

Report to District Development Control Committee

Date of meeting: 5th April 2011



**Epping Forest
District Council**

Subject: Planning Application EPF/2361/09 – Garden Centre, 212 Manor Road, Chigwell - Redevelopment of land formerly in use as a garden centre to provide 21 flats 80% of which will be affordable housing. (Revised application)

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Committee Secretary: S Hill Ext 4249

Recommendation:

That the Committee refuses planning permission for Application EPF/2361/09 at 212 Manor Road, Chigwell for the following reasons:

1. The proposal represents inappropriate development in the Metropolitan Green Belt which by definition is harmful to the objectives of including land in the Green Belt and is therefore at odds with Government advice in PPG2 and policy GB2A of the adopted Local Plan and Alterations. There are no very special circumstances that are sufficient to outweigh this harm in Green Belt terms.
2. The Application does not secure the provision of affordable housing. The District is subject to a significant and increasing demand for affordable housing and accordingly the failure of this development to provide affordable housing would be contrary to Policies H5A and H6A of the adopted Local Plan and Alterations.
3. The proposal relies upon the formation of an access road into the site on land outside the control of the applicant. As it is not within the applicant's control to provide vehicular access into the site, it is likely that the proposed off-street parking will not be accessible, resulting in additional on-street parking that would cause harm to the locality, contrary to policy ST6 of the adopted Local Plan and Alterations. Furthermore, the proposed development does not make any provision for the encouragement of the use of more sustainable types of transport, contrary to Policies CP9 (iii) and ST5 of the adopted Local Plan and Alterations.
4. The proposed development would place an additional burden on existing local education services, which are unable to accommodate additional places. The application does not secure the provision of any additional capacity within local education services, contrary to Policy I1A and CP3 (i) of the adopted Local Plan and Alterations

Report Detail

1. This application was considered by the Committee in April 2010. The Committee resolved to grant planning permission subject to referral to the Government Office and subject to the completion of a Section 106 legal agreement within 9 months to secure:

- The provision of the vehicle access to the site prior to the commencement of development;
- The amount, tenure and occupancy of the affordable housing;
- Highway Matters (Including Street Lighting and the provision of public transport vouchers);
- Education Provision (financial contribution and/or other); and
- A contribution towards the re-opening of a Post Office facility within Manor Road.

2. Confirmation was received from the Government Office in December 2009, stating that the Secretary of State had concluded that the application should be determined by the Council.

3. A copy of the previous report to the District Development Control Committee is attached as Appendix 1.

4. However, no legal agreement has been completed to secure the planning obligations listed above. The implications of the absence of these planning obligations on the planning merits of the proposal now requires consideration.

5. Government guidance relating to the use of planning obligations is contained within Circular 05/05 and within the Community Infrastructure Levy (CIL) Regulations 2010.

6. Supporting text of Policy I1A of the Local Plan re-states the guidance within Circular 05/05, that in general it will be reasonable to seek, or take account of, a planning obligation if what is sought or offered is:

- Needed to enable the development to go ahead and, in the case of financial payment, will meet or contribute towards the cost of providing such facilities in the near future; or
- Necessary from a planning point of view and is so directly related to the proposed development and to the land after its completion that the development ought not to be permitted without it.

Planning Issues

7. The suggested Heads of Term for the legal agreement were intended to address the accessibility of the development and the impacts of the development on the Metropolitan Green Belt; on the supply of affordable housing; on the local highway network; and on local education and Post Office services. These matters will be considered in turn.

Accessibility of the Development

8. The proposed development does not include a proposal for a vehicle access directly onto the public Highway. It was proposed that the development would connect to the estate road proposed on an application relating to the adjoining site and Section 106 agreements attached to both planning applications would ensure the provision of this road and access over it (a report relating to the planning application on the adjoining site is included within this Agenda).

9. In the absence of this access being secured by the S106 legal agreement, the site would not have any vehicular access. This would result in the proposed car parking being inaccessible and the development effectively being "car-free". This would be contrary to Policy ST6 of the Local Plan, which refers to the Council's vehicle parking standards.

Impact on the Metropolitan Green Belt

10. The application site is located within the Metropolitan Green Belt, where the proposed development would be inappropriate. On this basis, planning permission may only be granted if it can be demonstrated that there are very special circumstances which outweigh the harm to the Green Belt.

11. When this application was considered previously by the District Development Control Committee, the Committee carefully considered the case for very special circumstances. Members accepted that there were very special circumstances in this case that outweighed the harm of built residential development in the Green Belt, which were that it was providing a high percentage of affordable housing on a previously developed site and was located in a sustainable location adjacent to a tube station and bus routes.

12. Whilst the provision of 80% affordable housing provided only part of the case for very special circumstances, it was fundamentally this that justified what is inappropriate in Green Belt terms. It is considered by Officers that it formed such a substantial component that, in its absence, the case for very special circumstances is weakened to the extent that it would no longer outweigh the harm to the Green Belt caused by the proposal.

Affordable Housing

13. Policy H6A(i) states that in settlements where the population is greater than 3,000, provision of affordable housing will be required for sites which exceed 0.5 hectare or on which 15 or more dwellings will be provided. This site generates a requirement for affordable housing on both criteria. Policy H7A(i) states that the Council will seek at least 40% of the total number of units to be affordable.

14. In the absence of the legal agreement to secure the affordable housing, the proposed development would clearly be contrary to these policies.

15. The Council's Housing Directorate confirmed in August 2009 that there were 4,740 housing applicants registered on the Council's Housing Register as being in need of affordable housing. At present (March 2011) this figure stands at 5,305 applicants. Accordingly, the requirement for affordable housing within the District is even greater now that at the time that this application was previously considered.

Highway Safety

16. County Highways raised no objection to the proposed development, subject to the imposition of a number of planning conditions and planning obligations.

17. Matters to be included within the legal agreement included the provision of a financial contribution towards the provision of street lighting improvements and the provision of public transport vouchers for the future occupiers of the proposed development.

18. The proposed contribution towards street lighting improvements was intended to enhance the adjacent public highway. Whilst the provision of improved lighting would benefit both the future occupiers of the proposed development and the existing local community, it is not considered that the absence of such provision would justify the withholding of planning permission.

19. It is, however, considered necessary that some provision is made to encourage the future occupiers of the proposed development to make use of alternative methods of transport to the private car. This may be achieved by the provision of public transport vouchers, as was required by the previous Committee resolution, or other schemes may be used to secure this including the implementation of a Transport Information and Marketing Scheme for sustainable transport (Essex County Council's equivalent of a residential travel plan).

20. Furthermore, as discussed above, the lack of vehicular access into the site would result in the development not providing any off-street parking. Whilst the site is within a sustainable location and close to local shops it is considered that the provision of no off-street parking at all would result in considerable additional demand for on-street parking in a location where this is already a problem. It is, therefore, considered that this would cause material harm to the locality as well as being contrary to the Council's adopted vehicle parking standards and Local Plan Policy ST6.

Provision for Education Services

21. The formula applied by the Education Authority identified that the development would be likely to be occupied by children of early years, primary and secondary age.

22. The Education Authority advised that there is a sufficient surplus of early years and primary school places at a local school serving the development. However with regard to secondary provision, the local school for this development would be West Hatch High School. The School has a net capacity of 1,287 spaces and according to the 2008-2013 School Organisation Plan in 2008 there were 1,296 pupils on roll, with the deficit of places expected to continue through the plan period. Due to the position of the development in relation to the M11 there are no suitable alternative secondary schools within Essex.

23. It is clear that additional provision is required for secondary places and that the proposed development will add to this need. In the absence of the S106 agreement to secure a contribution the proposed development would place a greater burden on local education services. Latent

Provision for Post Office Services

24. Previously, Members identified a need within the locality for additional Post Office services, following the recent closure of a counter. As the proposed development would create an additional demand for such services, a contribution towards the reopening of a Post Office counter (facilitated by Essex County Council) was sought.

25. Bearing in mind the advice referred to in Policy I1A of the Local Plan and within Circular 05/05 (referred to above), Officers do not consider the absence of a contribution towards the reestablishment of a Post Office counter would justify the refusal of planning permission. Circular 05/05 states that '*acceptable development should never be refused because an applicant is unwilling or unable to offer benefits*'. It is the opinion of Officers that the proposed development would be acceptable, even in the absence of this contribution.

26. However, Members should carefully consider whether or not the proposed development would be 'acceptable' in the absence of this contribution and therefore, whether or not the absence of this contribution would justify the refusal of planning permission.

The Applicants Position

27. Following notification that this application was due to be reported back to this Committee, no additional information has been received from the applicant.

Conclusion

28. In light of the above appraisal, in the absence of the matters to be secured by legal agreement the proposed development would be in conflict with the Local Plan due to the inadequacy of the case for very special circumstance for permitting the development within the locality and due to the lack of provision for affordable housing (the demand for which is increasing due to the current economic situation) and would cause harm to the locality in terms of the impacts on highway safety, lack of off-street car parking and increased pressure on local education services.

29. A period of 12 months has lapsed since the Committee's resolution to grant planning permission subject to the completion of a legal agreement and no significant progress has been apparent. The provision of affordable housing, education services and parking/highway improvements are essential to ensure that the development does not have any adverse impacts on the locality and the reduction of the affordable housing significantly below the proposed level of 80% would result in the case for very special circumstances being eroded to the degree that it would no longer mitigate the identified harm to the Metropolitan Green Belt.

30. It is for these reasons that it is now recommended that planning permission be refused.