

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Area Planning Sub-Committee **Date:** 14 May 2014
East

Place: Council Chamber, Civic Offices, **Time:** 7.30 - 9.05 pm
High Street, Epping

Members Present: P Keska (Vice-Chairman), W Breare-Hall, A Boyce, Mrs H Brady, Mrs A Grigg, D Jacobs, Mrs M McEwen, R Morgan, J Philip, B Rolfe, D Stallan, G Waller, C Whitbread and J M Whitehouse

Apologies: Mrs S Jones, K Avey, T Church, P Gode and Mrs J H Whitehouse

Officers Present: J Shingler (Principal Planning Officer), J Leither (Democratic Services Assistant) and P Seager (Chairman's Secretary)

103. 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.

104. WELCOME AND INTRODUCTION

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements adopted by the Council to enable persons to address the Sub-Committee, in relation to the determination of applications for planning permission. The Sub-Committee noted the advice provided for the public and speakers in attendance at Council Planning Sub-Committee meetings.

105. VICE-CHAIRMAN OF SUB-COMMITTEE

The Chairman had tendered her apologies for the meeting, so the Vice Chairman assumed Chairmanship of the Sub-Committee, the Chairman then sought a nomination for Vice Chairman of the meeting.

RESOLVED:

That Councillor R Morgan be elected Vice Chairman for the duration of the meeting.

106. MINUTES

RESOLVED:

That the minutes of the meeting held on 9 April 2014 be taken as read and signed by the Chairman as a correct record.

107. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

108. ANY OTHER BUSINESS

It was noted that there was no other urgent business for consideration by the Sub-Committee.

109. EPF/2660/13 119 THEYDON PARK ROAD, THEYDON BOIS

That the Sub-Committee reviewed their decision on the application EPF/2660/13 in the light of additional factual information, representations by the applicant and legal advice.

On 12 February 2014 this Sub-Committee refused to remove an extant section 52 legal agreement attached to planning permission ref EPF/1127/82. The proposal was put forward under application EPF/2660/13.

Planning permission EPF/1127/82 permitted the use of a building within the Theydon Park Road Chalet Estate as a dwelling house. No conditions limiting the use were included on the permission but its occupation was restricted to named individuals by an s52 Agreement. Those persons have since passed away and as a consequence, the agreement in effect prohibits the use of the dwelling house for its lawful purpose.

Consequently, the applicants' only recourse was to seek a judicial review of the decision or to apply to the Upper Tier Land Chamber under s84 of the Law of Property Act 1925 for the agreement to be removed. Both courses of action would involve significant legal costs and the applicant would therefore almost certainly seek to recover them from the Council if he were successful. The Council would be liable for its own legal costs in defending its position against such an application.

The Council would be at risk of an award of costs if it was found to have been unreasonable in refusing to remove the agreement and therefore causing the applicant to apply for judicial review or to the Lands Tribunal.

The applicant had put the Council on notice that he intended to make an application to the Upper Tier Land Chamber but had agreed to delay the application until after this meeting of the Sub-Committee.

If the Council refused to lift the s52 Agreement it would be required at any hearing to set out what planning purpose it seeks to achieve by preventing the occupation of the house by seeking to retain in leisure use.

Following the earlier refusal officers have now researched the planning status of the other properties within the estate and it could be seen that the majority of the properties have had either planning permission for unrestricted residential use or have established a lawful residential use. No other property was found to have a similar s52 agreement restricting occupation in any way.

Furthermore, many of the permanent dwellings on Theydon Park Road have been established through express planning consent by the Council throughout the last fifty years. As such the position of the Council on this road had been favourable to unrestricted residential use.

Further Legal advice had been sought and the Council had been advised that if an application was made to the Upper Tribunal there would be a very good prospect of the s52 agreement being discharged on the basis that it was now obsolete.

RESOLVED:

Members noted that in light of the new information presented in the report, it was agreed to remove the legal agreement so as to allow the dwelling to be used permanently by persons other than those mentioned in the aforementioned legal agreement.

110. DEVELOPMENT CONTROL

RESOLVED:

That the planning applications numbered 1 – 4 be determined as set out in the schedule attached to these minutes.

111. DELEGATED DECISIONS

The Sub-Committee noted that schedules of planning applications determined by the Head of Planning and Economic Development under delegated authority since the last meeting had been circulated and could be inspected at the Civic Offices.

112. PROBITY IN PLANNING - APPEAL DECISIONS, 1 OCTOBER 2013 TO 31 MARCH 2014

The Sub-Committee received a report regarding Probity in Planning – Appeal Decisions for the period 1 October 2013 to 31 March 2014.

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

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 1 October 2013 and 31 March 2014, the Council received 48 decisions on appeals (46 of which were planning related appeals, the other 2 were enforcement related).

KPI 54 and 55 measure planning application decisions and out of a total of 46, 18 were allowed (37%). Broken down further, KPI 54 performance was 4 out of 23 allowed (17%) and KPI 55 performance was 13 out of 22 (59%). One other case was allowed, but it was recommended for approval by officers and supported by Area Plans Committee East but unusually an appeal was lodged against non-determination, despite District Development Control Committee supporting an approval (Application EPF/2404/12).

Whilst performance in defending appeals had improved during the last couple of years, Members are reminded that in refusing planning permission there needed to

be justified reasons that in each case must be relevant, necessary, but also sound and defensible so as to avoid paying costs. This is more important now than ever given a Planning Inspector or the Secretary of State can award costs, even if neither side has made an application for them. Whilst there is clearly pressure on Members to refuse in cases where there were objections from local residents, these views (and only when they are related to the planning issues of the case) were one of a number of the relevant issues to balance out in order to understand the merits of the particular development being applied for.

RESOLVED:

That the report regarding Probity in Planning – Appeal Decisions 1 October 2013 to 31 March 2014 be noted.

CHAIRMAN

Report Item No: 1

APPLICATION No:	EPF/2494/13
SITE ADDRESS:	Stone Hall Downhall Road Matching Green Harlow Essex CM17 0RA
PARISH:	Matching
WARD:	Hastingwood, Matching and Sheering Village
DESCRIPTION OF PROPOSAL:	Demolition of existing timber construction Use Class B1 units and replace with new Use Class B1 units and 6 no. 3 bedroom cottages including 3 affordable units. Amended proposal with revised access arrangements (EPF/2343/12)
DECISION:	Grant Permission (Subject to Legal Agreement)

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=557190

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 The development hereby permitted will be completed strictly in accordance with the approved drawings nos:211/S/100, S/101, P/11B, P/012A, P/013A, P/014A, P/015A, P/016A, P/017A, P/018A, P/025, P/026, 354.12.3C, 03/002A, 03/001A, 03/004, 03/005.
- 3 The materials used shall be those set out in the application (letter dated 17 February 2014 from 3Square Design Ltd) unless otherwise agreed in writing by the Local Planning Authority.
- 4 No development shall take place until details of foul disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 5 No development shall take place until wheel washing facilities for vehicles leaving the site during construction works have been installed in accordance with drawing No. 211/P/026. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 6 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 the B1 units hereby approved shall be used only for uses falling within the B1 use and shall not be used for any other purpose without the prior written permission of the Local Planning Authority.

- 7 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 or E shall be undertaken without the prior written permission of the Local Planning Authority.
- 8 The B1 use hereby permitted shall not operate outside the hours of 0.800 to 20.00 on Monday to Saturday and 10.00 to 16.00 on Sundays and Bank/Public Holidays.
- 9 The development shall be carried out in accordance with the submitted Tree Protection Plan and Arboricultural Method Statement and site monitoring schedule in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.
- 10 No development shall take place, including site clearance or other preparatory work, until a landscape method statement and schedule of timing of landscape works has been submitted to and approved in writing by the Local Planning Authority for the implementation of the approved landscape scheme (drawing no. 354.12.3C). The scheme shall be implemented in accordance with the approved details of method statement and timetable. 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.
- 11 There shall be no external storage in connection with the approved B1 business use.
- 12 The parking areas for the B1 uses, shown on the approved plans shall be provided prior to the first use of any of the B1 units hereby approved and shall be maintained free of obstruction for the parking of vehicles in connection with the approved B1 uses thereafter and shall not at any time be used for the storage or parking of vehicles unconnected with the businesses operating at the site.
- 13 Prior to first occupation of the development, the access arrangements, as shown on Create Consultants Engineers Ltd drawing no. 03/001/ Rev A, shall be agreed with the Highway Authority and the shown visibility splays shall be retained in perpetuity. The approved details shall be implemented prior to first occupation of the development.
- 14 Prior to the first occupation of the development, the existing vehicular access to the south of the site shall be permanently closed off with the highway verge being fully reinstated.
- 15 No unbound material shall be used in the surface treatment of the vehicular access within 10m of the highway boundary.
- 16 Prior to 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 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 18 Prior to commencement of development details of phasing of the development including timing of demolition of the existing buildings, and erection of the replacement units and housing, shall be submitted to and agreed in writing by the Local Planning Authority. The works shall then be carried out in accordance with the agreed phasing plan unless alternative phasing is agreed in writing by the Local Planning Authority.
- 19 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 tools. 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.
- 20 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]
- 21 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]

- 22 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]
- 23 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.
- 24 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.
- 25 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.

And subject to the applicant first entering into a legal agreement under section 106 of the Town and Country Planning Act before 27th May 2014 (unless a longer period for the determination of the application is agreed with the applicant prior to that date) to secure three of the proposed residential units as affordable rented accommodation.

Report Item No: 2

APPLICATION No:	EPF/2693/13
SITE ADDRESS:	191 Hoe Lane Lambourne End Essex RM4 1NP
PARISH:	Lambourne
WARD:	Lambourne
DESCRIPTION OF PROPOSAL:	Agricultural barn building.
DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=558130

Members considered, having visited and viewed the site and the building, that its domestic design and position, within the residential curtilage were not consistent with the stated intended use of the building for agricultural purposes. The application was therefore refused.

In addition, Members requested that enforcement action be taken to secure the removal of the building.

REASON FOR REFUSAL

- 1 The building is not considered reasonably necessary for the purposes of agriculture within the unit and the development is therefore inappropriate and harmful to the openness of the Green Belt. This is contrary to policies GB2A and GB11 of the adopted Local Plan and Alterations and the aims and objectives of the National Planning Policy Framework.

Report Item No: 3

APPLICATION No:	EPF/0255/14
SITE ADDRESS:	Land Adjacent 1 Gun Cottage Abridge Road Theydon Bois Epping Essex CM16 7NN
PARISH:	Theydon Bois
WARD:	Theydon Bois
DESCRIPTION OF PROPOSAL:	Proposed conversion of stable block to a 2 bed single storey dwelling.
DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=559594

The presenting officer explained that a revised drawing had been received identifying the proposed residential curtilage and that therefore should Members wish to approve the development then the wording of conditions would need to be amended.

Members considered the scheme, but were concerned at the further intrusion of residential development into the Green Belt. They considered that the changes to the building together with the creation of a garden area and the use of the garden area, with domestic parking and paraphernalia, would significantly change the character of the site from an appropriate rural use to an inappropriate residential development and that this was clearly harmful to the character and openness of the green Belt and contrary to the intentions of both Local Plan Policy and the NPPF. Members did not consider that these were issues that could be overcome by the use of conditions and the application was therefore refused.

REASON FOR REFUSAL

- 1 The proposed changes to the external appearance of the building together with the change of use of the building and the land to residential use, which will introduce residential parking and paraphernalia such as garden features, play equipment, washing lines, dustbins etc. will change the rural character of the site, such that there will be harm to the Green Belt and to the purposes of including land within the Green Belt. The development is therefore contrary to the National Planning Policy Framework and to policies GB2A, GB8A and CP2 of the adopted Local Plan and Alterations.

Report Item No: 4

APPLICATION No:	EPF/0371/14
SITE ADDRESS:	2 Heath Drive Theydon Bois Epping Essex CM16 7HL
PARISH:	Theydon Bois
WARD:	Theydon Bois
DESCRIPTION OF PROPOSAL:	Two storey side/rear extension and single storey rear extension.
DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=560177

Members discussed the proposal but considered that the width and depth of the proposed extension together with the height of the ridge and the design would result in a development that fails to respect the design of the existing building and would be overly prominent in the street scene. The application was refused.

Members discussed whether there was a possible way forward and advised that a narrower side extension, set further forward and perhaps designed similar to the recent addition to no. 4, would be more in keeping with the dwelling and the locality and more likely to be considered favourably.

REASON FOR REFUSAL

- 1 The proposed development, in particular, the double storey side and rear extension, due to its size, bulk and scale would result in a disproportionate addition to the house that is significantly out of character with its appearance. It would therefore detract from the appearance of the house and the street scene, contrary to policies CP2 and DBE10 of the adopted Local Plan and Alterations.

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