

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 22 June 2006

Place: Civic Offices, High Street, Epping **Time:** 5.00 - 6.35 pm

Members Present: Councillors Mrs P K Rush (Chairman), Mrs R Gadsby (Vice-Chairman), Mrs P Richardson, Mrs P Smith and J Wyatt

Other Councillors: Councillor Mrs A Cooper (observer)

Apologies: (none)

Officers Present: G Lunnun (Democratic Services Manager) and A Hall (Head of Housing Services)

1. MINUTES

RESOLVED:

That the minutes of the meetings of the Panel held on 7 March and 20 April 2006 be taken as read and signed by the Chairman as a correct record.

2. SUBSTITUTE MEMBERS

It was noted there were no substitute members present at this meeting.

3. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

4. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

Agenda Item No	Subject	Exempt Information Paragraph Number
6	Appeal Number 5/2006	1 and 2

5. APPEAL NO. 5/2006

The Panel gave consideration to an appeal against a decision of the Area Housing Manager acting under delegated authority to refuse permission for the construction of a vehicular crossover over Council-owned land. The appellant attended the meeting to present his case accompanied by his wife. Mr N Taylor (Area Housing Manager) attended the meeting to present his case. Mr A Hall (Head of Housing Services) attended the meeting to advise the Panel as required on details of the national and local housing policies relative to the appeal. The Chairman introduced the members of the Panel and officers present to the appellant and outlined the procedures to be followed in order to ensure that proper consideration was given to the appeal. The Chairman sought the approval of both parties to the attendance of Councillor Mrs A Cooper as an observer only. Both parties confirmed that they had no objection to Councillor Mrs Cooper being present.

The Panel had before them the following documents which were taken into consideration:

- (a) a summary of the appeal together with the facts of the case forming part of the agenda for the meeting;
- (b) a plan of the appellant's property and the locality on which had been drawn by Housing Officers the location of the proposed vehicular crossover;
- (c) a copy of a letter dated 1 March 2006 from the Assistant Area Housing Manager (North) to the appellant;
- (d) a copy of a letter dated 6 March 2006 from the appellant to the Council's Housing Services;
- (e) a copy of a letter dated 29 March 2006 from the Assistant Head of Housing Services (Operations) to the appellant;
- (f) a copy of a letter dated 31 March 2006 from the appellant to the Assistant Head of Housing Services (Operations);
- (g) a copy of the application to the Housing Appeals and Review Panel by the appellant dated 13 April 2006 together with a copy of a letter dated 31 March 2006 from the appellant to the Assistant Head of Housing Services (Operations).

The Panel considered the following submissions in support of the appellant's case:

- (a) the appellant was seeking permission for a vehicular crossover, over Council-owned land in order to park his vehicle in the front garden of his property;
- (b) the appellant was disabled and confined to a wheelchair and was registered blind.
- (c) the appellant had moved into the property on 2 January 2006 and was very happy with it but it was a struggle for him to access the property from his mobility car parked on the highway;
- (d) the appellant's wife was his carer and she struggled with the wheelchair; although the distance from the highway to the front garden was a short distance to the average person, it was a long way for the appellant;

(e) Occupational Therapy had recommended that the appellant should have a vehicular crossover to his property; the appellant was well catered for inside the property as Occupational Therapy had provided numerous aids; however, he was unable to get out of the house very often because of the difficulties associated with getting to and from his mobility car;

(f) the crossover could be created over the grass verge by the use of grass-crete or similar material which would enable the grass to grow through it and maintain a green appearance;

(g) the granting of permission would not set a precedent; there were only four bungalows in the vicinity and the two end ones already had lowered kerbs and driveways crossing the footways allowing them off-road parking and not allowing any vehicles to park in the road unless they caused an obstruction to them; that left the appellant's and their next-door neighbour's properties; the neighbour's bungalow was privately owned and none of the present occupants were registered disabled;

(h) Occupational Therapy had requested that a bay be marked in the lay-by for the appellant's mobility car; the request was being considered by Essex County Council's Legal Department; the lay-by accommodated two to three vehicles at most and on occasions the appellant was unable to park in the lay-by because of visitors; if permission was granted one parking space would be lost but the appellant's vehicle would be off-road as were those of two of the appellant's three neighbours at present; in summary therefore, no-one would be disadvantaged;

(i) the tree growing in the grass verge was in fact a large shrub; its stem was a few inches wide and its highest point approximately 18-20 ft with a maximum width of approximately 10 ft; the removal of the tree would not be difficult according to local tree surgeons;

(j) the appellant's health would worsen; he had diabetes and his feet were suffering; his leg dressings had to be changed every other day; eventually he would be physically unable to negotiate the distance between his property and the lay-by with a walking stick; this would mean using a wheelchair on every occasion and this was would be very hard for the appellant's wife;

(k) the appellant's General Practitioner was encouraging the appellant to walk as long as he could but there would become a time when the appellant would be wholly dependent on a wheelchair.

The appellant and his wife answered the following questions of the Area Housing Manager and the Panel:

(a) if your appeal is allowed, who will meet the cost of providing the crossover? - we are on Income Support; my wife is my fulltime carer and we are unlikely to be in a position to contribute ourselves;

(b) if your appeal is allowed, and the Council affords priority funding of the provision of a crossover as a disabled adaptation, do you appreciate the funding may not be available for some time? - we might be able to contribute something depending on the estimate;

(c) what is the extent of the incline from the lay-by to your property? - there is a steady incline but it is difficult to negotiate a wheelchair, the grass verge is approximately six metres in length and then there is a path and the front gate is on a spring;

(d) is the height of the incline approximately one foot? - probably, yes (at this stage with the consent of the Panel and the Area Housing Manager, the appellant submitted photographs of his property and the immediate vicinity);

(e) when do you expect Essex County Council to consider your request for a disabled bay to be marked in the lay-by? - I understand it is in a batch to be considered, this month; in the vicinity of our property there are two bays marked for disabled persons and these markings are respected by other drivers but we have not been given any indication by Essex County Council as to whether our application will be successful;

(f) is there a hard-standing in your front garden? - no, there is shingle which is low maintenance and this was in existence when we moved in;

(g) who lives at the property? - the appellant, his wife and their 18 year old son who has just finished college;

(h) is it difficult to find a parking space on the highway? - no, but it is difficult for the appellant to get to and from his property to the highway; we have lived in this village for 21 years and we know the neighbours; unfortunately the appellant's situation has worsened in recent years so that parking on the highway is difficult;

(i) what aids do you have to walk? - I use a walking stick; Occupational Therapy have provided aids in the property which together with a walking stick enable me to get about indoors although basically I tend to live in one chair;

(j) have Occupational Therapy recommended the use of a walking frame? I don't really need a walking frame and the rooms in the property are not that big so it would be difficult to use a frame;

(k) do you ever use two walking sticks? - no, I try to use only one; I can only stand for approximately 20 seconds without aid;

(l) do you use your wheelchair in your property; - it is difficult because the doorways are not wide enough.

The Panel considered the following submissions in support of the case of the Area Housing Manager:

(a) the appellant and his wife moved into the property, a two bedroomed bungalow, on 2 January 2006;

(b) on 13 February 2006, the appellant applied to park a private motor vehicle in his front garden;

(c) due to the layout of the site and the fact that any crossover would need to be constructed at an angle to the property, one side of the crossover would be approximately 5.5 metres long and the other side would be approximately 7.5 metres long;

(d) the Council's current policy provided for the removal of a maximum length of 6 metres in order to provide a vehicular crossover; the proposal in this case was, therefore, contrary to the Council's policy;

(e) the proposed crossover would lead to the loss of car parking spaces provided in the lay-by which would also be contrary to Council policy;

(f) the tree on the grass verge might need to be removed in order for a crossover to be provided; this would be detrimental to the amenities of the area;

(g) if permission were granted for a crossover in this case it would set a precedent for other properties in the vicinity; this could result in the loss of the whole of the grass amenity area; if the proposal was agreed it would be necessary for the vehicular crossover to be hard surface and for a hard-standing to be provided within the appellant's property; grass-crete or similar material would not be appropriate; as the appellant would be looking for funding the proposal it could be many months before this became available;

(h) whilst acknowledging the problems which restricted the mobility of the appellant, requiring him to use a wheelchair, the application clearly fell outside of the criteria laid down by the Council;

(i) it would be reasonable to mark out a bay in the lay-by for the use of a disabled person; however, the appellant could not be given exclusive use of this parking bay, which could be used by any person with a disabled badge.

The Area Housing Manager answered the following questions of the appellant and the Panel:

(a) can you explain why you consider that a length of 7.5 metres of grass verge will have to be removed to provide the vehicular crossover? - due to the layout of the site and the fact that the crossover would need to be constructed at an angle to the appellant's property, the length of one side of the crossover would measure approximately 7.5 metres; if the crossover were not provided at an angle to the appellant's property it would result in the loss of two spaces in the lay-by;

(b) why do you say that grass-crete or similar material would not be appropriate for the crossover? - it is not suitable for everyday use and does not wear well;

(c) do you supply applicants with a leaflet about the conditions applying to vehicular crossovers over Council-owned land? - yes;

(d) what does the leaflet say about providing a hard-standing? - it states that a hard-standing has to be constructed and gives advice about suitable materials;

(e) does the leaflet mention costs? - it is assumed that an applicant will pay but the leaflet does not specify this to be the case;

(f) is the appellant's bungalow included on the register as a property which has been adapted for a disabled person? - I do not know.

The Chairman asked the appellant if he wished to raise any further issues in support of his case.

The appellant advised that if members had visited the site they would appreciate the problems facing him. He said that he had not initiated the Occupational Therapy recommendation for the provision of a vehicular crossover.

The Chairman asked the Area Housing Manager if he wished to raise any further issues in support of his case. He advised that he did not wish to make any further comments.

The Chairman indicated that the Panel would consider the appeal in the absence of both parties and that the appellant and the Area Housing Manager would be advised in writing of the outcome. The appellant, his wife and the Area Housing Manager then left the meeting.

The Panel considered all of the evidence which had been placed before it. Members sought clarification of the status of the appellant's tenancy.

The Head of Housing Services advised that the appellant's property was Council-owned and was occupied as a non-secure tenancy. The appellant did not have all the rights of a secure tenant because he had been housed in the property as a result of being homeless from a non-Council property. The Council had determined that it had a duty to secure accommodation for the appellant and his wife and had decided to provide a Council property because of the homelessness status of the appellant and his wife and not because of their position on the Housing Register. The Head of Housing Services advised that in law the Council could repossess a property subject to a non-secure tenancy at any time. He further advised that ultimately the appellant and his wife would reach a position on the Register where they would receive an offer of permanent accommodation i.e. a secure tenancy. In all probability they would be allocated their existing property and if they remained reasonable tenants it could be assumed that they would be granted a secure tenancy of their existing property.

The Head of Housing Services advised that the appellant and his wife would be included in Band 1 in January 2007 if they had not been offered a secure tenancy by that time. It was likely, therefore, that they would be granted a secure tenancy within approximately one year to one and a half years from now.

The Panel noted the submissions which had been made about the cost and payment for a vehicular crossover but concluded that the issue before them was not one of cost or payment but whether permission should be granted for a crossover over Council-owned land contrary to Council policy.

In coming to its decision, the Panel took account of the Council's policy, the appellant's reasons for wanting the crossover and the effects of the crossover on the amenity of the area.

RESOLVED:

(1) That, having taken into consideration the information presented by and on behalf of the appellant and the Area Housing Manager, orally and in writing, the appeal be dismissed and the decision of the Area Housing Manager not to allow the construction of a vehicular crossover over Council-owned land be upheld for the following reasons:

(a) the removal of grass verge approximately 7.5 metres in length on one side to the front of the appellant's property would be contrary to the Council's current policy of allowing no more than 6 metres in length of grass verge to be removed;

(b) the proposed crossover would lead to the loss of a car parking space provided in a lay-by that is currently available to residents generally, which would also be contrary to Council policy;

(c) the grass verge in front of the appellant's property is considered to be a visual amenity for the area and it is the Council's wish to keep intact as many of these grass verges as possible; there is a tree on the grass verge which also provides a visual amenity and it is considered this would be damaged and, possibly need to be removed, if the crossover were to be constructed; the appellant's suggestion of forming the crossover by using "grass-crete" or similar material rather than a hard surface is not considered appropriate having regard to the usage expected of the crossover;

(d) the appellant agreed to move into the property in January 2006, aware of its limitations in relation to car parking;

(e) due to the need to construct the crossover at an angle it would be difficult to manoeuvre a vehicle into and out of the appellant's property; and

(f) account has been taken of the appellant's disability but it is not considered that this is a sufficient reason to justify a relaxation of the Council's current policy to enable the construction of the crossover; or that there are any other exceptional circumstances, which justify relaxation of that policy; and

(2) That the Area Housing Manager write to Essex County Council supporting the appellant's application for the marking of a disabled bay in the lay-by in front of his property and requesting that this application be given priority.

CHAIRMAN
