

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: District Development Control **Date:** 13 June 2006
Committee

Place: Civic Offices, High Street, Epping **Time:** 7.30 - 9.02 pm

Members Present: B Sandler (Chairman), Mrs D Borton, M Colling, Mrs R Gadsby,
Mrs H Harding, J Hart, D Kelly, J Markham, P McMillan, Mrs P Smith,
P Turpin, Mrs L Wagland and M Woollard

Other

Councillors: R Frankel, R Morgan and C Whitbread

Apologies: Mrs P Richardson and K Wright

Officers Present: B Land (Assistant Head of Planning and Economic Development), R Rose
(Senior Lawyer), R Barwell (Public Relations and Internet Officer) and
S G Hill (Senior Democratic Services Officer)

1. MINUTES

RESOLVED:

That the minutes of the meeting held on 27 April 2006 be taken as read and signed by the Chairman as a correct record.

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor M Woollard had been appointed as a substitute for Councillor K Wright.

3. DECLARATIONS OF INTEREST

Councillor R Morgan declared a personal and prejudicial interest in item 6 (Laughter's Farm, Faggoters Lane, High Laver) by virtue of being a neighbour and a personal friend of the applicant. The Councillor indicated that he would leave the meeting for the duration of that item.

4. EPF/1991/05 - LAUGHTERS FARM, FAGGOTERS LANE, HIGH LAVER

The Committee considered an application, which had been referred by Area Plans Sub-Committee C with the recommendation that planning permission be granted for the change of use of the existing farm buildings into two dwellings. The application had reported to Plans Sub Committee on 15 March 2006 with a recommendation that planning permission be refused. As the granting of permission would be contrary to Green Belt policy a decision of the committee was required.

The Committee heard presentations from both the local parish council and the applicant in support of the proposals.

The main issues in determining the application concerned whether very special circumstances existed, for which an exception to be made to Green Belt policy should be made. Members of the Area Plans Sub Committee had considered that very special circumstances existed because the buildings, although not listed were both traditional attractive and created a pleasant vernacular scene. Members of the Subcommittee also considered that as the buildings were fairly prominent it was befitting that a use be found for the buildings if they were not to become further dilapidated and thus a visual eyesore.

Officers expressed sympathy with the Sub-committee Members regarding the character of the buildings within their setting and that it would be regrettable to see these traditional buildings decline further. The works were however contrary to the strict Policy GB8 of the adopted Local Plan and Policy CS4 of the Essex and Southend on Sea Replacement Structure Plan.

The Committee agreed with the view of the Subcommittee in that it was better to see the renovation of the buildings rather further dilapidation and considered that buildings structure was one that could be renovated as proposed. They agreed to grant the application subject to conditions.

RESOLVED:

That planning permission EPF/1991/05 be granted for the erection of an the change of use of the existing farm buildings into two dwellings at Laughter's Farm, Faggoters Lane, High Laver subject to the following conditions:

- (1) To be commenced within 3 years;
- (2) Amended Plans received on 29th March 2006;
- (3) Materials of construction to be agreed;
- (4) Erection of screen walls/fences;
- (5) GPDO rights restricted – Class A, B, E.;
- (6) Submission of landscape details;
- (7) Retention of existing trees and shrubs;
- (8) Suitable surfacing to be agreed;
- (9) Any gates to be set back 4.5m from the edge of the highway;
- (10) Contaminated Land investigation and remediation; and
- (11) Land Drainage Note 2.

5. SECTION 106 AGREEMENTS - ANNUAL REPORT

The Committee considered a first annual report on previous agreements made under Section 106 of the Town and Country planning act 1990.

The report contained a register of such agreements which provided the Council with an informed basis for continuous monitoring of the fulfilment of the obligations within

the agreements by Planning Services, and also allowed monitoring by a cross-service group of senior officers.

The report was divided into 6 sections:

- (i) Section 1 contained all agreements since April 2001;
- (ii) Section 2: those agreements which were more than 5 years old that had outstanding benefits to resolve;
- (iii) Section 3 which gave more detail on agreements which have been completed (i.e. sealed) within the past year with commentary on progress;
- (iv) Section 4 which listed progress through the past year in securing community benefits on agreements completed prior to April 2005;
- (v) Section 5 which raised comments on agreements that had seen little or no progress in the past year; and
- (vi) Section 6 which listed committee resolutions that had been made during the past year but where the agreement itself remains under negotiation.

The Committee noted the schedules and were asked to consider proposals to seek a negotiated settlement to an issue on land Adj. Doe's Site, Dunmow Road, Fyfield. The section 106 agreement in this case had sought to secure a sum equivalent to 25% of the sale price of 4 small cottages constructed as part of this development be given to the Council for affordable housing. This would have equated to approximately £215,000. However, the developer and his financial backers had refused to pay.

The Committee considered that in this case, officers should seek further legal opinion about the Council's position and that, in light of this advice, officers be given authority to decide upon an appropriate course of action to conclude the agreement.

Members further agreed that in future the report on such agreements form part of an report on the work of the Committee, to be brought forward annually.

RESOLVED:

- (1) That the progress with completion and implementation of the provisions of section 106 agreements from April 2005 to March 2006 be noted;
- (2) That, subject to officers seeking further legal opinion on the section 106 agreement, officers seek a negotiated solution to the impasse over the affordable housing contribution from the development on land adjacent to Doe's Site, Dunmow Road, Fyfield; and
- (3) That in future years the Section 106 Annual Report be made to members as part of an end of year annual report on the work of the Committee.

6. TREE PRESERVATION ORDERS: AUTHORISATION OF TREE PRESERVATION ORDERS IN THE ABSENCE OF THE HEAD OF PLANNING AND ECONOMIC DEVELOPMENT

The Committee considered proposed changes to the delegated authority to officers for Tree Preservation Orders. The committee considered that such delegation should not be extended to Management Board or Other Service Heads and agreed to delete that element from the proposal.

In accordance with Section 100(A)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council's Procedure Rules, the Chairman had permitted on grounds of urgency consideration of the report in view of the need to put delegation arrangements in place as soon as possible.

RESOLVED:

That the following amendment be made to the scheme of delegation in respect of Tree Preservation Orders:

"In the absence of the Head of Planning and Economic Development the power to authorise, serve and execute Tree Preservation Orders and to confirm all unopposed Tree Preservation Orders in accordance with Section 197 of the Town & Country Planning Act 1990 (as amended) and any subsequent legislation should be additionally delegated to:

- (1) the Assistant Head of Planning Services, Planning Policy and Environment, or
- (2) the Assistant Head of Planning Services, Development Control, or
- (3) the Building Control Manager, or
- (4) the Head of Legal Administration and Estates"

7. ENFORCEMENT NOTICES - BLUNTS FARM, COOPERSALE LANE, THEYDON BOIS

At the meeting of the District Development Control Committee held on 17 January 2006 it had been resolved to give authority to issue enforcement and stop notices against breaches of planning control at Blunts Farm comprising:

- (i) Engineering operations consisting of the creation of deep excavations, the raising of levels on the Land and the importation and deposit of fill material, including waste and demolition waste; and
- (ii) Non-compliance with Condition 12 of the planning permission for the construction of a golf course on the land dated 23 April 2002, Ref EPF/765/99.

These notices had been served on 25 January 2006.

Enforcement Appeals had now been made against the notices which would be decided by way of a public inquiry. The Planning Inspectorate had advised the timetable for the appeal process started on 31 May 2006. This timetable required the Council and appellant to each prepare a summary statement of their case by 12 July

2006. The date for the inquiry would be set by the Planning Inspectorate in due course with proofs of evidence required at least 4 weeks before that Inquiry.

The Council had anticipated a formal proposal from the applicant. This was finally received in April 2006 in which the applicant had indicated that the little excess on the site would enable them to start filling one of the voids on the site but that they would still need to import, approximately, a further 176,000m² to complete the course.

Officers considered this proposal to be unacceptable leading to more lorry movements. Evidence from investigations indicated that there was more than sufficient material on site to undertake remediation. The Committee noted this view.

As part of the preparation for the appeal, Officers had a case conference with Counsel who had recommended that the requirement of the notices to remove from the Land all the excess fill material should be varied to meet the concern about the excessive HGV movements that would arise as a consequence of complying with such a requirement. Also Counsel had advised that it would be prudent to issue new Enforcement Notices in the same form as the varied notices.

Additionally, consultants producing evidence of the breach of planning control for the Council, had been instructed, in liaison with the Council's Landscape Officer, to produce a plan to show the "best fit" in landscape terms of the existing material on site, with the voids filled using the existing surplus, and the remainder distributed in the way least harmful to visual amenity.

This remedy for the breaches would involve no exporting of material from the site and so avoid further disruption for residents. Future importation of construction materials would remain restricted to the minimum necessary such as sand for greens and gravel for drainage. Topsoil requirements would be met from material on the site as originally proposed.

The Committee considered this position and proposed new recommendations tabled at the meeting. The Committee supported the view of Counsel and the need to reach a compromise position which avoided further lorry movements and sought to deliver an acceptable scheme for the remodelling of the site for a golf course.

Members noted that it was proposed to delegate the approval of the final methodology for achieving an acceptable landform by using material already on site to the Head of Planning and Economic Development so as to be able to comply with the requirement to produce a statement of case prior to the inquiry.

In accordance with Section 100(A)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council's Procedure Rules, the Chairman had permitted on grounds of urgency consideration of the report in view of the need to put to members proposals for variation of the original notices prior to the completion of appeal documents.

RESOLVED:

(1) That the Head of Planning and Economic Development and the Head of Legal, Administration and Estates be given authority to:

(a) vary the 2 Enforcement Notices issued on 25 January 2006 in respect of Blunts Farm so as to require the site to be remodelled and landscaped in accordance with the draft methodology outlined to and agreed by this

committee subject to any final amendment made by Head of Planning and Economic Development under (3) below;

(b) issue and serve two new Enforcement Notices in respect of Blunts Farm for:

(i) unlawful engineering operations; and

(ii) breach of condition 12 of EPF/765/99 in the same terms as the notices varied in accordance with (a) above;

(2) That the precise wording of the notices referred to at 1 (a) and (b) above be left to the discretion of the Head of Planning and Economic Development and the Head of Legal, Administration and Estates to formulate; and

(3) That the approval of the final methodology for achieving an acceptable landform by using material already on site be delegated to the Head of Planning and Economic Development.

CHAIRMAN