

Report to District Development Control Committee

Date of meeting: 14 December 2011



**Epping Forest
District Council**

Subject: Planning Application EPF/0247/09 – Land adjacent to Copperfield Lodge, Hainault Road, Chigwell – Erection of new five bedroom house with basement and integral garage.

**Officer contact for further information: K Smith
Committee Secretary: S Hill Ext 4249**

Recommendation:

That, subject to the completion of a Section 106 legal agreement within six calendar months to secure:

- (a) The transfer of land adjacent to the Victory Hall site to Epping Forest District Council, at no cost;
- (b) The payment of the sum of £31,400 to Epping Forest District Council to be spent in relation to delivery of community facilities within the locality of the site; and
- (c) The payment (sum to be confirmed) of the Council's costs incurred in maintaining the site for a period of five years;

planning application EPF/0247/09 be granted subject to the conditions previously imposed by the Committee at their meeting on 9 June 2009 namely:

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

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. 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.

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 complementary, and to ensure a satisfactory appearance to the development.

4. All material excavated from the below ground works hereby approved shall be removed from the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to control any alteration to levels or spreading of material not indicated on the approved plans in the interests of amenity and the protection of natural features.

5. 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.

6. No demolition or preliminary ground works of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the local planning authority.

Reason: To protect any material of archaeological interest of the site, due to the location of the proposed development on the site of a Roman Road.

7. 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.

Reason: To enable appropriate consideration to be given to the impact of the intended development upon adjacent properties.

8. 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, E shall be undertaken without the prior written permission of the Local Planning Authority.

Reason:- The specific circumstances of this site warrant the Local Planning Authority having control over any further development.

9. 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.

Reason:- In the interests of visual amenity.

10. Prior to the commencement of the development details of the proposed surface materials for the access 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.

11. Prior to the first occupation of the development hereby permitted there shall be no obstruction within a parallel band visibility spay 2.4m wide as measured from the back edge of the carriageway across the entire site frontage. This area shall be retained free from any obstruction in perpetuity.

Reason: To provide adequate inter-visibility between users of the access and the existing public highway for the safety and convenience of users of the highway and of the access in accordance with policy ST4 of the Adopted Local Plan and Alterations.

12. Any gates provided at the vehicular access shall only open inwards and shall be set back a minimum of 4.8 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway/footway whilst gates are being opened and closed in accordance with policy ST4 of the Adopted Local Plan and Alterations.

13. Prior to the first occupation of the development permitted the existing crossover shall be removed and the footpath resurfaced and the kerb reinstated for use as approved in writing by the local planning authority.

Reason: In the interests of highway safety in accordance with policy ST4 of the Adopted Local Plan and Alterations.

14. 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.

Report

1. (Director of Planning and Economic Development) Members may recall this application, which was last considered by the Committee in April this year. Previously, in June 2009, the Committee resolved to grant planning permission subject to the completion of a Section 106 legal agreement to secure:

- The provision of additional car parking for Victory Hall and the transfer of the appropriate portion of the land to the District Council's ownership prior to the commencement of the development.

2. A copy of the June 2009 report to the District Development Control Committee is attached as Appendix 1.

3. Despite planning permission being granted for the creation of the additional car parking spaces for Victory Hall by this Committee in December 2009, no legal agreement has been completed to secure the planning obligations listed above. Accordingly, in April 2009 the Committee was requested to consider the appropriateness of the proposed new dwelling, in the absence of those planning obligations. The Committee were of the view that there still was a need for the additional parking on the adjacent site and considered that in the absence of a legal agreement to secure the provision of the car parking, the case for very special circumstances to override Green Belt harm would be weakened, to the extent that the development would no longer be justified.

4. The Committee decided that should the agreement not be completed and signed by the date of the June 2011 meeting of the Committee the item be reported back for further consideration.

5. Although the agreement has not been completed, the Applicant has engaged with Planning Officers and discussions have been ongoing with their Agent since the meeting in April. Although there is a planning permission in place for the car parking, there have been other difficulties regarding the completion of the legal agreement, including the timescale for the Council to accept the car parking, bearing in mind its lease arrangement with Victory Hall.

6. Accordingly, through negotiations with the Applicant's Agent an alternative planning obligation is proposed, whereby the Applicant would agree to contribute the land and the cost of constructing the car parking. Accordingly, if the Council considered it appropriate at a later date, it can construct the parking at no additional public cost. However, if at that time it is considered that there would be a more positive community benefit which could be secured through the provision of an alternative community benefit, either within the Victory Hall site or elsewhere within the locality, then the contribution may be put towards that purpose.

7. The land upon which the additional car parking is proposed does contain some trees and accordingly there will be some liability for maintenance which will be transferred with the land. It is, therefore, recommended that if the Council does take ownership of this piece of land, then a contribution equivalent to its maintenance costs over a period of five years is also sought. This sum will be advised by officers from the Council's Leisure section.

Planning Issues

8. The suggested Heads of Term for the legal agreement were intended to address the impact of the development on the Metropolitan Green Belt. 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.

9. 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 the proposed parking was needed at the location and that the proposed house would fill a gap in the existing built frontage on Hainault Road and was supported by many local people.

10. It is the view of planning officers that this revised proposal, which would still facilitate the development of the additional car parking but would provide flexibility for an alternate community benefit, if considered appropriate, does not weaken the case for special circumstances which Members have already accepted.

Conclusion

11. In light of the above appraisal, it is recommended that the Committee resolves to grant planning permission, subject to the completion of a Section 106 legal agreement to secure the obligations identified above together with the set of planning conditions placed upon the original approval.