

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Area Planning Subcommittee West **Date:** 20 November 2013

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** Times Not Specified

Members Present: Ms Y Knight (Chairman), A Mitchell MBE (Vice-Chairman), R Bassett, R Butler, Ms H Kane, Ms G Shiell and Mrs P Smith

Other Councillors: D Stallan and C Whitbread

Apologies: Mrs R Gadsby, Mrs J Lea, Mrs M Sartin, Ms S Stavrou, A Watts, Mrs E Webster and J Wyatt

Officers Present: J Godden (Planning Officer), J Leither (Democratic Services Assistant), P Pledger (Assistant Director (Property and Resources)), S Mitchell (PR Website Editor) and P Tredgett (Information Assistant)

44. WEBCASTING INTRODUCTION

The Chairman made a short address to remind all present that the meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings. The Sub-Committee noted the Council's Protocol for Webcasting of Council and Other Meetings.

45. WELCOME AND INTRODUCTION

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements agreed by the Council, to enable persons to address the Sub-Committee in relation to the determination of applications for planning permission.

46. MINUTES

RESOLVED:

That the minutes of the meeting of the Sub-Committee held on 23 October 2013 be taken as read and signed by the Chairman as a correct record.

47. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor R Bassett declared a non pecuniary interest in agenda item 9 (EPF/2040/13 Garage block, adjacent to 14 Harveyfields, Waltham Abbey, Essex EN9) by virtue of being a member of the Cabinet Committee on Council House Building which made the decision to submit this proposal for planning consent. Councillor Bassett advised that he had received advice from the Monitoring Officer and confirmed that he was free to speak and vote on this application.

(b) Pursuant to the Council's Code of Member Conduct, Councillor Mrs H Kane declared a non pecuniary interest in agenda item 9 (EPF/2040/13 Garage block, adjacent to 14 Harveyfields, Waltham Abbey, Essex EN9) by virtue of having attended a meeting of the Cabinet Committee on Council House Building for the purpose of giving views as a local ward Councillor for this site. Councillor Kane confirmed that she was not party to the decision to bring forward the planning application and that she had received advice from the Monitoring Officer and confirmed that she was free to speak and vote on this application.

(c) Pursuant to the Council's Code of Member Conduct, Councillor D Stallan declared a non pecuniary interest in agenda item 9 (EPF/2040/13 Garage block, adjacent to 14 Harveyfields, Waltham Abbey, Essex EN9) by virtue of being the Chairman of the Cabinet Committee on Council House Building which made the decision to submit this proposal for planning consent. Councillor Stallan advised that he had received advice from the Monitoring Officer and confirmed that he was free to explain the application.

(d) Pursuant to the Council's Code of Member Conduct, Councillor C Whitbread declared a non pecuniary interest in agenda item 9 (EPF/2040/13 Garage block, adjacent to 14 Harveyfields, Waltham Abbey, Essex EN9) by virtue of being a substitute of the Cabinet Committee on Council House Building which made the decision to submit this proposal for planning consent. Councillor Whitbread advised that he had received advice from the Monitoring Officer and confirmed that he was free to speak on this application but was unable to vote as he was not a member of the Area Planning Sub-Committee.

48. ANY OTHER BUSINESS

It was reported that there was no urgent business for consideration at the meeting.

49. CONFIRMATION OF TREE PRESERVATION ORDER TPO/EPF/15/13 - LITTLE CUTLANDS, WILBEA AND ROYD, ST LEONARDS ROAD, NAZEING

The Principal Planning Officer presented a report to confirm a Tree Preservation Order with modification at Little Cutlands, Wilbea and Royd, St Leonards Road, Nazeing.

The Principal Planning Officer reported that a pre planning application submission had been received for the demolition of the existing houses on the site and the construction of 22 x 1 bedroom, 23 x 2 bedroom extra care unit and 32 two storey detached and semi detached houses.

Aerial photographs showed that the site had some large and possibly veteran trees within it. Information submitted with the application showed no signs that the site had been surveyed and there was no tree information to support the proposal. It was therefore considered that the trees were under threat of being removed to maximise the development potential of the site. Therefore, as an interim measure, an 'area' order was placed over the whole site to protect all trees of all species that were present at the time the order had been made.

Government guidance on the making of new TPO's was that an 'area' classification should only be used in emergencies and then only as a temporary measure until the trees in the area could be assessed properly and reclassified. A full assessment of the trees had now been undertaken and identified as 8x Oak; 3x Field Maple; 1x

Hornbeam and 2 areas of woodland as being suitable for having continued protection by this order.

The proposal, therefore, was to modify the order to ensure that only those trees suitable for protection remained protected. Additionally, in modifying the order it would highlight to any potential future developer of the land which trees the LPA considered were important and allow for their incorporation in any site layout.

In amending this order from an 'area' order to a more detailed order, it would highlight to future developers which trees were suitable for long term retention. It was therefore recommended that the order was confirmed with modification.

RESOLVED:

That the tree preservation order TPO/EPF/15/13 is confirmed with modification.

50. THREAT OF SPECIAL MEASURES AND REFUNDING OF PLANNING FEES

The Principal Planning officer presented a report on the threat of special measures and the potential refunding of planning fees.

The Principal Planning Officer reported that the Government had introduced a new policy on 1 October 2013 whereby a local authority had to refund any planning fees if it failed to determine an application within 26 weeks. In addition, those local authorities who had 20% or more of their decisions overturned at appeal, or determined 30% or less of their major applications within the 26 week threshold over a rolling two-year period, would be placed in 'Special Measures'. This would allow an Applicant to submit a major planning application, and its fee, direct to the Planning Inspectorate for determination.

The Principle Planning Officer highlighted that the time taken to determine major planning applications would need to be closely monitored to ensure that the Council did not lose income unnecessarily. There were potential problems foreseen with planning applications that required the signing of a Section 106 legal agreement, particularly if the delay was being caused by the Applicant. However, an extension of time for the determination of a major planning application could be agreed with the Applicant, and this option would be pursued wherever possible. It was possible that the terms of reference for the District Development Control Committee and the Area Planning Sub-Committees would be reviewed to ensure that the time taken to consider major planning applications could be reduced. A major planning application was defined as a development of 10 or more dwellings or 1,000 square metres of floor space.

The Committee shared the concerns that the report highlighted and foresaw difficulties if a Section 106 legal agreement had not been signed by the Applicant in time as the Council would then have no option but to refuse the application and rely on a sympathetic hearing by the Planning Inspector at the subsequent appeal. The Council had to ensure that it did not enter special circumstances through poor performance.

The Sub-Committee requested that notification were sent out to Members of the planning Sub-Committees and particular the Ward Members as soon as possible, in order for Members to arrange site visits before the meetings. Consequently enabling Members to make decisions as soon as possible.

RESOLVED:

- (1) That the new threat of planning fees being returned for planning applications not decided within 26 weeks of being validated be noted;
- (2) That the threat of the Council entering 'Special Measures' if major planning applications were not determined in a timely fashion or too many decisions being overturned at Appeal be noted;
- (3) That the need for the Sub-Committee to determine planning applications in a timely manner be noted; and
- (4) That, where necessary, Applicants be encouraged by the Assistant Director of Planning & Economic Development (Development Control) to sign pre and post application agreements to extend the time period for determination so as to minimise the risk of the Council having to return planning fees or falling into 'Special Measures'.

51. DEVELOPMENT CONTROL

The Sub-Committee considered a schedule of applications for planning permission.

RESOLVED:

That, Planning application numbered 1 be determined as set out in the annex to these minutes.

52. PROBITY IN PLANNING

The Sub-Committee received a report from the Principal Planning Officer regarding Probity in Planning – Appeal Decisions 1 April 2013 to 30 September 2013.

In compliance with the recommendation of the District Auditor, the report advised the decision making committees of the results of all successful appeals, particularly those refused by committee contrary to officer recommendation. The purpose being to inform the committee of the consequences of their decisions in this respect and, in cases where the refusal was found unsupportable on planning grounds, an award of costs may have been made against the Council.

In recent years the Council performance has been 18% in 2003/04, 29% in 2004/05, 22% in 2005/06, 30% in 2006/07, 29% in 2007/08, 40.3% for 2008/09, 30.9% in 2009/10, 36.6% in 2010/11, 28.8% in 2011/12 and 27.7% in 2012/13.

Since 2011/12, there had been two local indicators one of which measured all planning application type appeals as a result of committee reversals of officer recommendations (KPI 55) and the other, which measured the performance of officer recommendations and delegated decisions (KPI 54). Over the six month period between April 2013 and September 2013, the Council received 37 decisions on appeals (35 of which were planning related appeals, the other 2 were enforcement related). KPI 54 and 55 measured planning application decisions and in total, out of this 35, 14 were allowed (40%). Broken down further, KPI 54 performance was 4 out of 20 allowed (20%) and KPI 55 performance was 10 out of 15 (66.67%). Out of the 15 planning appeals that arose from decisions of the committees to refuse contrary to the Officer recommendation during the 6 month period, the Council was not successful in sustaining the committee's objection in 10 cases.

Area Sub-Committee South

- EPF/1785/12 152-154 Daneley Court Nursing Home, Buckhurst Hill
- EPF/0071/12 6 Chigwell Rise, Chigwell
- EPF/0160/12 6 Chigwell Rise, Chigwell
- EPF/0161/12 6 Chigwell Rise, Chigwell
- EPF/0931/12 182 Roding Road, Loughton

Area Sub-Committee East

- EPF/1714/12 Orchard Villa, Norton Heath, High Ongar
- EPF/2192/12 11A Lancaster Road, North Weald Bassett
- EPF/0834/12 New House Farm, Vicarage Lane, North Weald Bassett
- EPF/2137/12 Threeways House, Epping Road, Ongar
- EPF/0856/12 Cold Hall Farm, Kiln Road, Stanford Rivers

The Sub-Committees were urged to continue to heed the advice that if considering setting aside the officer's recommendation it should only be in cases where members were certain they were acting in the wider public interest and where the committee officer could give a good indication of some success at defending the decision. As this was now highlighted as a separate performance target (KPI 55), it therefore came under more scrutiny.

Out of 2 enforcement notice appeals decided, 1 was allowed and 1 dismissed. The appeal allowed was EPF/0196/12, Cold Hall Farm, Kiln Road, Stanford Rivers, concerning the change of use from a barn to a car body repair shop, without planning permission.

During this period there was 1 successful finalised award of costs made against the Council. Circular 03/2009 Costs Awarded in Appeals and Other Planning Proceedings advised that, irrespective of the outcome of the appeal, costs may only be awarded against a party who had behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. There was only one case and the costs are as follows:

- London Lodge West, Copped Hall Estate, Epping: The appeal for cost was successful against the Council's withdrawal of an enforcement notice and listed building enforcement notice after taking legal advice regarding the wording of the requirements for compliance with the notices, several months after the appeal was made. New differently worded notices were re-issued, but the Planning Inspector considered this was implicit in that it was not expedient to serve the first notices in the form that they were and this amounted to unreasonable behaviour and caused the appellant to incur unnecessary expense in appealing. The cost amounted to £1,376.00

Whilst performance in defending appeals had improved during the last couple of years, Members were reminded that in refusing planning permission there needed to be justified reasons that in each case were relevant and necessary, but also sound and defensible to avoid paying costs.

Whilst performance in defending appeals had improved during the last couple of years, Members were reminded that in refusing planning permission there needed to be justified reasons that in each case were relevant and necessary, but also sound and defensible to avoid paying costs. This was more important now than ever given a Planning Inspector or the Secretary of State can award costs even if neither side had made an application for them. Whilst there was pressure on Members to refuse in cases where there were objections from local residents, these views (and only

when they were related to the planning issues of the case) were one of a number of relevant issues to balance out in order to understand the merits of the particular development being applied for.

RESOLVED:

That the Probity in Planning – Appeal Decisions April 2013 to September 2013 report, be noted.

53. DELEGATED DECISIONS

The Sub-Committee noted that details of planning applications determined by the Head of Planning Economic Development under delegated authority since the last meeting had been circulated to all members and were available for inspection at the Civic Offices.

CHAIRMAN

Report Item No: 1

APPLICATION No:	EPF/2040/13
SITE ADDRESS:	Garage block adj 14 Harveyfields Waltham Abbey Essex EN9
PARISH:	Waltham Abbey
WARD:	Waltham Abbey South West
DESCRIPTION OF PROPOSAL:	Demolition of garages and provision of 9 affordable flats within a three storey building with external parking and amenity areas.
DECISION:	Grant Permission (With Conditions)

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=554573

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 612 029 PL01, PL02, PL03B, PL04A, PL05A, PL08, PL09, PL10
- 3 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.
- 4 Prior to first occupation of the development hereby approved, the proposed window opening(s) in the flank elevation(s) shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 5 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to an approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any

replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant 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.

- 6 No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]

- 7 Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]

- 8 Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]

- 9 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval in writing. The approved monitoring and maintenance programme shall be implemented.
- 10 In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.
- 11 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08.00 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.
- 12 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.
- 13 A flood risk assessment and management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tool. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.
- 14 Prior to the first occupation of the development any redundant dropped kerbs or vehicular access points shall be fully reinstated to include full construction of the footway and full height kerbing where necessary.
- 15 Prior to the first occupation of the development the developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council.
- 16 Prior to the commencement of development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. the approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
- 17 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary,

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