

***Report to the District Development
Management Committee***



**Epping Forest
District Council**

Report Reference: EPF/2413/17

Date of meeting: 31 January 2018

Address: 1 Bentons Cottage, Middle Street, Nazeing.

Subject: To install a new vehicle cross-over.

Responsible Officer: James Rogers (01992 564371).

Democratic Services: Gary Woodhall (01992 564470).

Recommendation:

(1) That, as recommended by Area Planning Sub-Committee West, planning application EPF/2413/17 at 1 Bentons Cottages in Middle Street, Nazeing be granted permission, 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. 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 and 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.**
- 3. No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan 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.**

4. **Prior to the commencement of any works, details of surfacing for the new access shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details and prior to first use of the cross over hereby approved.**

Report

1. This application is put to District Development Management Committee since Members of the Area Plans West Sub-Committee resolved to recommend approval for the application, which is contrary to the Development Plan.

2. This application was reported to the West Area Committee on 17 January 2018 with a recommendation that planning permission be refused for four reasons. Following a debate at the meeting, Members of the committee voted and the recommendation to refuse planning permission was defeated. A vote was then taken to grant planning permission which was carried narrowly. Those members who voted that the planning application should be approved considered highway safety would be improved, there would be no adverse impact on the amenities of the Green Belt and therefore it was not inappropriate development in the Green Belt.

3. Notwithstanding the resolution which Members of the Committee reached, Officers consider that the proposal is inappropriate development in the Green Belt as it does not comply with any exception to it stated by the NPPF. Inappropriate development is, by definition, harmful to the Green Belt and should not be granted unless very special circumstances can be demonstrated to clearly outweigh the harm caused.

4. Officers also consider that the installation of the access road would diminish the open character of the Green Belt and will be overtly visible in the street scene, thus conflicting with its fundamental purposes to keep land permanently open.

5. In terms of the Conservation Area, the existing boundary treatment consists of a robust mix of trees and hedges and this contributes strongly to the character and appearance of the Conservation Area. This proposal would remove a substantial amount of this screening which will, as a result significantly diminish the character and appearance of the Conservation Area.

6. The removal of some of the screening will also make the previously approved development for four new dwellings approved under (EPF/0292/17) more visible in the Conservation Area, thereby adding to the significant harm to it.

7. As the site is within a Conservation Area all trees are afforded legal protection and could not be removed without the express consent of the Local Planning Authority. This proposal would necessitate the removal of trees along the boundary and no tree surveys or justification has been submitted to justify their removal. Notwithstanding the lack of tree reports, which would be grounds for refusal in itself, the proposal fails to make adequate provision for the retention of trees and hedgerows and is therefore in conflict with policy LL10 of the Adopted Local Plan.

8. In highway terms the proposal would lead to the creation of an additional and unnecessary access on a stretch of Secondary Distributor highway where the principle function is that of carrying traffic freely and safely between centres of population. The slowing and turning of vehicles associated with the use of the access would lead to conflict

and interference with the passage of through vehicles to the detriment of that principal function and introduce a further point of possible traffic conflict to the detriment of highway safety.

9. The applicant uses the argument that the new access will be an improvement to highway safety issues and has submitted various photographs in an attempt to illustrate how dangerous the existing access is onto Middle Street. Whilst these photographs do show various cars having crashed, it is not clear where these pictures have been taken from and no evidence that they have been caused as a direct result of the existing access. Furthermore the Essex County accident data has no recorded accidents on this part of Middle Street for the last 5 years.

10. The new access would be further from the bend to the north than the existing access, however it is explicit that the applicant is not proposing to close this existing, supposedly dangerous access. As such, contrary to the applicant's contention that this proposal would improve highway safety, it would actually cause it significant harm to its function of carrying traffic safely through the proliferation of accesses onto a Secondary Distributor Road.

11. Members of District Development Management Committee are therefore requested to consider the recommendation to grant planning permission by Area Plans West which is subject to the recommended conditions above.

ORIGINAL REPORT TO AREA PLANS WEST COMMITTEE – 17 January 2018

OFFICER RECOMMENDED REASON FOR REFUSAL

1. The proposal constitutes inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and for which there are no very special circumstances which clearly outweigh this harm. The proposal will also cause additional harm to the openness of the Green Belt and therefore the proposal is contrary to policies GB2A and GB7A of the Adopted Local Plan and with paragraph 87 of the National Planning Policy Framework. It is also contrary to policies DM4 and SP6 of the Epping Forest Local Plan (Submission Version) 2017.
2. The proposal will cause a significant erosion to the character and appearance of the Conservation Area through the removal of the attractive vegetation at the front of the site and the substantial urbanising impact of the new access. In addition the failure to submit a heritage statement has not justified the identified harm. The proposal is therefore contrary to policies HC6 and HC7 of the Adopted Local Plan and with the objectives of the National Planning Policy Framework. It is also contrary to policies DM3 and DM7 of the Epping Forest Local Plan (Submission Version) 2017.
3. The proposal will remove an area of protected trees and vegetation at the front of the site and the applicant has not submitted tree reports to accompany the application. The proposal has therefore failed to demonstrate the adequate provision for the retention of trees and hedgerows and is therefore in conflict with policy LL10 of the Adopted Local Plan and with the objectives of the National Planning Policy Framework. It is also contrary to policies DM3 and DM5 of the Epping Forest Local Plan (Submission Version) 2017.
4. The proposal would lead to the creation of an additional and unnecessary access on a stretch of Secondary Distributor highway where the principal function is that of carrying traffic freely and safely between centres of population. The slowing and turning of vehicles associated with the use of the access would lead to conflict and interference with the passage of through vehicles to the detriment of that principal function and introduce a further point of possible traffic conflict to the detriment of highway safety. Therefore this proposal is contrary to policy ST4 of the Local Plan and with the objectives of the National Planning Policy Framework. The proposal is also contrary to policy T1 of the Epping Forest Local Plan (Submission Version) 2017.

This application is before this Committee since the recommendation is for refusal contrary to a support from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(g))

This item was deferred from the last Committee Meeting as additional information was offered by the applicant to Officers and Members shortly before the previous meeting; this information was not requested by Officers. On receipt of the information, Members felt that more time was needed for them to fully review the submission of this additional documentation.

Firstly the information argues that the new access will make the existing highway situation safer; however there is no substantive evidence to support this claim, indeed as stated in the highway section of this report, there is no accident data to suggest that the current access is

indeed dangerous and there is no evidence to suggest that the creation of a new access, whilst maintaining the supposed existing dangerous access will make the situation safer.

Another justification given for the new access is that contractors will already be on site for other development and if they do both aspects at the same time, it will save on the cost to the applicant. It is Officers view that the cost implications to the applicant do not outweigh the significant harm identified within this report.

The other issues raised in the submission do not offer any evidence which is in any way persuasive to alter the view that Officers have taken on this application.

Since the last Committee meeting, the new Epping Forest Local Plan (Submission Version) 2017 has been approved for publication and is the plan that the Council intends to submit for independent examination. The policies contained within the plan are considered to be up to date, backed up with evidence and compliant with National Policy and therefore are accorded substantial weight. For this reason, the recommended reasons for refusal have been amended to contain reference to policies from the new Local Plan.

Members are reminded that as the development is clearly contrary to adopted policy, should the Committee be minded to Grant consent, the application will need to be referred to the District Development Management Committee.

Description of site

The application site is located on the southern end of Middle Street which is within the settlement of Nazeing. The red lined site is a small strip of land adjacent to Bentons Cottage to the north west and is adjacent to a set of 4 new dwellings not yet built to the east and which abuts Middle Street to the south. There is a robust screen of vegetation on its front boundary which is afforded legal protection as the site is within the boundaries of a Conservation Area. The site is also located within the boundaries of the Metropolitan Green Belt.

Description of proposal

The proposed development is for the construction of a new access onto Middle Street.

Relevant History

EPF/0292/17 – Erection of four detached dwellings – Approved

Policies Applied

CP1 – Achieving sustainable development objectives

CP2 – Protecting the quality of the rural and built environment

CP7- Quality of development

DBE9 – Residential amenity

GB2A – Development in the Green Belt

GB7A – Conspicuous Development

HC6 – Character, appearance and setting of Conservation Areas

HC7 – Development within Conservation Areas

DBE2 – Effect on neighbouring properties

DBE4 – Design in the Green Belt

DBE9 – Loss of Amenity

ST4 – Road Safety

ST6 – Vehicle Parking

LL10 - Landscaping

The above policies form part of the Council's 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Consultation Carried Out and Summary of Representations Received

38 Neighbours consulted –

THE LODGE – SUPPORT – The new access onto Middle Street will be a lot safer than the existing access.

NAZEING PARISH COUNCIL – NO OBJECTION and the Council fully SUPPORTS the improved egress from the property. The Council also supports the proposal to improve highway safety while the adjacent development is in progress.

Issues and considerations

The main issues to consider when assessing this application are the potential impacts on the Green Belt, the character and appearance of the Conservation Area, the existing legally protected trees on the site and highway issues.

Green Belt

The Framework (CLG, 2012) indicates that the Government attaches great importance to Green Belts. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The Framework states that inappropriate development is by definition, harmful to the Green Belt and should be refused planning permission unless very special circumstances can be demonstrated to clearly outweigh the harm caused.

The Framework also emphasises that when considering an application, a Local Planning Authority should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

However the Framework does allow for specific exceptions to inappropriate development, this proposal, which involves the provision of hardstanding and construction of a new access does not comfortably fall into any of the exceptions given by the Framework however the most relevant one to consider is:

Engineering operations...provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it

The construction of a new access and its associated hardstanding could fall within an 'engineering operation' or a 'building operation' and there is little guidance within legislation to separate these two concepts. However in a court judgment *Fayrewood fish Farms Vs SOS and Hampshire CC* 1984, it was held that an engineering operation could be:

An operation that would generally be supervised by an engineer, however it is not essential that an engineer is actually engaged on the project and nor is the phrase limited to any special branch of the engineering profession.

However a slightly different view was taken in a more recent appeal decision (APP/J1535/C/12/2186463) where the inspector concluded that:

There is no persuasive evidence to demonstrate the provision of hardstanding is the type of work that would generally be supervised by an engineer. I therefore conclude that it could more properly be described as "other operations normally undertaken by a person carrying on a business as a builder". The construction of the hardstanding should therefore be regarded as a building operation rather than as an engineering operation.

Whilst an 'engineer' could be employed to carry out this work, it is not essential and often it is carried out without such supervision. As a consequence the laying of hardstanding such as this falls rather more comfortably within the definition of a building operation than an engineering operation. Therefore whilst an engineering operation may fall under an exception to inappropriate development under paragraph 90 of the NPPF, as it is not an engineering operation the construction of hardstanding cannot be considered to be 'not inappropriate' in the Green Belt.

The proposal is therefore inappropriate development in the Green Belt for which there are no very special circumstances. The proposal is therefore contrary to policy GB2A of the Adopted Local Plan and very substantial weight should be attached to this.

Openness

In terms of openness, the provision of this new access road diminishes the openness of the Green Belt and will be a significantly visible and obvious feature within the visible street scene. It therefore conflicts with the fundamental aim of the Green Belt which is to permanently keep land open.

Even if it were accepted that the unauthorised hardstanding were an engineering operation rather than as a building operation, as it fails to preserve the openness of the Green Belt, it conflicts with the principle purpose of Green Belt policy to keep land permanently open and therefore cannot comply with the exception to inappropriate development as defined in paragraph 90 of the NPPF, which requires that these exceptions preserve the openness of the Green Belt and do not conflict with the purpose of including land within it.

Conservation issues

The application site is located within the Nazeing and South Roydon Conservation Area and Paragraph 128 of the NPPF states that applicants are required to describe the significance of any heritage assets affected and how the proposal will impact on its significance.

The Nazeing and South Roydon Conservation Area was designated to preserve the medieval 'close field' pattern and the medieval 'long green' settlements; important landscape features which form a fundamental part of the character and appearance of the area.

The existing boundary treatment adjacent to Middle Street consists of a robust mix of trees and hedges and this contributes strongly to the character and appearance of the part of the conservation area. A recent planning application granted consent for the erection of four detached dwellings on land adjacent to the application site (EPF/0292/17). The screening at the front of the site will serve to screen these large detached dwellings from publicly visible viewpoints within the Conservation Area and this was an important factor in this previous application obtaining planning permission. The erosion of this screening will not only diminish the character of the Conservation Area through the removal of attractive vegetation but will also make this previously approved development far more visible in the street scene, further diminishing this character.

In addition the applicant has not submitted a heritage statement as required by the Framework and the lack of the required information is in itself grounds for a refusal. Without such information there justification for the new access cannot be fully understood. Paragraph 132 states that great weight should be given to an asset's conservation and that, as an irreplaceable resource, any harm to significance should require "clear and convincing" justification. No clear and convincing justification has been provided and therefore the proposal is contrary to HC6 and HC7 of the Adopted Local Plan and with the objectives of the Framework.

Trees and landscaping

As previously identified, the boundary treatment between the application site and Middle Street is an attractive feature in the locality and contributes greatly to the character and appearance of the Conservation Area.

As this site is within a Conservation Area all trees are afforded legal protection and could not be removed without the express consent of the Local Planning Authority. This proposal will necessitate the removal of trees along this boundary and no tree surveys or justification has been submitted to justify their removal. Notwithstanding the lack of tree reports, which would be grounds for refusal in itself, the proposal clearly fails to make adequate provision for the retention of trees and hedgerows and is therefore in conflict with policy LL10 of the Adopted Local Plan.

Highway and access issues

The proposal would lead to the creation of an additional and unnecessary access on a stretch of Secondary Distributor highway where the principal function is that of carrying traffic freely and safely between centres of population. The slowing and turning of vehicles associated with the use of the access would lead to conflict and interference with the passage of through vehicles to the detriment of that principal function and introduce a further point of possible traffic conflict to the detriment of highway safety.

The applicant uses the argument that this new access will be an improvement to highway safety issues and has submitted various photographs in an attempt to illustrate how dangerous the existing access is onto Middle Street. Whilst these photographs do show various cars having crashed, it is not clear where these pictures have been taken from and no evidence that they have been caused as a direct result of the existing access. Furthermore the Essex County accident data has no recorded accidents on this part of Middle Street for the last 5 years.

The new access would be further from the bend to the north than the existing access, however it is explicit that the applicant is not proposing to close this existing, supposedly dangerous access. As such, contrary to the applicant's contention that this proposal would improve highway safety, it would actually cause it significant harm to its function of carrying traffic safely through through the proliferation of accesses onto a Secondary Distributor Road.

The proposal is therefore contrary to policy ST4 of the Local Plan and with the objectives of the Framework.

Conclusion

The proposal constitutes inappropriate development in the Green Belt and will cause additional harm to its openness, it will cause significant harm to the character and appearance of the Conservation Area, to existing protected trees and to highway safety issues. Therefore it is recommended that planning permission is refused.