council should be required to the siting and appearance of notified development.</p> <p>5. In relation to agricultural development, to determine whether to require the formal submission of details.</p> <p>6. To determine applications in relation to certificates of lawful use and development.</p> <p>7. To obtain and use necessary powers of entry to the land in relation to the above.</p> <p>8. To determine or decline to determine any non-material amendments.</p> <p>9. <u>To determine applications for prior approval for:</u></p> <p><u>(a) Single storey rear extensions to dwellinghouses;</u></p> <p><u>(b) Class J applications for prior approval for change of use from Class B1a offices to Class C3 residential;</u></p> <p><u>(c) Class K applications for prior approval for change of use from Class B1, C1, C2, C2a and D2 to State funded school; and</u></p> <p><u>(d) Class M development - Change of use from agriculture building (between 150 – 500 square metres) to a flexible use falling either within Class A1(shops), A2 (financial and professional services), A3 (restaurants and cafes), B1 (business), B8 (storage and distribution), Class C1 (hotels) or D2 (assembly and leisure).</u></p>	

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
		Subject to consultation with ward members in the cases where a <u>valid objection has been made and officers are minded to grant the application.</u>	
Enforcement District Development Control Committee (Minute 30 – 7.12.10)	<p>Town and Country Planning Act 1990 (as amended), Part 7, section 171-190, 196 A, B, C, 198-200 214(A)-(D), 215-219, 220 or 221 and 224, 325, 330</p> <p>Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 5, sections 27 and 30</p> <p>Planning (Listed Buildings and Conservation Areas) Act 1990, Chapter 4, sections 38, 88, 88A and 88B</p> <p>Local Government (Miscellaneous Provisions) Act 1982 (Section 37)</p>	<p>Authority for Director of Planning and Economic Development or Director of Corporate Support Services to:</p> <ol style="list-style-type: none"> 1. Issue Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Section 215-219 Notices for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy. 2. Prosecute the unauthorised display of advertisements, unauthorised works to a listed building, and non-compliance where enforcement action has previously been authorised. 3. Take appropriate enforcement action, including serving an injunction where the Director of Planning and Economic Development and/or the Director of Corporate Support Services, on their nominee, having regard to the evidence considers the circumstances to require urgent action. 4. Investigate if a temporary market has been held in breach of Section 37 of the 1982 Act. 5. Vary the requirements for compliance with notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices. 6. Determine when action is not expedient in relation to breaches of control considered inconsequential or insignificant. 7. Obtain and use powers of entry necessary in relation to the above. 	

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
	Town and Country Planning Act 1990 (Section 178) (Council Minute 126 – 23.4.13)	8. To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice under Section 178.	Subject to budget provision being available and to local District Councillors being notified

APPENDIX A: MATTERS TO BE DETERMINED BY THE RELEVANT COMMITTEE

- (a) Applications contrary to the provisions of an approved draft Development Plan or Development Plan, and which are recommended for approval;
- (b) Applications contrary to other approved policies of the Council, and which are recommended for approval;
- (c) Applications for major commercial and other developments, (e.g. developments of significant scale and/or of wide concern) and which are recommended for approval;
- (d) Applications for residential development consisting of 5 dwellings or more (unless approval of reserved matters only) and which are recommended for approval);
- (e) The Council's own applications on its land or property which are for disposal;
- (f) Those applications recommended for approval where there are more than two expressions of objections received, material to the planning merits of the proposal to be approved, apart from approvals in respect of householder type developments, telecommunication masts, shop fronts and vehicular crossovers and "other" category developments (changes of use, advertisements, listed building consents, conservation area consents), where more than four expressions of objections material to the planning merits of the proposal to be approved are received;
- (g) Applications recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;
- (h) Applications referred by a District Councillor, whose own ward must be within the remit of the relevant Area Plans Sub-Committee and who has firstly notified the relevant Ward Councillors in advance, so long as the referral has been requested in writing to Officers within 4 weeks of that applications notification in the Weekly List;
- (i) Applications where the recommendation conflicts with a previous resolution of a Committee;
- (j) Applications submitted by or on behalf of a Councillor of the Authority (and/or spouse/partner) or on behalf of a member of staff of Planning and Economic Development (and/or spouse/partner) and also in those cases where a councillor is an objector in a purely personal capacity;
- (k) Any other application which the Director of Planning and Economic Development considers it expedient or appropriate to present to committee for decision (e.g. those raising issues not covered by existing policies, or of significant public interest, or those with a significant impact on the environment);
- (l) An application which would otherwise be refused under delegated powers by the Director of Planning and Economic Development but where there is support from the relevant local council and no other overriding planning consideration necessitates refusal.

FORWARD PLANNING AND RELATED FUNCTIONS

Function	Relevant Legislation	Relevant Details	Exceptions
Forward Planning	Town and Country Planning Act 1990 Section 324 and 325	To obtain and exercise powers of entry to undertake surveys in connection with: (1) Statutory Plans (2) Applications for planning permission	No
Buildings	Planning (Listed Buildings and Conservation Areas) Act 1990 Section: 3 (1-8)	To serve Building Preservation Notices in urgent cases, subject to report to and review by the next meeting of District Development Control Committee. To obtain and exercise powers of entry to undertake surveys in connection with: (1) Statutory Plans (2) Applications for Planning Permission	Yes
Dangerous trees on private land	Local Government (Miscellaneous Provisions) Act 1976 Sections: 23 and 24	Discretionary power to take action to make safe trees on private land, including to: (1) Obtain and use necessary Powers of Entry to the land; (2) Serve relevant notices; (3) Respond to appeals; (4) Undertake works directly where necessary; and (5) Recover expenses.	No
Countryside hedgerows	The Hedgerow Regulations 1997 Sections: 5 to 15 incl.	The responsibility to: (1) Regulate the removal of certain hedgerows;	No

Function	Relevant Legislation	Relevant Details	Exceptions
		<ul style="list-style-type: none"> (2) Issue relevant notices, including to require hedgerow replacement; (3) Respond to appeals; (4) Take necessary enforcement or legal action; (5) Obtain and use necessary powers of entry to the land; (6) Surveying land in connection with any hedgerow removal notice; (7) Ascertaining whether any offences have been committed under Regulation 7; and (8) Determination of whether a notice should be served under Regulation 8. 	
High Hedges	Anti-social Behaviour Act 2003 (Part 8) Sections: 68, 69, 70, 74, 75, 77, 79 and 80.	<p>The responsibility to:</p> <ul style="list-style-type: none"> (1) Deal with complaints in relation to the height of domestic hedgerows; (2) Issue, withdraw or relax the requirements or relevant notices; (3) Serve relevant documents regarding notifications; (4) Notify interested parties; (5) Respond to appeals; (6) Take relevant legal or enforcement action, including undertaking works directly and recovering expenses; and (7) Obtain and use powers of entry necessary in relation to (1), (2), (3) and (6). 	No
Protection of trees	Town and County Planning Act 1990 (as amended) Part VIII	The duty and responsibility to:	No

Function	Relevant Legislation	Relevant Details	Exceptions
	Sections: 197, 198, 199, 201, 203, 205, 206, 207, 208, 209, 210, 211, 214, 214A, B, C&D, 324	<p>(1) Take all necessary measures to make Tree Preservation Orders where trees are at risk, and are of significant existing or potential amenity value, or where they are of wider or strategic importance, subject to publication of the details in the Council Bulletin;</p> <p>(2) Amend, confirm, decide not to confirm or revoke such orders (i.e. TPOs) subject to reporting any objections regarding the making of the order to the relevant Area Planning Sub-Committee for this decision;</p> <p>(3) Determine applications for works to preserved trees (other than felling) except as set out below:</p> <p>(i) applications recommended for approval where more than two expressions of objection material to the planning merits of the proposal have been received;</p> <p>(ii) applications recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal; and</p> <p>(iii) applications which a Councillor representing a ward within the relevant Area Plans Sub-Committee area requests in writing within four weeks of notification in the Council Bulletin should be referred to the appropriate Sub-Committee provided that the member has notified the Ward Councillor in advance;</p> <p>(4) Take any necessary action in respect of claims for compensation;</p> <p>(5) Take action to ensure replacement planting where appropriate, by serving relevant notices, or by undertaking such planting directly and reclaiming the costs, and to publish any decision not to require replacement planting in the Council Bulletin;</p> <p>(6) Respond to appeals;</p> <p>(7) Take legal action in aspect of breaches of Part VIII of the Act where expedient, in conjunction with the Director of Corporate Support Service, including injunctive action and recovery of costs;</p>	

Function	Relevant Legislation	Relevant Details	Exceptions
		<p>(8) Take appropriate action in respect of notification of works to trees in Conservation Areas, including the issue of the Tree Preservation Orders as necessary; and</p> <p>(9) Authorise all expedient measures to gain entry to land in respect of the execution of any of the above, including to:</p> <p>(i) issue a warrant if admission has been refused or if a refusal is reasonably anticipated or if the case is urgent;</p> <p>(ii) to take samples of trees or soil; and</p> <p>(iii) for the authorised person(s) to take with them such other persons as may be necessary.</p>	

- Note: The authorities to undertake the stated functions, as set under the relevant sections shall be taken to be automatically updated to take into account changes, modifications and updating as they occur in the relevant legislation, subject to no new authorities being created. All references are to the legislation as currently amended.

Report to District Development Control Committee

Date of meeting: 11th December 2013



**Epping Forest
District Council**

Subject: Planning Application EPF/2163/13 – Sir Winston Churchill Public House and adjoining land, The Broadway, Loughton – Demolition of Public House and garages and replacement with construction of a mixed use development, comprising retail and food and drink units (within classes A1, A3 and A4) at ground floor level and 64 residential units at upper floor levels (first to sixth floors), together with 62 car parking spaces, service yard, access and car parking.

Officer contact for further information: K Smith

Committee Secretary: S Hill Ext 4249

Recommendation:

That members consider an officer recommendation to GRANT planning permission subject to the Applicant agreeing to an extension of time beyond the statutory 13 week deadline and also subject to the completion of a Section 106 legal agreement and planning conditions.

In the event that the Applicant has failed to complete a Section 106 Legal Agreement within the stated time period, Members delegate authority to officers to refuse planning permission on the basis that the proposed development would cause harm to local education and health services by generating additional demand which cannot be accommodated within existing capacity.

Section 106 legal agreements (to be completed by 31st March 2014 unless the Applicant has, prior to this date, agreed an extension of time end date with Planning Officers) to secure the following:

- A contribution of £192,016 towards the provision of local primary and secondary education facilities; and
- A contribution of £14,400 towards the provision of healthcare services within the locality.
-

Planning Conditions:

1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the

Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.

Reason:- To ensure a satisfactory appearance in the interests of visual amenity, in accordance with the guidance contained within the National Planning Policy Framework and policy DBE1 of the adopted Local Plan and Alterations.

- 3 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: *** to be confirmed***

Reason: To ensure the proposal is built in accordance with the approved drawings.

- 4 A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tools. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.

Reason:- The development is of a size where it is likely to result in increased surface water run-off, in accordance with the guidance contained within the National Planning Policy Framework and policy U2B of the adopted Local Plan and Alterations.

- 5 Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works. Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

Reason: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 6 No development shall take place until either details of a satisfactory ground gas investigation and risk assessment has been carried out and submitted to the Local Planning Authority for approval, together with full details of any necessary gas mitigation measures to be

installed in the building(s) **or** appropriate gas mitigation measures to mitigate gas risks for Characteristic Situation 2 (Amber 1) have been submitted to and approved by the Local Planning Authority in lieu of any ground gas investigation. The investigations, risk assessment and remediation methods, including remedial mitigation measures to be installed in lieu of investigation, shall be carried out or assessed in accordance with the guidance contained in BS 8485:2007 "Code of practice for the Characterisation and Remediation from Ground Gas in Affected Developments." Should the ground gas mitigation measures be installed, it is the responsibility of the developer to ensure that any mitigation measures are suitably maintained or to pass on this responsibility should ownership or responsibility for the buildings be transferred.

Reason: Since the site has been identified as being potentially at risk from ground gases and to protect human health and buildings.

- 7 Within the ground floor of the building hereby permitted, a minimum area of 150sqm shall be available for use as a drinking establishment falling within Class A4 of the Town and Country Planning (Use Classes) Order 1987 as amended.

Reason: To ensure the continues provision of this community facility within this site, in accordance with the guidance contained within the National Planning Policy Framework and policy CF12 of the adopted Local Plan and Alterations.

- 8 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

1. The parking of vehicles of site operatives and visitors
2. Loading and unloading of plant and materials
3. Storage of plant and materials used in constructing the development
4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
5. Measures to control the emission of dust and dirt during construction, including wheel washing.
6. A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason:- To limit the impact of the construction work on the living conditions of residents living in close proximity to the site, in accordance with the guidance contained within the National Planning Policy Framework and policies RP5A and DBE9 of the adopted Local Plan and Alterations.

- 9 No development shall take place until details of levels have been submitted to and approved by the Local Planning Authority showing

cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.

Reason:- To ensure the impact of the intended development upon adjacent properties and the street scene is acceptable, in accordance with the guidance contained within the National Planning Policy Framework and policies CP2, DBE1 and DBE9 of the adopted Local Plan and Alterations.

- 10 The commercial uses hereby permitted shall not be open to customers / members outside the hours of 0730 to 2330 on Monday to Thursday and 0730 to 0000 (midnight) on Fridays and Saturdays.

Reason:- In order to minimise disturbance to local residents, in accordance with the guidance contained within the National Planning Policy Framework and policies RP5A and DBE9 of the adopted Local Plan and Alterations.

- 11 Prior to the commencement of the development hereby approved, details of the proposed shop fronts shall be submitted to the local planning authority for approval in writing. The development shall proceed in accordance with the agreed details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity, in accordance with the guidance contained within the National Planning Policy Framework and policy DBE1 of the adopted Local Plan and Alterations.

- 12 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to an approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the

details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with the guidance contained within the National Planning Policy Framework and policies CP2 and LL11 of the adopted Local Plan and Alterations.

- 13 Notwithstanding the detail shown on the approved plans, prior to the commencement of the development hereby approved, details of the proposed refuse and cycle storage areas shall be submitted to the local planning authority for approval in writing. The development shall proceed in accordance with the agreed details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity and to ensure the functionality of this area in accordance with the guidance contained within the National Planning Policy Framework and policy DBE1 of the adopted Local Plan and Alterations.

- 14 The proposed service and car park areas indicated on plan number 2489 PL02C shall be provided ready for use prior to the first occupation of the development hereby approved, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for parking and access within the development, in accordance with the guidance contained within the National Planning Policy Framework and policy DBE6 of the adopted Local Plan and Alterations.

- 15 Prior to the first occupation of the development hereby approved, details of boundary treatments (fences, walls etc) shall be provided to the local planning authority for approval in writing. The boundary treatments shall be erected in accordance with the approved detail before the first occupation of the development and retaining in that form thereafter.

To ensure a satisfactory level of residential amenity, in accordance with the guidance contained within the National Planning Policy Framework and policies DBE2 and DBE9 of the adopted Local Plan and Alterations.

- 16 No external lighting shall be erected within the car park areas without the prior written approval of the local planning authority.

Reason: To ensure a satisfactory level of amenity for neighbouring residents, in accordance with the guidance contained within the National Planning Policy Framework and policies DBE2 and DBE9 of the adopted Local Plan and Alterations.

- 17 Prior to the undertaking of any demolition or preliminary groundworks, details of a programme of historic building recording in accordance with a written scheme of investigation shall be submitted to the local planning authority for approval in writing. The development shall approve in accordance with the agreed details.

Reason:- In order that such features of importance can be recorded

for the benefit of posterity, in accordance with the guidance contained within the National Planning Policy Framework and policy HC1 of the adopted Local Plan and Alterations.

- 18 Prior to first occupation of the development hereby approved, the proposed window opening(s) in the section of the north west elevation referred to as Elevation 'G' on plan no. 2489 PL13B and the north east elevation referred to as Elevation 'E' on plan no. 2489 PL12B shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.

Reason:- To prevent overlooking and loss of privacy to the occupants of neighbouring properties, in accordance with the guidance contained within the National Planning Policy Framework and policy DBE9 of the adopted Local Plan and Alterations.

- 19 Prior to the commencement of the development hereby approved, an investigation into air quality within the vicinity of the site shall be submitted to the local council for approval in writing. The development shall proceed in accordance with any agreed recommendations of the investigation.

Reason: To ensure a satisfactory level of residential amenity for future occupiers of the development, in accordance with the guidance contained within the National Planning Policy Framework and policy RP5A of the adopted Local Plan and Alterations.

Report Detail

The Application Site

1. The site which is the subject of this planning application is located close to the junction of The Broadway with Rectory Lane. It presently comprises the Sir Winston Churchill public house, a two storey brick building which its main frontage facing the corner, but with key elevations also fronting the sites boundaries with Rectory Lane and The Broadway. The car park to the public house is located to the north of the building, also within the application site. To the north east of the public house site, the remainder of the application site comprises a Council owned garage court (comprising 36 garages and providing access to further garages located within adjacent residential gardens). Topography across the site is such that there is a rise in ground level to the north and, to a lesser degree, to the east.

2. The site is located within a locality of mixed commercial and residential uses. To the north and north east are two storey dwellings in Barrington Green and Barrington Road. To the east is The Broadway, a three storey building with commercial uses at ground floor level and two storeys of residential accommodation above. Between the site and The Broadway is a one-way street, Vere Road, which provides access to a Council owned car park and garage court located at the rear of The Broadway. To the south, on the opposite side of The Broadway is the BP petrol filling station, beyond which is Sainsbury's. The site is adjacent to potential future highway works proposed in association with planning permission given for a retail

park in nearby Langston Road. However, those highway works do not physically interfere with the site itself.

3. The application site is identified within the Council's Debden Town Centre and Broadway Development Brief (adopted by Full Council in September 2008) as a development site, with potential for providing approximately 900m² of commercial floor area and 3,000² of residential floor area. The Brief states that the site forms one side of the entrance to The Broadway and requires that any development should complement that on the opposite side (BP petrol filling station and Sainsbury's) to help create a strong gateway. The brief further requires that any development should reconfigure Barrington Green to bring a built presence to Chigwell Lane and that ground floor residential development should not form part of the key frontage to Chigwell Lane or The Broadway. Finally the brief states that a bar/pub/restaurant could be incorporated on the ground floor to maintain current leisure facilities.

The Proposal

4. This application seeks planning permission for the demolition of the existing public house and its replacement with a building housing retail units at ground floor level (with basement level below) and 64 flats (3 x 1 bed and 61 x 2 bed) contained within the upper floors of the building. The building would be tiered in height, with its full seven storey height being located close to the junction of The Broadway with Rectory Lane and the building stepping down in height adjacent to The Broadway parade and houses in Barrington Green. The full building height would also be stepped back from the highway frontage.

5. A total of 62 parking spaces would be provided to the rear of the building, both within the public houses site and replacing a Council owned car park to the rear. At the rear of the building, deliveries to the retail units will have access to a service yard (approximately 17 x 18 metres) from Vere Road, slightly beyond the existing access into the public house site. Existing accesses from Vere Road will be used to provide access to a 14 space parking court directly behind the building (this access into the public houses car park is presently restricted by bollards) and into the existing garage court, which will provide a further 48 car parking spaces (this has been reduced from 50 spaces to allow access to the garage of 33 Barrington Road, which is presently accessed from the garage court). Car parking spaces would be 2.5 x 5.0 metres in size.

Relevant Planning history

6. Conversion of house into Licensed Refreshment house. (Brickclamps, The Broadway). Approved 21/05/1953.

Applications have subsequently been received in association with the use of the public house (for example, signage applications) and in connection with the use of the car park for car washing.

Relevant Planning Policies

Local Plan and Alterations

CP1 Achieving Sustainable Development Objectives
CP2 Protecting the Quality of the Rural and Built Environment
CP3 New Development
CP6 Achieving Sustainable Urban Development Patterns

CP7 Urban Form and Quality
H2A Previously Developed Land
H3A Housing density
H4A Dwelling Mix
H5A Provision for Affordable Housing
H6A Thresholds for Affordable Housing
H7A Levels of Affordable Housing
TC3 Town Centre Function
DBE1 Design of New Buildings
DBE2 Affect on Neighbouring Properties
DBE3 Design in Urban Areas
DBE6 Car parking in new development
DBE7 Public Open Space
DBE8 Private Amenity Space
DBE9 Loss of Amenity
DBE12 Shopfronts
LL11 Landscaping Schemes
RP5A Adverse Environmental Impact
ST1 Location of Development
ST2 Accessibility of development
CF12 – retention of Community facilities

7. The National Planning Policy Framework (NPPF) was adopted in March 2012. Paragraph 214 states that due weight should be given to the relevant policies in existing plans according to the degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

Summary of Representations

8. Notification of this application was sent to Loughton Town Council and to 48 neighbouring residents. Five site notices have been displayed in five prominent locations in the vicinity of the site and the application has been advertised in the local district wide newspaper.

9. The following representations have been received:

LOUGHTON TOWN COUNCIL. The Committee strongly OBJECTED to this application for the following reasons.

1. The proposed construction was an overdevelopment of the site, and contrary to the adopted District Council planning brief that had recommended in 2008 a proposal for 46 not 64 dwelling units.
2. This almost alien design was considered out-of-keeping with the unchanged 1950's style of The Broadway architecture, which the Town Council had proposed as an additional conservation area to the District Council in 2009.
3. The structure was of very poor design, too large, massive, blocky and high, and therefore out of all proportion to the rest of The Broadway and surrounding housing.
4. Though the scheme stepped down to two storeys by the Barrington Green dwellings, this was not the case with the elevations that faced Vere Road and

The Broadway where a multi-storey structure was proposed, nearly twice as high as The Broadway parades.

5. The amenities of these and many other neighbouring properties would be affected by loss of light and from overlooking.
6. The requirement to build right up to Rectory Lane in the development brief had been ignored. Instead, it was proposed to re-route Barrington Green to exit directly onto the busy A1168, between a mini roundabout (at Borders Lane) and pedestrian crossing. This was considered dangerous and detrimental to highway safety.
7. The lack of parking provision – one space per apartment was seen as insufficient given that 61 two-bedroom flats were proposed out of a total of 64. In addition to a demand from the retail units proposed at ground floor level, parking would then overflow into the crowded adjoining residential roads already over-subjected to daily commuter parking.
8. The influx of vehicle movements to the development would only exacerbate existing daily traffic congestion in the locality.
9. In the accompanying Traffic Assessment report, no traffic consideration had been given to the school rush hour or commuter traffic flow levels.
10. Up to forty per cent social or affordable housing could have been allocated within the scheme, yet none had been proposed so all apartments would be sold at market value. This was directly contrary to Epping Forest District Council's own requirements. The Committee had no confidence in the financial forecasts made.
11. The establishment of extra retail units during an economic downturn was unwelcome.
12. The lack of specific proposals for a replacement public house, which was considered a vital community asset, rather than the broader proposal for any kind of eatery within classes A3 (restaurants and cafés) and A4 (drinking establishments), and A1 (retail), were deplored. A traditional public house was considered essential to the community life of the area.
13. If any scheme such as this progressed, members would like the provision for outside seating to be maintained.
14. There was no provision for a Section 106 agreement for the development's impact on the local infrastructure, particularly on schools and health centres.

Members were also disappointed by the lack of public consultation over the scheme.

The Committee AGREED to nominate the Sir Winston Churchill public house and its curtilage at The Broadway, Loughton, as an Asset of Community Value under The Assets of Community Value (England) Regulations 2012 and requested the District Council facilitate this process.

10. 41 letters of objection have been received from the occupiers of 15, 99 COLSON ROAD; 3 NEWPIECE; 34, 36, 40, 42, 46, 60, 64, 66, 68 BARRINGTON

GREEN; 20 CHIGWELL LANE; 12A, 49A, 61A, 172 THE BROADWAY; 8 ROOKWOOD AVENUE; 132, 156 BORDERS LANE; 15, 33, 55, 67 BARRINGTON ROAD; 13 LYTTON CLOSE; 6, 15 LADYFIELDS CLOSE; 62 MONKSGROVE; 41 PYRLES LANE; 108 LAWTON ROAD; 7 BRADY AVENUE; 12 FOREST VIEW ROAD; 7 DOUBLEDAY ROAD; 44 IBBETSON PATH; and 46 OLLARDS GROVE. A further 6 letters have been provided without giving an address. Their concerns are summarised below:

- The height of the building would result in it appearing overbearing and not in keeping with other 1950's Broadway structures. The building will be an eyesore. Suggest a maximum height of 4 storeys. The design of the building does not follow the Council's brief – the building is supposed to taper down to the height of adjacent buildings, but the plans show that the proposed building is about one and a half stories higher than Broadway shops. A 'gateway' is not needed for what is essentially a small strip of shops. The height of the building would set a precedent for future similar constructions. Design of the building is quite attractive, but better suited to a coastal resort or a central London location.
- None of the flats will be affordable housing. The apartments will bring in a lot of new people to the area and it is already difficult for local people to find affordable housing to rent or buy. There are always flats for rent or sale next to Sainsbury's, so why do we need 64 more?
- Traffic in this area is already very congested, it can take twenty minutes to travel between Langston Rad and The Winston Churchill. The extra traffic from residents and shop workers will add to this. Also concerned that proposed car parking is insufficient and will lead to additional on-street parking. Barrington Green is already heavily used by commuters, making it difficult for residents to park – one resident requests a residents parking area only or a controlled parking zone. Parking for the Broadway has been worsened by the enhancement works, which have reduced spaces, affecting trade. If the garages in Vere Road are to be used as parking spaces for the flats, where will the existing garage holders park? This proposal shows parking for 64 flats in Vere Road. Since the Council made Vere Road one way, this additional traffic will funnel out opposite Willingale School. Increasing pollution. Looking at the plans for the road layout, I do not believe that this has been properly thought through and will cause a lot of congestion at a already very congested junction.
- The loss of the pub would harm the community – it is a meeting place for elderly residents of Debden during the day as well as a family pub where local residents meet for functions and social events. It is understood that the present manager wishes to purchase the lease to retain the public house. There is no reference in the plans to how the existing site could be redeveloped whilst retaining the Sir Winston Churchill pub. Bars are not for the ordinary working man; they usually have a dress code and who wants to go home and dress up when all they want to do is have a quick pint before going home?
- The Winston Churchill pub is an iconic building in its own right and a local landmark. It is also a representative monument that commemorates the life of Sir Winston Churchill (who was our local MP). The heritage of Debden would be lost if the lovely Winston Churchill Public House was demolished.

“We shall fight them every way possible, we shall fight them on The Broadway – we shall never surrender!”.

- Concerned regarding security (at rear of Barrington Green) once the garages are demolished. Concerned that views of the countryside up to Chigwell (from Barrington Green) will be blocked by the building. The building will overlook houses in Lady Fields, Barrington Green, Barrington Road and Vere Road. Loss of sunlight to house in Barrington Green.
- Additional retail premises will increase the likelihood of existing Broadway traders being forced out of business. Unconvinced that more retail space is required given the number of empty premises near Sainsburys. Some traders may be affected during the construction of the building.
- No space is provided for landscaping around the building.
- Increased strain on infrastructure including schools, doctors surgeries, dental practices and public transport.
- May erode property values. The Indigenous population will not be served by this development as it is not affordable.
- About 8 years ago a developer wanted to buy 40- 54 Barrington Green to build low level flats on the road. He was refused planning permission by yourselves. Can tell me why this was declined, & if so why should this mammoth construction be allowed. **NB – no record of planning application having been submitted for such a development.*
- Some concern raised regarding highway alterations (Note – these do not form part of this proposal).

LOUGHTON RESIDENTS ASSOCIATION PLANS GROUP. Objection.

Considerable detail is provided within the objection (reproduced as Appendix 1 to this report), the grounds of which are:

We object strongly to this application, because of

- its excessive scale,
- its out-of-keeping design,
- the unsuitable proposed road layout,
- the lack of a suitable amount of parking provision,
- the inclusion of retail premises
- the lack of any commitment to provide similar licensed premises to those now on the site.

LOUGHTON BROADWAY TOWN CENTRE PARTNERSHIP. Objection. Loss of the only public house in The Broadway ward and unclear what replacement establishment will be and whether it will cater for families. Number of units on the footprint proposed appears to be an overdevelopment. Out of keeping with the 1950's style Broadway buildings. Out of scale with the height of existing Broadway buildings. No provision for affordable housing – thereby denying relatives of local residents the opportunity of a home in the area and familial support. Further traffic movements will exacerbate the existing traffic chaos. Insufficient provision for large retail vehicles to enter the site. Parking provision inadequate and the removal of garage in Vere Road will leave existing tenants looking for alternative parking.

Insufficient consultation with local residents and Loughton Broadway Town Centre Partnership.

HERTS & ESSEX ARCHITECTURAL SOCIETY (HEARS). Objection. Many of the objections raised relate to others raised by residents and listed above. Specifically relating to architecture, the following objections are raised: 5. Architecturally, this development is far too big for the intended site, it will not act as a gateway, but rather as an overpowering building that is diametrically opposed to the design and construction of the surrounding shops, houses and flats built by the London County Council in the late 1940s and early 1950s. Most of the houses and low rise blocks of flats are brick faced and rarely rendered. Even if the façade was changed to reflect the surrounding buildings, the proposed development would still dominate that side of the Broadway and there is the fear that if the plans were passed that this would open the door to further speculative applications for five storey flats along Rectory Lane. Across the road from the intended development is a new build college, but this building stands alone and is able to avoid looking out of place because it is not next door to 1950s houses. The same applies to the nearby Higgins building which is on the corner of Langston Road. The proposals for the Churchill site are somewhat different, in that the new building will abut existing houses and shops which are will look entirely different from the proposed development. It appears that the architect / designer of the plans failed to appreciate the uniqueness of the Debden Estate. It is one of only 12 out-county estates built immediately after the war, and the shops / buildings belong to that period. Many of the houses were designed by Sir Frederick Gibberd, who later went onto to develop Harlow. The Broadway's first supermarket was Sainsburys (not on its present site) which opened on 3 November 1952. Woolworths opened its doors a few months later and since then the Broadway has continued to be a local shopping centre, with a greengrocer and butcher, unlike other High Roads in this part of Epping Forest. The proposed block, if constructed, will detract from the existing curved lines of the Broadway, will be overpowering in terms of size and building materials, and is perhaps more appropriate to a site alongside a wide road, such as the Eastern Avenue, than a 1950s housing estate.

11. In addition a PETITION containing 452 signatures and photographs of events inside the public house has been received. The signatories of the petition object to the development on the following grounds:

- It is a community facility in particular frequented by local residents and the elderly of the community.
- The junction of Debden Broadway is significantly overcrowded. With the construction of 64 apartments and those accessing the retail units of the proposed building would intensify the amount of traffic using the said junction.
- The height of the building is out of keeping with the rest of the junction.
- We petition our local councillors to vote against the proposal.

12. Two Letters of support for the development have also been received from the occupiers of 35 Ibbetson Road and one undisclosed address. Their comments are summarised below:

- The pub is generally considered an eyesore. A nice, modern complex is well overdue.
- 7 storeys is slightly on the high side, but the look of the building is in keeping with the college on the other side of the road. The college looks great so why wouldn't this new one? The new building should not be in keeping with 1950s

Festival of Britain because the 1950s design looks terrible and out of date. That entire area needs modernising is my view and this new complex should just be the start.

- Apart from peak times, that road junction isn't especially busy so I'm sure the road layout is acceptable. People should be using their cars less, so having an abundance of car parking spaces seems to me like a waste of space. 1 car parking space per residential unit seems fine. There is a large car park behind the Broadway which can be used by the visiting shoppers. (Although another supporter does raise concern regarding the adequacy of car parking) Debden is serviced by a number of bus routes and the central line which should be used more. I travel on the central line from Debden every morning and there is more than enough space on the trains.
- I believe that such a development would greatly enhance the surrounding area, increasing the number of shoppers in the area, including the existing shops on the Broadway. I believe that additional coffee shops such as a Starbucks would be of great benefit to both local residents such as myself and students at Epping Forest College. I also believe a restaurant would be advantageous to local residents, and is sorely needed for the Debden community. Residential space would help the growth of the Debden community also.
- Such a development would help to provide Debden with a definitive focal area and sense of community - a place where everyone can spend their time and be proud of.

Planning Issues

13. The main issues to be considered when determining this planning application are:

- the principle of the proposed development;
- its design and appearance;
- the impact on nearby neighbouring residents;
- highway matters and car-parking; and
- flood risk.

Principle of the Proposed Development

14. The principle of a development of this site was established within the adopted brief. The proposed development follows this brief in terms of providing a tiered building which uses extra height to emphasis the meeting point of The Broadway and Chigwell Lane, and accommodates retail uses at ground floor level with residential units above. The brief indicated the possibility of approximately 900m² of commercial floor area (the application proposes 1,367m²) and 46 residential units. However, this was not stated to be an absolute and furthermore, the National Planning Policy Framework (NPPF) has been adopted since and encourages positive growth to help achieve sustainable development, which is a material consideration.

15. The development is considered to accord with policy TC3 of the Local Plan, which identifies types of development which will be acceptable within town centres. There is, however, a policy conflict with regard to the provision of affordable housing. This matter will be considered below in light of the Local Plan and the NPPF.

Affordable Housing Provision

16. Local Plan policy seeks the provision of 40% of the units within a development of this type as affordable housing. Paragraph 50 of the NPPF advises that where local planning authorities have identified a need for affordable housing, policies should require this need to be met on site, unless off-site provision of a financial contribution of broadly equal value can be robustly justified. The NPPF also places considerable emphasis of meeting housing need within the presumption in favour of sustainable development, as at paragraph 7 it identifies that for development to be sustainable it must have economic, social and environmental dimensions. The NPPF defines the social role of planning as, in part, supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations.

17. The application, however does not propose either the on-site provision of affordable housing, or any financial contribution towards off-site provision elsewhere. The Applicant's Planning Report states that the development will act as a catalyst for delivering 14 affordable homes on land to the rear of the application site and also will enable a substantial capital contribution to be made to the District Council (as it is the Freeholder of the site) which could be used for the purposes of affordable housing. However, whilst these factors may potentially lead onto the delivery of affordable housing at a later date, such an outcome could not be secured by a planning permission granted for this development.

18. Although the freehold of the Sir Winston Churchill Public House site is owned by the Council, the site is currently let to the Spirit Pub Company on an 80 year lease until 28th September 2035. Due to the existence of a viable business on the site, which may continue to operate until 2035, the cost of acquiring the site for development is considerable. The Council's specialist consultants (Latham High), have checked and verified the development appraisal and have confirmed that there is no financial surplus to enable affordable housing to be provided (or any significant contribution be made towards the provision of off-site affordable housing). Accordingly, to include affordable housing would jeopardise the development proceeding. The Localism Act 2011 states that local finances are a material planning consideration and the Government have recently introduced a mechanism whereby development subject to affordable housing requirements are now challengeable where the viability of the scheme is holding back development taking place. Policy H7A of the Local Plan does crucially state that the levels of 40% will apply, unless "...they are inappropriate or that they make a scheme economically unfeasible". The Council's specialist consultants finding would support the case here that the proposal would be unviable and therefore economically unfeasible.

Design and Appearance

19. The proposed building would wrap around the corner of The Broadway and Rectory Lane. It would be tiered, rising in height from three storeys adjacent to Barrington Green and five storeys adjacent to The Broadway, to its full seven storey central height on the corner. The building would also staggered back from its street elevation, with the fifth, sixth and seventh storeys all being stepped back from the street elevations.

20. In addition to the tiers, the mass of the building would be further visually broken by the use of different renders and cladding materials along with the irregular

positioning of windows and the insertion of balconies. At the corner of The Broadway with Rectory Lane, vertical emphasis is added to the building by the use of a cladding material which will transcend the lower five storeys of the building.

21. The adopted development brief seeks the erection of gateway buildings into the Broadway on both this site and that opposite (which presently accommodates BP petrol filling station and Sainsbury's). Whilst the adopted brief did not set height parameters for the proposed buildings, this proposed building does generally follow the indicative sketches within the brief, albeit with a greater level of accommodation. The Design Brief also seeks the reconfiguration of Barrington Green, to allow a building to be built up to the corner of the junction. However, it is the view of Planning Officers that to bring the building forward beyond the building lines of Barrington Green and The Broadway would add to its prominence, potentially causing such a building to appear overly prominent. Such a development would also necessitate the highway works to Barrington Green (which are proposed through the Langston Road retail development) to be constructed as part of this development proposal. This would add substantial cost to this proposal which, in view of the financial appraisal that has been undertaken, may render this development unviable. It is considered that the development proposed meets the intention of the Design Brief, in that it would provide part of a landmark gateway entrance to The Broadway.

22. The proposed building would differ considerably from the architecture of the Broadway, notably by reason of its height, the materials used and the fenestration detailing.

23. Notwithstanding this, the use of curves within the building and its tiered height which rises from The Broadway, allows some integration with the existing street scene. The ground floor front elevation of the proposed building sits in line with that of the Broadway, with the first floor sitting loosely in line with that of The Broadway at its closest point, before extending closer to the street frontage adjacent to the corner. This affords the front elevation of the building an acceptable degree of prominence in relation to The Broadway.

24. The proposed building would be very similar in height to other recent buildings within this part of the District, notably: Higgins (planning permission 2004) and Epping Forest College (planning permission 2005) - The Kier building (planning permission 2005) is actually higher than this proposal. Accordingly, whilst it would adopt a prominent location and would sit considerably taller than The Broadway and dwellings in Barrington Green, its height is considered acceptable within the wider locality. Given the close proximity of the Epping Forest College building to the north, it is considered that the proposal will have a positive relationship and help to form an improved visual link.

Impact on Nearby Neighbouring Residents

25. The proposed building will be a prominent addition to the street scene, visible from houses in Rectory Lane, Barrington Green, Barrington Road and Lady Fields, although there is good vegetation screening that exists along the west side of Chigwell Lane. However, the properties which will be most affected are 34 Barrington Green and 11A The Broadway.

26. 34 Barrington Green is a single storey, flat roofed dwelling located to the north of the existing pub car park. It was converted from a police office with the benefit of planning permission granted in 2005. The occupiers of this dwelling have jointly raised objection to the application along with the next door neighbour. In terms

of the impact on their amenities, they state *'the close proximity to our properties, the height restricting our views of the opposite hills and the intrusion of our privacy in our gardens from the flats are not desirable. The area will be a huge noisy busy building site for many months and with very young children at home it will make it enormously disruptive.*

27. The proposed building would be situated approximately 1m from the site boundary adjacent to 34 Barrington Green and 4 metres from the dwelling itself (separated by the side vehicular access to the parking area at the rear. The depth of this section of building would be approximately 17 metres and its height approximately 8.7 metres, rising towards the junction with The Broadway. This part of the building comprises two residential floors above the retail unit, which would be partly contained below ground level. Beyond this part of the building, its height rises to three storeys in height approximately 15 metres from the side wall of 34 Barrington Green.

28. There would be a reduction to the natural light received to the bedroom window in the (ground floor) rear of 34 Barrington Green. However, due to the separation between the building and this window (approximately 5.5 metres) it is considered that the amount of light that would be retained by this window would be satisfactory. Accordingly, this matter would not justify the withholding of planning permission. The approved plans for the conversion of this dwelling indicate the windows in its side elevation serve the bathroom. The occupiers of this dwelling have also raised objections on the basis of a loss of view across the site and noise and disruption caused during the construction of the proposed development. The matter of lost views would not provide justification for withholding planning permission, as an acceptable level of outlook would be retained. Turning to the matter of noise and disruption – the construction of a development of this scale will, inevitably cause some disturbance and inconvenience to nearby residents over the duration of the build. Whilst this can not be entirely avoided or mitigated, the imposition of planning conditions limiting hours of construction along with consideration to dust limitation, wheel washing and site hoardings etc. may limit the harm.

29. The northern flank elevation of the building (adjacent to 34 Barrington Green) will contain only secondary living room or corridor/landing windows. Due to their proximity to houses and gardens in Barrington Green, the imposition of a planning condition requiring that these windows are obscure glazed and fixed closed is both reasonable and necessary to prevent material overlooking. The rear elevation of The Broadway fronting element of the building would also face towards Barrington Green, and would contain larger habitable windows and balconies. These would be separated from the site boundary by the service area and car park – a distance of approximately 45 metres. Due to this separation, there would be no material overlooking of properties in Barrington Green. Furthermore, balconies located to the rear of the part of the building which fronts Rectory Lane, would be screened by projecting elements of the building itself, thereby preventing any overlooking.

30. 11A The Broadway is a maisonette comprising the first and second floors of The Broadway. The dwelling has six windows (some habitable) within the side elevation of The Broadway, facing towards the application site. A distance of approximately 9 metres separates this dwelling from the proposed building and accordingly some reduction to the level of outlook presently enjoyed from these windows will occur as a result of the proposed development. However, notwithstanding this, the windows within the end wall of The Broadway are all situated within the rear half of the depth of the building. Because of this positioning,

the windows would retain views in a westerly direction, beyond the proposed building. It is, therefore considered that despite the reduction to outlook, an adequate level of amenity would be retained. Furthermore, due to the separation between the building and this dwelling, sufficient levels of natural light would also be retained within habitable rooms.

31. Aside of the impact of the proposed building on neighbouring amenity, there is also the matter of any disturbance which may arise from the ground floor uses of the building – particularly when bearing in mind that the existing public house use has given rise to complaints from nearby neighbouring residents in the past. Whilst future occupiers of the ground floor may (depending on the nature of the use) require a license at a future date, it is also considered necessary to limit the hours of use as part of this planning application. It is considered that a limitation of the hours of use from 0730 to 2330 Monday to Thursday and 0730 to 0000 (midnight) Fridays and Saturdays would be reasonable.

Highways and Car-Parking

32. Officers at County Highways have been consulted on the proposal and raise no objection. The Applicant has demonstrated to the satisfaction of the Highway Authority that the vehicle generation of the proposed development will not be detrimental to highway safety, capacity or efficiency at this location.

33. Objections on grounds of highway safety have been raised by many local residents – with one consultation response stating *'I understand that the traffic projections were not taken from locally researched sources, but that they rely instead on generalised data that does not take into account specific local transport difficulties'*.

34. Following receipt of this objection, further advice has been sought from officers at the County Council, who have advised that:

'The TRICS (Trip Rate Information Computer System) data used in the Transport Statement does not have to be region specific as it is an arbitrary figure for any residential development in the country. The Trip rates used within the Transport Statement are very robust, given the area, and the use of the local 2011 Census Data for Travel to Work is highly relevant. Given these factors the Highway Authority agrees with the Transport Statement that the vehicle movements likely to be produced by the development will have minimal impact on the highway network in the locality. The worst case scenario might be 1 car every 2min in the peak hour which is imperceptible in capacity terms.'

35. Accordingly, it is not considered by Officers that the development would give rise to significant highway safety or capacity issues.

36. Loughton Town Council has raised concern (at point 6 of their comment) regarding the routing of Barrington Green onto Chigwell Lane. However, this highway alteration does not form part of this planning proposal. The highway works indicated on submitted plans are those approved in association with the recent outline planning permission for a retail park development in Langston Road. The plans only indicate that the proposed development would be compatible with both the existing highway layout and that which has been approved.

37. The application proposes a total of 62 car parking spaces, 14 located to the rear of the proposed building and a further 48 on the opposite side of Vere Road

within the existing garage court. Within the existing garage court, 17 of the garages are presently occupied. Most of the displaced occupiers could be accommodated within nearby garage courts, as there are 16 vacant units within the three courts located to the rear of The Broadway, accessed from Vere Road. Officers from County Highways consider that this alternative accommodation for displaced garage users should be more than adequate.

38. The provision of one space per dwelling within the proposed development is considered acceptable by both Planning Officers and County Highway Officers due to the accessibility of the location, close to bus service and Debden Underground station and within the Broadway Centre which benefits from a number of specialist local shops, as well as the Sainsbury supermarket opposite. It is intended that the car parking spaces will be let by EFDC (as the freeholder) to the leaseholders of the residential units.

The Loss of the Public House (a community asset)

39. Significant objection has been expressed by local residents over the loss of the existing public house, with many describing it as the heart of the Debden community. This is a matter to which considerable weight may be applied when determining the planning application, particularly given the lack of another public house within the immediate vicinity of the site.

40. The application does, however, seek a flexible consent for the proposed ground floor retail units, which would permit occupation by either a shop use (Class A1), a restaurant (Class A3), or a pub/bar (Class A4). Having regard to the importance placed on the existing public house by the local community, it is considered necessary that such a facility continues to be provided within the site. It is, therefore, recommended that if planning permission is granted for the development, a condition is imposed requiring the use of part of the proposed retail area to Class A4. This would ensure the on-going provision of a community asset on the site.

41. The Applicant has raised concern that if the development were to be required to accommodate a pub of the same floor area as the Sir Winston Churchill, this may give rise to the same viability issues that have historically been an issue.

42. The Applicant has provided the following statement regarding this matter ' - *It is known that that the existing public house is no longer viable as a commercial business. This is clearly illustrated by the fact that there have been 7 tenants during the last 8 years. Additionally, it is understood that during the period 2010-2013, the rental returns from the pub have dropped by over 200%. Spirit Pub Company, the long leaseholder, have a reputation for only disposing of pubs as a last resort. It is understood that they will only sell pubs where it has proved impossible to create a viable business, which is clearly the case here. The applicant is prepared to commit to providing a public house within the redevelopment scheme, which represents the only realistic prospect of retaining a pub on this site. A condition requiring a minimum area of 150 sqm, will enable for a larger pub to come forward, in the event of a specific operator requirement. However, 150 sqm is not untypical of the size of many pubs in the area.*

43. Planning Officers accept the applicant's position regarding this matter and consider the imposition of a condition requiring a minimum of 150sqm to be reasonable. Furthermore, although not a material planning consideration, it is noted that as part of the Development Agreement, EFDC will retain the freehold of the site

and will be able to exercise control over the occupancy of the commercial units, as it presently does within The Broadway.

44. Within its representation to this planning application, Loughton Town Council has confirmed its intention to nominate the existing Sir Winston Churchill public house as an Asset of Community Value (ACV). The designation of land or buildings as ACV is provided under the Localism Act 2011. Nominations for community assets can be made by parish councils or by groups with a connection with the community to the District Council. If the nomination is accepted, the group will be given time to come up with a bid for the asset when it is sold. The right to bid only applies when an asset's owner decides to dispose of it. There is no compulsion on the owner of that asset to sell it. The scheme does not give first refusal to the community group and it is not a community right to buy the asset, just to bid. This means that the local community bid may not be the successful one.

45. If a site has an ACV designation, this can be a material planning consideration if a change of use application is submitted. Accordingly, given Loughton Town Council's stated intention to submit such a nomination shortly, it is reasonable that consideration be given to this matter in relation to the proposed development.

46. If ACV status is designated it does not prevent a planning permission being granted (nor would the grant of a planning permission override the nominating body's right to bid). In reported planning decisions, in Farnborough, Rushmoor Borough Council granted planning permission for the conversion of a historic public house to a McDonald's drive through restaurant, despite the building having been listed as an ACV (in February 2013) on the basis of the conclusion that limited weight should be applied to the ACV designation in determining the application as it did not appear that there was an immediate prospect of the community buying the property. Conversely, Wiltshire Council refused consent for the conversion of a public house that had been designated an ACV in June 2013 to a single dwelling, on the basis that the proposal would result in the detrimental loss of a local service with a realistic prospect of community use.

47. It would be premature, in advance of the nomination being received, to pass judgement on the likelihood of the Town Council raising the funds necessary to bid to purchase the existing public house. However, regardless of this matter, it is the option of Officers that whilst weight should be applied to the Town Council's stated intention to nominate the building as an ACV, this weight is limited by the intention to provide a replacement A4 use within the proposed development.

Flood Risk

48. The application site does not lie within a designated Environment Agency or Epping Forest District Council flood risk zone. However, it would be of a size where it is necessary to avoid generating additional run-off and where there is an opportunity to improve existing surface water run-off. This may be achieved by the imposition of a planning condition. Furthermore, due to the proposed addition of a large basement area, it is considered necessary to advise the applicant to undertake further hydrological assessment of the site by way of including an informative, if planning permission is granted.

Other Matters

49. *Education/childcare provision* – The local primary (Thomas Willingale) and secondary (Debden Park High) schools that serve this catchment are both anticipated to be over capacity. Accordingly, additional provision is required to serve the proposed development. Accordingly, Essex County Council seeks a financial contribution of £192,016 towards the cost of providing further spaces. This may be secured by legal agreement.

50. *Healthcare provision* – NHS Property Services have calculated that, based on an additional 114 residents within the locality following occupation of the building, there would be increased demand on local GP services, requiring additional staffing and floor space requirements. On the basis that the two local surgeries (Forest Practice and Traps Hill Surgery) are both operating over capacity, a financial contribution would be required to meet this demand. An appropriate contribution, based on the addition 114 people, is calculated by the NHS to be £14,400. This should, therefore be sought by legal agreement.

51. *Archaeology* – The County Archaeologist has commented on the proposal as follows: The Sir Winston Churchill is a good example of a post-war ‘roadhouse’ Public House. In style it mixes Arts and Crafts influences with inter-war ‘Tudorbethan’. The on-going loss of public houses of all periods has been highlighted in the Regional Research Frameworks for the Eastern Counties as a cause of concern. As historic fabric, features and fittings, elucidating the history and use of the buildings may survive, it is important that such elements are ‘preserved by record’ by way of a historic building survey prior to any demolition taking place. This may be required by the imposition of a planning condition, if permission is granted.

52. *Contaminated Land* – due to the former use of the site, as a brickworks, potential exist for contaminants to be present within the site. Accordingly it is necessary, by way of imposing planning conditions, to require further investigation and, if necessary, mitigating works prior to the commencement of development.

53. *Waste* – An area for waste and bin storage is indicated within the site layout – however, the detail of this area in size and the provision of any housing for bins and cycles may be considered at a later date, subject to the imposition of a planning condition.

54. *Air Quality* – Concern has been raised by a local resident regarding air quality within this location and whether the site is suitable for residential accommodation. Studies undertaken by the Council indicate that pollution levels within this locality are within tolerable limits and on this basis the site is suitable for residential development, as may reasonably be expected bearing in mind the proximity of existing residential properties. However, the Applicant should undertake further study of this matter to investigate whether the future occupiers of the development would benefit from the building being fitted with technology to reduce their exposure to emissions – for example, through the installation of mechanical ventilation. A planning condition recommending further investigation is, therefore recommended.

55. *Outside seating* – Loughton Town Council has requested (at point 13 of their response) that provision is made for the outside seating to be maintained. However, with the uses of the commercial units remaining flexible, it does not appear to be reasonable at this time to condition either the provision of outside seating (as this may not be desired by future occupiers) or its detailed layout. Accordingly, a condition is not recommended in this case.

Conclusion

56. The development proposed would deliver a long term ambition of the adopted Debden Town Centre and Broadway Development Brief and would provide 64 dwellings within the District. However, whilst accepting the application in its current form would allow the delivery of the much need housing earlier than anticipated, it would be at the expense of not being able to provide affordable housing as part of the development, due to the costs in acquiring the site at this time. These issues are both significant and accordingly, give rise to a need for a thorough and balanced consideration of the material planning considerations.

57. The key starting point, is whether or not the proposed development would constitute a sustainable development which would benefit from the presumption in favour of development, set out in paragraph 14 of the National Planning Policy Framework (NPPF). To be considered sustainable, the development must perform economic, social and environmental roles. The development would clearly serve an economic function, not only to the Applicant and Council (as the freeholder) but also in terms of providing 64 dwellings that are demanded by the market and providing accommodation for three commercial premises within this existing town centre. Furthermore assessment of the impacts of the building of visual amenity and the amenities of neighbouring residents, it is considered that the development would also serve an environmental function.

58. Turning to the matter of the social role of the development – paragraph 7 of the NPPF defines this as *'supporting strong, vibrant and health communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well being'*. Whilst this development would deliver market housing, it would still meet an existing need – particularly as it would deliver smaller units onto the market. The housing would also be accessible to local services and the development would contribute towards the provision of additional healthcare and education services. It is also to be considered of relevance that the locality immediately adjacent to the site contains, by reason of its evolution and history, a considerable amount of housing which is within the Council's ownership. It is therefore considered that within this locality these additional market dwellings can be accommodated whilst still retaining an inclusive and mixed community, as sought through paragraph 50 of the NPPF, as a balance of open market and affordable units would be retained. Paragraph 50 also seeks the widening of opportunities for home ownership, which would be facilitated through this proposed development. It is, therefore considered that the proposal can be considered to meet all three strands of sustainable development.

59. The design and scale of the building is also a matter which has attracted considerable comment from local residents and other interested parties. The adopted brief envisaged a large scale building on the site and the proposal does seek a building which would be comparable with other Debden buildings including Epping Forest College, Higgins and Kiers which have been granted planning permission within the last 10 years and have added positively to the streetscape and appearance of the local area. Officers consider its design and appearance to be acceptable and will positively add a landmark building that will be seen as an enhanced visual gateway to the local shopping centre from both near and further afield views. The proposed new building will create a stronger visual link between Epping Forest College to The Broadway.

60. The loss of the existing public house is also a matter which has received considerable objection. However, the proposed development allows for the retention of such a use within the new building, thereby retaining this community facility. The existing building is not of a quality that would meet criteria for statutory or local listing. Although the building will be removed, a condition allows for its detail to be recorded and at the end of the day, it does not have the quality architecturally to merit its retention.

61. In light of the above appraisal, it is considered that the proposal would constitute a sustainable form of development which would accord with local and national a planning polices, bringing forward housing in a sustainable location, which lessens the need to provide housing through the emerging Local Plan on less sustainable and inappropriate land which this Council still needs to find. It is, therefore recommended that planning permission be granted subject to the imposition of the planning conditions and obligations set out within this report.

Loughton Residents Association Plans Group



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The Head of Planning & Economic Development
EFDC
Civic Offices
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Dear Sir

EPF 2163 13 Sir Winston Churchill and adjoining land, The Broadway,

Demolition of Public House and garages and replacement with construction of a mixed use development, comprising retail and food and drink units (within classes A1, A3 and A4) at ground floor level and 64 residential units at upper floor levels (first to sixth floors), together with 64 car parking spaces, service yard, access and car parking.

We object strongly to this application, because of

- its excessive scale,
- its out-of-keeping design,
- the unsuitable proposed road layout,
- the lack of a suitable amount of parking provision,
- the inclusion of retail premises
- the lack of any commitment to provide similar licensed premises to those now on the site.

Scale

Even if this development is to be viewed as a “gateway” feature (which we dispute – see below), this 7-storey proposal is grossly out of scale with anything else in the town, and could set a very unfortunate precedent!

The proposed building comes right to the edge of the footpath, and will be very much higher than the housing to the two-storey housing to the north-west, and the three-storey shops & flats in The Broadway to the north-east.

We also note that it will be significantly higher than Epping Forest College (which in any case is set well back from Borders Lane, on an isolated site) and will be significantly higher than the car showrooms further down Chigwell Lane (which in any event appear less bulky because they are lower down the hill).

Its position on the uphill side of the entrance to The Broadway will accentuate the unsuitable height and bulk of the proposed building, particularly for those approaching along Chigwell Lane from the south-east.

In summary, "...the elements of the design have to be justified in terms of human scale" (*Design & Access Statement*, page 8) – the design completely fails this test.

“Gateway”?

‘The site forms one side of the entrance to The Broadway and any development should complement that on the opposite site’. (*Design & Access Statement*, page 12).

We understand that the lease for the garage on the other side of The Broadway has been renewed, and that there is therefore no likelihood of there being a “balancing” development on the downhill side of The Broadway for many years to come. This application does not therefore constitute part of a “gateway” but is a one-off case.

Indeed, one can argue that in the circumstances a single-storey or two-storey development would be the only solution which complies with the requirement to complement the set-back low-level buildings on the other side.

Design

The applicants themselves admit in their proposals that the design is out-of-keeping with The Broadway (“the design of the proposal reflects the desire to create a contemporary building and move away from the dated traditional style and materials used in the proximity” (*Design & Access Statement*, page 9)). We note that many local residents feel the same way.

The Broadway is a rare example of a 1950s "Festival of Britain" style pair of parades which, because of its ownership by EFDC, has retained much of its original design, and so any buildings at the end of The Broadway should be in keeping with the existing buildings.

We note that Loughton Town Council has suggested The Broadway be made a conservation area because of its unchanged ambience.

Roads & traffic.

The site is positioned at an extremely busy corner, where there are already long traffic tail-backs during the rush-hour periods.

The Transport Statement appears to have written without any knowledge of the local area! “3.3 The Broadway provides access to an extensive array of retail and commercial facilities, on-street parking Further east The Broadway leads to residential dwellings and therefore does not form a major route for traffic.”

This can only be characterised as nonsense - there are 5 schools in the residential area and these generate considerable volumes of traffic along The Broadway, alongside that created by local commuters and shoppers.

Sainsbury’s have a planning application with the District Council for their Torrington Drive store (opposite this development site) which involves increasing the store’s off-road parking and various improvements to the store, which will lead to further traffic increases at the junction of The Broadway and Chigwell Lane/Rectory Lane.

Epping Forest College also gives rise to traffic movements along The Broadway and Rectory Lane/Chigwell Lane.

The proposed layout on Rectory Lane is wholly unacceptable – an exit is provided from Barrington Green into Rectory Lane, just to the west of the turning into The Broadway. Traffic trying to enter here, particularly at busy periods, would disrupt the flow of Rectory Lane traffic.

Instead, just to the east of 34 Rectory Lane (the end house), Rectory Lane could be widened to form a left-turn lane into The Broadway, thus greatly improving traffic flow at busy periods. (Traffic from Barrington Green could then join this new lane).

However, whatever is proposed should include a proper analysis of the potential effect of any layout changes on the residents living in Doubleday Road, Barrington Road and Ibbetson Path, given the proximity of a local primary school, Thomas Willingale (the main entrance for pupils is at the top of Willingale Road and increasing more vehicles along this already very busy section of road could cause serious accident risks to vulnerable road users.

The Traffic Statement has no data relating to the actual area – instead it attempts to use data from elsewhere which appears to be irrelevant or at the very least inadequate.

Parking & Transport

The Parking assessment (5.2 – 5.8) in the Transport Statement is wrong, as it is based on the assumption of 64 *one-bedroom* flats – we have confirmed this with the author of the Statement.

The ECC requirement for 3 one-bedroom flats and 61 two-bedroom flats is actually 125 car spaces for residents and 16 for visitors, totalling 141. The proposal to provide 64 spaces therefore constitutes under half the ECC requirement (45%) and is inadequate even allowing for local public transport facilities.

The ECC requirement based on the commercial space to be provided would be 66 spaces – but none are provided in these proposals! The Statement suggests that existing parking can be used, but its author has confirmed to us that they were not asked to ascertain whether there were spaces available in such parking areas.

No mention is made of the current usage of the garages which will be demolished, and where any current users will find some-where to park.

The whole area is subject to heavy commuter parking, which the District Council must be aware of, as it has for some years been involved in a Parking Review of the area – and which it has been scandalously slow to implement.

The Central Line is already operating at or above capacity, and so does not provide a suitable public transport alternative

Traffic Statement

In view of our comments above on roads and parking, we consider that the traffic material provided with the application falls so short of a satisfactory analysis of the actual traffic position as to be wholly unsuitable for its purpose. (We cannot of course identify whether or not this results from an inadequate specification of the consultant's role).

Shops flats etc. A mix of retail and restaurants/bar is proposed for the ground floor.

Whatever was contained in the original design brief for The Broadway area, which was drawn up in 2008 before the economic crisis, we see no need for extra retail space here now – the effect is likely to be to reduce, rather than enhance, the commercial viability of The Broadway shopping area.

We are also concerned that there is no requirement that there be a replacement pub in the complex (the A3/A4 space could be used for a restaurant or night-club instead). There is strong local feeling against the loss of the Sir Winston Churchill. In last ten years Loughton High Road has seen the conversion of pubs to what are essentially night-clubs in a residential area, and we wish to avoid a similar change in The Broadway area, which is also heavily residential.

If nevertheless the application is to be approved

If nevertheless the District Council is minded to approve the application, we are asking for

- the usual condition limiting working hours during any demolition and building work
- a suitable s106 payment from the developers to complete a thorough parking review and RPZ in the surrounding area
- a firm condition requiring the provision of suitable replacement licensed premises (but NOT a night-club)
- as the site is situated on a very busy road corner, and surrounded by residential roads where there is already serious parking congestion, a condition requiring well-thought-out arrangements for storage of materials and parking of vehicles during construction work so as to avoid disruption for local residents and traders.

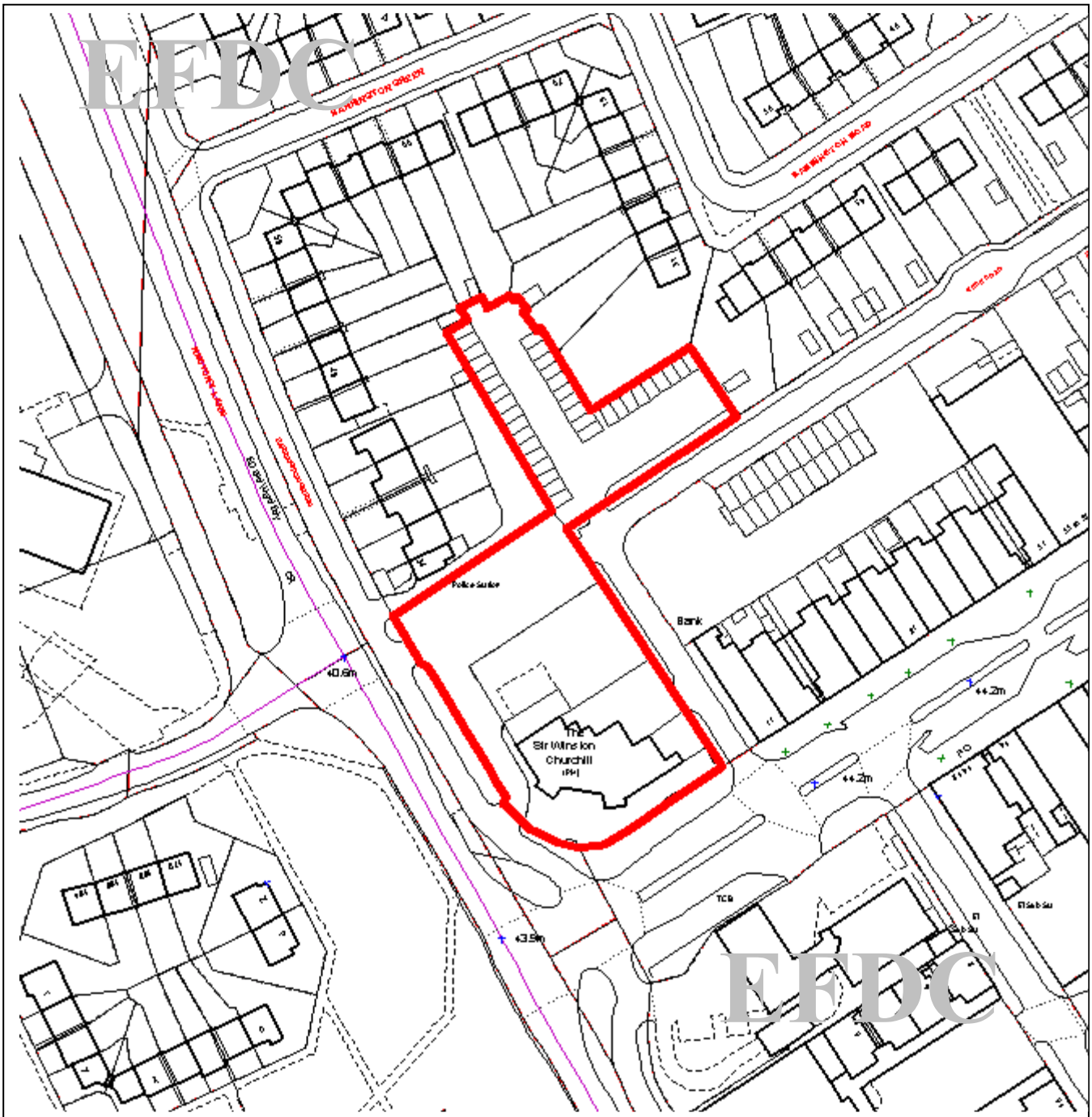
Yours faithfully

David Linnell
for Loughton Residents Association Plans Group



Epping Forest District Council

AGENDA ITEM NUMBER



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Application Number:	EPF/2163/13
Site Name:	Sir Winston Churchill and adjoining land The Broadway, Loughton, IG10 3SP
Scale of Plot:	1/1250

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Report to District Development Control Committee

Date of meeting: 11 December 2013



**Epping Forest
District Council**

Subject: Planning Application EPF/2213/13 – Grass verge opposite 72 Honey Lane, Waltham Abbey – Telecommunications determination to replace existing 12.5m high Hutchinson telegraph pole style telecommunication mast with 12.5m high Pandora telegraph pole style telecommunication mast, replacement cabinet and ancillary development.

Officer contact for further information: G Courtney

Committee Secretary: S Hill Ext 4249

Recommendation:

That prior approval is required and approved.

Report

1. This application is being reported to DDCC since it is an application that is considered by the Director of Planning and Economic Development as appropriate to be presented for a Committee decision (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(k)). Furthermore, as this is a telecommunications determination the LPA has 56 days to respond to the application. If no response is received then permission is automatically granted. Due to the Area Plans Sub-Committee West timetable and conflict with the consultation period, the application has been referred directly to DDCC for determination, as agreed by the Chair of DDCC and the Chair of Area Plans Sub-Committee West.

Planning Issues

Description of Site:

2. The application site consists of a grass verge situated on the corner of Honey Lane and Stoneyshots that currently contains a 12.5m high Hutchinson telegraph pole style telecommunications mast along with three cabinets and ancillary underground works.

Description of Proposal:

3. The proposed prior notification is to replace the existing 12.5m high Hutchinson telegraph pole style telecommunication mast with a 12.5m high Pandora telegraph pole style telecommunication mast, to replace the existing Canon Type G structure with a similar sized Merlin combiner cabinet, to install a new duct draw pit, and to replace the system modules within the existing Lancaster cabinet housing with new modules (which would involve no external alterations).

Relevant History:

4. A previous telecommunication application for the existing equipment on site (TEL/EPF/1242/06 - erection of 12m high imitation telegraph pole and equipment cabinet at ground level) was submitted to the LPA in June 2006 and it was decided on 14/08/06 that permission was required and refused. However the decision was not received by the applicant within the statutory 56 days and therefore permission was automatically obtained under Schedule 2, Part 24 of the Town and Country Planning (General Permitted Development) Order.
5. The above application followed the refusal of a previous telecommunications application opposite No. 64 Honey Lane (TEL/EPF/0584/06 - erection of a 12.5m high lampost style pole with antenna and street light, and ground level cabinet, together with removal of existing street light column).

Policies Applied:

5. U5 – Masts and aerals under 15m
U6 – Other masts and aerals
6. The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Consultation Carried Out and Summary of Representations Received:

7. 112 properties were directly consulted and a Site Notice dated 01/11/13 was attached to the existing mast on the 30th October 2013.
8. TOWN COUNCIL – No comment.
9. 1 STONEYSHOTTS – Object as the siting of telecommunication equipment on this site is an eyesore and due to concerns regarding health and safety.
10. 2 STONEYSHOTTS – Object as plans have previously been received from the applicant showing two additional cabinets being installed (resulting in a total of five), which are not shown on the submitted drawings. The addition of further cabinets would result in an industrial appearance to this residential area. Continue to object to the inappropriate nature of the site location due to the impact on sight lines at the junction of Stoneyshotts, the noise from the cooling fans within the cabinets, health concerns, and due to the visual impact.
11. 1 CROSS TERRACE – Object as extra cabinets would further degenerate the area and as the new mast may cause problems to television reception.
12. 64 HONEY LANE – Object as the siting and appearance of the installation is unacceptable, as more cabinets are intrusive and possibly unnecessary, and consider that the entire installation should be enclosed by an attractive fence.

Main Issues and Considerations:

13. Telecommunications system code operators enjoy permitted development rights by virtue of Part 24 of Schedule 2 of the Town and Country Planning (General

Permitted Development) Order. This proposal falls within the scope of permitted development, although prior approval is required given the nature of the scheme.

14. The previous telecommunications application for this site (TEL/EPF/1246/06) was considered to be unacceptable as it was concluded to be an intrusive alien structure in the street scene that would have an overbearing impact to neighbouring residents, in particular No. 2 Stoneyshotts. It was also considered that, due to the height and girth of the mast, the telegraph pole 'disguise' would not be convincing enough to overcome its visual intrusion in the street scene. Despite this conclusion, the LPA decision letter was not received by the applicant within the required timescale and as such permission was automatically obtained for the equipment.
15. Therefore, despite the previous decision of the LPA, the existing mast and cabinets are lawful and have now been on site for a number of years. The presence of telecommunication equipment on this site cannot be reversed by this application. As such the only consideration in this instance is whether the replacement of the existing mast and cabinet with a new mast and cabinet (along with the other associated minor works on site) cause any greater harm than the existing equipment.
16. The proposed new telecommunications mast would be identical in height to that which it replaces. The key difference would be that the girth of the top 3.7m of the new mast would be greater than that which it replaces. This is to enable the mast to be shared by two operators.
17. The National Planning Policy Framework (NPPF) recognises that "*advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services*".
18. The new mast is still proposed to be brown in colour and continues to be described as a 'telegraph pole style', however the widening of the upper section of the proposed mast would be even less convincing as a telegraph pole than the existing mast. However, as it is felt that the existing mast is unconvincingly disguised as a telegraph pole it is not considered that this alteration to the design would excessively increase the visual harm from the mast. Further to the above, the intended replacement mast is to allow this site to be shared by two operators, which would negate the need for another mast elsewhere within the local area. Government guidance urges local authorities to respond positively to telecommunications developments and Local Plan policy U6 states that "*operators will be expected to share masts or use existing buildings or structures*".
19. The replacement cabinets would be almost like for like with very little visual difference between the proposed Merlin combiner cabinet and the existing Canon Type G structure. These are proposed to be painted fir green (as existing). As such these are not considered to exacerbate any visual impact. All other ancillary works are either inside the retained Lancaster cabinet housing or consist of ground works that have no discernible visual impact on the street scene.
20. Objections and comments have been received with regards to additional cabinets being located on the site, with reference being made to plans previously

sent to neighbours from the applicant showing two new cabinets. Notwithstanding previously circulated plans, this application does not propose any additional cabinets but only replacement structures. Although the description of the development submitted reads "*additional cabinet*" it appears this relates to the proposed 'Merlin combiner cabinet' that would replace a 'Cannon type G' structure, which is not technically a cabinet. Therefore, although there would be an additional 'cabinet' on the site, this would replace an existing structure and from a layman point of view would appear as a 'replacement cabinet'.

21. A correspondence was received by a nearby resident concerned that the replacement mast would interfere with the television reception, however the submitted application contains a letter from Cornerstone Telecommunications Infrastructure Limited (CTIL) that clarifies that the proposal is designed in full compliance with the relevant guidelines and states that "*all operators of radio transmitters are under a legal obligation to operate those transmitters in accordance with the conditions of their licence. Operation of the transmitter in accordance with the conditions of the licence fulfils the legal obligations in respect of interference to other radio systems, other electrical equipment, instrumental or air traffic systems. The conditions of the licence are mandated by Ofcom*". It goes on to conclude that "*the telecommunications infrastructure the subject of this application accords with all relevant legislation and as such will not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest*".
22. There continues to be concerns raised by neighbouring residents with regards to the health and safety of the proposed (and existing) mast, however it is well documented that this is not a material planning consideration when assessing such applications. The submitted application contains a 'declaration of conformity with International Commission on Non-Ionizing Radiation Protection (ICNIRP) Public Exposure Guidelines'. These guidelines have been set following a thorough review of the science and take into consideration both thermal and non-thermal effects and are there to protect all members of the public 24 hours a day.
23. The NPPF clearly states that "*local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure*".

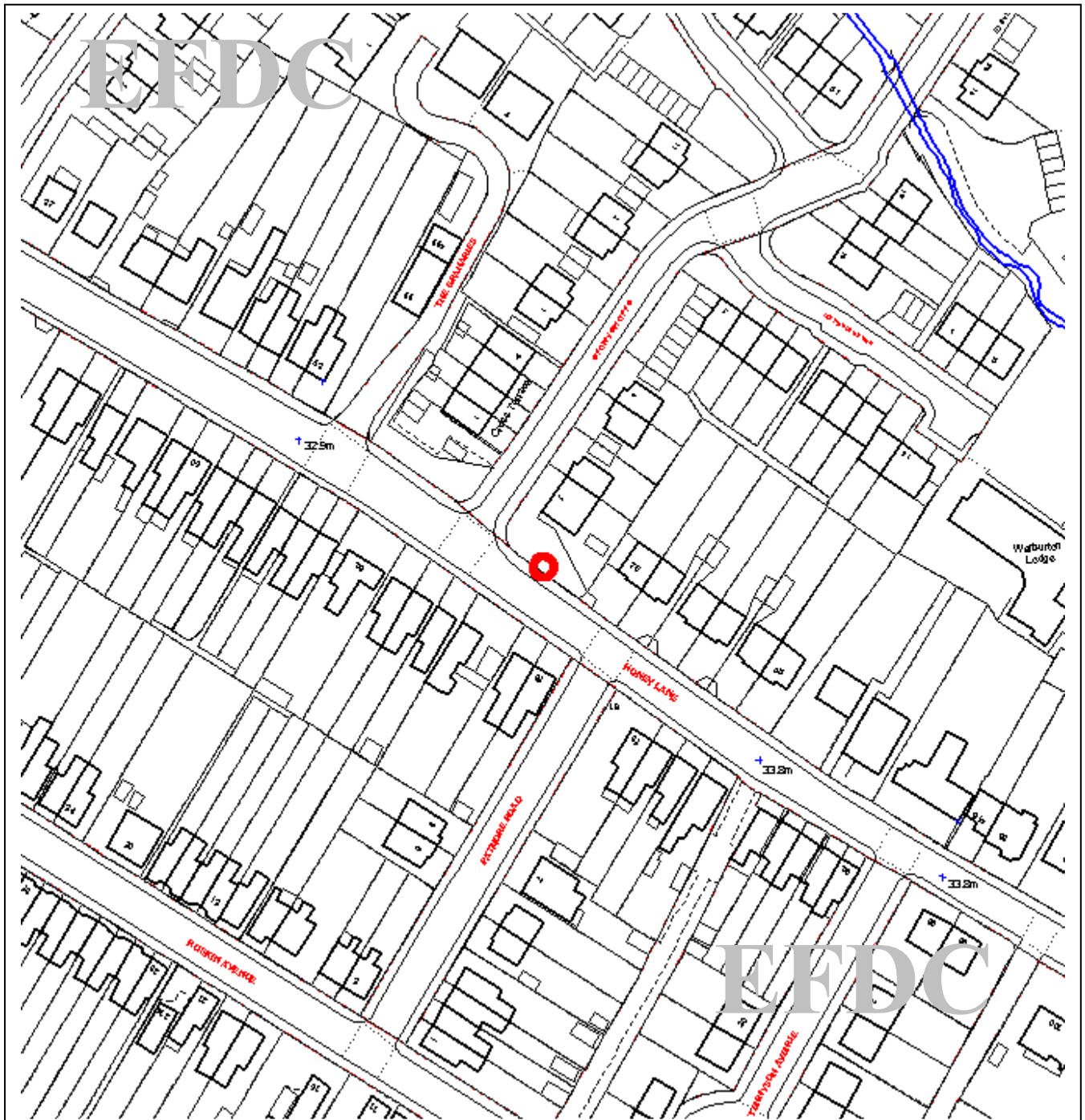
Conclusion

24. Whilst the original equipment was initially considered unacceptable by the LPA, this is nonetheless lawful and established. The proposed replacement mast and cabinets would not significantly exacerbate the harm (either visually or otherwise) of the installation and would allow for the mast to be shared by two operators. Therefore this would reduce the need for a further mast and equipment boxes elsewhere within the local area and as such it is recommended that prior approval is given for these works.



Epping Forest District Council

AGENDA ITEM NUMBER



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Application Number:	EPF/2213/13
Site Name:	Grass Verge opposite 72 Honey Lane Waltham Abbey, EN9
Scale of Plot:	1/1250

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Report to District Development Control Committee

Date of meeting: 11 December 2013



**Epping Forest
District Council**

**Subject: Planning Application EPF/1891/13 – Land R/O 59-61 High Road,
North Weald – Erection of bungalow (resubmitted application)**

Officer contact for further information: G Courtney

Committee Secretary: S Hill Ext 4249

Recommendation:

That the application be approved planning permission subject to the following conditions:

- 1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.**

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2. The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1291/07d, 1291/08c, 1291/09a, 1291/15A, MP/HR/01 Rev: A2**

Reason: To ensure the proposal is built in accordance with the approved drawings.

- 3. No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.**

Reason:- To ensure a satisfactory appearance in the interests of visual amenity, in accordance with the guidance contained within the National Planning Policy Framework and policy DBE3 of the adopted Local Plan and Alterations.

- 4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no development generally permitted by virtue of Part 1, Class E shall be undertaken without the prior written permission of the Local Planning Authority.**

Reason:- The specific circumstances of this site warrant the Local Planning Authority having control over any further development, in

accordance with the guidance contained within the National Planning Policy Framework and policy GB2A of the adopted Local Plan and Alterations.

5. The parking area shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents and visitors vehicles.

Reason:- In the interests of highway safety, in accordance with the guidance contained within the National Planning Policy Framework and policies ST4 and ST6 of the adopted Local Plan and Alterations.

6. Prior to occupation of the development hereby approved, measures shall be taken to ensure that there are no obstructions over 600mm in height within 1 metre of the highway boundary on both sides of the vehicle access. Such pedestrian visibility splays shall be retained thereafter.

Reason:- To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway, in the interest of highway safety and in accordance with the guidance contained within the National Planning Policy Framework and policy ST4 of the adopted Local Plan and Alterations.

7. The public's right and ease of passage over public footpath no. 45 North Weald shall be maintained free and unobstructed at all times.

Reason:- To ensure the continued safe passage of the public on the definitive right of way, in accordance with the guidance contained within the National Planning Policy Framework and policies ST4 and RST3 of the adopted Local Plan and Alterations.

8. A flood risk assessment and management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage, shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.

Reason:- The development is located in an area identified as being in an Epping Forest District Council flood risk assessment zone and would be likely to result in increased surface water run-off, in accordance with the guidance contained within the National Planning Policy Framework and policy U2B of the adopted Local Plan and Alterations.

9. No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with

the approved documents unless the Local Planning Authority gives its written consent to any variation.

Reason:- To comply with the duties indicated in Section 197 of the Town & Country Planning Act 1990 so as to ensure that the amenity value of the existing trees are safeguarded, in accordance with the guidance contained within the National Planning Policy Framework and policy LL10 of the adopted Local Plan and Alterations.

10. If any tree, shrub or hedge shown to be retained in accordance with the approved plans and particulars is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 as well as to safeguard the amenity of the existing trees, shrubs or hedges and to ensure a satisfactory appearance to the development, in accordance with the guidance contained within the National Planning Policy Framework and policy LL10 of the adopted Local Plan and Alterations.

11. No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to an approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with the guidance contained within the National Planning Policy Framework and policies CP2 and LL11 of the adopted Local Plan and Alterations.

12. **The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site.**

Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works.

Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

Reason: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the guidance contained within the National Planning Policy Framework and policy RP4 of the adopted Local Plan and Alterations.

13. **All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08.00 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In the interests of the amenities of noise sensitive properties.

Report

1. This application was considered by the Area Plans Sub Committee East on 6th November 2013. Members voted on the officers' recommendation to approve the development and agreed to grant. The vote was 8 to 4 in favour of the recommendation with 5 abstentions. After the vote 4 Members of the Committee stood in order to require that no action be taken on the matter until it has been considered by the District Development Committee (Operational Standing Order Item 13 (2) of the Constitution). The original report is therefore attached in full below for consideration.

Planning Issues

2. The sub-committee discussed whether the application would constitute an infill development, which is stated within paragraph 89 of the National Planning Policy

Framework as an exception to inappropriate development in the Green Belt. Based on the majority vote to approve, Plans Sub-Committee East considered that this application did fall within this definition. All other matters were considered acceptable and the application was recommended for approval.

3. A copy of the full Committee Report is attached below.

Conclusion

3. Area Plans Sub-committee East agree with the Planning Officer's recommendation to approve planning permission subject to conditions.

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Extract from Area Plans East – 6 November 2013 Agenda

APPLICATION No:	EPF/1891/13
SITE ADDRESS:	Land r/o 59-61 High Road North Weald Essex CM16 6HP
PARISH:	North Weald Bassett
WARD:	North Weald Bassett
APPLICANT:	Mr Kenneth Day
DESCRIPTION OF PROPOSAL:	Erection of bungalow. (Revised application)
RECOMMENDED DECISION:	Grant Permission (With Conditions)

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=553693

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1291/07d, 1291/08c, 1291/09a, 1291/15A, MP/HR/01 Rev: A2
- 3 No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.
- 4 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no development generally permitted by virtue of Part 1, Class E shall be undertaken without the prior written permission of the Local Planning Authority.
- 5 The parking area shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents and visitors vehicles.

- 6 Prior to occupation of the development hereby approved, measures shall be taken to ensure that there are no obstructions over 600mm in height within 1 metre of the highway boundary on both sides of the vehicle access. Such pedestrian visibility splays shall be retained thereafter.
- 7 The public's right and ease of passage over public footpath no. 45 North Weald shall be maintained free and unobstructed at all times.
- 8 A flood risk assessment and management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage, shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.
- 9 No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.
- 10 If any tree, shrub or hedge shown to be retained in accordance with the approved plans and particulars is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 11 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

- 12 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site.

Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works.

Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

- 13 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08.00 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

This application is before this Committee since it has been 'called in' by Councillor Stallan (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(h)) and since it is for a type of development that cannot be determined by Officers if more than two objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(f).)

Description of Site:

The application site is an area of land to the rear of the printworks building located on the north western side of the High Road, North Weald. The site doglegs around the newly erected bungalow to the rear of No's 63 – 69 High Road and is accessed from an existing access track between No's 69 and 73 High Road. This access track runs adjacent to the driveway serving the newly erected bungalow adjacent to the site and contains a Public Right of Way.

To the north of the site are residential dwellings within Harrison Drive. To the south of the site is North Weald Methodist Church and residential properties within George Avey Croft. Immediately adjacent to the site to the east is the newly erected bungalow behind No's. 63-69 High Road. To the west of the site are open fields. The majority of the site is located within the Metropolitan Green Belt. The application site is also located within an EFDC flood risk assessment zone.

Planning permission was previously granted on this site for a store shed/toilet, ornamental well and greenhouse in relation to a small holding. Works commenced on this development and as such this is an extant permission. Whilst consent was granted in 2000 for a new medical centre (on the printworks site) with the car park located on this application site, this was never implemented and has now expired.

Description of Proposal:

Consent is being sought for the erection of a detached three bed bungalow with associated parking and amenity space. The proposed bungalow would be 8.8m wide and a maximum of 14.9m deep with a pitched roof to a maximum ridge height of 4.5m. The development would be served by the existing access and proposes two parking spaces plus a turning area.

Relevant History:

EPF/0527/84 - Store shed/toilet, ornamental well and greenhouse on small holding – approved/conditions 11/06/84

EPF/1310/00 - Demolition of existing buildings and erection of new medical centre with car parking and ancillary works – approved/conditions 15/11/00

EPF/0400/13 - Erection of single bungalow on land to rear – withdrawn 22/04/12

Consultation Carried Out and Summary of Representations Received:

27 neighbouring properties were consulted and a Site Notice was displayed on 25/09/13.

PARISH COUNCIL – No objection.

10 GEORGE AVEY CROFT – Object as the use of the public footpath for a driveway will be dangerous to users of the PRow.

3 HARRISON DRIVE – Object as this is Green Belt land and due to the proposed use of the public footpath as a driveway.

4 HARRISON DRIVE – Object as the site is within the Green Belt, the access road would be detrimental to the users of the public footpath, this would result in light pollution to neighbouring properties, and due to the increase in vehicles traffic.

6 HARRISON DRIVE – Comment that the site is agricultural land prone to flooding and that this may impact on the public footpath.

70 HIGH ROAD – No objection but concerned about the loss of or impact on the public footpath.

UNKNOWN ADDRESS – Concerned about the impact on the public footpath.

Policies Applied:

CP2 – Protecting the quality of the Rural and Built Environment

GB2A – Development in the Green Belt

GB7A – Conspicuous development

DBE2 – Effect on neighbouring properties

DBE3 – Design in urban areas

DBE8 – Private Amenity Space

DBE9 – Loss of amenity

LL10 – Adequacy of provision for landscape retention

LL11 – Landscaping schemes

RP4 – Contaminated land

RST3 – Loss or diversion of rights of way

ST1 – Location of Development

ST4 – Road safety

ST6 – Vehicle Parking

U2B – Flood risk assessment zones

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Issues and Considerations:

The main issues that arise with this application are the principle of the development within the Green Belt and this particular location, the design and impact on the surrounding area, the impact on the amenities of neighbouring and future residents, and with regards to highway safety and parking provision.

Principle of development:

Although the application site is located on the edge of North Weald, which is a relatively large built up village outside of the designated Green Belt, the majority of the site is located within the Green Belt. Paragraph 89 of the NPPF states that “a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are (amongst others):

- *Limited infilling or partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.*
- *Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan”.*

Previously developed land:

Although the applicant argues that the site constitutes previously developed land (PDL) due to the implemented planning consent EPF/0527/84, this permission was for a store shed/toilet, ornamental well and greenhouse in relation to a small holding and therefore was for agricultural purposes. As the definition of previously developed land stated in Annex 2 of the NPPF specifically excludes “land that is or has been occupied by agricultural or forestry buildings” the application site would not constitute PDL and therefore would not meet the above quoted exception to inappropriate development.

The other arguments put forward by the applicant on this point are that planning permission was previously approved to replace the printworks with a new medical centre whereby the car park would have been located on this application site, however this consent was never implemented and as such has now expired. Therefore this does not constitute any form of development to enable this site to be considered ‘previously developed’. Furthermore it is claimed that the application site was previously cleared and levelled and gravel was laid so that this land could be used for car parking in association with the printworks site. It is stated that the works to create the car park were completed by the beginning of April 2003 and the site has been used for car parking since this time, and therefore benefits from a lawful use for car parking. As no evidence has been provided to justify this point, and no Certificate of Lawful Development has previously been issued for this use, the stated lawful use of the site for car parking is not at this time accepted. As such, neither of these factors render the site as PDL.

Limited infilling:

The second exception to inappropriate development within the Green Belt is for “limited infilling in villages”. There is no argument that North Weald would not constitute a ‘village’, although the majority of this large built up area is located outside of the Green Belt (and therefore no exception

to inappropriate development would need to be argued). Nonetheless the main consideration in this instance is whether the proposed development would constitute an 'infill' or not.

There have been a number of recent appeal decisions with regards to 'limited infilling' both within and outside of Epping Forest. Within a recent appeal decision for the demolition of a single dwelling at Rosedale, Hornbeam Lane, Sewardstonebury (Ref: EPF/0288/13) and the erection of two dwellings, it was argued by the LPA that "*sites are only suitable for infilling where they are surrounded on three or four sides by existing development*" (and this appeal site was within a ribbon of development with open land to the front and rear). Nonetheless, the Planning Inspector concluded that "*the site, whilst towards the periphery of the built-up area, is within the village*". This application site, whilst on the edge of North Weald, is surrounded on three sides by residential development (plus in part by the Methodist church) and only shares one boundary with open, undeveloped land. The reason for this is because the Green Belt boundary 'cuts in' at this particular location to incorporate the application site, although there appears to be no obvious reason for such a set in.

The applicant has submitted an appeal decision for an infill development in Spellbrook, Herts which, similar to that in Sewardstonebury, is located in a ribbon development on the edge of a village. The main difference between the two above quoted appeal decisions and this application site is that, as stated in the Spellbrook decision, "*given the almost continuous pattern of development along the main road, it is reasonable to conclude that the ribbon of development and, consequently, the appeal site, should be regarded as within the village*", whereas this application site does not 'infill' between a continuous pattern of development. However there has been a new detached bungalow recently erected on the land to the rear of 63 to 69 High Road, which was allowed due to the nature and pattern of surrounding built areas and the presence of other backland sites. The proposed development of this site would follow, and almost mirror, that which was allowed on the adjacent parcel of land. Therefore, whilst not a 'continuous pattern of development', it would follow an established type of built form within the area.

The other material consideration when assessing the potential 'infill' of this development is how this would relate to the overall built form of the village as a whole. A recent appeal at Pond House, Matching Green (Ref: EPF/2136/12) allowed for an infill development in this village. Within the Inspectors decision letter it was stated that "*the scheme would be visible from within the village and the wider countryside but I consider it would have a very limited impact on the openness of the Green Belt because, as an infill development, it would be contained within the existing envelope of built development in Matching Green and seen in the context of the existing village development. For the same reason, it would not have a material adverse effect on the purposes of including land within the Green Belt*".

The development of this site would clearly be seen within the context of the village of North Weald and would not detrimentally encroach into open countryside. The site has long been separated off from the open land to the north by an established hedgerow, and this was a material consideration in EPF/1310/00 whereby the Committee Report stated "*the proposed parking area at the rear of the site will be for 13 cars and will be on the area which was previously used as a small holding/allotment land and is within the Green Belt. It is considered that the proposed car park area will not harm the openness of the Green Belt taking account of the fact that the car park will be screened from views from the Green Belt. Thus it is considered that the proposal is not contrary to Policies GB2 and GB7 of the Local Plan*".

Due to the above it is considered that, although this form of development is not an 'infill development' in the usual sense, the particular and exceptional circumstance of the site, in particular the 'cut in' of the Green Belt boundary to specifically include just this small site and the level of surrounding development on three sides of the site, do conclude that on balance the proposed dwelling would comply with the exception of "*limited infilling in villages*" as laid out in the

NPPF. As such, it is not considered that this proposal would constitute inappropriate development within the Green Belt.

Other factors:

Along with the above considerations, the applicant has also put forward two further arguments in favour of the development. These are the need for additional housing and the need for more bungalows.

Whilst the applicant quotes the need for an up-to-date five year land supply and states that this would assist in the Council meeting this (although they admit that this would only make a small contribution), at present Epping Forest District Council has a demonstrable five year land supply for open market housing based on the previously approved targets, although the housing needs within the District are being looked at and more up to date figures will be published.

Notwithstanding this, Community Secretary Eric Pickles has recently announced that *“the Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh the harm to the Green Belt and other harm to constitute the ‘very special circumstances’ justifying inappropriate development in the Green Belt”*. As stated above, it is considered that this development would constitute an infill and therefore is not inappropriate development within the Green Belt requiring very special circumstances. However if the proposal is not considered to be an infill, then this issue alone would not be sufficient to outweigh the harm from inappropriate development within the Green Belt.

The applicant has also referred to Community Secretary Eric Pickles and his recent proposal for new rules that will require LPA's to cater better for the ageing population when planning for housing. They also quote Planning Minister Nick Boles who issued a Statement which said:

“We must build more homes or suitable accommodation for older people if we are to avoid problems further down the track. We're all living longer and there will be a big rise in the number of older people in future years. Making sure councils plan for this, and for enough suitable homes like bungalows in their area, will help ensure the ageing population can live in the places they want and enjoy their retirement”.

At present however there is no policy backing for this statement.

Design and impact on the surrounding area:

The application site is located to the rear of properties within the High Road and as such will not be particularly visible within the street scene. However, due to the presence of the public footpath running down the access road and the location in relation to surrounding properties, the proposed bungalow will be visible from neighbouring dwellings. Although there would be some views of the proposed development from the open land to the north, this would be largely screened by the existing hedge.

The size and design of the proposed bungalow is similar to that approved and recently erected on the adjacent site, to the rear of No's. 63-69 High Road. As such, the proposal would not be harmful to the overall character and appearance of the area.

Amenity considerations:

The proposed property would be a detached bungalow with a low pitched roof reaching a maximum height of 4.5m. It would be located 1m from the shared boundary with the adjacent property at its closest point, and 3m from the flank wall of this neighbouring bungalow. Although

the neighbour has two ground floor flank windows facing the site these are towards the rear of the bungalow and would not be significantly impacted by the proposed new dwelling, and these appear to be secondary windows to the main living area that also has a main aspect to the rear. The proposed new bungalow would be more than sufficient distance from any other neighbouring properties to ensure that there would be no loss of amenity to surrounding residents.

Although there would be some increase in activity and noise associated with a new dwelling in this location, this would be fairly minimal due to the size of the proposed development. Furthermore, the previously approved store shed and greenhouse development is extant and therefore can be implemented at any time. Such a use would likely result in just as much, if not more, disturbance to neighbouring residents than this proposal.

Given the shape of the application site, which doglegs around the adjacent site, the proposed garden would far exceed the 80 sq. m. expected for private amenity space to serve a dwelling of this size.

Highways/parking:

One of the key concerns of local residents regarding this proposal is that the access drive to the dwelling is also a Public Footpath. As such, there is concerns over the safety of users of the footpath as a result of vehicle traffic accessing the site. This vehicle access if existing and is currently used, possibly quite infrequently, to gain access to the site at present. Essex County Council Highways were consulted on this application and have raised no objection to the development. They do however require a condition ensuring that the Public Right of Way is retained free and unobstructed at all times (which is understood to be a legal requirement anyway). Nonetheless, they do not consider that this development would result in any unacceptable conflict between users of the footpath and residents/visitors of the site.

The proposed dwelling would benefit from 2 off-street parking spaces plus manoeuvrability space similar to that approved on the adjacent site. Whilst no allocated visitor space has been shown, there would be space for visitors to park on the site (although this would make manoeuvring more difficult). As such, it is considered that the parking and access arrangements for the development are sufficient.

Other matters:

The application site lies within an EFDC flood risk assessment zone and is of a size where it is necessary to improve existing surface water runoff. As such a flood risk assessment is required, which can be suitably dealt with by condition.

There are a number of trees and hedges on site, however an arboricultural report and plans have been submitted showing these, along with proposed protection measures. It is considered that the development would not detrimentally impact on the existing landscaping and therefore, subject to conditions, this would comply with policies LL10 and LL11.

Conclusion:

Whilst the application site is not considered to be a usual 'infill development', it nonetheless is considered to, on balance, comply with the exception to inappropriate development in the Green Belt as defined in the NPPF as "*limited infilling in villages*". The proposal would not be unduly detrimental to the amenities of neighbouring residents or the overall character and appearance of the street scene. There would be no undue harm to existing landscaping and no detrimental conflict with other users of either the highway or the Public Footpath. As such the proposed development is considered to comply with the relevant Local Plan policies and, where absent or

conflicting, the guidance contained within the National Planning Policy Framework and is therefore recommended for approval.

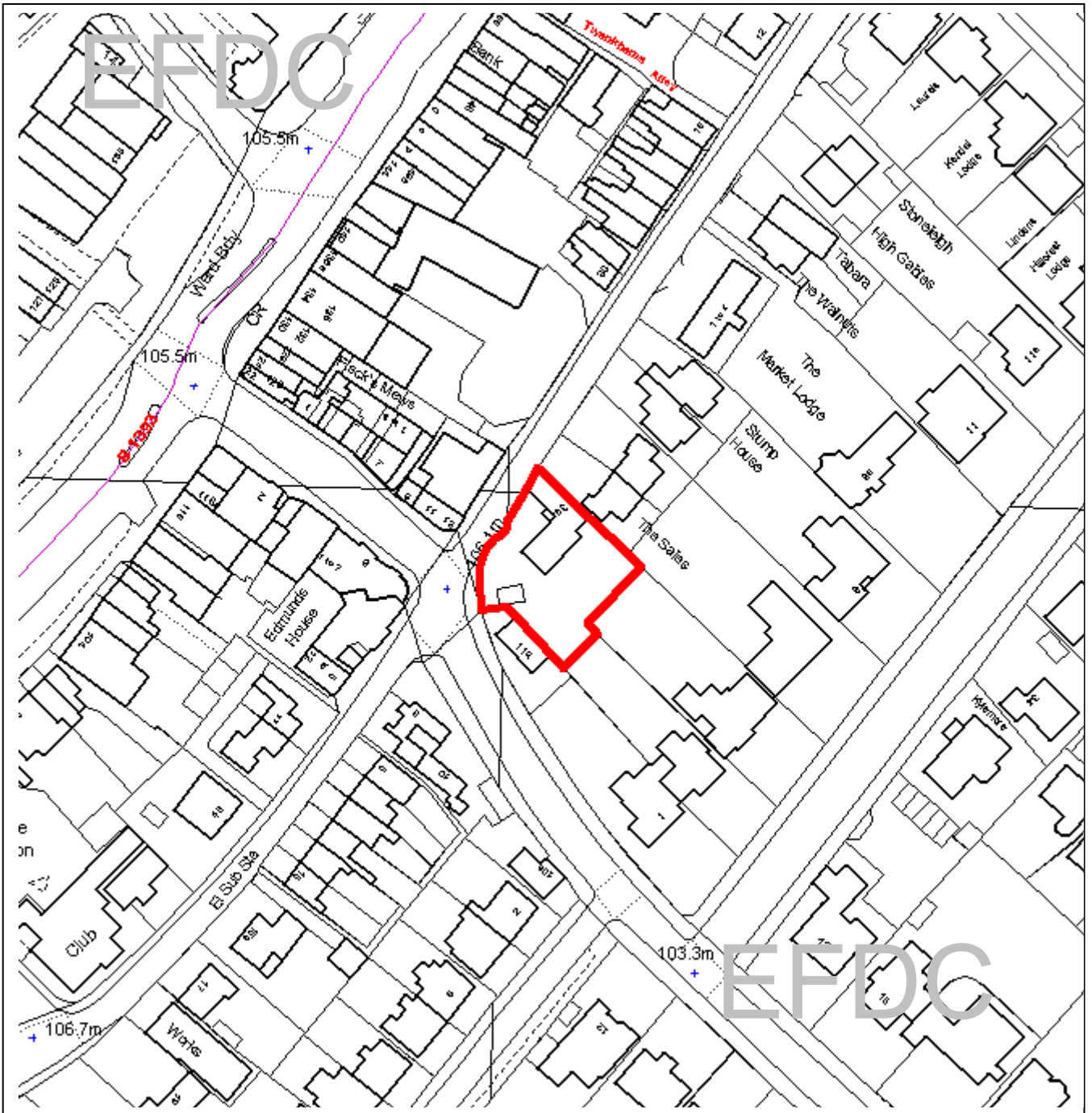
Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

***Planning Application Case Officer: Graham Courtney
Direct Line Telephone Number: 01992 564228***

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk



Epping Forest District Council



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Application Number:	EPF/1924/13
Site Name:	3A Hemnall Street, Epping, CM16 4LR
Scale of Map:	1/1250

Report to District Development Control Committee

Date of meeting: 11 December 2013



**Epping Forest
District Council**

**Subject: Planning Application EPF/0247/09 – Land adjacent to Copperfield Lodge,
Hainault Road, Chigwell – Erection of 5 bedroom detached house**

**Officer contact for further information: Stephan Solon Ext 4018
Committee Secretary: Simon Hill Ext 4249**

Recommendation:

**That planning permission be granted for the erection of the proposed house
subject to:**

- (a) The completion, within 6 months of the date of this decision of an
agreement under Section 106 of the Town and Country Planning Act
1990 to secure:**
 - (1) Within 3 months of the service of Notice on the landowner(s)
by Epping Forest District Council, the transfer of land at the
application site situated adjacent to land at Victory Hall to
Epping Forest District Council, at no cost. Such Notice shall
be served within 10 years.**
 - (2) For a period of 10 years, no sale or transfer of the land at the
application site situated adjacent to land at Victory Hall to any
person other than Epping Forest District Council.**
 - (3) Within 3 months, the payment of the sum of £33,000 by the
developer to Epping Forest District Council as a contribution
towards the cost of constructing a car park on the site
planning permission ref EPF/0735/13 relates to. If after a
period of 10 years from receipt of the payment the sum is not
spent as described, it shall be returned to the developer within
a period of 3 months.**

- (b) The following conditions:-**
 - (1) The development hereby permitted must be begun not later
than the expiration of three years beginning with the date of
this notice.**
 - (2) The development hereby permitted will be completed strictly in
accordance with the approved drawings nos: EPL_01, EPL_10
rev A, EPL_11 rev B, EPL_12 rev A, EPL_13 rev A, EPL_14 rev
A.**

- (3) No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance. [Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]
- (4) Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance. [Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]
- (5) Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of

works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]

- (6) Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report (referred to in PPS23 as a Validation Report) that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.**
- (7) In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.**
- (8) No demolition or preliminary ground works of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the local planning authority.**
- (9) No development shall take place until details of levels have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.**
- (10) Prior to the commencement of development details of screen walls, fences or such similar structures shall be agreed in writing by the Local Planning Authority, and shall be erected before the occupation of any of the dwellings hereby approved and maintained in the agreed positions.**
- (11) Prior to the commencement of the development details of the**

proposed surface materials for the access shall be submitted to and approved in writing by the Local Planning Authority. The agreed surface treatment shall be completed prior to the first occupation of the development.

- (12) All material excavated from the below ground works hereby approved shall be removed from the site unless otherwise agreed in writing by the Local Planning Authority.
- (13) No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed within the site. The installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- (14) No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.
- (15) No development, including site clearance, shall take place until a scheme of soft landscaping and a statement of the methods, including a timetable, for its Implementation (linked to the development schedule), have been submitted to the Local Planning Authority and approved in writing. The landscape scheme shall be carried out in accordance with the approved details and the agreed timetable. If any plant dies, becomes diseased or fails to thrive within a period of 5 years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the Local Planning Authority agrees to a variation beforehand in writing.
- (16) Prior to the first occupation of the development permitted the existing crossover shall be removed and the footpath resurfaced and the kerb reinstated for use as approved in writing by the local planning authority.
- (17) Prior to the first occupation of the development hereby permitted there shall be no obstruction within a parallel band visibility spay 2.4m wide as measured from the back edge of the carriageway across the entire site frontage. This area shall be retained free from any obstruction in perpetuity.
- (18) Any gates provided at the vehicular access shall only open inwards and shall be set back a minimum of 4.8 metres from the nearside edge of the carriageway.
- (19) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by

virtue of Classes A, B and E, Part 1 of Schedule 2, to the Order shall be undertaken without the prior written permission of the Local Planning Authority.

Report detail:

1. (Director of Planning and Economic Development) The application site comprises an overgrown plot located on the eastern side of Hainault Road within the Metropolitan Green Belt. To the north lies a site accommodating Chigwell Library, Chigwell Parish Council offices, a working mens club and Victory Hall. To the south lie two detached dwellings, namely Nos. 30 and 40a (Copperfield Lodge). Open views exist to the rear. Chigwell underground station is located some 250m from the site and Hainault Road is on the 167 London bus route.
2. Planning consent is sought for the erection of a new five bedroom house with basement and integral garage.
3. On 9 June 2009 DDCC resolved to give planning permission for the proposal subject to the completion of a S106 agreement to secure the provision of additional car parking space for Victory Hall. The achievement of the additional car park was considered to form part of a case of very special circumstances in favour of granting permission. The S106 agreement was not completed by 5 April 2011 therefore DDCC requested the application be reported back to it if the agreement was not completed by June 2011. The agreement was not completed by that date and the application reported back on 14 December 2011 when it was resolved that planning permission should be given subject to a similar S106 agreement with more specific heads of terms to achieve the car park. A period of 6 months was given to complete the agreement, however it was not completed.
4. In the meantime planning permission has been given on two occasions for the development of a car park on land at Victory Hall and adjacent land in the applicants' ownership. The most recent consent, ref EPF0735/13, was given by DDCC on 16 October 2013.

Planning Obligation:

5. The heads of terms of the S106 agreement agreed by DDCC when it considered the application on 14 December 2011 differ from those set out in the recommendation of this report as set out above. The differences are:
 - (a) No timescale was specified for the transfer of the land, but it was envisaged it would have been transferred within a short period of time.
 - (b) A sum, to be agreed, to fund the maintenance of the land by the Council for a period of 5 years would be paid by the developer on the transfer of the land; and
 - (c) The financial contribution towards the construction of a car park on land at Victory Hall together with the land to be transferred has increased from the previously agreed level of £31,400 to allow for inflation since December 2011.
6. Officers recommend the varied heads of terms in recognition of the need to deal with matters concerning the lease of land at Victory Hall and to enable the Council to minimise any risk to it arising from taking on ownership of the land significantly in

advance of it being developed to provide a car park. Since it is envisaged the Council would not serve Notice requiring the transfer of the land until shortly before it is required in connection with the development of a car park, there is no need for any interim maintenance payment.

Planning Policy:

7. Since the application was last considered the National Planning Policy Framework has been published. It sets out the primary policy context within which planning decisions are made. Local Plan and Alteration policies can only be given weight in accordance with their consistency with the policies of the Framework.
8. In relation to this proposal, there has been a significant change in Green Belt policy: the limited infilling of villages is now a category of development that is not inappropriate development in the Green Belt. The application site sits opposite large houses on the west side of Hainault Road and between houses to the south and Victory Hall to the north. To the rear of the site are open fields. On the basis that the site is bounded by the built up area of Chigwell it is found the proposal amounts to the limited infilling of a village. As a consequence, there is a sound case that the proposal is not inappropriate development.

Other Matters:

9. There has been no other material change in circumstances that could affect the balance of issues in assessing the merits of the proposal and there has been no change in the case of need for additional parking facilities at Victory Hall.

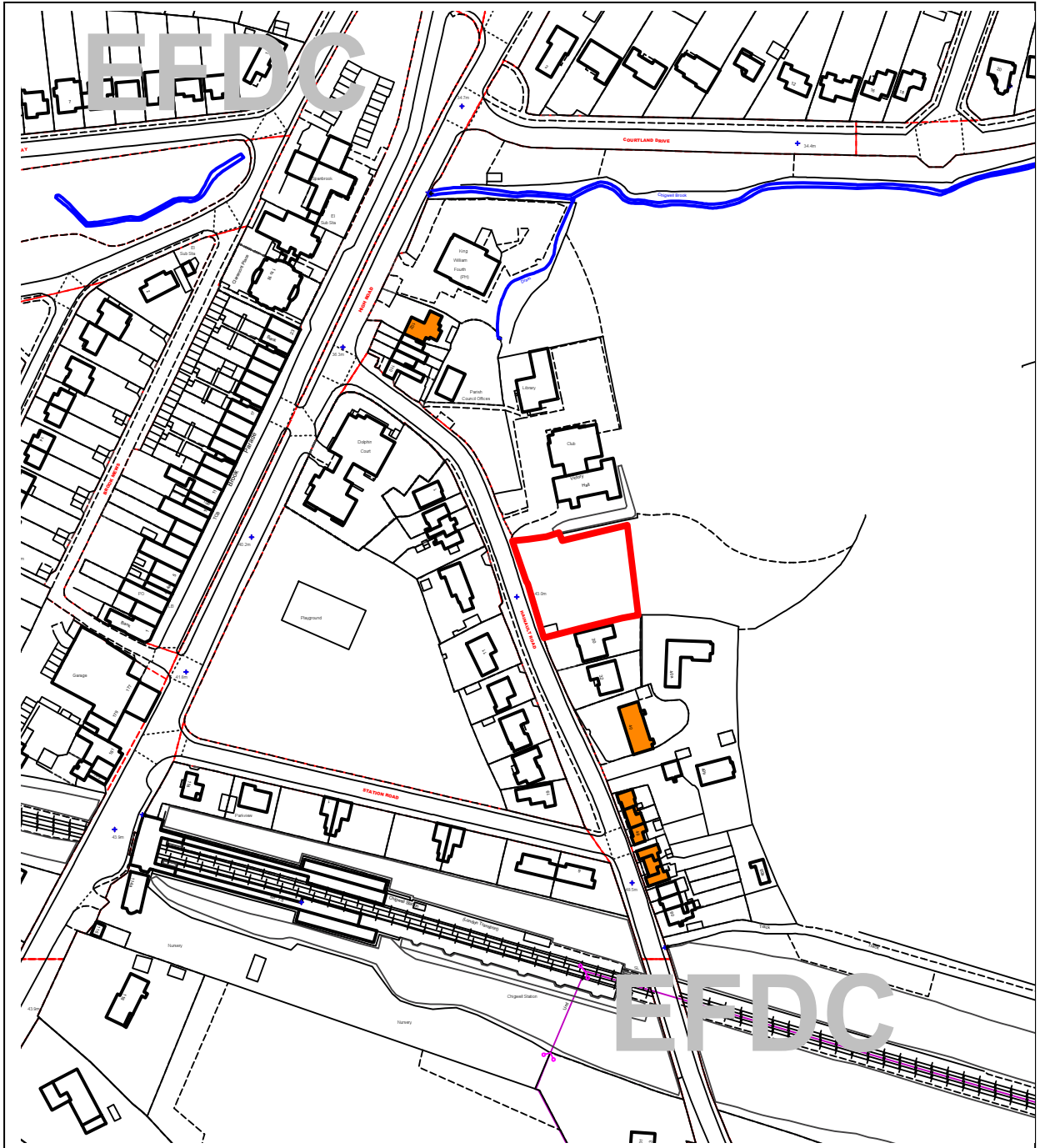
Conclusion:

10. Although there has been a change in the policy context since Members last resolved to give planning permission for this proposal, the change weighs in favour of Members resolution. A further consent has been secured for the proposed car park and giving consent for the present proposal subject to the S106 agreement recommended would secure the necessary land to achieve it. The changes in the heads of terms recommended are designed to secure the Council's position in respect of risk to it arising from taking on ownership of land for the proposed car park significantly in advance of its development.



Epping Forest District Council

Area Planning Sub-Committee South



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Agenda Item Number:	5
Application Number:	EPF/247/09
Site Name:	Land Adjacent to Copperfield Lodge Hainault Road, Chigwell, IG7 6QX
Scale of Plot:	1/2500

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Report to District Development Control Committee

Date of meeting: 11 December 2013

Subject: Local Enforcement Plan



**Epping Forest
District Council**

Officer contact for further information: Jeremy Godden, Principal Planning Officer (Enforcement) x 4498

Committee Secretary: S Hill Ext 4249

Recommendation(s):

That the Committee notes the comments of Loughton Town Council but is requested to confirm the Local Enforcement Plan (LEP) as previously adopted without further changes.

Report Detail

1. (Director of Planning and Economic Development). The Committee, at the last meeting on 16 October 2013, agreed to adopt the Local Enforcement Plan. A copy of that plan is attached to the minutes of the last meeting which is attached to this agenda. As part of the Committees decision, the Assistant Director of Planning was authorised to consider any further comments made by Local Council's and report further to this Committee if material changes to the plan were required.

2. During the previous consultation process it has become apparent that a number of Town and Parish Councils had been omitted from the initial consultation process. The Councils concerned (Loughton, Ongar, Stanford Rivers, Stapleford Abbots, Stapleford Tawney, Theydon Mount and Theydon Garnon) were consulted on 22 October 2013.

3. Of these seven local council's, Loughton Town Council have made the following relevant comments:

"Furthermore, the Epping Forest Association of Local Councils has formally requested that where it is decided by District Council Officers that further action is inexpedient under Sections 3.25 to 3.31 (Chapter 3 Investigation of suspected breaches of planning control: Not expedient to pursue formal action) of the protocol, that decision shall stand referred to an Area Planning Subcommittee if within 21 days of publication of the decision it is:

(a) called in by a member of Epping Forest District Council; or

(b) called in by the parish or town council in whose area the site falls."

4. This area of the plan was subject of discussion at the 16 October meeting, and it was decided that this call in facility was not required.

5. It is accepted that the decision not to proceed further in an investigation in an enforcement case on the grounds of expediency and proportionality can be unsettling

for neighbours and local Councillors. However, each case must be considered on its own merits and looked at dispassionately in the light of planning legislation, policy and precedent.

6. The Enforcement Section has a considerable wealth of experience in assessing the expediency of cases. Where it is considered that it is not expedient to take any further action this will have been carefully assessed by the officers in consultation with the Principal Planning Officer, who will have taken all the factors into consideration. This will include the relevant Legal Advice and planning advice, and often will involve other officers responsible for trees, conservation and senior development control officers.

7. The Enforcement Section will always explain and justify its decisions to Councillors and Councils if requested, but to the best of our knowledge this has only happened in once in the last four years. Serving an enforcement notice solely for the purposes of regularising a breach leaves the Council vulnerable to a cost claim should an appeal be lodged.

Conclusion

8. As can be seen, the decision that a case is not expedient to take forward is not undertaken lightly and whilst a matter of judgement, this judgement is a professional one backed by considerable experience and case law.

9. It is therefore considered that there is already a robust procedure in place and that a proposed call in would not add value to the enforcement processes.

Consultation undertaken:

Seven Town and Parish Councils have been consulted since the initial consultation.

Report to District Development Control Committee



**Epping Forest
District Council**

Date of meeting: 11 December 2013

Subject: Operation of Appendix A (Paragraph g) of Officer Delegation of Powers to Determine Planning Applications.

Officer contact for further information: N Richardson Ext 4110

Committee Secretary: S Hill Ext 4249

Recommendation:

That the circumstances that officers will report planning applications made under Appendix A (paragraph g) of Officer Delegation of Powers to Determine Planning Applications to planning committees be noted.

Report

Background

1. (Director of Planning and Economic Development) The Committee, at the last meeting on 16 October 2013, agreed to extend the current scheme of delegation to allow the Director of Planning and Economic Development to also determine all prior approval applications types, following the recent changes to permitted development rights through the introduction of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013.

2. The revised scheme of delegation was reported and agreed at Council meeting on 5 November 2013, but with a small change to Appendix A - Matters to be Determined by the Relevant Committee (paragraph g), which changed its wording as follows:

From:-

Applications recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;

To:-

Applications and Certificate of Existing Lawful Use or Development recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;

3. This prompted a request from Council for District Development Control Committee to consider how often a planning objection by a parish or town council has not been regarded as grounds to report a planning application to a planning committee.

4. The delegated terms are set out in the Constitution and state when planning application are to be reported to the relevant planning committees in Schedule 1, Appendix A of Officer Delegation.

5. Appendix A (paragraph g) is one such requirement of when matters are to be determined by the relevant planning committee, should the planning officers be recommending a grant of permission.

6. The Assistant Director of Planning (Development) advises that there is no held record of when it is decided that an objection from a parish or town council does not trigger a planning application being reported to a planning committee. However, a local council's reply stating "objection" with a commentary afterwards will always be reported to a planning committee meeting, unless the comments are of no relevance to the planning merits of the proposal or indeed to planning in general. However, it is rare comments are received in this way. All the local council's were recently reminded how to respond, given it is set out in the section of the Council's Constitution, which states:

- (i) Objection with valid planning reasons;
- (ii) No comment/ no objection (neutral);
- (iii) Support with valid planning reasons: and
- (iv) Identification of local issues relevant to the planning decision, but without necessarily offering a definite view one way or another.

7. Therefore planning officers would not prepare a report for a planning committee if the objection does not contain valid planning reasons. So for example, "Objection" alone or no reference to the word "objection" despite concerns made, run the risk of the application not being reported. Similarly, in the case of a comment such as "Objection: this should be reported to the area planning committee" would not because it does not state why.

8. On the odd occasion where comments received are not clear in (i) to (iv) above, the officer will contact the parish or town clerk's for clarification, but in any case the parish and town council's have been advised that the following are generally not planning considerations and therefore not material to the planning merits of the proposal:

- loss of view
- negative effect on the value of properties
- land ownership or restrictive covenants
- applicant's personal circumstances (unless exceptional such as relating to a physical disability)
- business competition
- matters controlled under building regulations or other non-planning legislation.

Conclusion

9. Parish and Town Council's are aware of what are and are not material planning considerations. There are very few examples of objections from them being ruled out of consideration on grounds of not being material to the planning merits of a particular planning application proposal. However, if unclear comments are received, the relevant planning case officer will seek clarification from the clerk of that local council.

Background Papers:

Scheme of Delegation to Officers (Appendix A) - As amended

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

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**PLANNING DIRECTORATE – DELEGATION OF
COUNCIL FUNCTIONS**

Schedule 1 – Development Control

Schedule 2 – Forward Planning and Related Functions

DEVELOPMENT CONTROL FUNCTIONS

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
<p>Care of the Environment</p> <p>District Development Control Committee (Minute 30 – 7.12.10)</p>	<p>Town and Country Planning (Environmental Impact Assessments) (England and Wales) Regulations 1999</p> <p>Planning (Hazardous Substances) Act 1990, Section 36, 36A and 36B</p> <p>Planning (Hazardous Substances) Regulations 1992</p>	<p>To determine the need for and scope of environmental impact assessments required under the Town and Country Planning Acts.</p> <p>To determine applications for hazardous substances consent except those where there are objections from interested parties, which shall be determined by the relevant Area Planning Sub-Committee.</p> <p>To obtain and use necessary powers of entry to the land in relation to the above.</p>	<p>No</p>
<p>Development Control</p> <p>District Development Control Committee (Minute 30 – 7.2.10)</p> <p>Council Minute 29 – 28.6.11</p>	<p>Town and Country Planning Act 1990 Section 70, 70(A), 191-3 etc</p> <p>Planning and Compensation Act 1991, Section 10</p> <p>Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, Part 1, Reg. 16-19</p> <p>Town and Country Planning (Development Management Procedure) (England) Order 2010, Part 6, Article 35</p> <p>Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 3, Reg. 14-15</p>	<p>1. Subject to Appendix A below, which are matters to be determined by Committee, to determine or decline to determine any:</p> <p>(a) planning applications;</p> <p>(b) applications for approval of reserved matters;</p> <p>(c) applications arising from any condition imposed on any consent, permission order or notice;</p> <p>(d) advertisement consents; and</p> <p><u>(e) listed buildings;</u></p> <p>2. To agree the precise wording of additional/revised conditions to be attached to planning permissions, at members' request, and discharge of conditions.</p>	<p>Yes (See Appendix A to this Schedule)</p>

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
	<p>Town and Country Planning General Permitted Development Order 1995, Part 6 and Part 31 of Schedule 2 as amended by SI 2008 No. 2362 and <u>SI 2013 No. 1101</u></p> <p><u>Town and Country Planning (Development Management Procedure) (Amendment) (England) Order 2013</u></p>	<p>3. To determine whether prior approval of the method of any proposed demolition and any proposed site restoration is required and to give such approval where required except where objections from interested parties are received, which shall be determined by the Area Plans Sub-Committees.</p> <p>4. In relation to telecommunications equipment, to determine, after prior consultation with ward Councillors, whether the prior approval of the Council should be required to the siting and appearance of notified development.</p> <p>5. In relation to agricultural development, to determine whether to require the formal submission of details.</p> <p>6. To determine applications in relation to certificates of lawful use and development.</p> <p>7. To obtain and use necessary powers of entry to the land in relation to the above.</p> <p>8. To determine or decline to determine any non-material amendments.</p> <p>9. <u>To determine applications for prior approval for:</u></p> <p><u>(a) Single storey rear extensions to dwellinghouses;</u></p> <p><u>(b) Class J applications for prior approval for change of use from Class B1a offices to Class C3 residential;</u></p> <p><u>(c) Class K applications for prior approval for change of use from Class B1, C1, C2, C2a and D2 to State funded school; and</u></p> <p><u>(d) Class M development - Change of use from agriculture building (between 150 – 500 square metres) to a flexible use falling either within Class A1(shops), A2 (financial and professional services), A3 (restaurants and cafes), B1 (business), B8 (storage and distribution), Class C1 (hotels) or D2 (assembly and leisure).</u></p>	

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
		Subject to consultation with ward members in the cases where a <u>valid objection has been made and officers are minded to grant the application.</u>	
Enforcement District Development Control Committee (Minute 30 – 7.12.10)	<p>Town and Country Planning Act 1990 (as amended), Part 7, section 171-190, 196 A, B, C, 198-200 214(A)-(D), 215-219, 220 or 221 and 224, 325, 330</p> <p>Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 5, sections 27 and 30</p> <p>Planning (Listed Buildings and Conservation Areas) Act 1990, Chapter 4, sections 38, 88, 88A and 88B</p> <p>Local Government (Miscellaneous Provisions) Act 1982 (Section 37)</p>	<p>Authority for Director of Planning and Economic Development or Director of Corporate Support Services to:</p> <ol style="list-style-type: none"> 1. Issue Stop Notices, Temporary Stop Notices, Enforcement Notices, Breach of Conditions Notices, Building Preservation Notices, Listed Buildings Enforcement Notices, Planning Contravention Notices, Conservation Area Notices, Discontinuance Notices in respect of advertisements and Section 215-219 Notices for all breaches of planning legislation, in accordance with the Council's adopted enforcement policy. 2. Prosecute the unauthorised display of advertisements, unauthorised works to a listed building, and non-compliance where enforcement action has previously been authorised. 3. Take appropriate enforcement action, including serving an injunction where the Director of Planning and Economic Development and/or the Director of Corporate Support Services, on their nominee, having regard to the evidence considers the circumstances to require urgent action. 4. Investigate if a temporary market has been held in breach of Section 37 of the 1982 Act. 5. Vary the requirements for compliance with notices already authorised, including altering the period required for compliance, service of further notices and withdrawal of notices. 6. Determine when action is not expedient in relation to breaches of control considered inconsequential or insignificant. 7. Obtain and use powers of entry necessary in relation to the above. 	

Function	Principal Relevant Legislation (*see note)	Relevant Details	Exceptions
	Town and Country Planning Act 1990 (Section 178) (Council Minute 126 – 23.4.13)	8. To authorise direct action (or re-charge the cost of that action) in pursuit of a valid enforcement notice under Section 178.	Subject to budget provision being available and to local District Councillors being notified

APPENDIX A: MATTERS TO BE DETERMINED BY THE RELEVANT COMMITTEE

- (a) Applications contrary to the provisions of an approved draft Development Plan or Development Plan, and which are recommended for approval;
- (b) Applications contrary to other approved policies of the Council, and which are recommended for approval;
- (c) Applications for major commercial and other developments, (e.g. developments of significant scale and/or of wide concern) and which are recommended for approval;
- (d) Applications for residential development consisting of 5 dwellings or more (unless approval of reserved matters only) and which are recommended for approval);
- (e) The Council's own applications on its land or property which are for disposal;
- (f) Those applications recommended for approval where there are more than two expressions of objections received, material to the planning merits of the proposal to be approved, apart from approvals in respect of householder type developments, telecommunication masts, shop fronts and vehicular crossovers and "other" category developments (changes of use, advertisements, listed building consents, conservation area consents), where more than four expressions of objections material to the planning merits of the proposal to be approved are received;
- (g) Applications recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal;
- (h) Applications referred by a District Councillor, whose own ward must be within the remit of the relevant Area Plans Sub-Committee and who has firstly notified the relevant Ward Councillors in advance, so long as the referral has been requested in writing to Officers within 4 weeks of that applications notification in the Weekly List;
- (i) Applications where the recommendation conflicts with a previous resolution of a Committee;
- (j) Applications submitted by or on behalf of a Councillor of the Authority (and/or spouse/partner) or on behalf of a member of staff of Planning and Economic Development (and/or spouse/partner) and also in those cases where a councillor is an objector in a purely personal capacity;
- (k) Any other application which the Director of Planning and Economic Development considers it expedient or appropriate to present to committee for decision (e.g. those raising issues not covered by existing policies, or of significant public interest, or those with a significant impact on the environment);
- (l) An application which would otherwise be refused under delegated powers by the Director of Planning and Economic Development but where there is support from the relevant local council and no other overriding planning consideration necessitates refusal.

FORWARD PLANNING AND RELATED FUNCTIONS

Function	Relevant Legislation	Relevant Details	Exceptions
Forward Planning	Town and Country Planning Act 1990 Section 324 and 325	To obtain and exercise powers of entry to undertake surveys in connection with: (1) Statutory Plans (2) Applications for planning permission	No
Buildings	Planning (Listed Buildings and Conservation Areas) Act 1990 Section: 3 (1-8)	To serve Building Preservation Notices in urgent cases, subject to report to and review by the next meeting of District Development Control Committee. To obtain and exercise powers of entry to undertake surveys in connection with: (1) Statutory Plans (2) Applications for Planning Permission	Yes
Dangerous trees on private land	Local Government (Miscellaneous Provisions) Act 1976 Sections: 23 and 24	Discretionary power to take action to make safe trees on private land, including to: (1) Obtain and use necessary Powers of Entry to the land; (2) Serve relevant notices; (3) Respond to appeals; (4) Undertake works directly where necessary; and (5) Recover expenses.	No
Countryside hedgerows	The Hedgerow Regulations 1997 Sections: 5 to 15 incl.	The responsibility to: (1) Regulate the removal of certain hedgerows;	No

Function	Relevant Legislation	Relevant Details	Exceptions
		<ul style="list-style-type: none"> (2) Issue relevant notices, including to require hedgerow replacement; (3) Respond to appeals; (4) Take necessary enforcement or legal action; (5) Obtain and use necessary powers of entry to the land; (6) Surveying land in connection with any hedgerow removal notice; (7) Ascertaining whether any offences have been committed under Regulation 7; and (8) Determination of whether a notice should be served under Regulation 8. 	
High Hedges	Anti-social Behaviour Act 2003 (Part 8) Sections: 68, 69, 70, 74, 75, 77, 79 and 80.	<p>The responsibility to:</p> <ul style="list-style-type: none"> (1) Deal with complaints in relation to the height of domestic hedgerows; (2) Issue, withdraw or relax the requirements or relevant notices; (3) Serve relevant documents regarding notifications; (4) Notify interested parties; (5) Respond to appeals; (6) Take relevant legal or enforcement action, including undertaking works directly and recovering expenses; and (7) Obtain and use powers of entry necessary in relation to (1), (2), (3) and (6). 	No
Protection of trees	Town and County Planning Act 1990 (as amended) Part VIII	The duty and responsibility to:	No

Function	Relevant Legislation	Relevant Details	Exceptions
	Sections: 197, 198, 199, 201, 203, 205, 206, 207, 208, 209, 210, 211, 214, 214A, B, C&D, 324	<p>(1) Take all necessary measures to make Tree Preservation Orders where trees are at risk, and are of significant existing or potential amenity value, or where they are of wider or strategic importance, subject to publication of the details in the Council Bulletin;</p> <p>(2) Amend, confirm, decide not to confirm or revoke such orders (i.e. TPOs) subject to reporting any objections regarding the making of the order to the relevant Area Planning Sub-Committee for this decision;</p> <p>(3) Determine applications for works to preserved trees (other than felling) except as set out below:</p> <p>(i) applications recommended for approval where more than two expressions of objection material to the planning merits of the proposal have been received;</p> <p>(ii) applications recommended for approval contrary to an objection from a local council which are material to the planning merits of the proposal; and</p> <p>(iii) applications which a Councillor representing a ward within the relevant Area Plans Sub-Committee area requests in writing within four weeks of notification in the Council Bulletin should be referred to the appropriate Sub-Committee provided that the member has notified the Ward Councillor in advance;</p> <p>(4) Take any necessary action in respect of claims for compensation;</p> <p>(5) Take action to ensure replacement planting where appropriate, by serving relevant notices, or by undertaking such planting directly and reclaiming the costs, and to publish any decision not to require replacement planting in the Council Bulletin;</p> <p>(6) Respond to appeals;</p> <p>(7) Take legal action in aspect of breaches of Part VIII of the Act where expedient, in conjunction with the Director of Corporate Support Service, including injunctive action and recovery of costs;</p>	

Function	Relevant Legislation	Relevant Details	Exceptions
		<p>(8) Take appropriate action in respect of notification of works to trees in Conservation Areas, including the issue of the Tree Preservation Orders as necessary; and</p> <p>(9) Authorise all expedient measures to gain entry to land in respect of the execution of any of the above, including to:</p> <p>(i) issue a warrant if admission has been refused or if a refusal is reasonably anticipated or if the case is urgent;</p> <p>(ii) to take samples of trees or soil; and</p> <p>(iii) for the authorised person(s) to take with them such other persons as may be necessary.</p>	

- Note: The authorities to undertake the stated functions, as set under the relevant sections shall be taken to be automatically updated to take into account changes, modifications and updating as they occur in the relevant legislation, subject to no new authorities being created. All references are to the legislation as currently amended.