

# **Report to District Development Control Committee**



**Epping Forest  
District Council**

**Subject: Planning Application ref EPF/1340/12 - Removal of condition 8 of planning permission EPF/2300/11. (Erection of replacement workshop and resurfacing existing yard) regarding position of fencing.- Brookside Garage, Gravel Lane, Chigwell**

**Officer contact for further information: Stephan Solon Ext 4018  
Committee Secretary: Simon Hill Ext 4249**

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## **Recommendation(s):**

**That planning permission be granted subject to the following 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. 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 with or without modification) no further buildings or extensions to existing buildings shall be erected (other than those expressly authorised by this permission).**
- 3. Within three months of the new building being erected, the existing workshop (shown cross-hatched on drawing no. JTS/7419/02) shall be demolished.**
- 4. The maintenance and repair of vehicles, including works associated with undertaking MOT's, shall not be undertaken in the open hard areas of the site as indicated as diagonally hatched on drawing no. JTS/7419/03.**
- 5. No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.**
- 6. No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.**
- 7. All construction/demolition works and ancillary operations, including vehicle movements on 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.**
- 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 works to erect, construct,**

**improve or alter any gate, fence wall or other means of enclosure of the site adjacent to Gravel Lane permitted by virtue of Class A of Part 2 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.**

#### **Report Detail:**

1. This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(g)). It is also before this Committee since the recommendation conflicts with a previous resolution of a Committee (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(i))

#### **Description of Site:**

2. The site as a whole covers an area of approximately 1.2 hectares of land and lies east of Gravel Lane, Chigwell. It operates as commercial premises, trading as Brookside Motor Garage. The premises form part of a small cluster of ribbon development along Gravel Lane and immediate neighbouring site Taylors Cottages, forms a row of residential properties. The site accommodates an existing rectangular workshop building and two detached brick buildings. There is a small trailer and an open timber shed further east into the site accessed across a narrow bridge. East of the site lies a large area of existing hardstanding used as open storage for motor vehicles. The site is within the Metropolitan Green Belt.
3. A fence with attached gate enclose the site boundary with Gravel Lane. The fence is chain-link supported by 6 slim steel posts. It is approximately 1m high. The gate is an open metal frame that is of the same height as the fence. Land levels on the site drop away gently from the carriageway.
4. Planning permission has been given to erect as replacement workshop building in a similar position to that existing on site, ref EPF/2300/11. The development has not been implemented. The decision to give planning permission was taken the Councils District Development Control Committee on 11 April 2012. In making its decision the Committee added conditions to those suggested by Officers. The additional conditions included a condition that sought measures to improve visibility splays at the entrance to the site, condition 8.

#### **Description of Proposal:**

5. It is proposed to remove condition 8 from planning permission EPF/2300/11
6. The condition states:  
  
“Prior to commencement of development, the existing fencing at the front of the site shall be removed or set back from the carriageway edge by a minimum of 2.4 metres. Thereafter the 2.4m strip between the carriageway edge and the new fenceline shall remain clear of any obstruction to vision.”
7. The stated reason for the condition is:  
  
“To improve sight lines when exiting the site in the interests of highway safety.”

**Relevant History:**

EPF/2300/11 . Erection of replacement workshop and resurfacing existing yard.  
Approved on 11 April 2012 following consideration by the District Development Control Committee.

**Policies Applied:**

ST4 Road Safety

NPPF

**Summary of Representations:**

8. The occupants of 5 neighbouring properties were consulted but no response was received.
9. Chigwell Parish Council: The Council objects to the removal of condition 8 on the grounds it serves a highway safety purpose and improves aesthetics.

**Issues and Considerations:**

10. The main issue to be considered is whether or not the condition continues to meet the tests set out in Circular 11/95, i.e. that the condition is:
  - i. necessary;
  - ii. relevant to planning;
  - iii. relevant to the development to be permitted;
  - iv. enforceable;
  - v. precise; and
  - vi. reasonable in all other respects.
11. Condition 8 deals with matters relevant to planning. It is relevant to the development permitted insofar as the fence required to be removed or set back is adjacent to the access to the site off the highway. There is no question that the condition is enforceable and precise.

**Need for the condition:**

12. This heading concerns the planning merits of the proposal. The stated reason for attaching the condition solely related to the matter of highway safety. In the circumstances, notwithstanding the basis for the Parish Council's objection, the only planning issue to assess is the consequences of the proposal for the interests of highway safety. It is not open to the Council to give weight to the matter of design since that is not related to the stated reason for the condition.
13. Essex County Council as Highway Authority for the locality was consulted on the proposal. The advice of the Highway Authority is:
14. "The Highway Authority would not wish to raise an objection to this proposal subject to a mechanism that precludes the applicant from erecting a more solid boundary feature along the site frontage within 2.4m of the carriageway, further to the existing post and wire fence which, although far from ideal, can at least be seen through allowing some visibility along Gravel Lane."
15. Although the advice is clear, further discussion with traffic engineers giving advice for the Highway Authority has taken place to ensure it is clearly understood. In assessing the

proposal the engineers have given weight to the fact that the approved workshop building is a very similar size to that existing and consequently would not generate any additional vehicle movements to and from the site using the vehicular access. It is therefore concluded that since the proposal would be no more harmful than the existing situation, it is not necessary to require the removal or resiting of the existing fence in order for the approved development to take place. However, it is necessary to take steps to ensure the visibility at the vehicular access to the site is not made worse in the future.

16. In relation to future works, the only works that could take place without the need for planning permission from the District Council are the fixing of solid panels to the existing fence or the erection of a replacement means of enclosure up to 1m high. Such an enclosure could be a solid structure. It is open to the District Council to impose a condition on any planning permission given removing permitted development rights for such development. As a consequence any alteration or replacement of the fence would require planning permission and therefore come under the District Councils control. When assessing the merits of any such proposal the matter of highway safety would be a material consideration and the District will be able to resist any development harmful to that interest.
17. On the matter of necessity therefore, there is no need for the condition as set out since an alternative condition removing permitted development rights for the alteration of the existing fence or the erection of any replacement would properly deal with the matter of highway safety.

### **Reasonableness**

18. Condition 8 deals with a planning matter that is relevant to the development. It would not impose an onerous requirement on the business operating from the site since the resulting loss of parking and turning area adjacent to the vehicular access as a consequence of compliance with the condition is offset by ample space available elsewhere on the site. The functioning of the business would not be seriously affected by compliance with the condition. However, since the matter of highway safety can properly be addressed by the imposition of a condition removing permitted development rights, compliance with which would be much less onerous than compliance with the existing condition, condition 8 is found to impose an unreasonable obligation on the business operating from the site.

### **Procedural Matters**

19. It is open to the Council to impose a replacement condition removing permitted development rights as discussed above rather than agree the removal of condition 8 as proposed. In that case or in the case of any consent given to remove the condition it will be necessary to issue a decision repeating all other conditions on the planning permission since the consent will amount to a new planning permission for the approved workshop building.

### Conclusion:

20. Since an alternative condition that would properly deal with the matter of highway safety could be imposed on the planning permission for the workshop condition 8 fails the tests of necessity and reasonableness. It is therefore recommended that consent be given subject to a replacement condition removing permitted development rights to alter or replace the means of enclosure of the application site on its boundary with Gravel Lane.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Stephan Solon***

***Direct Line Telephone Number: 01992 564018***

***or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***