

# Committee Agenda



**Webcast  
Meeting**



**Epping Forest  
District Council**

## ***Area Planning Subcommittee West Wednesday, 9th February, 2011***

**Place:** Council Chamber, Civic Offices, High Street, Epping

**Room:** Council Chamber

**Time:** 7.30 pm

**Democratic Services Officer** Adrian Hendry - The Office of the Chief Executive  
Email: ahendry@eppingforestdc.gov.uk Tel: 01992 564246

Members:

Councillors J Wyatt (Chairman), Mrs R Gadsby (Vice-Chairman), R Bassett, Mrs P Brooks, J Collier, D C Johnson, Ms Y Knight, Mrs J Lea, W Pryor, Mrs M Sartin, Mrs P Smith, Ms S Stavrou, A Watts and Mrs E Webster

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**A BRIEFING FOR THE CHAIRMAN, VICE-CHAIRMAN AND APPOINTED SPOKESPERSONS WILL BE HELD AT 6.45 P.M. IN COMMITTEE ROOM 1 ON THE DAY OF THE SUB-COMMITTEE.**

### **WEBCASTING NOTICE**

**Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.**

**You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy and copies made available to those that request it.**

**Therefore by entering the Chamber and using the lower public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for web casting and/or training purposes. If members of the public do not wish to have their image captured they should sit in the upper council chamber public gallery area**

**If you have any queries regarding this, please contact the Senior Democratic Services Officer on 01992 564249.**

**1. WEBCASTING INTRODUCTION**

1. This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking.

2. The Chairman will read the following announcement:

“I would like to remind everyone present that this meeting will be broadcast live to the Internet and will be capable of repeated viewing and copies of the recording could be made available for those that request it.

If you are seated in the lower public seating area it is likely that the recording cameras will capture your image and this will result in the possibility that your image will become part of the broadcast.

This may infringe your human and data protection rights and if you wish to avoid this you should move to the upper public gallery”

**2. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING SUBCOMMITTEES (Pages 7 - 8)**

General advice to people attending the meeting is attached.

**3. APOLOGIES FOR ABSENCE**

**4. MINUTES (Pages 9 - 14)**

To confirm the minutes of the last meeting of the Sub-Committee held on 19 January 2011 as a correct record (attached).

**5. DECLARATIONS OF INTEREST**

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

**6. 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.

**7. DEVELOPMENT CONTROL (Pages 15 - 32)**

(Director of Planning and Economic Development) To consider the planning applications 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.

## 8. DELEGATED DECISIONS

(Director 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.

## 9. HOLMSFIELD NURSERY, MEADGATE ROAD, NAZEING (Pages 33 - 36)

### **EPF/0849/10 – Retention of use of site for eight private gypsy plots to replace previous temporary consent**

1. This application was reported to the meeting of Areas Plans Sub Committee West on 13 October 2010 with the Officers' recommendation that planning permission be granted subject to conditions.

2. Pursuant to section 14 of the Lee Valley Regional Park Authority Act 1966 ("the 1966 Act"), if Members were minded to grant permission in this case, the Council was obliged to notify the Lee Valley Regional Park Authority (LVRPA) of that intention, to allow LVRPA the opportunity to request within 14 days that the Council refer the application to the Secretary of State for the purpose of deciding whether to call in the application for his determination. At that meeting Members voted to grant permission in accordance with officers' recommendation and, upon receiving notification of the Council's intention to grant planning permission, LVRPA requested that the Council refer the application to the Secretary of State in accordance with section 14(8) of the 1966 Act. The Council referred the matter to the Secretary of State who subsequently declined to exercise his discretion to call in the application. In accordance with its duty to determine the application, the Council notified the LVRPA of the Secretary of State's decision, following which Officers arranged for the decision notice dated 29 November 2010 granting conditional planning permission to be issued, in accordance with the Committee's decision.

3. By way of a letter dated 10 January 2011, the LVRPA notified the Secretary of State and the Council of its intention to challenge by way of Judicial Review both the Secretary of State's decision to decline to exercise his discretion to call in the application and the Council's decision to grant planning permission. The main ground of challenge against the Council's decision being based upon the contention that the Minute of the 13 October 2010 meeting did not authorise officers to grant planning permission.

4. As published, the Meeting states that: 'Members resolved to Grant Permission (with conditions) subject to the withdrawal of objections from Lea Valley Regional Park Authority'.

5. A review of the web cast of this meeting and the decision taken in respect of EPF/0149/10 shows that the recorded Minute is not an accurate record of the resolution upon which Members took their decision, which was as follows:

*Chairman: "Those in favour of granting permission with conditions"*

*Committee Clerk: "Those in favour 5 Chairman those against 2 Chairman Abstentions 4"*

*Chairman: "So permission is granted with the recommendation to Lee Valley Regional Park Authority that this permission is granted. They have two weeks to react and they may require us to call this into the Secretary of State. So although Epping Forest Councils Plans West is granting permission there may be further obstacles along the path. I think you should be aware of that. Anyway permission granted from this commission. Thank you for your attendance."*

6. Advice has been sought from Counsel, Mark Beard, on the merits of the threatened Judicial Review claim generally and, in particular, the consequences of the Minute inaccurately recording the resolution of the Committee. An extract from Counsel's written Advice dated 19 January 2011 is attached as a confidential item to this Report. As a result of Counsel's advice officers now report the matter back to the Sub Committee for the sole purpose of rectifying the error in the Minute of the meeting on 13 October 2010. As planning permission has been granted in this matter, there is no longer a planning application before the Council. The planning permission remains valid unless and until it is quashed by the High Court.

**Conclusion**

7. Accordingly, Members are requested to resolve to rectify the error by approving an accurate record of the Minute such that the Minute in respect of the Area Plans Sub Committee West meeting of 13 October 2010 Item 37 Report Item No 1 is amended to read:

**'Members resolved to Grant Permission (with conditions).'**

**10. 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):

<b>Agenda Item No</b>	<b>Subject</b>	<b>Exempt Information Paragraph Number</b>
Nil	Nil	Nil

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.