

Committee Agenda



**Epping Forest
District Council**

Area Plans Subcommittee D Wednesday, 28th September, 2005

Place: Council Chamber, Civic Offices, High Street, Epping
Room: Council Chamber
Time: 7.30 pm
Democratic Services Officer Adrian Hendry, Research and Democratic Services
Tel: 01992 564246 email: ahendry@eppingforestdc.gov.uk

Members:

Councillors Ms S Stavrou (Chairman), Mrs P Smith (Vice-Chairman), Mrs D Borton, Mrs P Brooks, R Chidley, J Demetriou, R D'Souza, Mrs R Gadsby, R Haines, Mrs J Lea, L McKnight, P McMillan, Mrs M Sartin and D Spinks

A BRIEFING FOR THE CHAIRMAN, VICE-CHAIRMAN AND APPOINTED SPOKESPERSONS WILL BE HELD AT 6.30 P.M. IN COMMITTEE ROOM 1 ON THE DAY OF THE SUB-COMMITTEE.

1. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING SUBCOMMITTEES (Pages 9 - 10)

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

2. MINUTES (Pages 11 - 18)

To confirm the minutes of the last meeting of the Sub-Committee held on 31 August 2005 as correct record (attached).

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST

(Head of Research and Democratic Services) To declare interests in any item on this agenda.

5. 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.

6. CONFIRMATION OF TREE PRESERVATION ORDER EPF/01/05 - LOWER COTTAGE, DAWS HILL, SEWARDSTONE. (Pages 19 - 20)**Recommendation:**

That Tree Preservation Order EPF/01/05 is confirmed subject to the amendment of the plan to omit T3- Pine.

Background:

Tree Preservation Order EPF/01/05 was made to protect 6 trees at Lower Cottage, Daws Hill, Sewardstone.

The trees intended to be protected are:

- T1 Hawthorn
- T2 Oak
- T3 Pine
- T4 Oak
- T5 Norway maple
- T6 Sorbus (whitebeam)

However, T3, Pine was removed before service, therefore the TPO never applied to it.

The Tree Preservation Order was made as a result of a planning application to introduce a driveway, parking area, garage and new access entrance requiring the removal of the above trees.

The local landscape is that of mature woodland. The group is in context with this native forest character and the trees are considered important landscape features collectively, since none are individually outstanding.

Objection to the Tree Preservation Order:

An objection to the Order has been made by the owners of the site.

The grounds of the objection are as follows:

It is not accepted that these trees provide high amenity or a significant contribution to landscape character. The area is very heavily treed which provide a background against which these specimens do not perform a role of particular importance. Other nearby trees are not affected by the development proposal.

There are no footways on Daws Hill and its narrowness, steepness and the volume of traffic do not allow for detailed contemplation of the surroundings by drivers or pedestrians. It is acknowledged that these trees can be seen from the highway but it is strongly doubted whether their removal would cause any real reduction in amenity.

It is asserted that the Hawthorn(T1) and Whitebeam (T6) are relatively small and cannot be seen to contribute in any significant way at all.

Head of Planning Services Comments:

The detailed response to the grounds of objection is listed below:

The landscape character of Daws Hill is mature woodland and it is for this reason that this group warrants protection. The various trees help to soften the presence of buildings set at elevated positions from the road.

The weight of traffic, size and gradient of the road still allows a public view of these trees. Their removal to facilitate an entrance, driveway and parking area would be very noticeable and detrimental to the landscape character.

It is accepted that T1 and T6 are not large growing trees and are not fully mature. However, they are both clearly visible and contribute positively to the wooded character of this dramatically sloping site and deserve inclusion in the protected group.

Conclusions:

The group of trees protected by this order are an established public amenity, adding continuity to the local landscape character. Landscaping policy requires that adequate provision be made for the retention of trees in these situations. These trees are under threat from the planning proposal and therefore deserve protection. On the basis that new proposals meet with planning approval it would be acceptable to accommodate a suitable replacement for T1 in a more prominent location. Bearing this in mind, members are asked to confirm the order subject to the amendment to the plan and schedule.

7. HOURS OF MOVEMENTS FOR HGV FROM STUBBINS NURSERY, STUBBINS HALL, HOLYFIELD, WALTHAM ABBEY (Pages 21 - 22)

RECOMMENDATION:

For consideration of the options for enforcement of the terms of condition 2, with a view to the service of an enforcement notice.

Background

In the early 1990s the fortunes of the Lee Valley glasshouse industry were on the increase. The widespread dereliction that had occurred in the 70s and early 80s was disappearing with considerable investment being made in new glasshouses and new markets were being developed. However, it became clear that the relatively small nurseries that tended to predominate within the Lee Valley could not meet the increasing demands of the supermarket chains on their own. In order to comply with those demands, the produce from the individual nurseries was going to have to be gathered by central packhouses for packing and distribution to the supermarket chains

in accordance with their rigorous requirements.

In 1993 planning applications were made for 3 such central distribution packhouses within Epping Forest. Each was supported by the Council. One fell outside the Lee Valley Regional Park boundary and was approved by the Council, but the other two were within the Park boundaries and because the Park Authority objected to the applications, they were 'called-in' by the Secretary of State and considered at a public inquiry. In the event, planning permission was granted for each application, one of which related to Stubbins Hall Nursery at Holyfield, close to the entrance to Hayes Hill Farm and Fishers Green recreation area.

The permission was subject to a number of conditions, including no.2:
"The movement of Heavy Goods Vehicles to and from the site shall be limited to between the hours of 07.30 and 21.00 on Mondays to Fridays inclusive, and to between the hours of 07.30 and 16.00 on Saturdays and Sundays."

At the time, this met the operational requirements of the operators.

Recent History

Since that time, the requirements of the supermarkets have become all the more rigorous and demanding to meet, such that the time taken to cut, pack and distribute fresh produce to supermarket shelves is paramount and the operators found that, if they were to retain the supermarket orders, they could not comply with the terms of that condition. Complaints were first received in January 2003 that the hours were not being observed.

In March 2004 the operators applied to have this condition removed altogether (EPF/496/04). This was refused permission under delegated powers in May 2004. A subsequent application was submitted in October 2004 seeking permission for a two year period to extend the operating hours to between 05.00 and 23.00 on 7 days a week (EPF/1861/04). It was hoped that this two year period would be sufficient to permit the company to find alternative premises for basing their lorry fleet. This application was considered by Area Plans subcommittee D on 22 December 2004. The committee refused permission since it was considered that lorry movements late at night and early in the morning would cause disturbance to occupiers of nearby properties and therefore felt that permission could not be granted. However, the committee had sympathy with the predicament the operators found themselves in, largely due to the demands of the supermarket chains, about which they could do nothing. Recognising the importance of this distribution depot to the glasshouse industry locally, the committee asked officers not to proceed immediately with enforcement action to secure compliance with the original condition, but to try to work with the operator to find a solution.

Present Situation

Officers met with the operator and his planning consultant early in the year when plans were set out to arrange for the operator to relocate his lorry fleet. A further three-month period of grace was conceded. Unfortunately it has been confirmed that all his options have so far come to nothing.

In the event, six months passed without the matter being resolved and complaints continued to be received. These are largely from two local residents – one who lives close to the operation and the other whose property is far to the south at the southern end of Crooked Mile. The operator was informed that the situation could not be

allowed to continue and that formal steps seemed to be unavoidable.

The operator has replied explaining the failure of his original options and that he has retained the services of commercial estate agents to find alternative sites but that he has been advised that appropriate sites are "as rare as hen's teeth". He is also negotiating to buy the adjacent site to his other base in Waltham Cross in order to expand there and reduce movements from Stubbins. He emphasises that he continues to employ over 500 local people plus the future of many small, local nurseries depends upon his continued operation. He pleads that he must be able to use his current facilities until they are able to relocate. However, there is no timetable for this at the present time.

Options for Action

(a) Take no action – since permission has not been given for extending the hours the Council is not condoning the extended hours, and this enables the operator to continue his use until relocation occurs. However, complaints, though from the limited sources, will continue and the lorry movements at all hours do cause some disturbance.

(b) Serve a Breach of Condition Notice seeking compliance with the approved hours of movements. There is no appeal against a breach of condition notice and compliance must be achieved within 28 days. Failure to comply results in action through a Magistrates Court, which, if convicted, carries a maximum fine of £1,000.

(c) Serve an Enforcement Notice seeking compliance. This provides the operator with a right of appeal and therefore an opportunity to put his case before an independent Inspector. An appeal delays compliance until the appeal decision is made (and a new compliance period expires). Failure to comply with an enforcement notice is, again, enforced through a Magistrates Court with a maximum fine of £20,000.

(d) Pursue options (b) or (c) but after a final period of grace. This gives further time to the operator to pursue an alternative but to be realistic 6 months or more would be needed.

The committee is asked to consider the above options and to resolve which option they wish officers to pursue.

Officers feel that a failure on the Council's behalf to take action could be criticised, even allowing a further period of grace after the company has been given time to seek a solution already. A Breach of Condition Notice carries a small fine, which the company may be willing to pay in order to keep the current contracts. The service of an Enforcement Notice is therefore preferred. It is a positive step towards resolving this issue, but at the same time allows the operator a period to make his case before an independent Inspector whilst pursuing his alternative solutions. Suggested time for compliance: 3 months.

8. DEVELOPMENT CONTROL (Pages 23 - 62)

(Head of Planning and Economic Development) To consider planning applications as set out in the attached schedule

Background Papers: (i) Applications for determination – applications listed on the schedule, letters of representation received regarding the applications which are

summarised on the schedule. (ii) Enforcement of Planning Control – the reports of officers inspecting the properties listed on the schedule in respect of which consideration is to be given to the enforcement of planning control.

9. DELEGATED DECISIONS

(Head of Planning and Economic Development) Schedules of planning applications determined by the Head of Planning and Economic Development under delegated powers since the last meeting of a Plans Subcommittee may be inspected in the Members Room or at the Planning and Economic Development Information Desk at the Civic Offices, Epping.

10. EXCLUSION OF PUBLIC AND PRESS

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 paragraph(s) of Part 1 of Schedule 12A of the Act indicated:

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

To resolve that the press and public be excluded from the meeting during the consideration of the following items which are confidential under Section 100(A)(2) of the Local Government Act 1972:

Agenda Item No	Subject
Nil	Nil

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 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.