

## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** District Development Management Committee    **Date:** 28 September 2016

**Place:** Council Chamber, Civic Offices, High Street, Epping    **Time:** 7.30 - 9.00 pm

**Members Present:** B Sandler (Chairman), A Boyce, H Brady, R Butler, R Jennings, G Chambers, S Heap, S Jones, J Knapman, S Kane, A Mitchell, C C Pond, J M Whitehouse, M Sartin and R Baldwin

**Other Councillors:** -

**Apologies:** B Rolfe and H Kauffman

**Officers Present:** N Richardson (Assistant Director (Development Management)), G J Woodhall (Senior Democratic Services Officer) and S Kits (Social Media and Customer Services Officer)

### **25. WEBCASTING INTRODUCTION**

The Senior Democratic Services Officer reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

### **26. 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 Committee, in relation to the determination of applications for planning permission. The Committee noted the advice provided for the public and speakers in attendance at Council Planning Committee meetings.

### **27. SUBSTITUTE MEMBERS**

The Committee noted the following substitutions for this meeting:

- (a) Cllr Baldwin for Cllr Kauffman; and
- (b) Cllr Sartin for Cllr Rolfe.

### **28. APPOINTMENT OF VICE-CHAIRMAN**

As Cllr Rolfe had tendered his apologies for the meeting, the Chairman invited nominations from the Committee for the appointment of a Vice-Chairman for the duration of the meeting.

**Resolved:**

(1) That Cllr Boyce be appointed as Vice-Chairman for the duration of the meeting.

**29. DECLARATIONS OF INTEREST**

(a) Pursuant to the Council's Member Code of Conduct, Cllr M Sartin declared a personal interest in the following item of the agenda, by virtue of having received a consultation letter on the application. The Councillor had determined that her interest was non-pecuniary and would remain in the meeting for the consideration of the application and voting thereon:

- EPF/0934/16 Roydon Marina, High Street, Roydon.

(b) Pursuant to the Council's Member Code of Conduct, Cllrs M Sartin and J M Whitehouse declared a personal interest in the following item of the agenda, by virtue of being a member of the Lee Valley Regional Park Authority. The Councillors had determined that their interest was non-pecuniary and would remain in the meeting for the consideration of the application and voting thereon:

- EPF/0934/16 Roydon Marina, High Street, Roydon.

**30. MINUTES****Resolved:**

(1) That the minutes of the meeting held on 3 August 2016 be taken as read and signed by the Chairman as a correct record, subject to the following amendment:

(a) amending the reference to "*Essex Highways*" in condition (12) to "*Essex County Council*" for planning application EPF/1269/15 at the Golden Lion PH, Borders Lane in Loughton.

**31. EPF/0934/16 - ROYDON MARINA, HIGH STREET, ROYDON**

The Assistant Director of Governance (Development Management) presented a report for the extension of the existing Marina to provide an additional 240 berths, 120 parking spaces, additional associated facilities and a 28.88m<sup>2</sup> extension to the facilities building at the Roydon Marina, High Street in Roydon. This application was before the Committee as it was classed an application for major commercial and other developments.

The Assistant Director stated that the site was part of the existing Roydon Mill Leisure Park and the lake had been used for recreational purposes for many years. There were residential mobile homes to the east of the site and much of the Leisure Park had been redeveloped with new log cabin style mobile homes. Most of the lake was already in use as a Marina and access to the site was via the existing access track which was along the tow path from its junction with Roydon High Street. The application proposed to extend the existing 315 boat marina with mooring for an additional 240 boats, along with an additional 120 parking spaces. Some additional works were proposed to the access road to further deter speeding. The additional boats would be moored to floating jetties, and the floating walkways to access the jetties would be approached from the northern bank of the lake.

The Assistant Director reported that the main issues in the determination of this application were: the impact on the Green Belt; the landscape and the visual amenity of the area; the impact on wildlife, conservation and ecology; the impact on highways

and highway safety; the effect on residential amenity; hydrology; the loss of open water; residential use; the adequacy of facilities; and drainage and flood risk. In addition, the Committee were informed that policies RST1 (Development of additional Recreational, Sporting & Tourist Facilities) and RST22 (Potentially Intrusive Activities) were also applied to this application, and the Transport Policy within the National Planning Policy Framework was also highlighted.

Planning Officers had concluded that the development would not preserve the openness of the Green Belt due to the impact on the openness of the moored boats and cars that might be parked rather than the physical works proposed, and was therefore inappropriate development. However, the need for moorings to serve the recreational needs of London and the South-East, and the suitability of this site to provide for that need with minimal works, was considered sufficient to amount to very special circumstances that outweighed the relatively limited harm to the Green Belt and any other harm from the development. It was considered a development that supported open air, rural tourism and leisure activities in a logical and appropriate location within the Lee Valley Regional Park, and was therefore recommended for approval with conditions.

The Committee noted the summary of representations received in respect of this application. The Parish Council had objected on the grounds of access, traffic, parking, the existing planning conditions for the site not being complied with and in particular the boats not to be used for full time residential use, health and safety, the Green Belt, ecology, and the existing facilities within the village. The Roydon Society strongly opposed the application and the Roydon Boaters Association also objected. The Lee Valley Regional Park Authority commented that the number of berths should be reduced by 50% to preserve the openness of the water and Green Belt. In addition, 30 objections had been received from neighbours, relating to similar issues raised by the Parish Council. The Committee heard from an Objector, the Parish Council and the Applicant's Agent before proceeding to debate the application.

Cllr Sartin, the local Ward Member, reminded the Committee that the Tow Path was never meant for two-way traffic, as there was only one passing place and was also used for walking and cycling. It was also emphasised that Essex County Council Highways department had no authority over the access road as it was a private road owned by the Canal and Rivers Trust. The area of water sat within the Metropolitan Green Belt and was also a recreational area for anglers; Cllr Sartin queried that if the water was land within the Green Belt then would the Council consider the building of houses at this location? Cllr Sartin felt that the application should not be approved; however, if it was approved then condition 3 should be amended for full details of the Management Plan to be agreed in writing by the Council before any development of the site commenced, not prior to first use.

A number of Members who had attended the site visit emphasised the traffic congestion that had resulted whenever the barriers at the adjacent railway level crossing were lowered to allow trains to pass. This was potentially dangerous, and it was felt that the situation would only worsen if the application was approved, as the increased traffic movements from a 35% increase in the size of the site would also affect the village. The potential traffic congestion would concern Network Rail and nearby Stansted Abbots in East Hertfordshire. It was also pointed out that condition 4 was ultra vires as the developer did not have the authority to refresh the existing 'Keep Clear' markings, and that a sum of money should be paid to Essex County Council by the Developer for this. The significant number of objections to the application received by the Council was also highlighted.

The Assistant Director accepted that the Applicant did not have the right to renew the road markings, and that East Herts District Council had been consulted on the application but not Network Rail. No comments had been received from East Herts District Council. The Committee were reminded that it could refuse the application on the grounds of the impact on the Green Belt. The Chairman added that if the application was for houses then the Committee would have to consider it in a completely different light.

Members also highlighted that traffic from Stansted Abbots frequently sat on the Railway line at the level crossing waiting to turn right, which was potentially dangerous, and that there was also a small, blind humpback bridge on the site to add to the traffic concerns. Sewage and refuse from the site also had to be removed by service vehicles. The boats moored at the existing marina were larger than canal barges, and there was very little movement of boats witnessed at the site visit so maybe there was more residential use of the moored boats than the owners were aware of. It was suggested that if the non-residency condition could not be granted then the application should not be granted. It was also proposed that a condition could be included to outlaw any habitation of boats during January and February of each year, for example.

The Assistant Director stated that such a condition would be difficult to enforce as it would not cover the whole site, only the proposed extension. It was acknowledged that there would be conflict between the moored boats and cyclists on some parts of the tow path but Planning Enforcement Officers had investigated whether the existing boats were being used for residential purposes. The Assistant Director highlighted that the openness of the Green Belt would be affected by the proposal, although the Chairman commented that the visual impact would only likely affect other boat owners.

Cllr Sartin stated that the Committee had not been shown the special circumstances to justify the granting of the application in the Green Belt, and proposed that the application be refused by virtue of being inappropriate development in the Green Belt resulting in the loss of the existing open water area, and the increased parking and traffic movements would be detrimental to the use of the towpath and highway safety close to the nearby Railway level crossing. This proposal was seconded by Cllr Chambers.

**Decision:**

(1) That planning application EPF/0934/16 at Roydon Marina, High Street in Roydon be refused permission for the following reasons:

1. The proposed development, which would enable the intensive use of the whole of the lake for the mooring of boats, would result in the loss of the existing attractive open water area, and an increase in traffic movements along the narrow tow path access road, together with increased parking around the lake. These changes would adversely impact on the openness, character and visual amenity of the area and undermine the recreational value of the lake and surrounding area for existing boat owners, local residents and visitors to the Lee Valley Regional Park. It represented inappropriate development in the Metropolitan Green Belt and there were no very special circumstances to outweigh the resultant harm or any other of the identified harms. The proposal was therefore contrary to policies GB2a, RST1, RST7 and RST22 of the adopted Local Plan and Alterations and the National Planning Policy Framework.

2. The proposal would unduly exacerbate the traffic movements into and out of the tow path access road from the High Street access very close to a frequently used level crossing, which would be severely detrimental to highway and pedestrian safety, contrary to policies RST22(V) and ST4 of the Adopted Local Plan and Alterations and the National Planning Policy Framework.

**32. EPF/1227/16 - MOSSFORD GREEN NURSERY, ABRIDGE ROAD, THEYDON BOIS**

The Assistant Director of Governance (Development Management) presented a report for a Certificate of Lawful Development for the existing use of the site for storage of vehicles, caravans, motorhomes, trailers and machinery. This application had been considered by Area Planning Sub-Committee East at its meeting on 7 September 2016; the application was refused on the Chairman's casting vote, but four Members stood to refer the application to this Committee under the Minority Reference rules within the Constitution (Part 4, Rule M2 refers).

The Assistant Director reported that the site was located on the east side of Abridge Road, between the adjacent dwelling 'Highview' and Hillcroft Nursery, and had a single access with limited road frontage. The land closest to the road was used for recreational parking of motor homes, caravans and the such like; whilst at the southern end of the site were two buildings, the larger used for storage and the smaller for general vehicle repairs. The wider, surrounding area comprised open fields and the site was within the Metropolitan Green Belt.

The Assistant Director stated that such applications should be determined on a balance of probabilities, and informed the Committee of the legal advice received prior to the meeting in relation to Planning Policy Guidance 17c – Lawful Development Certificates. The evidence provided by aerial photographs, both those supplied by the Applicant and from the Council's own database, had supported the contention that the relevant areas had been hard surfaced and used for parking and storage at various times during the previous ten years. The Applicant had also granted access for Planning Officers to bookings diaries and bank paying-in books showing that vehicles had been stored at the site since at least 2007. A statement, in the form of a Statutory Declaration, had been submitted by the Applicant stating that he had owned the site since 1995 and had stored vehicles in various locations since.

Planning Officers had concluded that the evidence submitted was generally consistent with records held by the Council, and showed a clear pattern of storage of caravans and other vehicles over an extended period. There was little evidence to contradict that submitted by the Applicant, and it was considered that, on the balance of probabilities, the use was lawful.

The Committee noted the summary of representations, and that no responses had been received from the four neighbours consulted. The Theydon Bois & District Rural Preservation Society referred to previous applications for holiday pitches on the site and argued that the application would breach planning conditions in those applications. Theydon Bois Action Group questioned the evidence submitted to support the application. Theydon Bois Parish Council had objected to the application, arguing that the evidence was not sufficient to justify the grant of a Certificate on the balance of probability.

Some Members felt that the photographs from 2007 showed very few vehicles being stored at the site, and certainly no commercial storage of vehicles had been in

operation at that time. Therefore, the evidence did not support the view that the site had been used for ten years to store vehicles, and the application if granted could lead to an intensification of the use of the site. One Member even contended that, according to local information, the caravans marked as storage were actually being lived in.

The Assistant Director confirmed that the Planning Case Officer had visited the site, and the Applicant had provided written confirmation of commercial use of the site. Planning Officers were of the opinion that the photographs from 2007 were not too dissimilar to the current situation. It would be difficult to put a limit on the number of vehicles that could be stored on the site, although the storage of vehicles would be limited to the areas requested as part of the application. The Committee could amend the wording of the Certificate and add restrictions, for example no residential use of the stored caravans to be permitted.

Cllr C C Pond suggested that the Committee could decline to determine the application due to the confusing nature of the evidence, as a refusal would elicit an appeal from the Applicant. The Assistant Director advised the Committee that the Council could face a claim for costs at appeal if the application was not determined.

The Chairman suggested that the wording of the Certificate be amended to permit the site to be used for storage only, with no residential use of the stored caravans to be permitted, and the Committee concurred.

**Decision:**

(1) That the Development at Mossford Green Nursery, Abridge Road in Theydon Bois be considered Lawful, subject to the following conditions:

1. Having regard to the evidence submitted the Council was satisfied that the existing use of the land for parking and storage of vehicles, caravans, motor homes trailers and machinery had been extant for a period in excess of 10 years and the unit therefore benefited from existing use rights and was immune from any potential enforcement action.
2. The areas identified were not lawfully to be used for any other purpose than those stated in the application and therefore did not include any residential occupation or overnight stay.

**33. EPF/1922/16 - 15 OAKWOOD HILL INDUSTRIAL ESTATE, OAKWOOD HILL, LOUGHTON**

The Assistant Director of Governance (Development Management) presented a report for the variation of condition 2 – ‘Plan Numbers’ – on planning application EPF/2197/16 (Installation of two storey business units (Use Class B1a); part single and part two storey café (Use Class A3); forming a business incubator development of 34 units based on reconditioned shipping containers) to allow for a supporting base structure for the approved crates.

The Assistant Director reported that the site was located within the Oakwood Hill Industrial Estate, which was designated as an employment area, and comprised an open yard previously used for storage flanked by two x two-storey business units with a vehicle access in between. The site backed onto the London Underground railway line, was directly opposite the entrance road to the Estate and therefore visible from Oakwood Hill. The site was not within the Metropolitan Green Belt or a Conservation

Area. The proposal sought a minor material amendment to the plans approved by the Committee on 24 February 2016, for a supporting base structure to allow the reconditioned shipping containers to sit flat on the site, due to the slope to the rear of the site. The base structure would raise the front of the crates by a maximum of 0.8metres, and no other changes were proposed.

The Assistant Director stated that the application was before the Committee as it was considered a major planning application with the development of commercial floor space in excess of 1000m<sup>2</sup>. The Council owned the freehold of the site. The main issues to be considered for this proposal were the impact on the overall design and amenity. Planning Officers had concluded that the amendment was relatively small and the addition of the base structure was considered acceptable; therefore approval of planning permission, with conditions, had been recommended.

The Committee noted the summary of representations, and that Loughton Town Council had no objection to the application. No responses had been received from neighbours during the consultation period.

**Decision:**

(1) That planning application EPF/1922/16 at 15 Oakwood Hill Industrial Estate, Oakwood Hill in Loughton 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. The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1.01, 1.02, 1.03, 1.04, 1.05, 1.11, 1.12, 1.13, 1.14, and 1.22 all dated 11/12/2015 and e16041-001-A and e16041-002-A both dated 16/03/16
3. The development shall be implemented in accordance with the approved details submitted under EPF/1915/16 showing a photograph of the proposed crate.
4. The development shall be implemented in accordance with the Surface Water Drainage Design document and drainage plan 5202/501-A submitted under EPF/1915/16. These 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.
5. 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 in writing 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.]

6. 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 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.]

7. 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 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.]

8. 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. The approved monitoring and maintenance programme shall be implemented.



9. 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.
10. The development shall be implemented in accordance with the design and method statements (submitted plans and email communication with London Underground) submitted under reference EPF/1915/16.
11. Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.
12. The development shall be implemented in accordance with the submitted Construction Management Plan (dated March 2016) submitted under reference EPF/1915/16. This approved Statement shall be adhered to throughout the construction period.
13. 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 07.30 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.
14. There shall be no open storage.

**34. ANY OTHER BUSINESS**

The Committee noted that there was no other urgent business for consideration.

**35. EXCLUSION OF PUBLIC AND PRESS**

The Committee noted that there was no business for consideration which necessitated the exclusion of the public and press.

**CHAIRMAN**