

# **Report to District Development Control Committee**



**Epping Forest  
District Council**

## **Date of meeting:**

**Subject: Erection of a two storey detached dwelling and Community Nature Reserve.- Sparks Farm, 185 Nine Ashes Road, High Ongar**

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

---

## **Recommendation(s):**

**That conditional planning permission be granted subject to the completion, within 6 months, of an agreement under Section 106 of the Town and Country Planning Act 1990 in respect of the formation of a Community Nature Reserve accessible by members of the public and maintained by the owners of the proposed house in accordance with a Nature Conservation Management Plan.**

## **Report Detail**

1. (Director of Planning Economic Development) This application was considered by the Area Plans Sub-Committee East at their meeting on 29 August 2012. Whilst being sympathetic to the scheme, Members were concerned that insufficient information was provided regarding the S106 agreement and were worried that a S106 agreement would not ensure the retention of a publicly accessible nature reserve in the long term. They therefore referred the application to this Committee with a recommendation that planning permission be granted subject to legal advice being given regarding the validity and enforceability of the proposed planning obligation and its suitability as a mechanism to secure long term benefits.
2. This was put to the applicants agent with a request that a Unilateral Undertaking be prepared for the Councils Solicitor to consider prior to presenting the application to this Committee. However, there was insufficient time for that work to be completed in time for the committee meeting scheduled for 3 October 2012 and the applicant found it unreasonable for a decision on his application to be delayed until the following scheduled meeting of this Committee: 30 January 2013. Her agent therefore requested the application be reported to this meeting and submitted the following statement in further support of the application:

“Essentially the Community Nature Reserve provides free public access via existing Rights of Way to a designated Essex Local Wildlife Site and ensures its protection and conservation for many generations to come. It may be visited therefore by local Schools, nature enthusiasts, birdwatchers, ecologists, local people or walkers and we hope it will become a valued amenity for the local Community.

This is a unique opportunity for the conserving and enhancing of a rare damp grassland containing rare and declining plants and the conservation of protected species such as the Great Crested Newt along with the possibility of providing for the passive public enjoyment of the natural beauty and wildlife

habitats associated with the meadows. The main aim is to optimise the value for wildlife and plants whilst allowing public access to the Site.

You will see in the Management Plan how the aim is to increase the bio-diversity of the Site and how - through the safeguarding of semi-natural habitat and the provision of bat and barn owl boxes to encourage roosting, and appropriate feeding grounds etc - bats, owls, newts, reptiles and badgers along with birds on the declining red and amber lists will all be encouraged to take up residence on the Site.

However one or two Members seemed to express concerns about the Section 106 Agreement and perhaps I could address those and provide some reassurance as follows:

1. The Applicant will be pleased to be part of a Section 106 Agreement and to pay the Council's legal costs.
2. The Applicant will also pay all costs for the initial set-up, improvement and construction costs of the Community Nature Reserve and its ongoing upkeep and maintenance in perpetuity in accordance with the Nature Conservation Management Plan prepared by the Ecologist, Susan Deakin.
3. The Applicant will provide and maintain stiles, fences and gates for public access and in addition provide and maintain informal mown paths, boardwalks, wayfaring signs and an interpretation board all at no cost to your Council.

If I could just finally emphasise again, as stated in the Management Plan, that the primary aim is to optimise the nature conservation interest of the Wildlife Site whilst enabling it to function as a visually attractive recreational resource for public access at no cost to the Council. It is important that the Site becomes ecologically sustainable, healthy and vigorous and is properly maintained and managed for the foreseeable future for all to visit and enjoy.”

3. There has been no opportunity to consult the Council's solicitor in advance of the deadline for reports to this agenda. However, it is clear that the only mechanism within the Town and Country Planning Act that a Local Planning Authority can use to secure off-site benefits of matters that require a greater degree of enforceability than a planning condition is a Planning Obligation; i.e. a S106 agreement. It remains officers opinion that the proposed S106 agreement would meet all the tests for such agreements and is therefore fit for purpose. Further advice on this matter will be provided verbally to the Committee. The original report to the Area Plans East Sub-Committee is reproduced below.