

Report to District Development Control Committee

Date of meeting: 5 April 2011



**Epping Forest
District Council**

Subject: Planning Application EPF/1399/09–212 Manor Road, Chigwell– Outline planning application for 69 residential units (54 affordable), public open space and a community facility (D1 Use) with all matters reserved except access.

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Committee Secretary: S Hill Ext 4249

Recommendation:

That the Committee refuses planning permission for application EPF/1399/09, 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 fails to 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 Application fails to secure a financial contribution towards the provision of traffic orders and road markings which are considered necessary along both sides of Grange Crescent between Froghall Lane and Grange Crescent. In the absence of these Highway improvements, the proposed development would be detrimental to highway safety, contrary to policy ST4 of the adopted Local Plan and Alterations.
4. The Application 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.
5. The Application fails to secure the provision of access into the adjacent site (located to the east of the Application Site). As the intensification of the access into the adjacent site would be

unacceptable in highway safety terms following the creation of the access proposed through this Application, this lack of access could render the adjacent site undevelopable. This would result in a failure to make best use of the site, which is previously developed land, contrary to advice within Planning Policy Statement 3 and also contrary to Policies CP1(vii) and ST1 (iii) PPS3 of the adopted Local Plan and Alterations.

6. The Application fails to secure the provision and maintenance of public open space, contrary to the requirements of DBE7.

Report Detail

1. (Director of Planning and Economic Development) This application was considered by the Committee in October 2009. 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 to secure:
 - The amount, tenure and occupancy of the affordable housing;
 - Highway Improvements (Works and/or financial contributions);
 - A significant financial contribution towards the provision of a Post Office within the locality of the site;
 - Vehicular access into the adjacent site; and
 - The provision of an area of public space within the site to be transferred to Epping Forest District Council at nil consideration
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, states 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.

7. Furthermore, it is stated that '*acceptable development should never be refused because an applicant is unwilling or unable to offer benefits*'.

Planning Issues

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

Impact on the Metropolitan Green Belt

9. 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.

10. 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, located in a sustainable location adjacent to a tube station on the Central Line.

11. 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.

12. The applicant has proposed a revision to the tenure of the 'affordable' housing to be provided. The applicant proposes that 80% 'affordable' housing could still be provided. However, as an alternative to the Council's normal requirement for 70% of the housing to be available for social rent, the application proposes that only approximately 30% could be available for social rent, with the remaining 70% being sold as 'low cost housing'. It is anticipated that this housing would be sold at 60% of the market value and the Applicant suggests that this limitation on market value could be retained for future purchasers. However, whilst this housing may be attainable to some residents within the District who would be unable to purchase at 100% of the market value, this housing does not fall within the Government's definition of affordable housings, as stated at paragraph 41 of Annex B of PPS3. Furthermore, this type of housing would not meet the needs of those residents on the Council's housing register whom are in the greatest of need, unlike the provision of more of the housing for social rent.

13. If the housing within the development were to be delivered in line with the proposal in the paragraph above, 20% of the development would be open market housing; 56% would be low cost market housing and only 24% would be affordable housing, in accordance with the Government's definition. It is not considered that the provision of housing on this basis would provide a case for very special circumstances to outweigh the harm to the Green Belt caused by the proposed inappropriate development.

Affordable Housing

14. 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.

15. In the absence of the legal agreement to secure the affordable housing, the proposed development would be contrary to these policies. Furthermore, the Applicant's proposal for the affordable housing to include the sale of low cost housing, would result in a considerable shortfall in the provision of affordable housing (as defined by the Government) in relation to Local Plan policy.

16. 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 than this application was previously considered.

Highway Safety

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

18. Matters to be included within the legal agreement would include the provision of a financial contribution towards the provision of traffic orders and road markings along both sides of Grange Crescent between Froghall Lane and Grange Crescent; the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport; and improvements to bus-stops. Members had previously considered that there was not a need for the closure of the existing lay-by on the north-eastern carriageway.

19. In the absence of the improvements to the highway (i.e traffic orders and road markings) being secured by legal agreement, it is considered that the proposed access and the vehicle movements associated with the proposed development would have a detrimental impact on highway safety, contrary to Policy ST4 of the Local Plan, which relates to highway safety.

20. Furthermore, it is also 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 schemes 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). Furthermore, a need for improvements to local bus stops has also been identified, which would encourage the use of local bus services.

Provision for Post Office Services

21. 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.

22. 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.

23. 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.

Vehicle Access into Adjacent Site

24. The proposal takes into account an adjacent site for which a development proposal also exists. That site does not presently benefit from a planning permission, but a proposal has been considered by this Committee, who resolved to grant planning permission subject to referral to the Secretary of States and the completion of a Section 106 legal agreement (the legal agreement has not been completed and the application is also included within this agenda for further consideration). However, the planning history of this adjacent site, suggests that despite its Green Belt status, it is capable of development, subject to an acceptable proposal which provides adequate very special circumstances for allowing the development to proceed within the Green Belt.

25. Consultation with County Highways on previous applications has suggested that it would not be acceptable for the other site to create an access onto Froghall Lane, or for a second access onto Manor Road, in such close proximity to the access proposed into this Application site, to be created. On this basis, unless provision is made for access to the site via the Application Site, the adjacent Brownfield site could be rendered undevelopable. This would be contrary to Government guidance within PPS3, which encourages the efficient use of land and also contrary to Policy CP1 (vii) which advises that planning powers and actions will be used to minimise the use of non-renewable resources, including Greenfield land and Policy ST1 (iii) which states that new development should make the best use of land which is highly accessible to public transport or close to services and employment opportunities.

Public Open Space

26. In the absence of the legal agreement, it is not possible to secure the provision of the proposed area of public open space. The provision of public open space is required for new residential developments on large sites by policy DBE7. Having regard to the number of family sized homes to be provided within the development, it is considered to be essential that public open space is provided within the development. Furthermore, the legal agreement would ensure the transfer of the land to Epping Forest District Council and a payment to cover its maintenance for the first few years, to ensure that it is suitably managed and maintained after the Applicant's interest in the land ceases.

The Applicants Position

27. Following notification that this application was due to be reported back to this Committee, the Applicant has provided the following comment on 25th January 2011:

We are appreciative that we must settle the S106 legal agreement and that this must be within the framework of the original application and terms upon which the approval was granted.

It is however a fact that the economic climate has changed drastically since the project was put together and certainly since the Consent was recommended at Committee. The change in Government has not only caused Policy changes, but there have also been catastrophic cuts in funding for affordable new housing from the grant and the public purse generally that have rendered the scheme as promoted unviable.

We have sort to reduce the cost base and in partnership with our partner RSL, Moat, be creative in sourcing fresh funds. However this is all to no avail and if the project is to continue then we need to review the S106 in a way that reflects the low/no grant scenario and emerging government policy whilst keeping within EFDC Policy and any appropriate legislation in respect of it being, and continuing to be available as, affordable housing.

I have had outline consultation with experts in the appropriate fields with a view to submitting an amendment to the Resolution for Consent that can be put before members for their consideration, which we believe complies with precedent, PPS3 and EFDC Housing Policy. I have further meetings arranged to prepare this statement that we will submit as soon as possible for your consideration.

Conclusion

28. In light of the above appraisal, whilst the current economic pressures on development are acknowledged. In this case it is considered that , 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 permitted 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 and increased pressure on local education services.

29. Whilst the Applicant has advised that they intend to seek a resolution to the Committee's resolution to grant planning permission, a period of 16 months has lapsed since that resolution and no significant progress has been apparent. The provision of affordable housing, education services and the highways 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 he 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.