

# **Report to District Development Control Committee**



**Epping Forest  
District Council**

**Date of meeting: 19 February 2014**

**Subject: Planning Application EPF/2036/13 - Erection of single dwelling house at Ripley Grange, Debden Lane, Loughton**

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Committee Secretary: S Hill Ext 4249**

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## **Recommendation(s):**

That planning permission be refused for the following reasons:

(1) The site is within the area identified in the Epping Forest District Local Plan as Metropolitan Green Belt. The proposal constitutes inappropriate development and is harmful to the purposes of including land in the Green Belt contrary to the Government advice contained within the NPPF and Policy GB2A of the Adopted Local Plan and Alterations. Furthermore, there are no very special circumstances that outweigh the harm of the proposal to the Metropolitan Green Belt.

(2) The proposal leads to the creation of a new access onto Debden Road, which will result in a break in the continuous vegetation frontage and a result in a domestic intrusion to the detriment of the character of the existing streetscene, the Metropolitan Green Belt and the wider landscape. The proposal is therefore contrary to the Government advice contained within the NPPF and policies DBE4, GB2A, GB7A and LL10 of the Adopted Local Plan and Alterations.

## **Report Detail**

1. (Director of Planning and Economic Development) This application was reported to the Area Plans South Sub-Committee on 8 January 2014 with a recommendation that planning permission be refused. Following discussion and the defeat of a motion to grant planning permission, 4 Members stood up and moved that the application be referred to the District Development Control Committee for a final decision. Accordingly, the application was referred with a recommendation for refusal.
2. Since the date of that meeting an appeal decision has been issued in respect of an unrelated site where similar planning issues arose, District Council ref EPF/0457/12. That site is Coppice Farm, Coppice Row, Theydon Bois. The proposal was for a modern designed house that would be partially underground, produce 'low or no carbon' and would achieve Code for Sustainable Homes Level 6. The decision was to dismiss the appeal and given the similarity of issues it is found to be a material consideration when assessing the merits of the Ripley Grange proposal. The main appeal findings are set out below. The full text of the decision and application documents is available to view on the Council's website.

3. In dismissing the Coppice Farm appeal the Inspector found the very high sustainability of the design (and location) to be applauded and, while unusual, neither exceptional nor innovative. Similarly, the design and appearance of the proposed house was found to be pleasant and of good quality, but not of exceptional quality.
4. The Inspector referred to the National Planning Policy Framework, which states that where such development is proposed it should significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. Within its context, a disused farm yard in which a number of buildings are in a state of severe disrepair, the Inspector found the proposal would not enhance the environment, but would cause harm to the character of the area.
5. The inspector concluded the benefits and other considerations of that scheme do not, either individually or cumulatively, amount to very special circumstances necessary to clearly outweigh the harm caused by inappropriateness in the Green Belt and other harm identified.
6. Since the January meeting of the Area Plans South Sub-Committee Loughton Town Council has submitted the following additional comment on the Ripley Grange application:

*Since this application was referred at the District Area Planning Subcommittee South meeting on 8 January 2014 to the District Development Control Committee with a recommendation to refuse, the Planning and Licensing Committee agreed to make an additional request, as detailed below, at its meeting on 3 February 2014.*

*In the event of this application being approved, the Committee ask the Local Planning Authority to impose the following two conditions:*

1. *A covenant, (wording to be finalised) between Loughton Town Council, Epping Forest District Council and the applicant, to prevent any further development of the land; and*
  2. *An agreement to open the premises on Heritage Open Days as part of the Town Council scheme, to ensure compliance with NPPF paragraph 55 on raising architectural standards in the area.*
7. In relation to the Town Council's requested conditions, Officers advise as follows:
  8. The first requested condition amounts to a requirement that no development that is 'Permitted Development' takes place and, in addition, that no development requiring planning permission takes place either. It is clearly possible to remove permitted development rights for specific development by condition, but it is not possible to require that any development given planning permission at some future date is not implemented. It is also not possible to prohibit the making of a planning application in relation to any land. Neither a planning condition nor a planning obligation (i.e. a S.106 agreement) could be used in that way since such a requirement would be bound to be found unreasonable, unnecessary and unenforceable.

9. Enforcing such a requirement would ultimately be through the courts. It certainly would not be binding on any person who was not a party to a S.106 agreement or who had no interest in the land. Furthermore, it is very unlikely a court could be persuaded that a proper use of planning powers includes preventing people from making planning applications or prohibiting the implementation of possible future planning permissions. That is because development that requires planning permission can only be lawfully implemented where planning permission is granted for it and the planning system provides for Councils to decide whether or not to grant planning permission.
10. Planning powers cannot be used to compel developers to enter into any covenants in relation to any matter. They would have to be secured separately from the planning process.
11. In relation to the second requested condition, that can be secured through a planning obligation. Although the details of the request are not sufficiently clear for that purpose, they could be settled through discussion between the District Council, the Town Council and the developer.
12. The original report on the Ripley Grange proposal to the January meeting of the Sub-Committee is reproduced below: