

This message was sent with High importance.

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Planning;
Olga Linkeviciene;
Kevin O'Brien

Dear Graham

We have registered to speak.

The agenda states incorrect information was given to the Council regarding the when the Inspector's decision was made. The Planning Inspector's decision was published on 9 March 2023, 72 hours after the adoption of the Local Plan on 6 March 2023.

However, the Inspector did not reference or consider any policies in the now adopted Local Plan when coming to the decision to dismiss the appeal.

The original planning application was considered and refused by Plan South on 2 February 2022. Appeal statements were with the Inspector by 27 June 2022 with final comments from both parties by 19 July 2022.

In the written decision published on 9 March 2023 the Inspector based their decision on policies in the Epping Forest District Local Plan Alterations (July 2006), the Epping Forest District Local Plan (January 1998) and the emerging Epping Forest District Local Plan Submission Version (2017).

There was no reference or consideration of the policies within the adopted Local Plan in the decision. The same applies to the original grounds for refusal by EFDC and the appeal documents

It is clear there has been a material change since this application was previously considered and refused by Plan South in February 2022 and an appeal then submitted, namely the adoption of the Local Plan on 6 March 2023.

If I recall it was Cllr Kauffman who highlighted this material change since the Council had last considered this application in September 2023. That the Inspector did not consider or reference any adopted Local Plan policies when making their earlier decision to dismiss the appeal indicates Cllr Kauffman was correct to do so.

The committee refused the proposal in September 2023 on the grounds of non-compliance with the now adopted Local Plan. Thanks to an error, the matter has returned to them again.

Members should not be in the position of feeling unable to refuse any proposal in the event they consider any aspect of it to not be compliant with the policies of the now-adopted Local Plan. EFDC is the Planning and Parking Authority and ensuring compliance with all aspects of the Local Plan is the prerogative of EFDC and Plan South in this particular instance. To refuse on the grounds of evidenced non-compliance with specific LP policy is considered to be acting reasonably, thus adverse costs decisions are avoided.

In the interest of balance, members might wish to recall the recent comments made by the Planning Inspector when dismissing an appeal for flats in Chigwell, first refused by Plan South, namely, *"I appreciate that Council officers recommended approval of the application to the planning committee. However, it was within the committee's gift to make a decision on the application contrary to the officer recommendation, thus this consideration has had no bearing on my decision."*

Kind regards

Cllr Celina Jefcoate

Councillor Celina Jefcoate
Chair of Finance and Governance
Chair of Planning

Statement of Reasons

1. On 25 October 2023 the Defendant approved planning permission for a development described as “Demolition of existing dwelling and replacement with two structures containing a total of 5 new dwellings” (Application Reference EPF/0625/23) (the “**Development**”) in respects of 2 Courtland Drive, Chigwell, Essex, 1G7 6PN (the “**Site**”).
2. The above-mentioned application was originally considered and recommended for approval by the planning officer in charge of the application. The application was sent to the Area South Planning Sub Committee (the **Committee**) on 11 October 2023 to be debated. At the Committee it was recommended for refusal. Subsequently, due to an administrative error the decision was recorded and published, via a decision notice dated 25 October 2023, as approved.
3. The reasons the decision should be quashed is two-fold. Firstly, the Interested Party was erroneously sent an approval decision notice rather than a refusal decision notice as per the Committee’s decision. Secondly, upon review of the Committee’s reasons for refusal both the Claimant and Defendant have noted that the Committee’s decision was based on incorrect evidence. Should the Committee hear the application based on all of the correct evidence their outcome may be different.
4. The Claimant and Defendant recognise the errors in this matter and so both seek an order to quash the approval decision, so that the matter can be resent to Committee to be re-debated on the basis of all of the supporting evidence obtained during the investigations ahead of these proceedings. Following the Committee’s decision, a new decision can be issued.
5. The Interested Party has indicated, via their solicitors, to the Claimant’s and Defendant’s solicitors that they consent to this Draft Order.

From: Graham Courtney <GCourtney@eppingforestdc.gov.uk>
Sent: 05 January 2024 3:56 PM
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Subject: RE: EPF/0625/23 - 2 Courtland Drive, Chigwell

Dear all,

I just wanted to write and provide an update on the situation with EPF/0625/23, 2 Courtland Drive, Chigwell.

We have now received the Consent Order overturning the incorrectly issued decision on this application. This now means that the decision has been quashed and the application becomes 'live' again.

One of the considerations of the Court was that the decision made by Members at Area Planning Sub-Committee South was based on incorrect evidence with respect of the date of the appeal decision in relation to the date of the Local Plan adoption, in that the previous appeal decision was issued after the adoption of the new Local Plan.

Attached is a copy of the Statement of Reasons providing justification for the Courts decision. In line with paragraphs 3 and 4, we intend to bring the application back in front of Area Planning Sub-Committee South so that the Committee Members can make a decision based on all of the correct evidence. This way, any decision issued should not be open to any further legal challenges.

We of course will aim to have this application on the agenda for the next South meeting.

Kind regards,

Graham Courtney
Planning Service Manager – Development Management

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To view details of procedures and processes please see the Development Management Service Charter on our website at <https://www.eppingforestdc.gov.uk/planning-and-building/development-management-service-charter/>

Further information and answers to some frequently asked questions is available on our [website here \(https://www.eppingforestdc.gov.uk/planning-and-building/\)](https://www.eppingforestdc.gov.uk/planning-and-building/).

Planning enquiries can be made by email to contactplanning@eppingforestdc.gov.uk

Epping Forest District Council

www.eppingforestdc.gov.uk



Safer spaces is a council-led programme to help kickstart the local economy and reopen high streets in the Epping Forest district [Click Here to have your say on social distancing and safer spaces](#)

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