

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: District Development Control Committee **Date:** 1 November 2005

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.30 - 8.45 pm

Members Present: Mrs A Grigg (Chairman), Mrs M Boatman (Vice-Chairman), M Colling, Mrs R Gadsby, A Lee, F Maclaine, P McMillan, R Morgan, Mrs P Richardson, B Sandler, Mrs P Smith and K Wright

Other Councillors: Mrs P Brooks and D Jacobs

Apologies: Mrs D Borton, A Green, D Kelly and Ms S Stavrou

Officers Present: B Land (Assistant Head of Planning and Economic Development), T Carne (Public Relations and Marketing Officer) and S G Hill (Senior Democratic Services Officer)

By invitation N Brannan (Environment Agency) and L Murphy (Environment Agency)

13. MINUTES

RESOLVED:

That the minutes of the Committee held on 27 July 2005 be taken as read and signed by the chairman as a correct record.

14. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor R Morgan was substituting for Councillor Mrs D Borton and that Councillor P McMillan was substituting for Councillor Ms S A Stravrou at the meeting.

15. DECLARATIONS OF INTEREST

(a) Pursuant to the code of member conduct, Councillors M Colling, R Gadsby, A Grigg, P McMillan, B Sandler and Mrs P Smith declared a personal interest in agenda item 8 (Ongar Motors and Transport Co., The Borough Greensted Road, Ongar) by virtue of the Conservative Group Leader being the Chairman of Epping Forest PCT. The Councillors had determined that their interests were not prejudicial and indicated that they would remain in the meeting during the consideration and voting on that item;

(b) Pursuant to the code of member conduct, Councillor K Wright declared a personal interest in agenda item 8 (Ongar Motors and Transport Co., The Borough Greensted Road, Ongar) by virtue of being a member of Ongar Parish Council. The Councillor had determined that his interest was not prejudicial as he had not taken any part in discussions by the Parish Council and indicated that he would remain in the meeting during the consideration and voting on that item.

16. ANY OTHER BUSINESS

It was noted that there was no further items of urgent business to be considered at the meeting.

17. PLANNING APPLICATION EPF/1100/05 - ERECTION OF NEW TWO STOREY HOUSE LAND ADJACENT TO 91 MONKSWOOD AVENUE, WALTHAM ABBEY

The Committee considered an application for the erection of a new house adjacent to 91 Monkswood Avenue, Waltham Abbey. The application had been referred to the Committee by Area Planning Subcommittee D in order that Planning issues and Human Rights Issues of the tenants of the two adjacent properties could be considered.

Advice on the Human Rights of the two adjacent properties had been obtained from Legal Officers who had advised that:

(1) The tenants' objections to the work to be carried out were a matter between themselves and their landlord and was dependant on the terms of their tenancy/lease agreement.

(2) Generally speaking landlords as owners of property were entitled to carry out works on their properties and provided they acted in accordance with the law and the tenancy/lease agreement they were within their rights if not the tenants' remedy was through private legal action.

(3) If the works required permission then the Local Planning Authority's obligation was to apply the usual material considerations in making its decision - the fact that the occupying tenants are objecting to the works could be taken into account as with all other objections but if the balance of considerations is in favour of granting the planning permission the LPA could make that decision.

(4) The Human Rights Act (HRA) did not regulate relations between private individuals including those between a private landlord and its tenant.

(5) The HRA was aimed at public authorities and the general legal presumption was that as long as the public authority is acting in accordance with national legislation (in this case the Town and Country Planning Act 1990 as amended) then it was acting in accordance with the HRA, and in exercising its planning functions the LPA could only apply the principles laid down in the planning legislation in making its decisions.

The officer's conclusion was that Human Rights issues in this case do not impact on the Committee decision.

The Committee gave consideration to the planning merits of the application, particularly whether amenity space gave any ground for refusal. They noted that even with the construction of the new property, adequate amenity living space was retained for neighbouring properties and agreed that, in planning terms, the application was acceptable.

RESOLVED:

That planning application EPF/1100/05 on land adjacent 91 Monkswood Avenue, Waltham Abbey be granted subject to the following conditions:

1. To be commenced within 5 years;
2. Materials shall match existing;
3. No further side windows without approval;
4. Submission of flood risk assessment;
5. Prior to the commencement of the development, details of the proposed surface materials for the driveway shall be submitted to and approved by the Local Planning Authority. The agreed surface treatment shall be completed prior to the first occupation of the development.
6. Prior to commencement of the works hereby approved pedestrian site lines for the access to the new dwelling and parking spaces shall be submitted and approved in writing by the Local Planning Authority and thereafter maintained.

18. PLANNING APPLICATION EPF/1480/04 - ONGAR MOTORS & TRANSPORT CO, THE BOROUGH, GREENSTED ROAD, ONGAR

The Committee considered an application referred by Area Planning Subcommittee 'C' for the erection of a Medical and Day Care Centre with associated parking facilities on land formerly used for lorry parking at The Borough, Greensted Road, Ongar. The Subcommittee had recommended the application for approval.

The main issues of the application were whether the proposal was acceptable in the Green Belt balanced against the established need for the community facility building and the acceptability of the proposals for the site which was within the 1 in 100 year event flood plain.

The Environment Agency had objected to the development because it was a site at risk from flooding from Cripsey Brook, and the committee received a presentation on the views of the Environment Agency and noted representations by the applicants and the Parish Council in support of the application.

The Committee, on balance, concluded that the proposal was acceptable in planning terms and considered that the benefits of a health care facilities in a purpose built building, much needed to serve the population of Ongar, outweighed the threats of flooding.

RESOLVED:

That Planning Application EPF/1480 be granted subject to the conditions outlined in Appendix 1 to these minutes and to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 to secure the following:

1. To ensure that at all times the void underneath the proposed building is not used for storage purposes.
2. The applicant/owner carry out regular inspections of the void underneath the whole of the proposed building and the metal mesh grilles surrounding the void are free of any natural or manmade debris that would block and/or impede and therefore displace the flow of flood waters.

3. Should any natural or manmade debris occur because of a flooding event, then the applicant/owner must clear this immediately and before the building or that part of the building affected is re-occupied.
4. The building is not used between the hours of 10pm until 6am the following day in order to avoid persons being on site overnight.
5. The provision of 4 No. uncontrolled crossings each with a dropped kerb/tactile paving at the A128 High Street/The Borough Road junction.
6. The bringing up to current Essex County Council standards of both bus stops located at the same junction.
7. A financial contribution to cover the cost of providing a foot/cycle path along the alignment of Footpath 14 (located adjacent the north and northeast boundary of the site that links Rodney Road with the High Street).
8. A contribution towards an A128 Route Study (incident black spots, pedestrian safety etc).
9. A Travel Plan.

CHAIRMAN

Agreed Conditions for EPF/1480/04

1. The development hereby permitted must be begun not later than the expiration of five years beginning with the date of this Notice.

Reason: To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

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.

Reason: To ensure a satisfactory appearance in the interests of visual amenity.

3. 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 shall be erected before the occupation of any of the dwellings hereby approved, and maintained in the agreed positions.

Reason: In the interests of visual amenity.

4. 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.

Reason: To avoid the deposit of material on the public highway in the interests of highway safety.

5. Upper floor windows on west elevation (shown to be serving 'Physiotherapist' on approved Drawing No. 0172 P (O)003.C) shall be fitted with obscure glazing in fixed frames and shall remain obscure glazed thereafter.

Reason: To safeguard against overlooking and loss of privacy to the amenities of neighbouring residential property.

6. Car parking spaces shall be provided within the proposal site to accommodate the parking, loading, unloading and turning of all vehicles visiting the site, clear of the highway and properly laid out and such space shall be maintained thereafter free of any impediment to its designated use, further, in order to allow all vehicles to enter and leave the highway in forward gear.

Reason: In the interest of highway safety.

7. 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.

Reason: In the interests of highway safety.

8. Details of secure covered cycle and motorcycle parking shall be agreed in writing by the Local Planning Authority and provided in accordance with the Essex Planning Officers Association Vehicle Parking Standards as adopted by this Council.

Reason: In the interest of highway safety.

9. No development shall take place on site, including site clearance, tree works, demolition, storage of materials or other preparatory work, until all details relevant to the retention and protection of trees, hereafter called the Arboricultural Method Statement, have been submitted to the Local Planning Authority and approved in writing. Thereafter the development shall be undertaken only in accordance with the approved details, unless the Local Planning Authority has given its prior written consent to any variation.

The Arboricultural Method Statement shall show the areas which are designated for the protection of trees, shrubs and hedges, hereafter referred to as Protection Zones. Unless otherwise agreed, the Protection Zones will be fenced, in accordance with the British Standard Guide for Trees in Relation to Construction (BS.5837: 1990) and no access will be permitted for any development operation.

The Arboricultural Method Statement shall also include all other relevant details, such as changes of level, methods of demolition and construction, the materials, design and levels of roads, footpaths, parking areas and of foundations, walls and fences. It shall also include the control of potentially harmful operations, such as burning, the storage, handling and mixing of materials, and the movement of people or machinery across the site, where these are within 10m of any designated Protection Zone.

The Arboricultural Method Statement shall also indicate the specification and timetable of any tree works, which shall be in accordance with the British Standard Recommendations for Tree Works (BS.3998: 1989).

The Arboricultural Method Statement shall include provision for the supervision and inspection of the tree protection measures. The fencing, or other protection which is part of the approved Statement shall not be moved or removed, temporarily or otherwise, until all works, including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval of the Local Planning Authority has been given in writing.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the most important trees, shrubs and hedges growing within or adjacent to the site is adequately protected during the period of construction.

10. No tree, shrub, or hedge which are shown as being retained on the approved plans shall be cut down, uprooted, wilfully damaged or destroyed, cut back in any way or removed other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. All tree works approved shall be carried out in accordance with British Standard Recommendations for Tree Work (B.S.3998: 1989).

If any tree shown to be retained in accordance with the approved plans and particulars is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased within 3 years of the completion of the development, another tree, shrub, or hedge shall be planted at the same place, and that tree, shrub, or hedge shall be of such size, specification, and species, and should be planted at such time as may be specified in writing by the Local Planning Authority.

If within a period of five years from the date of planting any replacement tree is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to safeguard the amenity of the existing trees and to ensure a satisfactory appearance to the development.

11. The development, including site clearance must not commence until a statement of the methods of the implementation of the approved submitted landscape scheme as shown on Drawing No. 645/01A has been submitted to the Local Planning Authority and approved 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.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complimentary, and to ensure a satisfactory appearance to the development.

12. No development shall take place until a schedule of landscape maintenance for a minimum period of five years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to safeguard the visual amenity to be provided by the new landscaping and to ensure a satisfactory appearance to the development.

13. Prior to the commencement of the development details of the proposed surface materials for the car parking and access road 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.

Reason: To ensure that a satisfactory surface treatment is provided in the interests of highway safety and visual amenity.

14. 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.

Reason: since the site has been identified as being potentially contaminated and to protect human health, the environment, surface water, groundwater and the amenity of the area.

15. Details of the siting, size and appearance of the storage of refuse housing shall be submitted to and approved by the Local Planning Authority. The scheme as agreed shall be carried out and thereafter retained at all times.

Reason: To protect the amenity of the surrounding area.

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

Reason: In the interests of the amenities of noise sensitive properties.

17. Deliveries and collections to and from the premises should be restricted to between:

07.30 – 18.30 hours Monday to Friday
08.00 – 14.00 hours Saturday
and not at all on Sunday or Bank Holidays.

18. Development shall not commence until details of on site drainage works have been submitted to and approved by the Local Planning Authority in consultation with the sewerage undertaker. No works which result in the discharge of foul or surface water from the site shall be commenced until the onsite drainage works referred to above have been completed.

Reason: To ensure that the foul and/or surface water discharge from the site shall not be prejudicial to the existing sewerage system.

19. Surface water drainage works shall be carried out in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority before development commences.

Reason: To prevent the increased risk of flooding.

20. No development approved by this permission shall be occupied or brought into use until appropriate signage is clearly displayed in both the amenity area and the visitor car parking area, to warn users that these locations may be at risk of flooding to depths in excess of 0.7m.

Reason: To inform residents/visitors of the possible flood risk in the low lying areas of the site.

21. No part of the open areas beneath the building(s) shall be enclosed or obstructed.

Reason: To ensure that the flood storage capacity of these areas is not reduced.

22. Details of flood plain compensation works shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works on site.

Reason: To ensure that flood storage capacity at the site is not reduced as a result of the development.

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24. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The landscape management plan shall be carried out as approved.

Reason: To protect/conservate the natural features and character of the area.

25. External artificial lighting within 8m of any watercourse on or adjacent to the site shall be directed away from the watercourse and shall be focused with cowlings, to minimise light spill from the new development into the watercourse or adjacent river corridor habitat.

Reason: Artificial lighting disrupts the natural diurnal rhythms of a range of wildlife using and inhabiting the river and its corridor habitat. The corridor adjacent to a watercourse provides important habitat for the terrestrial life stages of many aquatic insects. For this river corridor to benefit wildlife it should remain undeveloped and in a natural state.

26. There shall be no storage of materials related to the development within 8 metres of any watercourses on or adjacent to the site. This area must be suitably marked and protected during development and there shall be no access within the area during development. There shall be no fires, dumping or tracking of machinery within this area.

Reason: To reduce the impact of the proposed development on the buffer zone and the movement of wildlife along the river corridor.

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