



Epping Forest District Council

HOUSING APPEALS AND REVIEW PANEL Thursday, 14th August, 2008

Place: Committee Room 1, Civic Offices, High Street, Epping

Room: Committee Room 1

Time: 2.30 pm

Democratic Services Officer Graham Lunnun - The Office of the Chief Executive
Tel: 01992 564244 Email: glunnun@eppingforestdc.gov.uk

Members:

Councillors Mrs C Pond (Chairman), Mrs R Gadsby (Vice-Chairman), B Rolfe, Mrs J H Whitehouse and J Wyatt

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 5 - 10)

To agree the minutes of the meeting of the Panel held on 24 July 2008 (attached).

3. SUBSTITUTE MEMBERS

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

4. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

5. 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
6	Application No. 8/2008	1 and 2
7	Appeal No. 9/2008	1 and 2
8	Parking of Motor Vehicles in Front Gardens - Policy	1 and 2

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.

6. APPLICATION NO. 8/2008 (Pages 11 - 28)

To consider a restricted report.

7. APPEAL NO. 9/2008 (Pages 29 - 48)

To consider a restricted report.

8. PARKING OF MOTOR VEHICLES IN FRONT GARDENS - POLICY

Following consideration of an appeal at the last meeting, to receive a report on the reasons for that part of the policy not to allow vehicular crossovers at right angles to a property.

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 24 July 2008

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 3.25 pm

Members Present: Mrs C Pond (Chairman), Mrs R Gadsby (Vice-Chairman), B Rolfe, Mrs J H Whitehouse and J Wyatt

Other Councillors:

Apologies:

Officers Present: A Hall (Director of Housing) and G Lunnun (Assistant Director Democratic Services)

1. MINUTES

RESOLVED:

That the minutes of the meetings of the Panel held on 12 March and 27 March 2008 be taken as read and signed by the Chairman as correct records.

2. SUBSTITUTE MEMBERS

There were no substitute members present at the meeting.

3. DECLARATIONS OF INTEREST

Councillor J Wyatt advised that the appellants in relation to appeal number 7/2008 were residents of the ward he represented. He had determined that this was neither a personal nor a prejudicial interest.

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 paragraphs 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 Numbers
6	Appeal No 7/2008	1 and 2

5. APPEAL NO. 7/2008

The Panel considered an appeal against a decision made by officers under delegated authority to refuse permission for a vehicular crossover to enable the appellants to park a motor vehicle in the front garden of their property. One of the appellants attended the meeting to present her case. Mr N Taylor (Area Housing Manager) attended the meeting to present his case. Mr A Hall (Director of Housing) 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 procedure to be followed in order to ensure proper consideration was given to the appeal.

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

- (a) copies of documents submitted by the appellants namely:
 - (i) the application to the Housing Appeals and Review Panel dated 4 June 2008;
 - (ii) 13 photographs showing the appellants' property and the immediate locality;
- (b) the case of the Area Housing Manager;
- (c) copies of documents submitted by the Area Housing Manager, namely:
 - (i) the appellants' application to park a private motor vehicle in the front garden of their property dated 13 February 2007;
 - (ii) letter dated 14 February 2007 from a Housing Officer to the appellants;
 - (iii) a photograph showing the appellants' house, hedge around the front garden, and layby in front of the property;
 - (iv) letter dated 23 February 2007 from the appellants to the Assistant Head of Housing Services (Operations);
 - (v) letter dated 5 March 2007 from the Assistant Head of Housing Services (Operations) to the appellants;
 - (vi) letter dated 8 February 2008 from the Area Housing Manager (North) to the appellants;
 - (vii) letter dated 20 May 2008 from the appellants to the Housing Directorate;
 - (viii) photograph showing the appellants' house, block paving of the front garden of the property and the layby in front of the property;

- (ix) photographs of the front of another property in the same terrace as the appellants' property.

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

- (a) the appellants sought permission for a dropped kerb in front of their freehold property to enable them to park one or possibly two motor vehicles within their front curtilage;
- (b) there were severe parking problems in the locality which could be seen in the submitted photographs often resulting in double parking, parking on grass verges and footways; this had led to neighbour disputes;
- (c) if the appeal was allowed, the appellants would be able to park within the curtilage of their property and parking spaces on the street would be released for other residents; as the road in which the appellants lived was a cul-de-sac there would be no effect on passing traffic;
- (d) the parking difficulties had been exacerbated as a result of the tendency of grown up children to remain in the family home for longer periods leading to many properties having two, three or possibly four vehicles;
- (e) the appellants had a disabled daughter-in-law who visited them and it would be easier for her to be able to park within the curtilage of the appellants' property.

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

- (a) When did you remove the hedge to your property and lay the block paving? - Before we submitted an application for a vehicular crossover; the works were undertaken not only for the stationing of motor vehicles, there were other reasons; there were railings in front of the house which were unstable and had to be removed; the garden required constant maintenance and as my husband worked long hours we undertook the works to reduce maintenance of the area;
- (b) Can you explain what your photographs show and state whether any of them show the layby in front of your house? - The photographs show parking on footways and grass verges (the appellant indicated which photographs showed the layby in front of her property); the photographs also show paving in front of the property at the other end of the terrace which includes my property - the Council gave permission for a vehicular crossover to that property;
- (c) Your application to park a private motor vehicle in the front garden of your property proposes access/egress at an angle; have you now changed your proposal to access/egress in a straight line across the layby immediately in front of your property? - Yes;
- (d) Does your disabled daughter-in-law have a blue badge? - Yes;
- (e) What is the length of the layby in front of the terrace of properties including your own? - It can accommodate approximately 6 vehicles lengthwise - one per property;
- (f) How many spaces would be lost in the layby as a result of your appeal being allowed? - One.

- (g) Do you agree that the layby is for the use of the public at large and is not restricted to the occupants of the properties in the terrace? - Yes;
- (h) Would it be possible to create a vehicular access to your property from the highway at the side of your property? - It would be acceptable to me.

The Panel considered the following submissions of the Area Housing Manager:

- (a) the policies and procedures adopted by the Council when considering requests from residents to construct a crossover had been reviewed on a number of occasions in recent years; this had been as a direct result of the increasing parking problems experienced by residents of Council estates, associated with greater car ownership;
- (b) the appellants had applied for a vehicular crossover on 13 February 2007; that application was refused on 14 February 2007; the proposal had involved the creation of a crossover from the layby in front of their property; that would be contrary to condition 5 of the criteria used to determine such applications, which stated that proposed crossovers must not lead to the loss of parking spaces provided in laybys;
- (c) on 26 February 2007, the appellants had appealed the initial decision and on 5 March 2007 the Assistant Head of Housing Services had upheld the initial decision made by the Area Housing Manager;
- (d) in early 2008, Housing Management staff had noticed that the land to the front of the appellants' property had been block paved, the hedge around it had been removed and a vehicle had been parked on the block paving; a letter had been sent to the appellants drawing attention to this offence;
- (e) it now appeared that the appellants had changed their plans for a vehicular crossover and were no longer intending to proceed as indicated in the application submitted on 13 February 2007; they were now proposing to gain access/egress to their property in a straight line and not at an angle as previously proposed; this latest proposal would result in the loss of a parking space in the layby currently available to the general public;
- (f) reference had been made to permission being granted to another property in the terrace; in 2003 the then Housing Appeals Panel had allowed an appeal in respect of that property; however, that decision should not be regarded as a precedent for this case as it was a condition that the vehicular crossover be provided without disturbing the layby; the submitted photographs showed that this had been achieved.

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

- (a) Can you explain why permission was granted for vehicular access to properties in a nearby road? - I regret that I do not have that information available;
- (b) Would it be possible for the appellants to provide a vehicular access from the highway at the side of their property rather than the highway in front of their property? – Possibly, although I understand that it is a bus route and any proposal would be likely to require planning permission; also the Council's current policy states that permission will not be given for crossovers involving access/egress at right-angles to a property;

(c) Would you clarify the position in relation to the crossover for the property at the other end of the terrace to the appellants' property? - The then Housing Appeals Panel had concluded that the crossover to that property could be constructed diagonally and therefore not affect the use of the layby in front of the properties; access/egress to that property had been achieved without affecting the use of the layby;

(d) Do the appellants have a freehold interest in their property? - Yes;

(e) Should the appellants have obtained covenant consent from the Council before undertaking the work to the front garden of their property? - Yes, possibly;

(f) Can you explain the reason for the Council policy not allowing access/egress at right-angles to a property? - It is part of the policy and other applications in the locality have been refused for this reason; I cannot recall the reasons for this part of the policy but it may be related to the need not to obstruct access/egress from the door of the property;

The Chairman asked the appellant if she wished to raise any further issues in support of her case. The appellant reiterated that she would prefer to proceed on the basis of gaining access/egress to her property in a straight line from the highway in front of her property rather than at an angle as originally proposed in her application dated 13 February 2007.

The Chairman asked the Area Housing Manager if he wished to raise any further issues in support of his case. The Area Housing Manager advised that he had nothing further to add.

The Chairman indicated that the Panel would consider the matter 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 and the Area Housing Manager then left the meeting.

The Panel considered all of the evidence and the views which had been expressed by the appellant and the Area Housing Manager. The Panel focussed on the Council's policy for off-street garden parking, the appellants' proposals for achieving off-street parking, safety issues of the proposals and the affect of the appellants' proposals on existing parking for the general public in the locality.

RESOLVED:

(1) That, having taken into consideration the information presented by the appellants and by the Area Housing Manager, in writing and orally, the appeal be dismissed and the decision of the Area Housing Manager that permission not be granted for a vehicular crossover to the appellants' property be upheld for the following reasons:

(a) In relation to the proposal contained in the appellants' application to park a private motor vehicle in the front garden of their property dated 13 February 2007, the construction of a crossover at an angle near a highway junction would interfere with the pedestrian dropped kerb currently in place and a vehicle accessing or exiting from the appellants' property at such an angle would be likely to be a hazard to pedestrians and other highway users;

(b) In relation to the alternative proposal outlined by one of the appellants at the meeting, this would result in the loss of a public parking space in the layby in front of the appellants' property which would be contrary to Council policy and would create an undesirable precedent since it would take away a parking space that is currently available to everyone at any time;

(c) One of the appellants at the meeting submitted that a precedent had already been set as a result of an approval by the Council of a vehicular crossover for the property at the other end of the terrace to the appellants' property; that permission granted by the then Housing Appeals Panel in 2003 is not considered to have set a precedent as one of the conditions of the permission was that the construction of the vehicular crossover would not result in the loss of a public parking space in the layby; that crossover had been constructed in such a way;

(d) It is not considered there are any special circumstances in this case which justify an exception being made to the Council's policy;

(2) That the appellants should have, but did not obtain covenant consent for the works undertaken to remove the boundary hedge and block pave the front garden of the property as these works are considered to result in a material change to the property; however, the Council is not minded to refuse covenant consent for these works, subject to the hard-standing created by the block paving not being used for the stationing of a motor vehicle; in the event of evidence being obtained showing the hard-standing to be in use for the stationing of a motor vehicle enforcement action for the contravention of a covenant will be taken;

(3) That the Area Housing Manager submit a report to the next meeting of the Panel explaining the reasons for the Council's policy to not allow vehicular crossovers at right-angles to a property.

CHAIRMAN

Agenda Item 6

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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