

Agenda



Epping Forest District Council

Meeting of Development Control Chairmen and Vice Chairmen Thursday, 10th February, 2011

Place: Committee Room 2, Civic Offices, High Street, Epping

Time: 7.30 pm

**Democratic Services
Officer:** Simon Hill - Tel 01992 564249
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Members:

Councillors A Boyce, K Chana, Mrs D Collins, Mrs R Gadsby, A Green, J Hart, G Mohindra, J Philip, Ms S Stavrou, B Sandler, H Ulkun and J Wyatt

1. ELECTION OF CHAIRMAN FOR THE MEETING

To elect a chairman for the meeting.

2. APOLOGIES FOR ABSENCE

3. MINUTES (Pages 9 - 12)

To confirm the minutes of the last meeting.

4. REPORT OF DIRECTOR OF PLANNING AND ECONOMIC DEVELOPMENT

1. The Director of Planning & Economic Development has been to several meetings of the above to observe, and be seen to be taking an interest in these meetings, as well as those which he more generally attends.

2. I thought it useful to share my key observations, because a feature of previous "Chairs" Meetings has been to reflect on the meetings to see what improvements can be made.

3. The key points are as follows:

Display of plans, elevations, aerial and other photographs.

4. There is a very considerable contrast to when I recall being a lead officer at these meetings; then the officer stood with a set of plans attempting to display them on the rather less than clear main screen in the Council Chamber.

5. Now there are a series of PowerPoint presentation slides with clear plans, titles and which include elevations, plans aerial and other photographs; these are used to

give very high quality presentation by the Officers, and assist members in their deliberations. These do require quite an effort to be assembled, but that effort is plainly worthwhile.

6. What was particularly noticeable is that even when speakers are making points which are in opposition to the views of officers. That the plan or photograph is displayed relating to the speaker's point. This is a worthy professional arrangement. It would not necessarily be detected from the webcast or the minutes of the meeting; it is only seen by those present.

Quality of presentations by Officers

7. I witnessed quite a number of staff from the Directorate giving presentations, which were all given professionally. There are only minor points of improvement for a few individuals.

8. There is a view in some quarters that Essex is flat, when the topography of some sites is quite complex, and subtle level differences can have quite an impact upon the Member assessment. If someone is describing the site as being on a steep incline that should be clear from the plans and/or the report. Presentation methods will be reviewed with this objective in mind.

Quality of reports

9. For the most part the quality of reports, and the depth of the information provided appeared to be pitched at the right level. Areas for improvement include;

- One item had made the agenda of an area Committee which should have gone straight to the District Development Committee.
- One item was the unusual reporting of a Certificate of Lawful Development application to the Committee for determination; this was deferred for a lawyer to be present; in future such cases, the need for the lawyer to be present needs to be factored in.
- There are more minor points about whether all necessary conditions have made it to the agenda.

Venues

10. Whilst I understand the benefits of having the largest Area Committee having its meeting within its local area, there are clearly some considerable logistical issues in getting all the necessary staff and equipment to the school. I sat in the front row of seats within the audience, and I did not consider that the Councillor name badges are particularly visible; the font size, possibly the black on white and the orientation of the signs may help the webcast, but was not clear for someone in the audience, particularly if this was their first time at such a meeting.

11. It may be helpful in the Chairman's opening introductions to introduce all members present, so that the public then know who is present. This is then reinforced when the Chairman invites particular members to speak.

Consistency

12. I witnessed different styles from different Officers, and from the different

Chairmen. I see no issue with their being different styles, but there is plainly the opportunity for different approaches to be used, which others would then consider to be inconsistent, or possibly unfair. It has been suggested to me that the receipt of information such as letters or photographs has been dealt with differently at different meetings, although I did not witness this.

13. I understand that colleague Officers and Members who have dealt with at least one case that was considered by the Standards Committee queried the practice of their being more than one Chairman for the Area Committees, and that some comparisons were made between what the rules indicate, and what Chairmen were doing. Whilst there is always going to be a need for discretion for Chairmen, it is clear that the public will test the ways things are handled, especially if they do not get the decision they seek.

14. These points could be a useful topic for future training (both for Officers and Members)

Summarising

15. My attention has been drawn to the importance of the Chairman providing a short summary of the decision that has been made; this would be generally, where there has been a debate about the item, but especially where there has been a complex or contentious debate and where there may have been protracted discussion, and to make a positive habit of doing this.

16. There is a live case (not determined at a Committee when I was present) in which there is a Judicial Review. Some reliance was being placed on the short minute about that case, but when the webcast is viewed, the Chairman had usefully summarised matters as follows:

Transcript of recommendation

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

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

Chairman of Plans West Committee:

"So permission is granted with the recommendation to the Lea Valley 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 Council Plans West is granting permission there may be further obstacles along the path. I think we should be aware of that. Anyway, permission granted from this commission. Thank you for your attendance"

17. I understand that some of these points have been picked up by Members in considering how meetings have been conducted, and that role play training is useful in emphasising the importance of such summaries.

"An old favourite"

18. Cases involving extensions to residential properties within the Metropolitan

Green Belt have been a regular feature of Committee deliberations for many years. Such cases also produce a regular stream of appeals, whilst many are determined under delegated powers. The fundamentals are not new, and there will probably always be some cases where the public airing of the cases does produce some decisions where the weighing of the evidence produces a different decision; all professional officers have to cope with seeing some decisions go against their advice, that is democracy.

19. However, the number of such cases does concern me, particularly because major consultation exercises in recent time on the Sustainable Community Strategy, and the Community Visioning results in connection with the Core Planning Strategy, both emphasise the value the local community places on the protection of the Green Belt.

20. There is most definitely a discussion or training issue here. Put colloquially one is supposed to keep the Green Belt as open as possible.

21. A residential property in the Green Belt has permitted development right which have been made more generous over the years.

22. Developments exceeding permitted development require planning permission. The objective assessment of those cases where EFDC or an Inspector is considering the planning application can be seen to fall into two categories. One category contains those instances where Government advice and Local Policy have set parameters, and the proposal is a limited/reasonable extension to the existing dwelling (and recognises how the dwelling has already been extended since the Green Belt has existed) On the basis of experience, and reflecting appeal decisions, an extension which takes the dwelling to 40% above its original size is about the limit of that category. Such cases fall within policy, and many are so granted. The 40% may recognise that some demolition of other domestic structures such as previous extensions can be factored in. Such cases are recognised as appropriate development in the Green Belt, and reduce the openness of the Green Belt to what is a strictly limited degree.

23. It is also possible to demonstrate that very special circumstances exist, and there may always be cases where Members determine, or an appeal Inspector determines, that such circumstances exist and that permission can unusually be granted. They will involve inappropriate development being sanctioned, which is against the principle of keeping the green belt as open as possible, and such cases should be rarities.

24. There must be a concern if the decision which is reached under delegated powers, or at appeal is similar, but that there is much greater variability of decision at Committee. The risks are obvious; a similar development may not be getting a similar outcome, and that opens the Authority to challenge.

25. I recommend that a discussion session or a training session is organised to consider these matters objectively.

Procedures

26. Members at meetings are required to consider and to declare certain interests; that is only proper, but the volume of those declarations at Area Committee South was

considerable, and this was a feature of the minutes of their previous meeting. It raises a question about whether those who are Tree wardens and are on Local Councils could be able to be taken as having given a standard declaration that covers their non prejudicial declaration for those reasons? I understand having spoken with colleagues that this would require amendment to the National Code of conduct, although that code is due to be discontinued and its what will be contained in its replacement is not yet clear .

27. I further note that there is also an issue about the 'quality' of the declaration. When the Councillor has considered their position (whether advised by the Monitoring Officer, or whether they are following the lead of others, or not) It is important to clearly state the relevant words personal/prejudicial/non-prejudicial. It is not sufficient to say 'as before,' 'the usual' or just 'Town Council'

28. Specific training in relation to interests/ planning protocol are run by the Monitoring Officer/Deputy Monitoring Officer/ Assistant Director of Planning (Development.)

Conclusion

29. I enjoyed attending the meetings so far. I recommend that it would be beneficial for some targeted training for Officers and Members on the points raised above.

30. I have discussed several of the points I noted with the Monitoring Officer and the Deputy Monitoring Officer in compiling this note, and I thank them for their assistance.

5. PLANNING OFFICERS DISCUSSION WITH APPLICANTS

6. TRAINING ISSUES - PERMITTED DEVELOPMENT AND CERTIFICATE OF LAWFUL DEVELOPMENTS

Officers have provided this training recently at two of the Area Plans sub-Committees and the intention is for a presentation at South when there is a shorter agenda of planning applications. The issue was briefly discussed at Local Council Liaison Committee where confirmation was sought as to how local council's should respond to certificate of Lawful development applications. A presentation of permitted development has also taken place in the last year at a few of the parish council's. Officers therefore consider this matter has now be well aired and explained.

7. ISSUES FOR DEVELOPMENT CONTROL CHAIRMEN MEETING RAISED AT A RECENT MEETING OF A REVIEW SUB-COMMITTEE OF THE STANDARDS COMMITTEE

(Assistant to the Chief Executive) To discuss the implications of a recent Standards Committee complaint:

(1) The need for the Chairmen of all Committees etc, but particularly Development Control Committee/Sub-Committee Chairmen in view of the need for interaction with the public, to have attended training in the Chairing of Meetings and to be mindful of the fact that some members of the public will not be familiar with the proceedings of a meeting so that full explanations should be given of the process at each stage and a

clear statement should be given at the end about the decision reached.

(2) The need for a consistent approach to the circulation of documents and photographs at a meeting by applicants and objectors – it appears that some Chairmen are more flexible than others and this has confused members of the public about what may be allowed.

8. RETENTION OF BUNGALOWS

This concerns recent planning applications to rebuild individual bungalows, primarily in Theydon Bois, which it is claimed are required, particularly by elderly persons.

There is no policy statement, either at local or national level that supports the contention that bungalows are required to meet the needs of elderly people. Planning policy H9A of the Local Plan and Alterations does address the needs of elderly people by requiring that a proportion of homes are constructed in accordance with the lifetime homes standards of the Joseph Rowntree Foundation. The policy though is only applicable to developments providing 10 or new homes. No housing needs survey for the locality demonstrates a need for bungalows as opposed to 2 or greater storey houses. The last Housing Needs Survey was carried out in 2003 and does not distinguish between need for a particular house type and an aspiration to live in a particular house type. Moreover, it does not look at Theydon Bois separately from any other area of the District so it is of no assistance in justifying a reason for refusal of planning permission. The most recent evidence of housing need in the locality is the "London Commuter Belt (East)/M11 Sub-Region Strategic Housing Market Assessment 2008". Since that examines need at a sub-regional level it is of no evidential value when considering need within the much smaller locality of Theydon Bois.

The Planning Directorates Forward Planning Team has clearly advised Officers that there is no evidence base upon which to gauge the need for bungalows anywhere in the District or in the District as a whole. Policy H4A – Dwelling Mix states that the council may refuse where development will adversely affect the range and mix of dwellings available. In order to defend decisions to refuse planning permission for development that would result in the loss of a bungalow on the basis of a failure to comply with policy H4A, it would be necessary to have evidence of need for bungalows.

Even if such need was demonstrated, there is no evidence to demonstrate that the proposal would contribute to any harmful loss of bungalows. Planning records show that monitoring this issue since 1 April 2005, planning permission has been given to erect 5 bungalows in Theydon Bois. During the same period planning permission has been given for developments that result in the loss of 10 bungalows, resulting in a net loss of 5 bungalows in Theydon Bois. During the same period, Building Control records show only 3 bungalows were actually lost. There is no record of the total amount of bungalows in the locality at present or on 1 April 2005. Nevertheless, as a proportion of the total number of houses in Theydon Bois, the net loss of between 3 and 5 bungalows is small. Having regard to the actual absence of evidence of need for bungalows together with the absence of any policy supporting their retention, a refusal of planning permission on this ground is very unlikely to be supported on appeal.

In summary, and as evidenced in a recent case at 40 Forest Drive, Theydon Bois

when presented to Members, the initial case to defend a reason for refusal on the loss of a bungalow is unlikely to be supported and open to a claim for costs against the council should an appeal be lodged.

9. EFFECT OF LOCALISM ON PLANNING

The Planning Localism Bill was due to be issued on 20 November 2010 and Officers will verbally brief Members on this at the meeting.

10. DEFERRED/DEFENDABLE PLANNING APPLICATIONS

Occasionally, planning applications have been deferred to seek further clarification, consultation or even a Member site-visit, before being reported back to a subsequent meeting. This inevitably means that the planning application does not achieve a timely decision and impacts therefore on annual performance targets.

Officer recommendations overturned by Members at planning committees also impact on performance target LPI 45 (appeals). There are potential cost implications if any of the reasons cannot be adequately defended and judged by the Inspector, deciding the appeal, to be unreasonable. With this in mind, it should be recognised that the performance is a target not only for officers but also for Members.

11. ANY OTHER BUSINESS

Members to raise any other matter of business