

EPPING FOREST DISTRICT COUNCIL COUNCIL MINUTES

Committee: Council **Date:** 24 June 2021

Place: Conference Suite - Civic Offices **Time:** 7.00 - 11.05 pm

Members Present: Councillors H Kane (Chairman), J Share-Bernia (Vice-Chairman), N Avey, R Balcombe, R Baldwin, R Bassett, P Bolton, R Brookes, L Burrows, D Dorrell, I Hadley, S Heap, S Heather, J Jogia, S Jones, S Kane, H Kauffman, J Lea, J Leppert, A Lion, T Matthews, C McCredie, J McIvor, R Morgan, S Murray, S Neville, C Nweke, M Owen, A Patel, C P Pond, C C Pond, S Rackham, K Rizvi, B Rolfe, M Sartin, D Stocker, D Sunger, H Whitbread, J H Whitehouse, J M Whitehouse, K Williamson and D Wixley

Apologies: Councillors N Bedford, P Bhanot, H Brady, R Jennings, J Jennings, P Keska, Y Knight, L Mead, J Philip, D Plummer, P Stalker, B Vaz and C Whitbread

Officers Present: G Blakemore (Chief Executive), N Dawe (Chief Operating Officer), A Small (Strategic Director Corporate and 151 Officer), N Richardson (Service Director (Planning Services)), L Grainger (Joint Implementation Team Manager), J Rogers (Planning Officer), T Carne (Corporate Communications Team Manager), G Woodhall (Team Manager - Democratic & Electoral Services), A Hendry (Democratic Services Officer), J Leither (Democratic Services Officer), L Kirman (Democratic Services Officer), V Messenger (Democratic Services Officer), R Perrin (Democratic and Electoral Services Officer), S Mitchell (PR Website Editor), A Buckley (Communications Officer), N Cole (Corporate Communications Officer), R Moreton (Corporate Communications Officer), P Seager (Chairman's Officer), M Hassall (Interim Service Director (Strategy, Delivery & Performance)) and N Gambrill (Complaints and Customer Satisfaction)

11. WEBCASTING INTRODUCTION

The Democratic Services Manager 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.

12. CHAIRMAN'S INTRODUCTION

At the start of the meeting the Chairman of Council informed the meeting that this would be a one item meeting, essentially just a Planning meeting to consider just one application. She went on to explain how the meeting would be run and the format it would take and emphasised that a decision would have to be reached at the end and if possible, there should be no abstentions when voting.

She noted that she would be a voting Chairman.

13. ADVICE FROM LEGAL ADVISOR

The Chairman introduced the Council's Legal advisor, Jacqueline Backhaus, who went on to make a statement on the proceedings for the night. She noted that there had been a significant amount of public debate online and on social media platforms about this application. Members must keep in mind the guidance set out in the

Members Code of Conduct and the Planning Code of Practice. Members should take account all views expressed in a considered and balanced way before reaching a decision. Members may be predisposed towards an outcome but must also take into account the planning issues fairly and on their merits and must not have made up their minds before formally considering the application along with any representations given tonight. Conclusions reached in advance of this meeting risked being based on partial facts and without the ability to review all the material considerations for applying appropriate weight. They would therefore be open to misunderstanding and possibly to legal challenge on the grounds that the right things had not been taken into account.

14. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct Councillor S Kane declared a prejudicial interest in item 4 – EPF/2503/19, Land North of Dowding Way, Waltham Abbey and in the interests of transparency he noted that complaints had been made about comments he had made on this application and that he may have predetermined this application. In light of this he had decided that he was not able to speak on the application or vote and therefore he would leave the meeting for the consideration of the application and voting.

(b) Pursuant to the Council's Code of Member Conduct Councillor S Heap declared a prejudicial interest in item 4 – EPF/2503/19, Land North of Dowding Way, Waltham Abbey and in the interests of transparency he noted that he too had complaints made about comments he had made on this application and that he may have predetermined this application. In light of this he had decided that he was not able to speak on the application or vote and therefore he would leave the meeting for the consideration of the application and voting.

(c) Pursuant to the Council's Code of Member Conduct, Councillor S Murray declared a non-pecuniary and non-prejudicial interest on items 4, EPF/2503/19 - Land North of Dowding Way, Waltham Abbey, by virtue of being a member of the Epping Forest Heritage Trust. He noted that he had taken no part in any discussion regarding the application and would remain in the meeting for the consideration of the application and voting.

(d) Pursuant to the Council's Code of Member Conduct, Councillor Jon Whitehouse declared a non-pecuniary and non-prejudicial interest on items 4, EPF/2503/19 - Land North of Dowding Way, Waltham Abbey, by virtue of being a member of the Epping Forest Heritage Trust. He noted that he would remain in the meeting for the consideration of the application and voting.

(e) Pursuant to the Council's Code of Member Conduct Councillor T Matthews declared a non-prejudicial interest in item 4 – EPF/2503/19 Land North of Dowding Way, Waltham Abbey and in the interests of transparency he noted that complaints had been made about him which suggested that he had pre-determined this application. But contrary to the complaint he had not made any comments either privately or publicly about the application and had only followed a 'facebook' group opposing the application so he could gauge the public feeling around the application. He confirmed that he had an open mind on the merits of the application and would only decide once he had heard all comments made during the meeting and would remain in the meeting for the consideration of the application and voting.

(f) Pursuant to the Council's Code of Member Conduct, Councillors D Wixley and Janet Whitehouse declared a non-pecuniary and non-prejudicial interests on items 4, EPF/2503/19 - Land North of Dowding Way, Waltham Abbey, by virtue of

being ordinary members of the Epping Forest Heritage Trust. They noted that they had taken no part in any discussion regarding the application and would remain in the meeting for the consideration of the application and voting.

(g) Pursuant to the Council's Code of Member Conduct, Councillor D Dorrell declared two non-pecuniary and non-prejudicial interest on items 4, EPF/2503/19 - Land North of Dowding Way, Waltham Abbey. Firstly, he noted that by living near this site he had been kept informed and consulted during this period and that he considered this not to be a prejudicial or pecuniary interest. Also, he noted that complaints had been made against him regarding comments he had made about the application; his view was that he had engaged but not endorsed certain views and confirmed that he had an open mind about the merits of the application. He had voted against it at DDMC but there were now significant changes to the application and he would decide how he would vote only once he had heard all the comments made in the discussion this evening and would remain in the meeting for the consideration of the application and voting.

15. PLANNING APPLICATION EPF/2503/19 - LAND TO THE NORTH OF DOWDING WAY, WALTHAM ABBEY

The District Development Management Committee had considered this application at their meeting held on 21 December 2020 when the application was referred to Council with a recommendation to refuse planning permission.

Lydia Grainger (Team Manager – Joint Planning Implementation) presented a report to the Council which considered a full planning application (accompanied with an Environmental Statement) for the erection of 1 no. building for use as a warehouse (Use Class B8) with ancillary accommodation & photo studio (sui generis) with gatehouse, sprinkler tanks & pumphouse, substation, fuel island, vehicle wash, attenuation ponds and associated works; 1no. multi-storey car park with associated bridge link, along with access & servicing arrangements, landscaping & external amenity areas, roof-mounted photovoltaic array; creation of signalised junction to A121 and shared foot and cycle links including a connection to the Public Right of Way network.

The application was then debated by the Councillors in attendance. A motion that the application be refused in accordance with the District Development Management Committee's recommendations with some amendments was put forward by Councillor C C Pond and seconded by Councillor H Kauffman. This proposal was put to the vote and agreed by the meeting.

Carried

The full reason for the refusal was then debated by the Council and were agreed. In accordance with Council Rule V1 (Voting), 5 members asked that this vote on the reasons for refusal be taken as a recorded vote.

There voted for the reasons for refusal (25) namely: R Balcombe, R Bassett, R Brookes, D Dorrell, S Heather, J Jogia, H Kane, H Kaufman, J Leppart, A Lion, T Matthews, S McCredie, J Mclvor, S Murray, S Neville, C Nweke, C C Pond, C P Pond, S Rackham, K Rizvi, J Share-Bernia, D Stocker, J H Whitehouse, J M Whitehouse, D Wixley.

There voted against the reasons for refusal (6) namely: L Burrows, I Hadley, A Patel, D Sunger, H Whitbread, K Williamson.

There voted to abstain (0).

Reasons for refusal **ADOPTED**:

RESOLVED:

i) The proposed development fails to demonstrate nil detriment to the EFSAC as required under the Habitats Regulations 2017 and the Holohan judgement and this cannot at present be adequately demonstrated, contrary to Policy NC1 of the adopted Local Plan; DM2 and DM22 of the Local Plan Submission Version 2017 and the requirements of the Habitat Regulations 2017 and the NPPF.

ii) The proposal would have an adverse impact on the Metropolitan Green Belt and environs of Waltham Abbey owing to the obtrusive height, length, urbanising effect and bulk of the proposed building, contrary to GB2, GB7 and DBE4 of the adopted Local Plan and Policies DM4 and DM9 Criteria D of the Local Plan Submission Version 2017 and the NPPF;

iii) The effects of the proposal on the Special Area of Conservation (SAC) as the air pollution mitigation strategy is likely to be insufficient, contrary to Policy DM2 and DM22 of the Local Plan Submission Version 2017 and the NPPF;

iv) There was no reason to develop on this site within the Green Belt as other areas could be utilised for employment use – the emerging Local Plan has not yet been confirmed and the main modifications proposed had not yet been consulted upon;

v) The extra use of the roads through the SAC by employees and visitors to the distribution centre could not be prevented and the proposed no right turn ban would be counter productive to the well-being of the SAC and would adversely affect the residents of High Beech, contrary to Policies NC1 and DBE9 of the adopted Local Plan and Policies DM2, DM9 Criteria H, DM22 of the Local Plan Submission Version 2017 and the NPPF;

vi) There was no indication in the transport assessment of how the HGV routing and the large numbers of lorry movements generated by the development could be accommodated on local roads when the motorway network was disrupted and the addition of 1000 extra vehicle queueing would have a further adverse effect on the SAC, contrary to Policies NC1 and DBE9 of the adopted Local Plan and Policies DM2, DM9 Criteria H, DM22 of the Local Plan Submission Version 2017 and the NPPF;

vii) The proposed Demand Responsive Transport bus service was not assured for the whole life of the project and was insufficient, contrary to Policy T1 Criteria B of the Local Plan Submission Version 2017 and the NPPF;

viii) Insufficient emphasis in the Transport Assessment submitted with the application had been given to the growing problem in the SAC identified by the Conservators of Epping Forest, namely;

- The proposed development would be contrary to emerging Local Plan Policy DM2 concerning the protection and enhancement of Epping Forest
- APMS mitigation measures only indicative, not yet secured at this point
- No other mitigation in respect of traffic generation by this development

- S106 agreement on HGVs not likely to be effective or long-term
- Traffic Assessment has not considered wider network impacts
- Right-hand turn ban impacts on Forest not fully assessed (e.g. Wake Road)
- Adverse urbanisation of Forest's wider landscape and surrounding Green Belt

CHAIRMAN