

## **EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** District Development Control Committee      **Date:** 26 April 2005

**Place:** Civic Offices, High Street, Epping      **Time:** 7.30 - 9.25 pm

**Members Present:** Mrs A Grigg (Chairman), Mrs D Borton, Mrs P Brooks, M Colling, Mrs J Davis, A Lee, F Maclaine, J Markham, P McMillan, B Sandler, Mrs P Smith, Ms S Stavrou and K Wright

**Other Councillors:** M Heavens and J Knapman

**Apologies:** L Martin

**Officers Present:** B Land (Assistant Head of Planning and Economic Development), A Hall (Head of Housing Services), C Neilan (Arboriculturalist, Planning Services), T Carne (Public Relations and Marketing Officer), G Woodhall (Democratic Services Assistant) and S G Hill (Senior Democratic Services Officer)

### **32. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING COMMITTEES**

The Committee noted general advice to people attending the meeting. The Chairman introduced officers present at the meeting.

### **33. MINUTES**

**Resolved:**

That the minutes of the last meeting of the Committee held on 1 March 2005 be taken as read and signed by the chairman as a correct record.

### **34. SUBSITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)**

The Committee was advised that Councillor P McMillan was substituting for Councillor R Gadsby at this meeting.

### **35. DECLARATIONS OF INTEREST**

(a) Pursuant to the Council's Code of Member Conduct, Councillor Mrs A Grigg declared a personal interest in agenda item 7 (St Johns School, Tower Road, Epping - Planning Application EPF/1400/04 for a new Secondary School and Residential Development) by virtue of being an employee of Essex County Council until 27 April 2005. The Councillor declared that she did not consider her interest in this matter as prejudicial as it was proposed that the item would be for noting only and subject to further report of officer. The Councillor indicated that she would remain in the meeting during the item.

(b) Pursuant to the Council's Code of Member Conduct, Councillor P Smith declared a personal interest in agenda item 7 (St Johns School, Tower Road, Epping

- Planning Application EPF/1400/04 for a new Secondary School and Residential Development) by virtue of her daughter being a pupil at the school. The Councillor declared that her interest was not prejudicial and indicated that she would remain in the meeting during consideration of the item.

### 36. ORDER OF BUSINESS

#### Resolved:

That Item 7 (St Johns School, Tower Road, Epping - Planning Application EPF/1400/04 for a new Secondary School and Residential Development) be brought forward as the next item of business.

### 37. ST JOHNS SCHOOL, TOWER ROAD, EPPING - PLANNING APPLICATION EPF/1400/04 FOR A NEW SECONDARY SCHOOL AND RESIDENTIAL DEVELOPMENT

The Committee received a report of the Assistant Head of Planning Services in relation to a report on the proposed redevelopment at St Johns School application. The report brought forward a number of issues of principle on which the Planning Officers wished members to give guidance.

However, following concerns expressed from outside the Council about the possible fettering of the Committee on the subsequent consideration of the full planning application, the Planning Officer withdrew from the agenda all requests for decisions.

The Planning Officer informed the Committee that there was an option to debate the issues tonight and refer the application to full Council for determination. This would mean that those who spoke on the matter would have to declare an interest at Council and withdraw from the decision-making process. This was not considered to be a satisfactory course of action.

It was the Officers intention:

(a) To advise the applicants how to revise their application to reflect one of their 4 options since the Council could not determine an application submitted with 4 options. The applicants would need to decide which option to seek a formal decision on.

(b) to continue to advise the applicants that the development as a whole is contrary to policy placing the onus upon them:

(i) to demonstrate that the need for a new school warrants setting aside Green Belt policy and that the only viable option for a new school is building in the Green Belt.

(ii) to show that there are very special circumstances to justify building houses in the Green Belt

(iii) to justify anything less than the Council's policy of 30% of affordable housing.

(b) To advise the applicant that if one particular party formed the Government following the General Election that there was a commitment to providing funding for school rebuilding or refurbishment.

The Committee noted the report and accepted that there should be no debate on the matter pending the consideration of the full planning application.

**Resolved:**

That the oral report of the Assistant Head of Planning and Economic Development be noted.

**38. AFFORDABLE HOUSING PROVISION ON LARGE DEVELOPMENTS**

The Committee noted that under Planning Policy Guidance (PPG) 3: Housing and ODPM Circular 6/98, local authorities were able to negotiate an appropriate amount of affordable housing on large development sites, subject to there being sufficient housing need, evidenced by a Housing Needs Survey.

At present, the Government's threshold for local authority districts outside London, above which affordable housing could be sought, was developments of 25 properties or more, or on land in excess of 1 hectare, whichever was the lowest. However, the Government was currently consulting on a proposal to reduce the threshold to 15 properties or more, or on land in excess of 0.5 hectares.

Following the completion of the Council's first Housing Needs Survey in 1999, the Council had increased the amount of affordable housing it sought on large sites from 20% to 30%. As a result of the subsequent Housing Needs Survey carried out in 2003, the Council was proposing, through the Alterations to the Local Plan, to increase the amount of affordable housing sought to 40%, where social housing grant was available (from the Council or the Housing Corporation).

The Committee noted that for social housing grant to be available from the Housing Corporation, the developer had to provide free land for the affordable housing. The Committee noted other Council proposals relating to proportions and mix of affordable housing; thresholds of size and number of units to which the new policy would apply including proposals for rural areas which would form part of the re-deposited Local Plan alteration.

In September 1999, the former Development and Housing Committees had re-affirmed the Council's policy that, based on the evidence of the Housing Needs Survey 1999, "affordable housing" in the Epping Forest District meant "subsidised housing for rent" only.

The Committee also considered the key findings of the last Housing Needs Survey that the District's housing market excluded many families and single person households who were currently seeking access to local housing. Any household with an income below £30,000 to £48,000 per annum (depending on location within the District) struggled financially to access the smallest, acceptable quality units in the local housing market, i.e. one bed flats and around 99% of new households forming in the next year would have incomes below £35,000.

Around 5,512 households planned to leave Epping Forest in the next five years citing the single most common reason for moving outside the District as being lack of affordable housing locally (39%).

665 new affordable properties per annum were required over the next five years to meet both the current and anticipated housing need over that period. Only 63 such properties were planned in 2005/06.

In order to maximise the amount of affordable housing that could be provided on development sites, social housing grant (SHG) was required from either the Housing Corporation or the local authority. The Housing Corporation made funding allocations to housing associations based on investment themes set by the Regional Housing Board and identified by the Regional Housing Strategy via a bidding process with funding being provided to the developments that required the lowest grant per property overall, within the Regional Housing Board's main investment themes.

Another way to reduce the overall grant requirement for a development was for some of the properties to be provided as shared ownership, since less grant was required.

However, there are three main drawbacks to shared ownership:

- (a) The monthly costs are significantly higher than for a fully rented housing association property;
- (b) It excluded many people on the Housing Register, so the affordable housing provided did not target those in most need; and
- (c) Once a shared owner purchased sufficient shares to own the property outright (subject to mortgage), the property was effectively lost from the affordable housing stock.

The Committee were asked to consider the Housing Corporation's increasing desire to see some element of shared ownership within affordable housing schemes on large sites, in addition to the benefits to those applicants wishing to enter home ownership but unable to do so because of high property prices.

It was proposed that a policy be adopted of generally seeking a proportion of the affordable housing on large sites as shared ownership and that, bearing in mind the increasing numbers of applicants on the Housing Register, generally, shared ownership properties should represent no more than 25% of the overall affordable housing provided on each site. It was also proposed that Head of Housing Services be given flexibility to negotiate different ratios of rented housing to shared ownership within this policy framework to have regard to the Housing Needs Survey, characteristics of different developments, and the maximising of the overall provision of affordable housing on any development. The Committee were also asked to include provisions relating to the Governments "Homebuy" consultations within the policy framework.

The Committee were of the view that the proposals were important and would provide a framework within which officers could negotiate the maximum numbers of affordable dwellings particularly in relation to rural areas and should be endorsed.

**Resolved:**

- (1) That, for the future affordable provision on large development sites where the tenure has not already been negotiated and subject to it representing no more than 25% of the overall affordable housing provided by the development, an element of shared ownership be sought (or New Build Homebuy, if introduced); and
- (2) That, in order to enable the Council to be responsive to maximising the overall provision of affordable housing on developments when undertaking negotiations, and to have regard to the findings of the Housing Needs Survey, the Head of Housing Services be authorised to negotiate

different ratios of rented housing to shared ownership on large development sites within this policy framework.

**39. POSSIBLE REVOCATION OF PLANNING PERMISSION - 237, FENCEPIECE ROAD, CHIGWELL**

The Committee noted that at its meeting on 5 January 2005, Area Plans Subcommittee A had considered a report on a planning application for a two storey side extension at no.239, Fencepiece Road, Chigwell.

At that meeting the applicant had claimed that the side extension to their property would remain 500mm from the side boundary (instead of the normal 1metre) but argued in justification that their neighbour at no.237 had been granted permission for the same in January 2004, there being a total of only 1metre between the two properties.

The file for no.237 appeared to indicate that the Council had been persuaded in that case that the applicant owned the full 1m between the properties and permission had been granted on that basis. The submissions of the applicant for no.239, therefore, appeared to throw doubt upon the veracity of the statements about ownership and about the basis upon which permission had been given and consequently the committee asked officers to investigate the possibility of revoking the permission for no.237.

Planning permission for the two storey extension at no.239 was refused on the basis that the extension would be closer to the boundary than 1metre and result in a cramped appearance and a terracing effect.

The committee were informed that since revocation carried the likelihood of compensation, it fell to this committee to determine any action.

Officers had visited the site and taken measurements. The position of the boundary is not obvious on the ground due to overgrown boundary planting and forecourt paving of no.239, but it had been established that the boundary was not equi-distant between the two garages but equates to 700mm from the side wall of the garage. This suggested that an existing approval granted in 1990 had been based upon correct information and that the information submitted by the applicant at no.239 was not quite correct, in that his extension would have projected to within 300mm of the boundary line and not 500mm as he was claiming.

Revocation Orders removed or revoked a permission earlier granted and had to be confirmed by the Secretary of State before coming into effect. Compensation was also payable for any loss or damage attributable to the Revocation Order and consequently it was only used in exceptional circumstances where a decision was judged to be 'grossly wrong' and damaging 'to the wider public interest'

The Committee considered whether the Council should pursue revocation in these circumstances. They considered that in this instance the permission as granted did not result in a feature that would impact upon the wider public awareness and did not justify the use of revocation order powers.

**Resolved:**

That no further action be taken in this matter.

**40. TREE PRESERVATION ORDER APPLICATIONS IN RESPECT OF SUBSIDENCE - REPORT**

The Committee considered proposals for the introduction of a proforma of information requirements and a protocol for dealing with applications in respect of subsidence related damage by preserved trees, which had been under development over the past year.

The aim of the documents was to allow officers to take a consistent approach to handling applications for felling trees in respect of allegations of subsidence, to allow Members to be sure that all such applications had been carefully scrutinised and that the evidence was of a consistent standard.

The protocol set out how information submitted would be assessed and the key criteria that needed to be satisfied so that clear recommendations could be made to the relevant Planning Committee. Information required included sufficient information to discount other potential causes, information to allow the seriousness of the damage to the property to be assessed; taken together these determine whether an application is valid. The protocol includes the offer to inspect properties pre-registration of applications; this may allow for precise advice to be given as to the information required in particular cases, or provide sufficient information to determine applications based on the particular circumstances.

Since January 2004, based on advice from Head of Legal and Admin, the Head of Planning Services had taken the view that applications supplied with inadequate information such that no reasonable decision could be given in 8 weeks other than refusal were invalid and would not be dealt with. Of those applications received since that time 2 (both in respect of the same tree) were determined following a site visit; one had been agreed to be exempt based on the poor condition of the tree and several had been withdrawn. Several others, however, are outstanding and subject to appeal for non-determination.

The appeals for non-determination were effectively to test the Council's stance and require the Office of the Deputy Prime Minister to give guidance and thus additional advice on evidential requirements. This advice was outstanding.

At present, however, insurance companies were proving unwilling to present the supporting data that was being requested. They also disputed the legality of the Council's position whereby applications lacking sufficient supporting data are being rejected as invalid.

The risks of the approach taken by the Council, at least until new advice was given, was that the Council may be liable for compensation for events which happened in the interim.

It was noted however, that if the Council were to refuse applications on the basis that the evidence was weak, this would lead to more appeals but additionally there would still be a potential for compensation against the Council as a result of the Secretary of State's decision.

The Committee welcomed the new proposals and additionally suggested the officer further examine whether claims against the Council could be underwritten by insurance. They suggested that it should also be made clear that applicants should seek their own specialist advice and be asked to indicate within the proforma the remediation they were seeking. Officer undertook to research the insurance issue

and report back to members via the Members Bulletin and that the amendments required to the documents would be undertaken.

The Committee endorsed the proposals on this basis.

**Resolved:**

(1) That the protocol, "Handling applications in respect of Preserved Trees and Subsidence" and the proforma, "Information to be provided for subsidence – related TPO applications" be approved subject to the following amendments suggested at the meeting:

(a) Clarification of the proforma to seek an indication of the remedy the applicant is seeking;

(b) Amending the protocol to indicate the necessity of applicants obtaining specialist advice; and

(c) Substituting the word 'may' for 'will' in paragraph 3 of the protocol;

(2) That the protocol and proforma should both continue to be developed in line with legislative developments, subsequent advice or appeal results;

(3) That applications which are not supported by adequate information as defined in the protocol should be rejected as invalid; and

(4) That the Head of Planning and Economic Development ascertain the possibility of underwriting the Council's liability for claims and publish details in the Members Bulletin.

**CHAIRMAN**