

Report to District Development Control Committee



**Epping Forest
District Council**

Date of meeting: 3 August 2010

Subject: Planning application EPF/0504/10 – Matthews Yard, Harlow Road, Moreton – Demolition of existing dwelling and commercial buildings and erection of 7 dwellings including surface water sewer to existing watercourse.

**Officer contact for further information: J Shingler Ext 4106
Committee Secretary: S Hill Ext 4249**

Recommendation(s):

That the Committee considers a planning application for demolition of existing buildings and erection of 7 dwellings including surface water sewer to existing watercourse, at Matthews Yard, Harlow Road, Moreton, which was referred to this committee by Area Plans Sub Committee East with a recommendation for approval.

Report Detail

1. This application was reported to Area Plans Sub Committee East on 2nd June 2010 with a recommendation for approval subject to a legal agreement and to conditions. Members of the sub committee referred the application to this committee with a recommendation to grant consent (subject to a legal agreement) and requested that officers meanwhile talk to the applicants to see if a contribution towards the provision of affordable housing was possible.

Planning Issues

2. Consent is being sought for the redevelopment of a Green Belt site for 7 houses. The site is currently occupied by one dwelling and a large unattractive commercial building. The application includes a legal agreement under Section 106 which will ensure that land to the rear of the site that currently has lawful use as a transport yard is returned to grass and is used only as an open paddock. The report to Plans East is reproduced in full below along with details of comments from the Parish Council that were read to the Sub Committee as they were not available when the report was completed. Officers consider that this proposal is acceptable and therefore recommend approval subject to the Legal agreement and subject to conditions.

3. Members of the Plans East Committee raised the fact that there was no contribution towards the provision of affordable housing from the proposal and whilst agreeing the recommendation asked that officers speak to the developers regarding this issue and voted to refer the application to District Development Committee, with a recommendation to Grant subject to a legal agreement.

4. The issue of affordable housing contributions was covered in the original report but, as requested, Officers have asked the developer whether a contribution could be provided, they have sent the following response:

“Before submitting the application the Inspector’s Report on the appeal was very carefully analysed and the scheme was amended to address all of the issues that he had raised.

This resulted amongst other things in a much reduced development footprint including the loss of the largest house proposed as part of the appeal scheme. Other dwellings were also scaled down and the footprint and scale of the garages was much reduced including the deletion of all studio accommodation above the garages.

At the Area Sub Committee members, including those who still wished to see a financial contribution towards affordable housing, recognised the many benefits which the scheme would bring to the environment of the village, conservation area and Green Belt and preferred the application to the previous scheme.

It has always been a feature of national policy and the Council’s own Local Plan policies that a development must be economically viable in order to require the provision of affordable housing either on site or by way of a financial contribution towards off site provision.

This issue was fully explored by the Inspector at the appeal. He concluded that the submitted evidence clearly indicated that affordable housing is not viable and that Policies GB16 and H7A should not apply. This applies to both on site provision and a financial contribution towards off site provision.

As explained above the amount of development now proposed has been considerably reduced including the loss of a large dwelling. The scheme is therefore considerably less viable than that which the Inspector confirmed could not support any contribution towards affordable housing. The Applicant is accordingly not in a position to make any such contribution in respect of the current application. and in fact should not be expected to do so in the light of the Inspector’s conclusions regarding the provision of affordable housing

At the Sub Committee concern was expressed that approving this application would create a precedent for allowing other developments without affordable housing. Members can be reassured this will not be the case – every application needs to be treated on its own merits and the specific circumstances relating to the site. In this instance a detailed report on the viability of the site was prepared by Three Dragons who are experienced leading consultants in this field and who are often employed by local authorities because of their expertise.

Without full and detailed evidence such as this there would be no case for other applicants to argue similar circumstances.”

5. The developers have additionally requested that their response to the comments of the Parish Council and County Highways Comments be included in this report, they are as follows:

“At the Sub-Committee you read out a letter from the Parish Council and no doubt this will also be referred to at the District Committee. In the interests of balance I consider that in relation to the four issues raised Members should be made aware of the following : -

- *The applicant has no objection to a condition being imposed re the paddock although this is already adequately covered by the legal undertaking.*
- *Thames Water have confirmed that the development can be connected to the existing sewerage system without any problems.*
- *The surface water drainage arrangements have been agreed with the Environment Agency.*
- *The proposed elevation to Harlow Road including the set back from the road was specifically commended by the Inspector as it would relate well to the existing cottages and be consistent with nearby development within the conservation area.*

You also read out a response from Essex Highways suggesting that the applicants provide a length of footpath south of the site. This is the first time this issue has been raised by the County in spite of this being the third application since 2007. The Inspector did not raise this as an issue at the Appeal. It is totally unreasonable for County Officers to change their advice at this late stage when they have not raised this issue in connection with the previous applications over the last 3 years, all of which involved a greater number of dwellings. The provision of such a footpath at the applicant's cost will place even more pressure on the viability of the scheme."

6. The following original officer's report weighs up the planning issues in this case and concludes that in this instance the merits of the case are sufficient to recommend approval subject to the Legal agreement that has already been signed relating to the use of the land at the rear of the site, and subject to conditions. Members of the Sub Committee agreed the recommendation and their request to ask the developers to consider a contribution towards affordable housing has been carried out. Officers view remains that regrettably, due to the costs involved in redevelopment of this contaminated site there are not sound planning grounds to seek a contribution towards affordable housing in this case.

ORIGINAL AREA PLANS SUB COMMITTEE EAST REPORT

RECOMMENDED DECISION: Grant Permission (With Conditions) Subject to Legal Agreement.

CONDITIONS

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
2. Details of the types and colours of the external finishes shall be submitted for approval by the Local Planning Authority in writing prior to the commencement of the development, and the development shall be implemented in accordance with such approved details.
3. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no development generally permitted by virtue of Part 1, Classes, A, B, C, and E shall be undertaken without the prior written permission of the Local Planning Authority.
4. Prior to the commencement of the development details of the proposed surface materials for the access and parking areas. shall be submitted to and approved in writing by the Local Planning Authority. The agreed surface treatment shall be

completed prior to the first occupation of the development.

5. The carriageway of the proposed estate road shall be constructed prior to the commencement of the erection of any dwelling proposed to have access from such a road. The footways commensurate with the frontage of each dwelling shall be completed prior to occupation of the dwellings they are to serve.

6. The parking area shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents (staff) and visitors vehicles.

7. Prior to commencement of development, including demolition or site clearance works, a phased contaminated land investigation shall be undertaken to assess the presence of contaminants at the site in accordance with an agreed protocol as below. Should any contaminants be found in unacceptable concentrations, appropriate remediation works shall be carried out and a scheme for any necessary maintenance works adopted. Prior to carrying out a phase 1 preliminary investigation, a protocol for the investigation shall be agreed in writing with the Local Planning Authority and the completed phase 1 investigation shall be submitted to the Local Planning Authority upon completion for approval. Should a phase 2 main site investigation and risk assessment be necessary, a protocol for this investigation shall be submitted to and approved by the Local Planning Authority before commencing the study and the completed phase 2 investigation with remediation proposals shall be submitted to and approved by the Local Planning Authority prior to any remediation works being carried out. Following remediation, a completion report and any necessary maintenance programme shall be submitted to the Local Planning Authority for approval prior to first occupation of the completed development.

8. All construction/demolition works and ancillary operations (which includes deliveries and other commercial vehicles to and from the site) which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

9 Prior to commencement of development, details of levels shall be submitted to and approved by the Local Planning Authority showing the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.

10. The development, including site clearance, must not commence until a scheme of landscaping and a statement of the methods of its implementation have been submitted to the Local Planning Authority and approved in writing. The approved scheme shall be implemented within the first planting season following the completion of the development hereby approved.

The scheme must include details of the proposed planting including a plan, details of species, stock sizes and numbers/densities where appropriate, and include a timetable for its implementation. If any plant dies, becomes diseased or fails to thrive within a period of 5 years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the Local Planning Authority agrees to a variation beforehand, and in writing.

The statement must include details of all the means by which successful

establishment of the scheme will be ensured, including preparation of the planting area, planting methods, watering, weeding, mulching, use of stakes and ties, plant protection and aftercare. It must also include details of the supervision of the planting and liaison with the Local Planning Authority.

The landscaping must be carried out in accordance with the agreed scheme and statement, unless the Local Planning Authority has given its prior written consent to any variation.

11. Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority and these facilities installed prior to the commencement of any building works on site, and shall be used to clean vehicles leaving the site.

12 .Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 (or of any equivalent provision in any Statutory Instrument revoking or re-enacting that Order), the garages hereby approved shall be retained so that they are capable of allowing the parking of cars together with any ancillary storage in connection with the residential use of the site, and shall at no time be converted into a room or used for any other purpose.

13. Prior to the commencement of development details of screen walls, fences or such similar structures shall be agreed in writing by the Local Planning Authority, and shall be erected before the occupation of any of the dwellings hereby approved and maintained in the agreed positions.

14 Before any preparatory demolition or construction works commence on site a mitigation strategy for the site shall be submitted to the Local Planning Authority for agreement in writing with a working methodology for site clearance and construction work to minimise impact on any protected species and nesting birds. Development shall be undertaken only in accordance with the agreed strategy and methodology.

And subject to a legal agreement under section 106 to secure the cessation of the existing transport yard use of land to the rear of the site and the removal of hardstanding and buildings and restoration to grass.

This application is before this Committee since it is an application for residential development of 5 dwellings or more and is recommended for approval (Pursuant to Section CL56, Schedule A (d) of the Council's Delegated Functions).

Description of Proposal:

The proposed development is for the demolition of an existing dwelling and commercial buildings and the erection of 7 new dwellings and a surface water sewer. The scheme is in the form of a cul-de-sac of two storey dwellings and comprises a terrace of 2 two bed and 1 three bed cottage to the left of the access road and four detached houses. (2 three bed and 2 four bed). The proposal includes the provision of two parking spaces for each of the terraced properties, a garage and two parking spaces for each of the detached dwellings and two additional visitor parking spaces (a total of 20 spaces). The proposed houses are all of traditional design and materials. The proposals include the removal of existing buildings and hardstanding on land to the rear of the site and an undertaking to cease any transport yard use of that land and to return it to grass for use as a paddock. The applicants have put forward a unilateral agreement under section 106 of the Planning Acts to this effect.

Description of Site:

The subject site is located on the western side of Harlow Road within the village of Moreton. The site as a whole comprises the existing dwelling known as Cedar Lodge, the vacant vehicle repair/garage/former filling station site which fronts Harlow Road and contains a large workshop building. The area of the site is approximately 0.36 hectares. The land to the rear of the site, within the same ownership, that it is intended to restore to paddock use, was previously used as a transport yard and is also approx 0.36 hectares. The existing large workshop building was apparently originally an aircraft hangar from North Weald airfield. It is a timber clad structure with a corrugated metal roof and is in a poor state of repair. The site is located within an area of residential properties close to the centre of Moreton, with bungalows to the north and larger properties to the south. The whole of the site is within the Metropolitan Green Belt which washes over Moreton.

Relevant History:

The subject site has had a number of previous planning consents dating back to 1958. These include permission for the site to be used as a filling station with associated storage tanks, vehicle maintenance and the development of a residential bungalow (Cedar Lodge). The most recent applications are as follows:

EPF/1470/77 - Retention of use of portion of building for storage purposes and siting of 2 no. free standing steel storage tanks for storage of cleaning solvent (approved)

EPF/0275/87 – Temporary office, welfare and vehicle maintenance accommodation (approved with conditions)

EPF/2580/07 - Demolition of existing dwelling and commercial buildings and erection of 8 dwellings (refused)

EPF/1348/08 – Demolition of existing dwelling and commercial buildings and erection of 8 dwellings. Refused for the following reasons:

1. The site is within the area identified in the Epping Forest District Local Plan as Metropolitan Green Belt. The Local Plan and Government Guidance as set out in 1. Planning Guidance Note 2 (Green Belt) is that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area and that new developments will only be permitted if not disproportionate. The construction of 8 open market dwellings in this location is inappropriate development which will have a detrimental effect to the open character and objectives of the Green Belt. The proposal is therefore contrary to Policies GB2A and GB16A of the Adopted Local Plan and Alterations.
2. The proposed development would, by reason of the design, bulk, mass, and siting of the dwellings appear unacceptably dominant and visually intrusive and would be out of character with the surrounding area contrary to Policies DBE1, DBE2 and DBE4 of the Adopted Local Plan and Alterations.
3. This is a Green Belt site where the presumption is against the development of new housing. This restraint may be set aside for small scale affordable housing schemes. There is no such onsite provision as part of this planning application, contrary to policies GB16A and H7A of the Adopted Local Plan and Alterations.

An appeal against this refusal was dismissed in February this year.

Policies Applied:

Local Plan Policies:

DBE1 Design of New Buildings

DBE2 Detrimental Effect on Existing Surrounding Properties

DBE4 Development in the Green Belt

DBE6 Car Parking

DBE8 Private Amenity Space

DBE9 Loss of Amenity for Neighbouring Properties

LL10 Adequacy of Provision for Retention of Landscaping

LL11 Landscaping Schemes
CP1 Sustainable Development
CP2 Protecting the Quality of the Rural and Built Environment
CP3 New Development
H1A Housing Land Availability
GB2A Development in Green Belt
GB7A Conspicuous Development
GB15A Replacement Dwellings
GB16A Affordable Housing
E4A Employment

SUMMARY OF REPRESENTATIONS:

14 neighbouring properties were consulted and a site notice erected. This report was completed prior to the expiration of the consultation period on this application. Any comments received will be reported orally to Committee.

NB The following comments were received and were reported to the sub committee.

The Parish Council has no objection in principle to this application which has significantly reduced the scale and impact from the previous applications. There are however, several issues that the Parish Council wishes to draw attention to as follows:-

1. The application is based on the precept that the return of the semi industrial elements at the rear of the site to open paddock would enhance the openness of the MGB to an extent that would provide the necessary policy exception to justify the development in the Green Belt, This justification, if accepted by the Planning Authority should be a condition of the grant and no future development of the open paddock area will be permitted.
2. The plan still shows 4 homes located within 4 m of the highway. While compatible with the adjacent cottages in Harlow Road, they were built over 130 years ago in horse drawn vehicle times. Harlow Road is subject to high traffic volumes, including large agricultural vehicles and numerous 40 ton lorries. It is unacceptable for modern development to build houses for families, this close to a busy highway.
3. The plans indicate the provision of a surface water drain from the development to an existing ditch which connects with the Cripsey Brook. The PC is concerned that in storm conditions this will be inadequate to drain the large built structure and that some ground soak away should be installed to reduce the flow rate into the water course to prevent flooding at the bridge.
4. The village has recently experienced backup problems in the sewage system. There is concern that the existing village sewer system is not large enough to take the high volumes predicted from the proposed development. Capacity needs to be proven before consent is granted.

Issues and Considerations:

This is a revised application following the refusal of a scheme for 8 houses last year. The appeal against that refusal was dismissed.

The main issues relate to whether there are very special circumstances sufficient to overcome the harm to the Green Belt that would result from the development, loss of an employment site, the design and impact on the character of the area, impact on neighbouring amenity, highways issues, and the need for affordable housing. The previous appeal decision is an important material consideration.

Green Belt

The site is within the Metropolitan Green Belt and the proposed development is clearly not one of those which are deemed appropriate, it is therefore by definition

harmful and should be resisted unless there are very special circumstances applicable in this instance that would outweigh this harm. The applicants have accepted that the proposal is inappropriate, but argue that there are very special circumstances. These are:

That the site is previously developed and currently has a large imposing and unattractive building on it, which will be replaced by an attractive residential development that will enhance the visual amenity of the area.

That the scheme would remove the existing lawful use, for a garage and transport yard, unrestricted by planning conditions that could otherwise be recommenced with significantly adverse impact on residential amenity and traffic flows.

That the proposed development has less visual impact on openness than the current situation.

That the applicant is willing to enter a legal agreement that ensures that the land to the rear of the site is restored to grass, the lawful use is revoked and the area is used only as paddock, thereby improving and maintaining openness.

Whilst the previous scheme for the development of 8 dwellings, was dismissed on appeal the Inspector considered that insufficient attention had been paid to the impact of that development on the Green Belt, but he raised concern, not about the principle of residential development, but about the scale and positioning of the development then proposed. The revised application has reduced the footprint of the built development proposed by some 29% and there has been a corresponding significant reduction in bulk. The largest dwelling, a 2 and a half storey five bed unit, has been removed from the scheme, together with bulky two storey garage/studio buildings. Additionally the development has been pulled away from the rear boundary of the site and no longer extends beyond the position of buildings on adjacent sites such that it now sits more comfortably within the surrounding development and is less intrusive into the undeveloped area.

Additionally the extent of the paddock land to the rear has been increased slightly. It is considered that these amendments are significant and that they overcome the concerns that the Inspector had with regard to Green Belt. On this basis therefore officers agree that taking all aspects of the existing site and the proposed development into account there are very special circumstances which are sufficient to outweigh the harm to the openness of the Green Belt from the revised scheme.

Loss of an employment site.

The policies of the Local Plan seek to retain existing employment sites, where these are appropriate. Whilst the previous use of this site would have provided employment, and the loss of employment opportunities from village and rural areas is generally to be resisted, in this instance, given the intrusive nature of the lawful use, the proximity of residential units to the site and the nature of the surrounding road system, it is considered that this is a non conforming and potentially harmful use. Given the costs that would be incurred in decontamination of the site to enable redevelopment for alternative employment uses, it is not considered that such development is likely to be economically viable at the small scale development that would be appropriate in this location.

Design and Impact on village character and streetscene.

In dismissing the previous appeal the Inspector did not agree with the Council's concerns regarding the design of the development and impact on the street scene. He stated "the design of the development accords with the principles of the Essex Design Guide and is of a high standard. I consider the frontage development would

relate well to the existing cottages and would be consistent with nearby development within the Conservation Area to the south-east, the cul-de-sac form is not inappropriate having regard to the neighbouring cul-de-sac developments” he also considered that “the redevelopment of the site with houses of the quality and appearance proposed would result in significant improvements in the village environment”. The design of the frontage development facing Harlow Road has remained unchanged from the previous scheme and the cul-de-sac element has been maintained with similarly designed dwellings. The elements that the Inspector had concerns about in the previous scheme were the two storey garage blocks and the extent of the development into the site beyond the rear of neighbouring buildings. These aspects have been removed and in the light of the inspector’s comments it is considered that the scheme is now appropriate in design terms and would benefit the village environment. The two proposed 2 bed cottages have only limited private amenity space, but this is not unusual for small properties of this type and is largely considered to be a matter for the developer. The larger 3 and 4 bed family properties meet the Council’s amenity space guidelines. The scheme has a density of about 19 dwellings per hectare, which, whilst it is below the generally required target of 30-50 dwellings per hectare, is considered appropriate to this village location where the surrounding density is similar. The housing mix is also considered appropriate.

Impact on neighbouring amenity.

The revised scheme has removed the only element that was previously considered to be potentially harmful to neighbouring amenity, that is the two storey garage blocks that would have affected the outlook from the existing bungalows to the north. The current proposals have been designed to ensure that there is no overlooking of adjacent properties and that there is adequate distance between the new buildings and existing dwellings to ensure that there is no adverse impact on amenity. It is considered that the removal of the existing buildings and lawful use of the site can only have a positive impact in terms of residential amenity.

Highway Issues

This report has been completed prior to the receipt of any comments from Essex County highways but on the basis that there were no highway objections to the previous larger scheme it is assumed that there will be no objection to this current proposal. The development clearly has less potential impact on the local highway network than the existing lawful use of the site. The development includes parking for up to 20 vehicles and the proposed garages and spaces meet the latest adopted standards. The proposals include the provision of a pavement along the front of the site on highway land and the provision of cycle storage.

NB following the writing of this report comments have been received from Essex County Highways which raise no objection to the proposals subject to conditions. One of the suggested conditions is the construction of a footway from the existing footway at Gould Close to join up with the new footway to the south of the site for an approximate length of 28 metres. To improve pedestrian safety. As this area is outside the application site, it would need to form part of a legal agreement. Given that this was not raised during the previous application which was for more dwellings, it is not considered reasonable to now require this of the developer.

Affordable Housing

The proposal, as with the previous application does not include any provision for affordable housing on site, nor any contribution towards the provision of affordable housing elsewhere. Policy H7A states that where the population of a settlement is less than 3,000 and in conjunction with Policy H6a(ii) affordable housing will be sought as follows a) 50% of the total of new dwellings on a Greenfield site: b) on a

previously developed site 33% where an application is made for 3 units and 50% for applications of 4 or more new dwellings... Technically therefore on this scheme that is on previously developed land and has a net increase of 6 dwellings we would normally be seeking 50% or 3 units to be affordable. However at the previous appeal the applicants successfully argued that it was not viable to provide affordable housing as part of the proposal. The Inspector stated in his decision; "An appraisal by consultants showed that the cost of development made the site unsuitable for any element of low cost affordable housing. The submitted evidence clearly indicates that affordable housing in accordance with Policy GB16 would not be viable on this site in present circumstances and therefore, I conclude that the provisions of Policy H7A should not apply. "

It is not considered that there has been any significant change in the market since that appeal decision in February of this year and as such it is not considered that we are in a position to require affordable housing to be provided as part of this development or to require a commuted sum for affordable housing elsewhere.

Sustainability

The site is not a particularly sustainable location for new development, in that any residents are likely to be heavily reliant on the private car for their everyday needs, but it is considered that the existing lawful use as a garage workshop and transport yard is similarly unsustainable and if used to full extent would be likely to result in more additional trips and traffic, including HGV's being drawn into the rural area. On balance therefore it is considered that the reuse of this previously developed land for a small housing development should not be resisted on sustainability grounds.

Other issues

The proposal includes provision of a surface water drain which will need land drainage consent, but is considered acceptable in planning terms. The development is to be linked to the existing sewer system, which it has been suggested is already overloaded. However the applicants have been in discussion with Thames Water who are responsible for the sewer and they have raised no objection to the proposed link. It is for Thames to ensure that the system is adequate. The site, given its previous use, is potentially contaminated and there is a need for additional surveys to be carried out and potential remediation work, but this can be adequately controlled by condition.

A Phase 1 habitat survey was submitted with the application, which concludes that the site is of low habitat value, but suggests precautionary measures that can be taken to ensure that there is no harm to protected species. This again can be required by condition.

The existing large workshop building has been identified as originally being a World War I aircraft hangar from North Weald Airfield that was rebuilt on this site. The applicants have verbally agreed that they are happy for the hangar to be given to the airfield museum, who have expressed an interest in it, provided it can be safely removed from the site at an appropriate time. The building is not listed or locally listed and we therefore have no way of requiring this, but the relevant parties are in discussion.

Conclusion:

In conclusion this revised scheme has been amended to overcome the issues raised by the Inspector in relation to the appeal against the previous refusal and although the proposal is still inappropriate development it is considered that the substantial reduction in footprint and bulk and height of buildings within the site and the relocation of buildings away from the rear boundary of the site means that the adverse impact on openness is significantly smaller and that the very special circumstances put forward are now sufficient to outweigh this reduced harm.

The design has been deemed suitable to the location and the lack of affordable housing has been shown to be acceptable due to the costs involved in decontaminating and developing the site. It is considered therefore that the revised proposals are in accordance with the adopted policies of the Local Plan and Local Plan Alterations and that the development will have the positive benefit of removing an unsightly and potentially problematic use from this prominent village site. The application is recommended accordingly, subject to the unilateral agreement, to cease the use of the rear area as a transport yard, remove all buildings and hardstanding and use it only as paddock, and subject to conditions.