

# Essex Development Management Forum

## MINUTES

**DATE:** 12<sup>th</sup> October 2012

**TIME:** 10 am

**VENUE:** Chelmsford Museum, Oaklands Park

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### Attendance List:

David Lewis	<i>Basildon BC</i>
Darren Roberts	<i>Braintree DC</i>
Caroline McCaffrey	<i>Brentwood BC</i>
Keith Holmes	<i>Chelmsford</i>
Andrew Tyrell	<i>Colchester BC</i>
Gemma Hallam	<i>Environment Bank</i>
Nigel Richardson	<i>Epping Forest DC</i>
Katie Smith	<i>Epping Forest DC</i>
Richard Greaves	<i>Essex CC</i>
Mark Lawrence	<i>Essex CC</i>
Phil Callow	<i>Essex CC</i>
John Hills	<i>Essex Police</i>
Heather Gurden	<i>Essex Police</i>
Elizabeth Fitzgerald	<i>Harlow DC</i>
Chris Purvis	<i>Maldon DC</i>
Phil McIntosh	<i>Southend on Sea</i>
Nigel Brown	<i>Uttlesford DC</i>

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### 1. Apologies for Absence

John Whitlock	<i>Rochford DC</i>
Tessa Lambert	<i>Braintree DC</i>
Johnathon Keen	<i>Thurrock</i>
Kim Fisher	<i>Castle Point BC</i>
Lindsay Speed	<i>National Planning Casework Unit</i>

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### 2. Minutes

#### Action

The minutes of the meeting held on 13<sup>th</sup> July 2012 at Chelmsford Museum, Oaklands Park were agreed as an accurate record.

### **3. Matters Arising**

PAS are continuing with the benchmarking exercise. Richard Greaves recently attended a steering group in London to 'tweak' the final version – no fundamental changes are proposed. New local authorities can sign up at a launch event next Tuesday (16<sup>th</sup> October) and repeat local authorities can sign up by email. This time round, PAS has employed consultants to collate the results – which should be of benefit. Elizabeth Fitzgerald (Harlow DC) and Richard Greaves (Essex CC) were both intending to sign up, but Keith Holmes and Nigel Richardson advised that Chelmsford BC and Epping Forest DC were unlikely to participate this time round. Richard Greaves voiced that with 'proactive' requests and no present definition of what constitutes a 'poorly performing authority', the benchmarking could be a valuable exercise in what are changing times. It was agreed to include an update of the benchmarking exercise on the agenda for the next meeting.

Mark Lawrence (Essex CC) will distribute a Highway Satisfaction Survey.

**Mark Lawrence**

Keith Holmes (Chelmsford BC) was to circulate a copy of Chelmsford's Local Enforcement Plan. However, Members have decided to pursue a centralised enforcement team, to the enforcement plan is presently on hold pending that consideration. Nigel Brown (Uttlesford DC) and Richard Greaves (Essex DC) advised that they both operate centralised enforcement teams, to varying degrees of success – it is useful to be able to draw upon other services, but Officers need expert opinions from Planners.

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### **Items for Discussion**

#### **4. Election of Chair and Vice Chair**

The Forum elected Nigel Richardson as its next Chairman and Richard Greaves as Vice-Chairman.

The Forum gave its thanks to both Keith Holmes for his many years of Chairmanship of the Forum and to Sally Rogers for her organisation.

#### **5. Terms of Reference**

**Nigel Richardson**

The Forum accepted the Terms of Reference drawn up by Keith Holmes. It was discussed whether the Terms of Reference should include a period for review of the Chairmanship – it was decided that this would be included as an agenda item in a years time for review. EPOA should also agree the Terms of Reference – Nigel Richardson to seek agreement of EPOA Chairman.

The Terms of Reference are circulated with these minutes.

#### **6. Secured by Design**

John Hills and Heather Gurden from Essex Police gave a short

explanation of the type of work that they do and requested that they are consulted as early in the process as possible – preferably by the Developer at pre-application stage. David Lewis asked what the level was for reference to them and John Hills advised 1,000m<sup>2</sup> or ten dwellings as a threshold guide. John and Heather have already given presentations to Officers at Epping Forest and Braintree and are keen to give further presentations to other local authorities individually – they are able to tailor their presentation to their audience – i.e. to include Forward Planning Officers and Members.

John Hills: [john.hills@essex.pnn.police.uk](mailto:john.hills@essex.pnn.police.uk) (01245) 452734

Heather Gurden: [heather.gurden@essex.pnn.police.uk](mailto:heather.gurden@essex.pnn.police.uk) (01245) 452735

## **7. Sustainable Drainage Systems**

Phil Callow, Essex County Council advised that Essex County Council will become a SuDS Approval Body (SAB) by the enactment of Schedule 3 of the Flood and Water Management Act 2010. Commencement of their SAB duties has been postponed and will now not be before April 2013 (although in the meantime some drainage systems have been adopted using Highway powers. This means that all new development which has surface water drainage implications will potentially require SAB approval and need to conform to National and Local Standards. Consultation has recently closed on Essex CC's Design and Adoption Standards for SuDs – it is hoped that this will be adopted by LPA's at SPG. Copies of the SuDs update and SuDs standing advice are circulated with these minutes.

Phil advised that consideration still needs to be given as to how the SuDs process will fit into a planning application process. E.g. in terms of timing and also who will be the enforcing body.

Prior to becoming the approval body, Essex CC would like to be consulted on developments exceeding 1 hectare – although Phil does pick up some of these through his role as Estate Design Manager.

Essex CC has scope to increase its resources, depending on the take-up across the County. Phil has previously visited 6 Districts to discuss SuDs and is happy to visit others on request.

Phil Callow: [phil.callow@essex.gov.uk](mailto:phil.callow@essex.gov.uk) (01245) 437062

## **8. Biodiversity Offsetting**

Gemma Hallam, The Environment Bank gave a presentation on Biodiversity Offsetting. This involves developers purchasing 'credits' to offset the environmental harm caused by their development. The 'credits' are then spent on receptor sites, which are in need of environmental enhancement/restoration. The Environment Bank has several partners on board, including several Essex local authorities. When consulted on a planning application, Gemma will undertake a calculation to assess how many credits are needed.

Keith Holmes felt that in the absence of planning policies requiring it, Biodiversity Offsetting was unlikely to be taken up by developers, except where a site was otherwise undeliverable. Gemma agreed, but advised that some developers were still signing up for it. There was some discussion regarding what was the best mechanism for delivering Biodiversity Offsetting, i.e. via CIL/S106/Condition. Gemma advised that presently conditions are used. Using CIL would not work with the principle of offsetting, as the same payment would be made for each site, regardless of its impact.

Richard Greaves asked whether this scheme was intended to deal with mitigation or compensation and whether local authorities needed to consult Natural England and the Environment Bank. Gemma advised that it is still expected that mitigation will take place – offsetting is intended to deal with the compensation element, although in some cases offsetting may be more beneficial than on-site mitigation – but not in all cases as would often be the Developer's preference!

Where possible, the Environment Bank would try to match development sites with receptor sites in the same local authority.

Offsetting relates to habitats only, although once restored it may be possible for receptor sites to become trans-location sites for protected species.

This is a 2 year pilot project – however if at the end of the pilot DEFRA ceases to use offsetting, the Environment Bank will still exist as a compensation provider and can continue to deliver offsetting in relation to outstanding S106/planning conditions.

Gemma would like to attend individual local authority DC team meetings to discuss with Officers. The most recent update for the project is circulated with these minutes.

Gemma Hallam: [ghallam@environmentbank.com](mailto:ghallam@environmentbank.com) (07772) 360713

## **9. Positive and Proactive Statements**

**All**

The Forum considered that there was a need to do more to fulfil the LPA's obligation in relation to positive and proactive statements than the suggestion in the Chief Planning Officer letter (18<sup>th</sup> September) which stated '*We envisage that in the majority of cases it will be sufficient for the authority to include a simple statement, confirming that they have implemented the requirement in the NPPF*'.

Also, despite the wording in the Statutory Instrument, the Forum agreed that the requirement existing in relation to all types of planning application – not just to extension of time applications.

Richard Greaves read an example for Essex CC – which advised in the statement that consultation responses had been forwarded to the applicant in a timely manner and no responses had been received.

Elizabeth Fitzgerald stated that Harlow DC is proactive and positive by being willing to engage pre-app discussions.

David Lewis raised concern that the use of the word 'proactive' in a statement could suggest bias in favour of the development.

Keith Holmes asked what the consequences would be for not being proactive?

It was decided that each LPA would draft some wording for statements, run them through their lawyers and then discuss them at a future meeting of the Forum.

## **10. Rights of Way**

**Richard Greaves**

Richard Greaves offered to speak with Gary White, Essex CC, to provide feed back. As present, there is no decision as to which of the 3 options set out in the DEFRA consultation paper is preferred.

Andrew Tyrell advised that he has referred Right of Way diversions back to County where they do not relate to a current development.

Richard Greaves will invite Gary White to attend the next meeting. However, questionnaire responses do need to be returned prior to then.

## **11. Development Consent Orders**

Nigel Richardson advised that Epping Forest DC has been consulted recently on 2 projects of national significance (Fieldes Lock, Hoddesdon and National Grid cable upgrades across the Lea Valley Regional Park. The consultation is frontloaded at pre-app stage and there is a need to consider the early involvement of Members.

Richard Greaves advised that Essex CC had not been consulted on the Fieldes Lock development as a Waste Authority and Elizabeth Fitzgerald stated that Harlow DC has not been consulted by Veolia, only by PINS post submission. However, Darren Roberts advised that Braintree had been consulted, but had not responded due to their distance from the development.

## **12. Appeal Decisions**

2 appeal decisions were circulated and discussed:

### Land west of Bicton Industrial Estate, Kimbolton, Cambs

Elizabeth Fitzgerald summarised the decision, which related to a wind farm adjacent to Grade I, II\* and II listed buildings. The proposal was contrary to the Huntingdon DC SPD, in terms of the number of turbines proposed.

PINS refused on the impact on nearby listed buildings and the conservation area. However, Elizabeth advised that this conclusion was

unlikely to apply in other cases, except where there significant heritage assets and where the setting is key.

Summerhill Garden Centre, Pipp's Hill Road North, Billericay

David Lewis advised that the decision provides an example of post-NPPF consideration of what is 'proportionate' as an addition to a building.

Elizabeth Fitzgerald stated that at a recent public inquiry into a development at Gilden Way, Harlow DC argued that their shortfall in relation to 5 year land supply was not relevant, as it could be quantified within the 20% uplift. A decision is expected mid-November.

Andrew Tyrell clarified that the presumption in favour exists only where development is sustainable – that is, it includes social, environmental and economic elements. Where one element is missing, the development is not sustainable. Andrew will circulate a note.

**Andrew Tyrell**

## **Reports from Other Groups**

### **13. EPOA**

EPOA would like greater control over the sub-groups.

The Support Group is due to meet on 10<sup>th</sup> December.

The Enforcement Officer group has been split into 2 – EPOA would like the DC Forum to encourage the reestablishment of the Essex Enforcement Officers Group. Nigel Brown felt that this would be of particular benefit to Enforcement Officers working within centralised teams. Nigel undertook to encourage Enforcement Officers to attend.

**Nigel Brown**

Elizabeth Fitzgerald advised that Harlow would be keen to attend, but as their Enforcement Officer only worked part time, the day chosen for the meeting would be key to attendance.

There was some discussion as to whether the Chairs of the Support and Enforcement Groups should attend the DC Forum (or whether someone from the DC Forum should attend their meetings). It was decided that Terms of Reference from those groups would assist with identifying appropriate attendees.

### **14. Enforcement Liaison Group**

See above.

## **Items for Information**

### **15. Update on forthcoming legislation/guidance**

Fee increase – no date for implementation yet, but expected during November.

## **16. Any Other Business**

Richard Greaves (Essex CC) advised that Statements of Conformity in respect of local plan policies and useful in relation to Paras. 214 and 215 of the NPPF.

Richard Greaves (Essex CC) requested that the Minerals & Waste Team is not identified as the Applicant on applications referred to District Council's.

Richard Greaves (Essex CC) advised that Essex list all application documents within a planning condition (as per good practice guidance) but include the phrase '*and subsequent non-material amendments as approved by the Local Planning Authority*' at the end.

Keith Holmes (Chelmsford BC) – Pre-app Charging – will send round a pro-forma to update levels of charging for each local authority.

**Keith Holmes**

Andrew Tyrell (Colchester BC). Is experiencing difficulties with the latest version of I-Docs in relation to redaction, An issue has arisen over a previous objector to a planning application whom entered his mobile number into Google, which brought up the planning application. Colchester will now remove all letters from previously determined planning applications. Several other members of the Forum stated that their authorities either no longer or never had included third party representations on their websites.

David Lewis (Basildon BC) advised that 'Building for Life 12' has been recently published.

## **17. Items for next agenda**

PAS Update

**Nigel Richardson**

Gilden Way Public Inquiry Decision

**Elizabeth  
Fitzgerald**

Pre-app Charging

**Keith Holmes**

## **18. Date, time and venue of next meeting**

11<sup>th</sup> January 2013

19<sup>th</sup> April 2013

At Chelmsford Museum, Oaklands Park, 10am