

## **AREA PLANS SUB-COMMITTEE 'WEST'**

**15 November 2017**

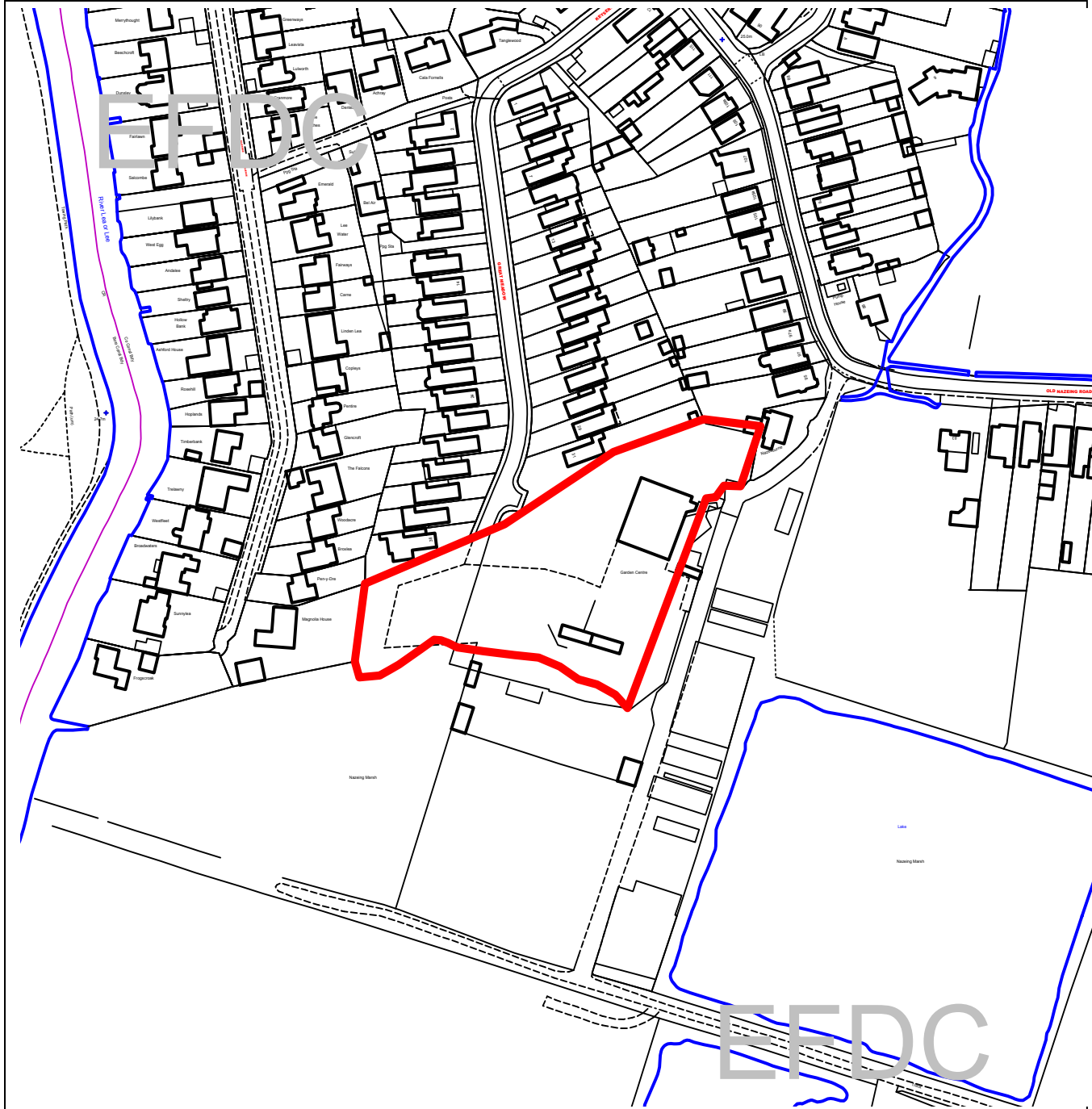
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# Epping Forest District Council

## Agenda Item Number 1



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Application Number:	EPF/1232/16
Site Name:	Chime Garden Centre, Old Nazeing Road, Nazeing, EN10 6RJ
Scale of Plot:	1/2500

**Report Item No: 1**

<b>APPLICATION No:</b>	EPF/1232/16
<b>SITE ADDRESS:</b>	Chimes Garden Centre Old Nazeing Road Nazeing Waltham Abbey Essex EN10 6RJ
<b>PARISH:</b>	Nazeing
<b>WARD:</b>	Lower Nazeing
<b>APPLICANT:</b>	Mr Kevin Ellerbeck
<b>DESCRIPTION OF PROPOSAL:</b>	Demolition of existing Garden Centre/Commercial Buildings and erection of 17 (16, 6 bed and 1, 4 bed) dwellings with associated parking and landscaping.
<b>RECOMMENDED DECISION:</b>	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/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=584476](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=584476)

**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: ELA500 Layout Scheme 1 dated 12/11/16, BDG/11 Street Scene Elevation, 1148-P-114(House Type F), 11048-P-110(House Type L)
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
- 4 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 5 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 an 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.

- 6 The tree protection and any activities within the calculated tree protection areas shall be undertaken in accordance with Tree Protection Plan within Andrew Day Arboricultural Report dated 24th May 2016. 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.
- 7 No development shall commence until a survey by a competent person has been carried out to establish the presence or otherwise of Japanese Knotweed and submitted to the Local Planning Authority. The survey should also note any knotweed adjoining the site. If Japanese Knotweed is confirmed, full details of a scheme for its eradication and/or control programme suitable for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the substantial completion of the development hereby approved.
- 8 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  1. The parking of vehicles of site operatives and visitors
  2. Loading and unloading of plant and materials
  3. Storage of plant and materials used in constructing the development
  4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  5. Measures to control the emission of dust and dirt during construction, including wheel washing.
  6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
- 9 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.

- 10 No development shall take place until details of levels have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
- 11 No development shall take place until details of foul water 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.
- 12 Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 (or of any equivalent provision in any Statutory Instrument revoking or re-enacting that Order), the garage(s) hereby approved shall be retained so that it is capable of allowing the parking of cars together with any ancillary storage in connection with the residential use of the site, and shall at no time be converted into a room or used for any other purpose.
- 13 No development shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
- 14 Before any preparatory demolition or construction works commence on site, full ecological surveys and a mitigation strategy for the site shall be submitted to the Local Planning Authority for agreement in writing with a working methodology for site clearance and construction work to minimise impact on any protected species and nesting birds. Development shall be undertaken only in accordance with the agreed strategy and methodology.
- 15 No development shall take place until details of the proposed surface materials for the driveways and parking area have been submitted to and approved in writing by the Local Planning Authority. The agreed surfacing shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property. The agreed surface treatment shall be completed prior to the first occupation of the development or within 1 year of the substantial completion of the development hereby approved, whichever occurs first.
- 16 Prior to any excavation or dewatering works taking place on site and prior to details of land contamination remediation being submitted, a report by suitably qualified and experienced groundwater and land stability engineers providing a full survey and assessment of risks both on and off site from the proposed contamination remediation works shall be submitted to and agreed in writing by the Local Planning Authority.
- 17 No development shall take place until details of a satisfactory ground gas investigation and risk assessment has been carried out and submitted to the Local Planning Authority for approval in order to determine what if any ground gas

remediation measures may be required or shall specify appropriate ground gas mitigation measures to be installed in the building(s) in lieu of any ground gas investigation.

The investigations, risk assessment and remediation methods, including remedial mitigation measures to be installed in lieu of investigation, shall be carried out or assessed in accordance with the guidance contained in BS 9485:2007 "Code of practice for the Characterisation and Remediation from Ground Gas in Affected Developments." Should the ground gas mitigation measures be installed, it is the responsibility of the developer to ensure that any mitigation measures are suitably maintained or to pass on this responsibility should ownership or responsibility for the buildings be transferred.

- 18 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]
- 19 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]
- 20 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]

- 21 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.
- 22 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.
- 23 Prior to first occupation of the development the vehicular turning facilities, as shown in principle on drawing no.PL101 Rev A, shall be constructed, surfaced and maintained free from obstruction within the site at all times and shall be retained as such in perpetuity.
- 24 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
- 25 Prior to any works on site the existing gated access to the site from Great Meadow, shall be closed by the erection of wall, details of which are to be submitted to and agreed in writing by the Local planning Authority. The approved wall shall thereafter be retained and no access or egress into the site from/to Great Meadow shall take place at any time.

- 26 The development shall be carried out in accordance with the flood risk assessment (Undertaken by MTC, Ref 1333 - FRA 17 Dwellings - May 2016) submitted with the application unless otherwise agreed in writing with the Local Planning Authority.
- 27 Prior to commencement of development a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime, shall be submitted to and agreed in writing by the Local planning Authority. The agreed management and maintenance plan shall then be implemented in accordance with the agreed details thereafter unless alternate arrangements are agreed in writing.

**And subject to the applicant entering into a legal agreement under section 106 of the Town and Country Planning Act, by 15<sup>th</sup> January 2018 to secure**  
**-£952,180 towards the provision of affordable housing in the District,.**  
**-£76, 653 towards education provision and education transport costs (index linked).**  
**-Plus the full decontamination and landscaping of the site including the open space associated with it, and the setting up of a resident's management scheme to ensure the long term ongoing maintenance of the landscaped open space area in accordance with a detailed scheme to be agreed.**

**In the event that the developer/applicant fails to complete the Legal Agreement within the stated time period(or such longer period as may be agreed with officers) Members delegate authority to officers to refuse planning permission on the basis that the proposed development would not comply with Local Plan policies regarding affordable housing, landscaping and sustainability.**

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

### **Description of Site:**

The application site is a roughly triangular area of land which is predominantly hard surfaced and contains a number of buildings and is currently being used without planning permission for open storage purposes. The site is located to the south of the residential area comprising Riverside Avenue and Great Meadow. The northern boundary of the site is bounded by flank garden boundaries of residential properties. To the south and east is open land. The site is accessed from Old Nazeing Road. In addition there is currently a gated but disused access from the end of Great Meadow.

The site lies wholly within the Metropolitan Green Belt and is within the Lea Valley Regional Park. (LVRP) It is not within a conservation area.



### **Description of Proposal:**

The proposal is to remove all the existing buildings and hard standing from the site and to redevelop part of the site for 17 detached dwellings. That is, 16 six bedroom two and a half storey dwellings and 1 four bed two storey house in a simple layout off a spine road. Each of the houses has garaging and parking space and has amenity space to the rear. The designs are relatively traditional, of brick with pitched roofs.

The remainder of the site (some 0.65 of a hectare), which is largely currently hard surfaced, is proposed to become an amenity area for the residents of the site. The intention is that this area, which is part of a larger landfill site, is to be decontaminated, landscaped and utilised as an amenity area for the residents of the site which is to be maintained through a management company.

The application refers to the development as Phase 1, with phase 2 being the development of part of the land to the south of this site for 7 self build properties and restoration of another area of landfill, again as an amenity area. However, phase 2 has been submitted as a completely separate application and each proposal must be considered on its own merits.

### **Relevant History:**

The site has a long and complex planning history. An area of land to the immediate east of the site, which was at one time known as Nazebourne Poultry Farm was included within the same planning file as the application site and the planning history is therefore quite difficult to separate out.

The grant of planning permission in 1971 for a Garden Centre (Sui Generis use) under EPO/0565/71 commenced the current chapter in the planning history of the site. Condition 2 laid out what goods could be sold from the site as an ancillary use of the Garden Centre. Condition 3 stated that the premises should only be used as a Garden Centre and for no other use. The plans show the area of the permission as the area encompassed by the current buildings and an area of land to the west.

It is important at this stage to recognise that there were in 1971, and are in 2017, two separate planning units on the area encompassed by the Planning File (PL000430). One is known as "Chimes Garden Centre" and the other was "Nazebourne Poultry Farm". These two planning units are clearly and separately identified in the Planning Files in the individual applications and their associated plans. Chimes is the subject of the current application and the Nazebourne Poultry Farm site, which had a number of buildings and non conforming uses, has been purchased by the Lee Valley Regional Park Authority (LVRPA), cleared and returned to grass.

"Chimes" then was subject of the following applications (these are a relevant but not an exhaustive list):

1975 - EPF/0668/75 - Rebuilding of nursery as Garden Centre - granted  
1975 - EPF/1014/75 - Extraction of sand and gravel - granted (area to west of site)  
1982 - EPF/0003/82 - LDC for storage and sale of building materials - refused  
1984 - EPF/0689/84 - Extension of garden centre and addition parking - granted  
1989 - Section 52 agreement on use of land to south of Chimes site for car parking and no other uses

The Garden Centre changed its name in 1995 to "The Potting Shed". Some time before this the site had encompassed an area to the south of the original planning permission, which was to

become, after 2006, used without planning consent by a pallet firm, gas suppliers, flower sales and shed manufactures', which was later destroyed by fire in 2012.

The garden centre closed in about 1999.

It was then allowed to become derelict and was unused until late 2006 when a number of businesses moved on to the site from the adjacent Nazebourne Poultry Farm which was cleared of development as part of a section 106 agreement.

The following applications were received in this time:

2003 - EPF/2211/03 5 dwellings - refused

2004 - EPF/1860/04 5 dwellings - withdrawn

2006 - EPF/0040/06 5 dwellings - refused

In 2002 Essex Country Council served an enforcement notice on the west of the site regarding the tipping of waste.

In December 2006 enforcement investigations commenced into building works in two of the garden centre buildings and the new uses of the site which were A1, B1, B2 and B8, and some Sui Generis uses. In 2007 a number of small buildings were erected on the site, large scale fencing erected and an area of hardstanding re-laid with a glasshouse being erected. The enforcement investigation concluded that there had been a change of use and operational development which required planning permission.

Enforcement Notices were served in 2011 (These were withdrawn after protracted negotiations over the submission of a planning application with Kelsworth).

After some considerable delay a planning application for the change of uses was submitted:

2012 - EPF/0969/12 Change of use of Garden centre to horticulture and B1 (Business uses) – This was withdrawn.

In 2012 a fire swept the site and burnt down the majority of the uses to the south of the site. Some uses continued to the north and a new use of car repairs started in building 1.

In 2013 – EPF/0524/13- Replacement buildings damaged in a recent fire and the erection of further amenity buildings for waste disposal and cycle storage facilities in connection with retention of a mixed use of retail garden centre and commercial centre with business uses A1 (retail), B1 (light industrial and office), B2 (general industry) and B8 (storage use) – This was withdrawn.

In 2014, application EPF/0206/14 for redevelopment of this and the adjacent (phase 2) site extending down to the river) for the erection of 43 houses was refused at District Development Control Committee for the following reasons:

1. The proposed development includes "more vulnerable" development located within Flood Zone 3. The development does not provide wider sustainability benefits that outweigh the flood risk and does not therefore pass the Exceptions Test. As such the proposal is contrary to the NPPF. Para 102.
2. The development, due to the amount of built form that will intrude in to the southern half of the site which is currently free of buildings, will have a significantly greater impact on the openness of the Green Belt than the existing development and as such is inappropriate and by definition harmful. The development is therefore contrary to policy GB2A of the adopted Local Plan and Alterations and to the NPPF.

3. The proposal fails to provide on site affordable housing despite such provision being financially viable and the site being suitable for such development, as such the development is contrary to policies H5A, H6A, and H7A of the adopted Local Plan and Alterations and Para 50 of the NPPF.
4. By reason of the site's location beyond the statutory walking distance to a secondary school the proposal will generate an additional cost to the Local Education Authority, Essex County Council, for transporting children to secondary school. However, the proposal does not include any mechanism to meet those additional costs. Since the proposal fails to properly address this matter it is not a sustainable form of development and is consequently contrary to policies CP9 (iii) and I1A of the Adopted Local Plan and Alterations, which are consistent with the National Planning Policy Framework.

This decision was upheld on appeal and dismissed.

Members of the District Development Control Committee however considered that there was a way forward and these were minuted as:

- 1. That the redevelopment of the northern part of the site could be acceptable, as this would avoid the Flood Risk Zone 3, most of the former landfill site and would likely to be acceptable in Green Belt terms;*
- 2. That any proposed scheme should include an appropriate element of affordable housing. Although it was acknowledged that this location was not acceptable for high density housing, a suitable development which respected the character of the area could be achieved.*

Following this, EPF/0570/15 for development of just the northern part of the site (the current application site) site for 26 houses was approved by Committee (without any affordable units on site) subject to a legal agreement requiring £500,000 towards the provision of affordable housing elsewhere and additional monies towards the provision of secondary education and school transport.

Following this approval, the applicant has discovered that the decontamination works involved in removing the landfill from under the site and restoring it to the level necessary to make housing development safe, would make the development not economically viable. The current 17 house proposal has been designed to ensure that the new houses are not built over the landfill area, thereby reducing the costs of development.

Currently the site is covered by two extant enforcement notices covers use for car repairs, B2 general industrial uses, stationing of buildings and container and various unauthorised B1 & B8 uses. An unauthorised glasshouse has been removed and most of the unauthorised uses have ceased, although there is still some storage of artificial turf, this is being monitored.

## **SUMMARY OF REPRESENTATIONS**

The application was advertised in the Local Press, and site notices were erected 29 neighbours were consulted and the following consultation responses were received:

32 GREAT MEADOW (4 separate letters). I object to this plan as I am concerned that the spine road runs adjacent to the gate into Great Meadow. Agree subject to gates to Great Meadow not being opened. Would like to see a wall built to prevent access and the pavement extended. Site has been a nuisance too long. I do not trust the developer he is likely to put in for access from Great Meadow.

34 GREAT MEADOW (2 letters)– A wall should be built across the Great Meadow access before work starts, so lorries can not access the site this way. We do not want cars racing up and down and litter being thrown as happened when this access was opened in the past. The current temporary industrial gates with plastic sheeting over it is an eyesore

28 GREAT MEADOW – Object as the road layout has been designed to get access from Great Meadow at a later date, which will adversely impact. The previous application had garden and building here which would have prevented access.

31 GREAT MEADOW – Object as several of the houses will directly overlook my property and will cause loss of privacy and loss of sunlight and tranquil peace. There is no need to build such large houses close to bungalows. The proposed road layout allows future access from Great Meadow, which would change the nature of the cul de sac. Concerned about the removal of the contaminated landfill which could have an adverse impact on their property.

PARISH COUNCIL – No Objection- the Parish Council fully supports this application

LVRPA- Draft Officer response- “There is no objection to the scheme. Conditions should be included in any permission granted, to ensure boundary treatment appropriate to the site’s location in the Green Belt and that these are submitted in advance of the completion of building works.

### **Policies Applied:**

#### Local Plan Policies

CP1, Sustainable development objectives  
CP2 Protecting the Quality of the Rural and built environment  
CP3 New Development  
CP6 Achieving sustainable development patterns  
CP7 Urban Form and Quality  
GB2a Development in the Green Belt  
BB10 Development in the Lee Valley Regional Park (LVRP)  
RP3 Water quality  
RP4 Contaminated Land  
H1A Housing provision  
H2A Previously Developed Land  
H3A housing density  
H4A Dwelling Mix  
H5A Provision of affordable housing  
H6A Site thresholds for affordable housing  
H7A levels of affordable housing  
H8A Availability of affordable housing in perpetuity  
H9A Lifetime Homes  
RST24 Design and location of development in the LVRP  
U1 Infrastructure adequacy  
U2A Development in Flood Risk Areas  
U2B Flood Risk assessment Zone  
U3A catchment effects  
U3B Sustainable Drainage Systems  
DBE1 design of new buildings  
DBE2 Effect on neighbouring properties  
DBE3 Design in the Green Belt

- DBE5 Design and layout in new development
- DBE6 Car Parking in new development
- DBE7 Public open space
- DBE8 Private Amenity space
- DBE9 Loss of amenity
- LL1 Rural Landscape
- LL2 Inappropriate Rural Development
- LL3 Edge of settlement
- LL7 Planting protection and care of trees
- LL10 Adequacy of provision for landscape retention
- LL12 Landscaping schemes
- ST1 Location of development
- ST2 Accessibility of development
- ST4 Road Safety
- ST6 Vehicle Parking
- I1A Planning Obligations
- I4 Enforcement procedures

The above policies are in accordance with the National Planning Policy Framework (NPPF) and are therefore to be afforded due weight

#### Epping Forest Draft Local Plan Consultation Document 2016

The Epping Forest District Draft Local Plan is the emerging Plan and contains a number of relevant policies. At the current time only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies of the Draft Local Plan are;

SP1	Presumption in favour of sustainable development
SP5	Green Belt and District Open Land
SP6	Natural Environment, landscape character and green infrastructure
H1	Housing mix and accommodation types
H2	Affordable Housing
T1	Sustainable transport choices
DM5	Green infrastructure – design of development
DM9	High quality design
DM10	Housing design and quality
DM16	Sustainable drainage systems
DM21	Local environmental impacts, pollution and land contamination

#### **Issues and Considerations:**

##### Green Belt.

The site lies wholly within the Metropolitan Green Belt and the first assessment must be whether the proposed development is in accordance with Green Belt policy as set out within the NPPF and the adopted Local Plan.

The NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open.

Construction of new buildings is inappropriate in the Green Belt but the NPPF sets out some exceptions to this, these include

- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.

The Council accepts that the majority of the area now proposed for development is previously developed land. It is largely hard surfaced and contains a number of buildings of significant size, which can be used for commercial purposes. (Garden Centre and dog grooming parlour). Redevelopment of the site for housing is therefore not inappropriate provided it would not have a greater impact on openness than the existing built development.

The assessment of the impact on openness is normally based on the volume and spread of built development. In this instance the development will have a greater volume than the existing, but this is tempered by the significant removal of a very large area of hardstanding and the introduction of a open amenity space, but given the increase in height and volume there still need to be very special circumstances sufficient to outweigh the harm to the green belt in order to justify the increase in built development within the site.

The circumstances which are considered to carry some weight in favour of the development are:

The existence of the current consent for 26 houses, which would have had a greater volume, wider spread of development and a lesser amount of open space.

The visual improvement of what has been a problem site for many years.

A reduction in HGV traffic through Nazeing compared to the lawful use of the site.

The provision of additional housing at a time when the Council does not have an identified 5 year housing land supply

Taken together, it is considered that the advantages of developing the site are sufficient to amount to very special circumstances that outweigh the relatively limited harm to the Green Belt that would result from the increased built form.

### Affordable Housing Issues

Policy H6A of the Councils Local Plan requires that a development of this scale would require 40% of the proposed dwellings to be provided as affordable housing and states that *"the levels will apply unless it can be shown that they are inappropriate or that they make a scheme economically unfeasible"*. Since the proposal proposes 17 dwellings in Nazeing, the applicant would normally need to provide at least 7 of the overall number of dwellings as affordable housing, unless it can be demonstrated that such provision would make the development unviable. For a relatively small development such as this, all on site affordable housing should be provided on the basis of affordable rented units in line with the Council's Shared Ownership Policy.

The proposed development consists of predominantly large 6 bed detached dwellings with garages. Such dwellings (i.e. in excess of 3 bedrooms) and garages are not required for affordable housing. Since large market houses would inevitably take up more land than smaller ones, which would be to the overall detriment of the number of affordable properties provided, some adjustment would need to be made in terms of the mixes of the affordable and market housing to take account of this. This could be achieved by allocating at least 40% of the total

number of bedrooms provided overall across the development for on-site affordable housing. Alternatively, 40% of the overall site area could be allocated for on-site affordable housing with the remainder of the site allocated for market housing.

The applicant however does not wish to provide affordable housing on site, and the Council has previously accepted, contrary to the advice of the Housing Officer, that a contribution towards the provision of affordable housing elsewhere in lieu of affordable housing on site would be acceptable here.

Initially no proper viability appraisal was provided to demonstrate that this 40% requirement cannot be achieved on the site. The applicant rather attempted to negotiate on a pro rata basis based on the acceptance by the authority of £500,000 in relation to the approval for 26 houses instead of on site affordable housing. That figure was arrived at after considerable negotiation and many changes to the offer, and was itself based on a pro rata assessment that was based on the original viability assessment for 43 houses, which was validated in 2014.

A viability assessment has now been submitted and considered by an independent consultant on behalf of the Council. The consultant has concluded that the scheme would generate sufficient for the developer to be required to provide affordable housing on site, or a contribution towards the provision of affordable housing elsewhere of £952,180

Whilst the applicant does not agree with the methodology used to achieve this figure, he has agreed to abide by the outcome and is willing to enter into a legal agreement to provide this sum.

Ideally a revised development scheme incorporating perhaps a greater number of smaller, more appropriately sized dwellings to enable the provision of suitable affordable units on site would be pursued, which would make a better use of this area of previously developed land to help meet the Council's housing need. The Council's Senior Housing Development Officer maintains an objection to the scheme on this basis, but on balance, given that there is an extant approval on this site without on site provision, and the length of time that the application has been in abeyance, whilst this issue was resolved it is considered that a contribution towards off site provision of affordable housing in the District will be sufficient, and this can be required by legal agreement.

### 5 Year Housing Land Supply

The Council is currently in the process of preparing a new Local Plan and the Draft Local Plan has identified potential sites for residential development, but the plan is at a relatively early stage and therefore carries only very limited weight. The latest figures reveal that the Council can currently only demonstrate a 1.5 year supply of land for housing purposes and it is accepted that the lack of a demonstrable five year supply of housing land weighs in favour of granting planning permission. However this lack of housing land supply does not remove the need to provide appropriate affordable housing where it has not been demonstrated that the inclusion of such would make the development unviable. The lack of housing land supply also means that where a site is deemed suitable for housing, it is appropriate to ensure that the best use is made of that land. The erection of just 17 houses, all of which are 6 bedroom properties on the non- landfill area of the site, does not make the best use of this previously developed site. Whilst it is accepted that the site is not suitable for maximum density development, due to its Green belt and edge of settlement location, there is scope to provide a larger number of smaller family units within the site which would better help meet identified housing need and not have a significantly greater impact on openness.

The evidence submitted in the revised Strategic Housing Market assessment demonstrates that the provision of affordable homes is a key issue for the District in that of all the new homes needed within the District over the Local Plan Period (2011- 2033) some 3152 of those need to be affordable. It is imperative therefore that the ability of a development to contribute towards meeting that need is properly assessed.

## Flood Risk.

The site lies within the Environment Agency's (EA) Flood Zone 2.

The NPPF seeks to ensure that new development is directed towards those sites that are at least risk of flooding. Within Flood Zone 2 the Government Guidance and the EA standing advice requires that proposals of this kind need to pass a "Sequential Test" that is, the Local Planning Authority needs to be satisfied that the development could not be provided somewhere else that has a lesser risk of flooding. At the time of the approval of 26 houses on the site, the Council did not have a Strategic Flood Risk Assessment in place, and each application received for development in a flood risk area needed to be accompanied by a sequential test, to show that there was nowhere at lesser risk of flooding and which is available and deliverable, for a development of the type proposed. At the time of the last application the sequential test submitted indicated that there were no sites of sufficient size available and deliverable for 26 houses. Essentially this is because most sites in this District are within the Green Belt and not previously developed land and residential development is therefore inappropriate. The sequential test was therefore accepted.

Since that time the Draft Local Plan has been produced and this identifies potential sites for development in order to meet the Councils future housing need. All sites within flood zones 2 and 3 were automatically rejected as unsuitable and it is clear that there are a large number of potential sites in the District, at lesser risk of flooding, on which 17 houses could be developed, in the event that the Draft Local Plan is adopted. This site appears in the Draft Local Plan simply as it has been identified as having an extant consent for development. Had consent not already been granted here, it would not have been identified as a suitable site for development due to the flood risk and the presence of landfill. However at the current time, the draft Local Plan carries little weight and many of the potential sites identified in the Draft Plan are therefore not currently deliverable as they are on land that is within the Green Belt. The proposed development is in Flood Zone 2 not three and has an existing consent for 26 houses, which is a material consideration, on this basis it is not considered reasonable to recommend refusal on Sequential Test grounds.

### **Risk of Flooding Elsewhere**

The development will result in the removal of a large area of hardstanding and the introduction of sustainable drainage which will help reduce the current level of runoff from the site and reduce the risk of flooding elsewhere.

### **Risk of Flooding on site;**

A flood risk assessment has been submitted which shows that the new dwellings will not be at risk of direct flooding and can be flood resilient therefore The Councils land drainage team and the Environment agency have no objection to the scheme subject to conditions,

## Contamination.

Policy RP4 of the adopted Local Plan states:

*The Council will not grant planning permission for the development or reuse of land which it considers likely to be contaminated unless:*

- (1) prior tests are carried out to establish the existence, type and degree of contamination and*
- (2) if contamination is found, appropriate methods of treatment and monitoring are agreed with the council, pollution authorities and water companies; and*
- (3) the agreed methods of treatment include measures to protect or recreate habitats of nature conservation interest.*



The previous application for 26 houses included housing actually over the existing landfill area and permission was only granted on the basis that the applicant was willing to undertake drainage and complete removal of the landfill material and restoration in order to ensure that the housing development would be safe. He had provided unverified costings and argued that such works were feasible.

However, following further investigation the applicant concluded that the works required are more extensive than he had envisaged and would make the approved 26 house development unviable. This revised application therefore has been designed to avoid building over the identified landfill area. This means that although significant work is still needed to ensure that the new houses are safe from gas and other forms of contamination from the adjoining landfill, there is no longer the costly and complex requirement to entirely remove the landfill material. The landfill area itself is now shown to be intended for use only as an amenity area for the residents of the new housing. This will entail the removal of existing hardstanding and the introduction of landscaping, with the intention that the ongoing management of the land would fall to a resident's management company. Although the use of the land area for open space rather than housing reduces the level of work required with regard to decontamination there will still be a need for significant decontamination conditions relating to this area, and the amount of work involved will be dependent on the kind of landscaping that is proposed. (if trees are proposed then a barrier layer at a greater depth is required to prevent root intrusion) As yet no landscaping scheme has been put forward.

Prior to the first occupation of any of the new dwellings it will be necessary to ensure that the former landfill area, intended to be used as communal amenity space by the residents is fully landscaped and measures for the long term management and maintenance of the area are in place. It would clearly be unacceptable to allow the development of just the non landfill area of the site and leave the remaining area of the unsightly hard surfaced previously developed land in close proximity to the new dwellings and with potential long term contamination issues that could impact on the residents of the new properties. The use of this land as a communal amenity area controlled, maintained and managed by the residents of the new dwellings at their expense, is the logical solution, and can be secured by legal agreement should the application be approved.

### Layout and Design

The proposed development of detached houses has a relatively logical layout, given the need to avoid building on the landfill area, however it results in a road running adjacent to the end of Great Meadow, which has raised concern from residents of Great Meadow, that this may lead to a future intention to open up access from the cul de sac. This issue is addressed below.

The design of 16 of the houses is unusual in that they include garaging to the front which will be relatively prominent in the street scene. On plan this appears strange but elevationally this will create a distinctive and interesting street scene. Subject to the use of suitable materials and the introduction of satisfactory boundary treatments and landscaping the proposed development will fit well within the area. The proposed houses are two and half storeys high, significantly higher to the ridge than the adjacent low level bungalows in Great Meadow, but as they create their own distinct streetscene and are not part of the established street layout it is not considered that they will be excessively over dominant or out of keeping with the area.

However, it is considered important, visually that the wall along the boundary with Great Meadow is extended to close off the cul de sac and separate the new development visually from the bungalows. If the current access is left open then the new dwellings will be viewed as an extension of Great meadow and appear disproportionately large and out of keeping. Details of boundary treatments can be required by condition and for the avoidance of doubt should planning permission be granted a specific condition requiring the closure of the access from Great Meadow should be included.

The development has been carefully designed to minimise inter overlooking between properties and to ensure that adequate parking and amenity space is available for the dwellings.

The density proposed is relatively low and there is scope for a higher density, and smaller houses to make better use of the site to help meet future housing need, but it is accepted that a *significantly* higher density may not be appropriate for this edge of settlement site.

#### Impact on Neighbouring Amenity

The proposed dwellings are all located sufficient distance from existing properties not to result in excessive loss of light or any significant loss of outlook. Whilst the rear elevations of some of the new dwellings do face towards the sides of properties in Great Meadow and Riverside Avenue the siting is such that there is no direct overlooking into windows. There will be some overlooking of the rear garden areas of properties but the distances to the private amenity areas are considered to be sufficient that there will not be an excessive loss of privacy. The proposal is considered to be acceptable in this respect.

#### Archaeology

The Archaeology section of Essex County Council were consulted and have suggested conditions to ensure that any archaeological deposits can be properly investigated and recorded. They state:

*The Essex Historic Environment (HER) Record shows that the proposed development lies within area with archaeological potential. The underlying gravels date to the Middle-Early Upper Palaeolithic period, in addition the contamination survey has identified the presence of Arctic peat beds. There is therefore the potential for the presence of palaeoenvironmental evidence relating to the earliest phases of human occupation in the area. However the impact of the proposed development on the archaeology is as yet an unknown quantity, as is the degree of disturbance associated with gravel extraction and land-fill on the site. Archaeological deposits and features are both fragile and finite, and this recommendation is made in line with National Planning Policy Framework.*

#### Ecology

A preliminary ecological appraisal was submitted with the original application which identified a need for a follow up reptile and newt survey, and a bat emergence survey. A reptile and Newt survey indicated that the land to the south provides a suitable habitat for reptiles. Grass snakes were found but it would be expected also that slow worms and common lizards may be present. As such mitigation measures would be required should permission be granted, to ensure that reptiles are removed to an appropriate receptor site to avoid any reptiles being killed or injured. Conditions can be imposed to secure this and in addition it is an offence to harm protected species. No great Crested Newts or amphibians were found at the site.

A bat emergence survey was also carried out and this indicates that there are no bat roosts within the site but that the site and surroundings are used for foraging. Mitigation measures can be required by condition should the application be approved.

#### Highways and Parking

The proposed development takes its access from Old Nazeing Road, via a private access track that runs past the property known as Nazebourne. This is a narrow access but given the previous use of the site and the potential traffic movements that the authorised use could generate the access is considered to be suitable and appropriate for the development now proposed,

particularly given that consent already exists for 26 houses utilising this access. Suitable highway conditions can be added should the members consider the development acceptable. The Highways officer from Essex County Council provided the following comments

*Further to the receipt of additional information within the amended Transport Statement the applicant has overcome the Highway Authority's previous issues with regard to pedestrian safety into the site.*

*The proposed development will generate less traffic than the existing use and will reduce movement of HGV's and service vehicles to the site to the benefit of all users of the highway. The access onto Old Nazeing Road has adequate visibility and there have been no recorded accidents at this location in the last 5 years.*

*Consequently the Highway Authority has concluded that the proposed development will not be detrimental to highway safety, capacity or efficiency at this location or on the wider highway network*

Adequate space is provided on site for the parking of both residents and visitors in accordance with the adopted car parking standards.

### Education Contribution

As the proposed dwellings are family houses the Education Authority were consulted with regard to the provision of education spaces. The site falls within the priority admissions area for Nazeing Primary School and a contribution is sought to help provide the additional spaces likely to be required as a result of the development. At secondary level the proposed development is located in the priority admissions area for Stewards Academy in Harlow, as only 5 contributions can now be pooled for any specific infrastructure project, and this development is likely to be smaller than others within the catchment area the Education Authority will not be seeking a contribution to spaces provision at the school from this development. However in addition the school is in excess of the statutory walking distance from the site and ECC is obliged to provide free transport to the school resulting in a long term cost to the County. The cost is estimated at £4.44 per pupil per day. It is best practice for the County to seek costs for a 5 year period. As such the County request that should planning permission be granted contributions in line with their current formula and indexed linked should be required by agreement under section 106. The applicant has confirmed that he is willing to provide these contributions, which can be included in any Legal agreement under Section 106 should members be minded to grant planning permission.

The County advises that should the Council be minded to refuse the application the lack of such contribution should be noted as an additional reason for refusal so that it can be taken into account on appeal.

### Impact on the Lee Valley Park

The LVRPA has not objected to the application, subject to conditions regarding boundary treatments. The redevelopment would see the removal of an extensive area of hardstanding and the introduction of a green amenity area would not have any major adverse impact on the character or visual amenity of the Park, or the use of the park for recreational purposes. The housing will be viewed in the context of the adjacent residential development and will not be excessively intrusive in the landscape.

### Conclusion

In conclusion it is considered that the development has some merit, it will provide housing on previously developed land, close to the existing residential area of Nazeing. It will remove an

existing “problem” site which has had ongoing enforcement issues for many years and will provide an open green area (albeit private) which, if properly landscaped and managed, will enhance the visual amenity of the wider site.

The fact that there is an existing consent for 26 houses on the site also weighs in favour of the development, although it is no longer considered that the site passes the sequential test.

The design and layout of the scheme is acceptable, (although a larger number of smaller dwellings would fit better with the locality, and allow the provision of affordable units within the site) and there will not be excessive harm to adjacent residential amenity.

Whilst no improvements are proposed to the narrow access to the site, there will not be an increase in traffic over that which could be generated by lawful garden centre use and there will be less traffic than would be generated by the previously approved scheme.

An appropriate contribution towards the provision of affordable housing elsewhere has now been agreed and can be required by legal agreement, and given the specific history of the site, despite the concern raised by the Housing officer, this is considered acceptable in lieu of on site provision.

Issues relating to flood risk, ecology, landscaping, and contamination can be covered by condition.

On balance therefore and subject to the required legal agreement to secure the required contributions and the ongoing maintenance of the proposed open land, the application is recommended for approval.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Jill Shingler***

***Direct Line Telephone Number: 01992 564106***

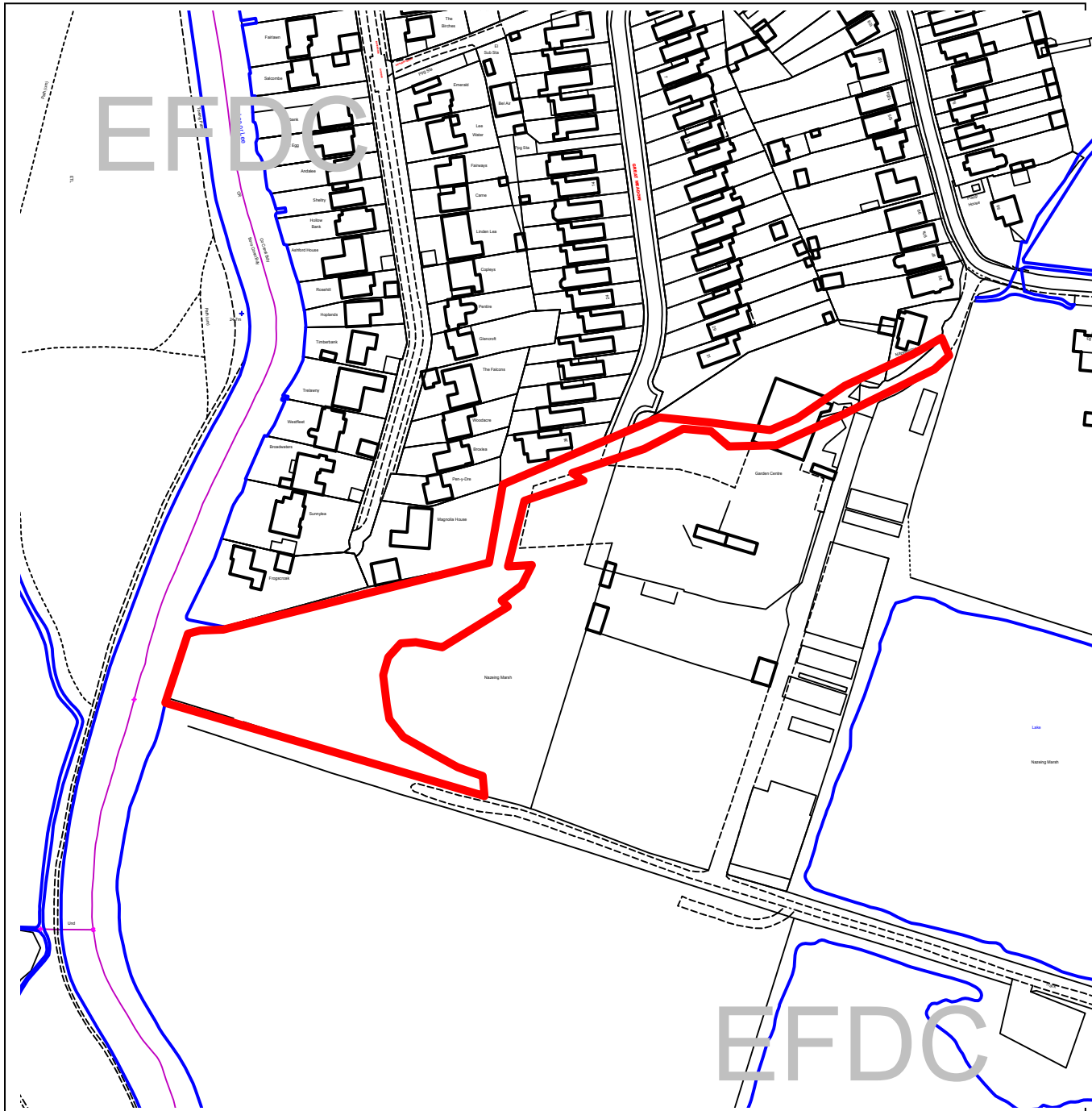
***or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***

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# Epping Forest District Council

## Agenda Item Number 2



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Application Number:	EPF/1492/16
Site Name:	The Chimes Nursery, Old Nazeing Road, Nazeing, EN10 6RJ
Scale of Plot:	1/2500

**Report Item No: 2**

<b>APPLICATION No:</b>	EPF/1492/16
<b>SITE ADDRESS:</b>	The Chimes Nursery Old Nazeing Road Nazeing Waltham Abbey EN10 6RJ
<b>PARISH:</b>	Nazeing
<b>WARD:</b>	Lower Nazeing
<b>APPLICANT:</b>	Mr Kevin Ellerbeck
<b>DESCRIPTION OF PROPOSAL:</b>	Outline planning application for 7 no. Self-Build Houses in accordance with Self-Build Act 2015 with all matters reserved.
<b>RECOMMENDED DECISION:</b>	Refuse Permission

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

[http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=585014](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=585014)

**REASON FOR REFUSAL**

- 1 The proposed development includes "more vulnerable" development within Flood Zone 3. The development does not meet the sequential test and does not provide wider sustainability benefits that outweigh the flood risk and does not therefore pass the Exceptions Test. The proposal is therefore contrary to the NPPF Para 102 and policy U2A of the Adopted Local Plan and Alterations.
- 2 The development of this green field site within the metropolitan Green Belt amounts to inappropriate development by definition harmful to the Green Belt and to the purposes of including land within the Green Belt, in addition the erection of 7 houses on the site will have a significant physical and visual impact on the openness of the Green Belt. No very special circumstances exist sufficient to outweigh the harm to the Green Belt that would result and the development is therefore contrary to policy GB2A of the adopted Local plan and Alterations and to the NPPF.
- 3 The proposed development will adversely impact on the landscape of the Lee Valley Regional Park contrary to the strategic policies on landscape and detailed proposals which identify the site as within a landscape enhancement area, and adversely impact on the amenity of users of the Regional Park, as such the development is contrary to Policy RST24 of the adopted Local Plan and Alterations.

*This application is before this Committee since it is an application that is considered by the Director of Governance as appropriate to be presented for a Committee decision (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(k))*

### **Description of Site:**

The application site comprises an irregularly shaped area of open Green Belt land approximately 1 hectare in area, which lies to the south of the Former Chimes garden Centre, and drops down to the river. Roughly half of the land is former landfill that has been backfilled and covered in topsoil and the whole of the site is open and free from development. Some clearance and land raising has taken place.

The application site is located within the Metropolitan Green Belt and Lee Valley Regional Park. The site is wholly within an Environment Agency Flood Zones 2 and 3a.

### **Description of Proposal:**

Outline consent is being sought for the development of the site for 7 self-build/custom housing plots, together with the creation of a communal amenity area on the former landfill site for the occupants of the 7 dwellings, to be landscaped and managed thereafter through a residents Association. All matters other than the principle are reserved, and would be the subject of further applications, however the applicant has indicated that the intention is for the total floor area of the 7 dwellings to exceed 1000square metres and has provided an indicative plan that indicates that access would be taken from Old Nazeing Road through the site to the north.

The applicant has asked that this application be considered as Phase 2 of a comprehensive redevelopment of the whole of the Chimes Garden Centre Site in conjunction with the previous application on the agenda. However two applications have been submitted, not a single application, and they must each be considered on their individual merits.

That said, this applicant has confirmed that if members, contrary to the recommendation of officer's, are minded to grant permission then this can be subject to a legal agreement that would prevent the building of any of the 7 houses on this site, until such time as the houses on the adjacent site have been completed. This restriction is required to ensure that we are not left with the proposed 7 houses being accessed through the unsightly previously developed land.

Should members consider that the two are combined they are acceptable, whereas individually they are not, then a legal agreement would be required ensure that one element cannot be implemented without the other.

### **Relevant History:**

The wider site has a long and complex planning History. An area of land to the immediate east of the site, which was at one time known as Nazebourne Poultry Farm was included within the same planning file as the application site and the planning history is therefore quite difficult to separate out.

The grant of planning permission in 1971 for a Garden Centre (Sui Generis use) under EPO/0565/71 commenced the current chapter in the planning history of the site. Condition 2 laid out what goods could be sold from the site as an ancillary use of the Garden Centre. Condition 3



stated that the premises should only be used as a Garden Centre and for no other use. The plans show the area of the permission as the area encompassed by the current buildings and an area of land to the west.

It is important at this stage to recognise that there were in 1971, and are in 2017, two separate planning units on the area encompassed by the Planning File (PL000430). One is known as "Chimes Garden Centre" and the other was "Nazebourne Poultry Farm". These two planning units are clearly and separately identified in the Planning Files in the individual applications and their associated plans. Chimes is the subject of the current application and the Nazebourne Poultry Farm site, which had a number of buildings and non conforming uses, has been purchased by the Lee Valley Regional Park Authority (LVRPA), cleared and returned to grass.

"Chimes" then was subject of the following applications (these are a relevant but not an exhaustive list):

1975 - EPF/0668/75 - Rebuilding of nursery as Garden Centre - granted  
1975 - EPF/1014/75 - Extraction of sand and gravel - granted (area to west of site)  
1982 - EPF/0003/82 - LDC for storage and sale of building materials - refused  
1984 - EPF/0689/84 - Extension of garden centre and addition parking - granted  
1989 - Section 52 Agreement on use of land to south of Chimes site for car parking and no other uses

The Garden Centre changed its name in 1995 to "The Potting Shed". Some time before this the site had encompassed an area to the south of the original planning permission, which was to become, after 2006, used without planning consent by a pallet firm, gas suppliers, flower sales and shed manufactures', which was later destroyed by fire in 2012.

The garden centre closed in about 1999.

It was then allowed to become derelict and was unused until late 2006 when a number of businesses moved on to the site from the adjacent Nazebourne Poultry Farm which had been cleared of development as part of a section 106 agreement.

The following applications were received in this time:

2003 - EPF/2211/03 5 dwellings - refused  
2004 - EPF/1860/04 5 dwellings - withdrawn  
2006 - EPF/0040/06 5 dwellings - refused

In 2002 Essex Country Council served an enforcement notice on the west of the site regarding the tipping of waste.

In December 2006 enforcement investigations commenced into building works in two of the garden centre buildings and the new uses of the site which were A1, B1, B2 and B8, and some Sui Generis uses. In 2007 a number of small buildings were erected on the site, large scale fencing erected and an area of hardstanding re-laid with a glasshouse being erected. The enforcement investigation concluded that there had been a change of use and operational development which required planning permission.

Enforcement Notices were served in 2011 (These were withdrawn after protracted negotiations over the submission of a planning application with Kelsworth).

After some considerable delay a planning application for the change of uses was submitted:

2012 - EPF/0969/12 Change of use of Garden centre to horticulture and B1 (Business uses) – This was withdrawn.

In 2012 a fire swept the site and burnt down the majority of the uses to the south of the site. Some uses continued to the north and a new use of car repairs started in building 1.

In 2013 – EPF/0524/13- Replacement buildings damaged in a recent fire and the erection of further amenity buildings for waste disposal and cycle storage facilities in connection with retention of a mixed use of retail garden centre and commercial centre with business uses A1 (retail), B1 (light industrial and office), B2 (general industry) and B8 (storage use) – This was withdrawn.

In 2014, application EPF/0206/14 for redevelopment of this and the adjacent (phase 1 site)) for the erection of 43 houses was refused at District Development Control Committee for the following reasons:

5. *The proposed development includes "more vulnerable" development located within Flood Zone 3. The development does not provide wider sustainability benefits that outweigh the flood risk and does not therefore pass the Exceptions Test. As such the proposal is contrary to the NPPF. Para 102.*
6. *The development, due to the amount of built form that will intrude in to the southern half of the site which is currently free of buildings, will have a significantly greater impact on the openness of the Green Belt than the existing development and as such is inappropriate and by definition harmful. The development is therefore contrary to policy GB2A of the adopted Local Plan and Alterations and to the NPPF.*
7. *The proposal fails to provide on site affordable housing despite such provision being financially viable and the site being suitable for such development, as such the development is contrary to policies H5A, H6A, and H7A of the adopted Local Plan and Alterations and Para 50 of the NPPF.*
8. *By reason of the site's location beyond the statutory walking distance to a secondary school the proposal will generate an additional cost to the Local Education Authority, Essex County Council, for transporting children to secondary school. However, the proposal does not include any mechanism to meet those additional costs. Since the proposal fails to properly address this matter it is not a sustainable form of development and is consequently contrary to policies CP9 (iii) and I1A of the Adopted Local Plan and Alterations, which are consistent with the National Planning Policy Framework.*

This decision was upheld on appeal and dismissed.

Members of the District Development Control Committee however considered that there was a way forward and these were minuted as:

1. *That the redevelopment of the northern part of the site could be acceptable, as this would avoid the Flood Risk Zone 3, most of the former landfill site and would likely to be acceptable in Green Belt terms;*
2. *That any proposed scheme should include an appropriate element of affordable housing. Although it was acknowledged that this location was not acceptable for high density housing, a suitable development which respected the character of the area could be achieved.*

Following this, application EPF/0570/15, for development of just the northern part of the site (the previously developed area) for 26 houses, was approved by Committee (without any affordable units on site) subject to a legal agreement requiring £500,000 towards the provision of affordable housing elsewhere and additional monies towards the provision of secondary education and school transport.

Following this approval, the applicant has discovered that the decontamination works involved in removing the landfill from under the site and restoring it to the level necessary to make housing development safe, would make that development which included housing actually over the landfill area was not economically viable.

The applicant has therefore submitted two separate applications one for 17 houses on the northern part of the site which is the subject of the previous report, and this one for 7 self build houses on the open land to the south, in a bid to avoid development over the landfill area.

**Policies Applied:**

Epping Forest Local Plan and Alterations (1998/2006)

CP1, Sustainable development objectives  
CP2 Protecting the Quality of the Rural and built environment  
CP3 New Development  
CP6 Achieving sustainable development patterns  
CP7 Urban Form and Quality  
GB2a Development in the Green Belt  
BB10 Development in the Lee Valley Regional Park (LVRP)  
RP3 Water quality  
RP4 Contaminated Land  
H1A Housing provision  
H2A Previously Developed Land  
H3A housing density  
H4A Dwelling Mix  
H5A Provision of affordable housing  
H6A Site thresholds for affordable housing  
H7A levels of affordable housing  
H8A Availability of affordable housing in perpetuity  
H9A Lifetime Homes  
RST24 Design and location of development in the LVRP  
U1 Infrastructure adequacy  
U2A Development in Flood Risk Areas  
U2B Flood Risk assessment Zone  
U3A catchment effects  
U3B Sustainable Drainage Systems  
DBE1 design of new buildings  
DBE2 Effect on neighbouring properties  
DBE3 Design in the Green Belt  
DBE5 Design and layout in new development  
DBE6 Car Parking in new development  
DBE7 Public open space  
DBE8 Private Amenity space  
DBE9 Loss of amenity  
LL1 Rural Landscape  
LL2 Inappropriate Rural Development  
LL3 Edge of settlement  
LL7 Planting protection and care of trees  
LL10 Adequacy of provision for landscape retention  
LL12 Landscaping schemes  
ST1 Location of development  
ST2 Accessibility of development  
ST4 Road Safety

## ST6 Vehicle Parking I1A Planning Obligations

The above policies form part of the Councils 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.

### Epping Forest Draft Local Plan consultation document (2016)

The Epping Forest District Draft Local Plan is the emerging Local Plan and contains a number of relevant policies. At the current time only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies within the Draft Local Plan are:

SP1 – Presumption in favour of sustainable development  
SP5 – Green Belt and district open land  
SP6 – The natural environment, landscape character and green infrastructure  
H1 – Housing mix and accommodation types  
T1 – Sustainable transport choices  
DM1 – Habitat protection and improving biodiversity  
DM2 – Landscape character and ancient landscapes  
DM9 – High quality design  
DM10 – Housing design and quality  
DM11 – Waste recycling facilities on new development  
DM15 – Managing and reducing flood risk  
DM18 – On site management of waste water and water supply  
DM21 – Local environment impacts, pollution and land contamination

### **Consultation Carried Out and Summary of Representations Received:**

19 neighbours were consulted and a site notice was erected.  
The following responses were received:

PARISH COUNCIL – No objection

31 GREAT MEADOW – Object . Concerned about flood risk, harm to the Green Belt, potential for access to be taken from Great Meadow, harm to the beautiful part of the River Lee.

32 GREAT MEADOW – Object, Concerned about the spine road adjacent to the gate that leads into Great Meadow, this has previously been shown to be closed off. Would not want to see it opened up.

36 GREAT MEADOW –Object, the proposed road will run along our boundary causing noise and pollution issues. Concerned that Great Meadow could become a through road.

WOODACRE, RIVERSIDE AVENUE – Object. Green field land in Flood zone where vulnerable development should not be built. Concerned about increased flood risk, The land used to be covered in nature and trees but the applicant has bulldozed it, filling water holes and raising the land. Wildlife habitat has been lost and toads snakes etc have been displaced. Need to avoid the landfill area. Previous application was refused and dismissed on appeal due to harm to green Belt, Flood Risk, landscape of the Regional park and harm to wildlife. Therefore this application should not now be approved.

LEE VALLEY REGIONAL PARK AUTHORITY - 'The proposed development of seven units of residential accommodation would: adversely impact on the permanence and openness of the green belt contrary to adopted national policy included in the National Planning Policy Framework (2012), adversely impact on the landscapes of the Lee Valley Regional Park contrary to its strategic policies on landscape and detailed proposals which identify the site as within a landscape enhancement area, and adversely impact on the amenity of users of the Regional Park. The application does not include reasons why exception to these policies should be made.'

### **Issues and Considerations:**

This application is for outline consent with all matters reserved. Therefore the only consideration is the principle of erecting 7 self-build dwellings on the site.

### **Green Belt:**

The application site is within the Metropolitan Green Belt and is free from any built structures, although the applicant has argued that the site should be regarded as previously developed land, the area on which the houses are proposed is simply undeveloped agricultural land and although the former landfill area has been argued to be previously developed, it has the appearance of a greenfield site as it has been backfilled and topsoiled and is indistinguishable from the adjacent agricultural land. In the previous appeal relating to the 43 dwelling application, the appeal inspector concluded that the area of this application site could not be regarded as previously developed land.

Paragraph 89 of the National Planning Policy Framework states that "*a local planning authority should regard the construction of new buildings as inappropriate in Green Belt*", with a list of exceptions. These exceptions are listed as follows:

- *buildings for agriculture and forestry;*
- *provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;*
- *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or*
- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

The proposed development does not fall within any of the above categories and is therefore inappropriate development by definition harmful to the Green Belt.

The applicant has put forward what he considers to be very special circumstances sufficient to outweigh the harm to the Green Belt and any other harm and has argued, particularly if this application is considered together with the 17 home application.

### 'Land swap':

The applicant argues that this application and the current one for the northern part of the Chimes site, together, only result in 24 houses on the combined site, rather than the 26 houses that have previously been approved on the northern part alone.

In addition, he argues that "the revised scheme represents the best use of the *available* developable brownfield land by extending the proposed buildings onto the lower site, whilst reverting some of the brownfield land back to a green field status on a "land swap" basis." Whilst it is agreed that the combined applications would result in approximately the same amount of open space being retained as would have remained had the 26 house scheme been developed it is not accepted that this is appropriate in Green Belt terms. The built development is now split into two areas, spreading development further into the previously undeveloped land and creates an illogical and indefensible boundary to the development.

In addition, whilst the combined proposals do result in 2 fewer houses in total than has previously been approved, the applicant has argued that the approved scheme is not viable, so the 26 house scheme does not amount to a viable fallback position.

Finally the combined development of 24 houses proposes larger houses so it is by no means clear that the development would result in greater openness than the previous scheme.

Due to the above it is clear that the proposed 'land swap' would not allow for the proposed development to constitute an appropriate development within the Green belt.

### Self Build

The applicant puts forward that the proposed houses would be in accordance with the Self-Build Act 2015 and that the LPA does not currently have a five year housing supply or any allocated plots for Self-Build properties.

The Self-Build Act 2015 has been introduced to enable individuals and community groups who want to acquire land for self-build homes to do so. However the Act itself only places a duty on certain public authorities to keep a register of individual and associations of individuals who wish to acquire serviced plots of land to bring forward self-build and custom housebuilding projects. This register was required from the 1<sup>st</sup> April 2016 and has been set up by Epping Forest District Council. The register is available on the Council's website. Whilst the Self-Build Act requires Local Authorities to have regard to this list when carrying out the functions of planning, housing, the disposal of authority owned land and regeneration it provides no further guidance on this.

Whilst in the context of the Housing & Planning Act 2016, the Self Build Act 2015 and the 2017 Housing White Paper it is clear that the Government is supportive of self-build/custom housing, and the applicant argues that the Council has a statutory duty to identify self-build sites, but this provision has not yet been enacted and the only duty currently on the Council is to maintain a register of self-build interests.

It is accepted that the Housing & Planning Bill places a duty on local planning authorities to provide plots for self-build and custom housing to meet local demand and that this Bill has been enacted. However, whilst there is a need to provide for such housing plots within the district, along with all other housing types, self-build plots must nonetheless be located within relevant and appropriate locations and ideally designated through the Local Plan. It is recognised that the proposed development would assist to meet the needs of individual and associations to acquire sites to bring forward self-build and custom housebuilding projects at this time and therefore this is

given some weight in favour of the development, but this would not be sufficient enough to outweigh the harm from this inappropriate development within the Green Belt.

The appellant highlights the presumption in favour of sustainable development advocated by the NPPF and suggests that the decision taking criteria set out in paragraph 14 should apply in the absence of a five year housing land supply. The applicant makes the case that the Council cannot currently demonstrate a five year supply of housing land. As a consequence of not being able to demonstrate a five year supply the applicant contends that paragraph 49 of the NPPF indicates that considerably less weight be attributed to policies restricting housing development, which includes Green Belt policies.

The Council is currently in the process of preparing a new Local Plan where sites will be identified for residential development however the latest figures reveal that the Council can currently only demonstrate approximately a 1.5 year supply of land for housing purposes. It is accepted that the lack of a demonstrable five year supply of housing weighs in favour of granting planning permission. It is also recognised that recent appeal decisions have made it clear that policies for the supply of housing should not be considered 'up-to-date' if the LPA cannot demonstrate a five-year supply of deliverable housing sites. However the Court of Appeal Judgement *Suffolk Coastal District Council v Secretary of State for Communities and Local Government and Richborough Estates v Cheshire East Borough Council* clearly highlights that:

46. *We must emphasize here that the policies in paragraph 14 and 49 of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they prescribe how much weight should be given to such policies in the decision. Weight is, as ever, a matter for the decision-maker. Neither of those paragraphs of the NPPF says that a development plan policy for the supply of housing that is "out-of-date" should be given no weight, or minimal weight, or, indeed, any specific amount of weight. They do not say that such a policy should simply be ignored or disapplied. That idea appears to have found favour in some of the first instance judgments where this question has arisen. It is incorrect.*
47. *One may, of course, infer from paragraph 49 of the NPPF that in the Government's view the weight to be given to out-of-date policies for the supply of housing will normally be less than the weight due to policies that provide fully for the requisite supply. The weight to be given to such policies is not dictated by government policy in the NPPF. Nor is it, nor could it be, fixed by the court. It will vary according to the circumstances, including, for examples, the extent to which relevant policies fall short of providing for the five-year supply of housing land, the action being taken by the local planning authority to address it, or the particular purpose of a restrictive policy – such as the protection of a "green wedge" or of a gap between settlements. There will be many cases, no doubt, in which restrictive policies, whether general or specific in nature, are given sufficient weight to justify the refusal of planning permission despite their not being up-to-date under the policy in paragraph 49 in the absence of a five-year supply of housing land. Such an outcome is clearly contemplated by government policy in the NPPF. It will always be for the decision-maker to judge, in the particular circumstances of the case in hand, how much weight should be given to conflict with policies for the supply of housing that are out-of-date. This is not a matter of law; it is a matter of planning judgment.*

As can be seen above neither paragraph 14 nor paragraph 49 of the NPPF suggest that when an LPA cannot demonstrate a five-year housing land supply any policies relating to the supply of housing should be ignored. Simply that these should be considered out of date and that the LPA may proscribe them with less weight. However even if the Epping Forest District Local Plan policies were completely ignored the entire NPPF is still considered relevant, which includes the paragraph that relate to Green Belt restrictions. This is clearly considered to be an important consideration

since it is one of the stated policies within the Framework that indicates that development should be restricted (footnote to paragraph 14) and it is one of the only parts of the NPPF that specifies that *“when considering any planning application, local planning authorities should ensure that **substantial weight** is given to any harm to the Green Belt”* (paragraph 88 – my emphasis). Furthermore it has been made clear in both the Ministerial Statement from July 2013 and paragraph 034 of the Planning Practice Guidance that *“unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the ‘very special circumstances’ justifying inappropriate development on a site within the Green Belt”*.

#### Government White Paper:

The applicant highlights that *“the Government White Paper promotes ‘small sites’ for residential development for self-build housing”* and a full White Paper Report has been submitted highlighting why the applicant considered that this scheme would comply with this Paper.

Notwithstanding this, at present the White Paper is at this stage simply a consultation document which will presumably be followed by legislation. Whilst the White Paper shows a clear ‘direction of travel’ with regards to the provision of self-build properties no weight can be attached to this until clear guidance has been provided by the government in the form of an updated NPPF

#### Affordable Housing Contribution

Originally the applicant was offering a contribution of £325 000 towards the provision of affordable housing within the District, however following the submission of a viability assessment and consideration of this by an independent consultant on the Council’s behalf, then applicant has agreed that should this and the northern site both be approved, then a contribution of £1, 401,022 towards the provision of affordable housing could be required (£448, 842 relates to this 7 house site).

#### Money towards a local bus service in Nazeing.

In connection with this 7 house self build scheme the applicant is offering £50 000 to go to the Epping Forest Community Transport, to contribute towards the local bus service in Epping. Whilst this is welcomed and will be a community gain, it is unclear why the applicant feels that the contribution should be linked with the 7 house scheme and has not proposed the monies are split proportionately between the two schemes. Whilst the proposed contribution is welcomed as it will help maintain an important local service, it is not directly related to the proposed development and could be argued on any development in the locality so not be afforded any with regard to the weight in regard to very special circumstances in the Green Belt

#### Country Park

The applicant initially referred to the provision of a country park, and or forest, on the former landfill site and put this forward as part of the very special circumstances, however it became clear in the course of the applications that there was no mechanism in place to create and maintain this land as a public open space or country park and no public body, either Parish Council, District Council or Lee valley Park Authority have been brought on board with such a proposal. The creation of such a facility over a former landfill site, and the long term costs of the maintenance and management of such a development including liability for the safety of users of the “park” would be likely be excessive, for the relatively small public benefit that would result. The offer appeared to be a way of disposing of land which is not developable. The decontamination or barrier provision



that would be required should this land be used for planting trees would likely make the development unviable.

Following discussions therefore, the applicant has changed the offer, to landscaping of the former landfill area and use of the land as communal amenity space for the residents of the new dwellings, with the costs of maintenance and management in the long term to be borne by the occupants of the dwellings and carried out through a residents management company. Whilst this appears to put a relatively high and disproportionate ongoing cost on the 7 householders of the self build properties, it does have the advantage of enabling the long term protection of the contaminated site. This will need to be included in any legal agreement should members be minded to grant permission.

Whilst the decontamination and long term maintenance of the site weighs in favour of the application, the weight is limited due to the fact that the land will not be publicly accessible, and is at present open land in any case.

#### Education Contribution

The applicant has set out a willingness to pay any required education contributions towards the provision of school places and or school transport in accordance with Essex County Council requirements. Taken on its own, however the number of dwellings proposed in this application falls below the threshold for such contributions. If members are minded to link the two applications through a legal agreement then an appropriate contribution for the combined number of dwellings can be calculated.

This is however a requirement in policy terms and can not therefore be given weight with regard to overcoming Green belt objections.

#### Green Belt conclusion:

The proposed erection of dwellings on this site whether on its own or in conjunction with the proposed development on the northern part of the Chime site would not fall within any of the exceptions as stated within paragraph 89 of the NPPF and would therefore clearly constitute inappropriate development. The NPPF states that *"inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities 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"*.

For the reasons set out above it is clear that the development is inappropriate development of greenfield land and that the benefits offered are not sufficient to outweigh the harm to the Green Belt that would result from the development. Whether there is other harm which also needs to be weighed against the proposal will be considered below.

#### Lee Valley Regional Park:

The Lee Valley Regional Park consists of 4,000 hectares of open space interspersed with various leisure facilities; there are also pockets of residential, industrial or horticultural development. The Park is a key element in the open space network of London and the Region. It is part of London's Green Belt, a green corridor of countryside penetrating far into the urban area and is one of the

largest concentrations of open space available for informal recreation in London, Hertfordshire and Essex<sup>1</sup>.

The Lee Valley Regional Park Authority consider that the development would adversely impact on the landscapes of the Lee Valley Regional Park contrary to its strategic policies on landscape and detailed proposals which identify the site as within a landscape enhancement area, and would adversely impact on the amenity of users of the Regional Park.

The development is therefore contrary to policy RST4 of the Adopted Local Plan and Alterations

### **Flooding:**

The application site is located wholly within an Environment Agency Flood Zone 2 and partially within a Flood Zone 3a. Given that the application seeks to avoid developing on the landfill area of the site, the indicative layout plan shows the proposed 7 houses to be located almost entirely within Flood Zone 3, that is the area most likely to flood. A Sequential Test is required for the proposed development. Paragraph 101 of the NPPF requires decision-makers to steer development to areas with the lowest probability of flooding by applying the sequential test.

The sequential test that has been submitted relates to the combined site, not just the 7 house site and as the applications have been submitted separately and not as a single application it is not accepted that this is the correct method, however, even looking at the combined site it is not accepted that the site passes the sequential test.

At the time of the approval of 26 houses on the site, the Council did not have a Strategic Flood Risk Assessment in place, and each application received for development in a flood risk area needed to be accompanied by a sequential test, to show that there was nowhere at lesser risk of flooding and which is available and deliverable, for a development of the type proposed. At the time of the last application the sequential test submitted indicated that there were no sites of sufficient size available and deliverable for 26 houses. Essentially this is because most sites in this District are within the Green Belt and not previously developed land and residential development is therefore inappropriate. The sequential test was therefore accepted, as the 26 house scheme avoided use of land within Floodzone 3.

Since that time the Draft Local Plan has been produced and this identifies potential sites for development in order to meet the Council's future housing need. All sites within flood zones 2 and 3 were automatically rejected as unsuitable and it is clear that there are a large number of potential sites in the District, at lesser risk of flooding, on which 7 or indeed 24 houses could be developed, in the event that the Draft Local Plan is adopted. This site appears in the Draft Local Plan simply as it has been identified as having an extant consent for development. Had consent not already been granted here, it would not have been identified as a suitable site for development.

However at the current time, the draft Local Plan carries little weight and many of the potential sites identified in the Draft Plan are therefore not currently deliverable as they are on land that is within the Green Belt. For this reason it has been accepted that, particularly given the extant consent on the northern part of the Chimes site, the development of that part of the site, which is flood zone 2, could be regarded as passing the sequential test. However, it is not accepted that the southern site, which is flood zone 3 or the combined areas taken together, can pass the sequential test. The land where the 7 houses are proposed is simply Green Belt land, it is not previously developed land and the Local Plan has identified many sites around Nazeing and the wider District that are Green Belt and outside of Flood Zones 2 and 3 which could be developed for housing.

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<sup>1</sup> Lee Valley Regional Park Plan (adopted 2000)

The appeal Inspector in considering the appeal against the refusal of permission for the 43 house development which included development of this southern part of the site covered the sequential test argument in some detail:

*“ The western part of the site closest to the river frontage would remain as Zone 3a. That part of the site would be occupied by 6 of the proposed 43 dwellings.*

*If it is necessary to develop land in the Green Belt in order to satisfy the need for housing, then the sequential test should still be applied to seek out land at a lower risk of flooding, there is no evidence before me of a lack of Zone 1 or Zone 2 land elsewhere in the Green belt. Even if Zone 2 land needs to be developed because of a lack of suitable zone 1 land, then it does not appear that consideration has been given to providing all of the proposed housing on zone 2 land, whilst avoiding zone 3a land. Even if no zone 2 land can be provided elsewhere, then consideration should be given to a revision to the site design and layout in order to avoid siting 6 dwellings on zone 3a land.*

*It is acknowledged that it is a material consideration that the Council has permitted the development of 26 dwellings on the previously developed part of the site within Flood Zone 2. Other considerations would have been relevant there such as that the site is already occupied by buildings and hardstanding, there would be associated social, economic and environmental benefits of redeveloping this derelict site. However I do not consider that the sequential test has been suitably applied so as to justify the development of the remaining greenfield land within zone 2 and especially zone 3a.*

*Even were the Sequential Test to be satisfied, then I do not consider that the development of the Zone 3a land has been shown to be justified by wider sustainability benefits for the community, as would be required by the Framework, to pass the Exceptions Test. ... In this case any benefit of the development would be mainly for the occupiers of the houses rather than the wider community. Those occupiers would still be at some risk of flooding themselves, albeit that raised floor levels would reduce the risk of flooding within their homes and it has not been shown to be unsafe for the lifetime of the development.”*

It is considered that the same arguments remain entirely applicable to this 7 house scheme and to the combined development.

A flood risk assessment has been provided which has been accepted, subject to conditions, by the Environment Agency and the Councils Land Drainage Team, which indicates that suitable attenuation and mitigation can be put in place to prevent the flooding of the houses themselves and any risk of increased flooding elsewhere, but these factors do not outweigh the fact that the scheme clearly fails to pass the Sequential Test and the Exceptions Test and is therefore contrary to the NPPF and the adopted Policies of the Local Plan and indeed the draft policies of the Draft Local Plan.

### **Land Contamination:**

The development was intended to avoid building on the former landfill site, and it appears that there is adequate space outside of the identified landfill area to fit 7 houses and gardens. The fact that this is intended to be a self build site makes the contamination issue more difficult to deal with.

The contaminated Land Officer raised the following concern:

“ELA Plan BDG1 Rev A indicates that the landfill may extend beneath Plot 18 (which may need to be relocated), and beneath the proposed western part of the access road (and beneath any required turning head to the SE of Plot 24). Although the roadway should prevent direct soil ingestion/inhalation/ingestion risks from the underlying waste and it should be feasible to remediate

risks in proposed managed soft covered road verges (unless robust remedial measures were employed to remediate grass verges/communal landscaped areas if applicable a maintenance scheme would need to be adopted to maintain any remedial works).

Although it would be feasible for individual plots to investigate and remediate direct soil ingestion/inhalation/ingestion risks in individual plots and to install basic gas mitigation measures in individual dwellings under conditions attached to reserved matters approvals, it would be unlikely to be feasible to mitigate against any high gas risks that could require a cut of wall / ventilation trench, to provide a barrier to prevent the spread of fire from combustible waste in close proximity (eg to Plot 18), or to deal with potential recontamination of on site soils from leachate flowing onsite from the adjoining landfill individually under Reserved matters and these issues would need to be addressed first under any Outline consent.

I don't think that any detailed investigation of gas risks has been reported to have been carried out to date (Ground Gases and Landfill Gases including Hydrogen Sulphide as potentially indicated by sulphurous odours reported during previous investigation) and it may be necessary for extended gas monitoring to be carried out (the water table is normally high in the Lea Valley and will be at a similar level to water levels in the River Lea and the water filled gravel pits to the East of Chimes Nursery, which will suppress the fermentation of organic wastes and prevent combustible wastes burning. However during major drought episodes once every 20 years or so, the water table will drop several metres causing fermentation and gas production to increase and combustible wastes to dry out and potentially burn if ignited, meaning that it could be difficult to fully quantify risks over a short timescale at this site).

It will be necessary to ascertain whether leachate is causing problems that require "hotspot" remediation, whether any combustible waste close to the site will require removing or isolating, and whether any high ground gas risks require centrally remediating before the landfill "cap" can be completed to prevent direct soil ingestion/inhalation/dermal contact risks to users of the proposed "public open space" area. The depth of cover on the landfill will be dependent upon the type of vegetation to be grown (1m of "clean" soil for trees & 600mm of "clean" soil for shrubs) and the type of "cap" will depend on whether or not the site is to be managed over the lifetime of its use (if it is to be unmanaged, a cobble anti intrusion layer with geotextile membranes above & below overlain by a minimum of 1m of "clean" soil would be required). Any "cap" will need to be robust and durable to prevent potential acute exposure to asbestos "hotspots". Unlike other solid contaminants likely to be present in the waste, asbestos will not degrade over time and exposure to only a very small area of impacted soil could present acute exposure risks (The Planning File records that the Bank of England disposed of its asbestos waste at this landfill following stripping works at the Langston Road Works and other asbestos demolition waste is also likely to be present).

I would advise that detailed investigation & quantification of landfill gas, waste combustibility and leachate risks, together with any necessary remediation measures, are completed by way of condition under the Outline consent in order to address centralised risks from landfill contaminants before more localised risks originating from onsite sources are dealt with by way of conditions attached to individual reserved matters approvals for individual plots (or that the detailed investigation works are completed and a detailed remediation scheme drawn up by the applicant before any application is decided, leaving only if applicable a Verification Condition and an Unexpected Contamination Condition to be attached to any outline consent).

Given the above, should members be minded to approve this application, very specific contaminated land conditions will need to be applied to ensure that the the development is safe and will not result in issues on surrounding sites.

## **Ecology**

A preliminary ecological appraisal was submitted with the original application which identified a need for a follow up reptile and newt survey, and a bat emergence survey. A reptile and Newt survey indicated that the land to the south provides a suitable habitat for reptiles. Grass snakes were found but it would be expected also that slow worms and common lizards may be present. As such mitigation measures would be required should permission be granted, to ensure that reptiles are removed to an appropriate receptor site to avoid any reptiles being killed or injured. Conditions can be imposed to secure this and in addition it is an offence to harm protected species. No great Crested Newts or amphibians were found at the site.

A bat emergence survey was also carried out and this indicates that there are no bat roosts within the site but that the site and surroundings are used for foraging. Mitigation measures can be required by condition should the application be approved and the fact that the proposals include the retention and enhancement of the existing backfilled landfill area as an area of open space allows for enhancement of the ecological value of the area subject to the imposition of suitable conditions.

## **Highways**

This is an outline application with all matters reserved, including access, however the indicative layout plan that has been submitted indicates that suitable access can be achieved from Old Nazeing Road, via a private access track that runs past the property known as Nazebourne. This is a narrow access but given the previous use of the site and the potential traffic movements that the authorised use could generate the access is considered to be suitable and appropriate for the development now proposed, particularly given that consent already exists for 26 houses utilising this access.

Concern has been raised by neighbours that the development could be accessed from Great Meadow, which is currently a cul de sac. As access is a reserved matter this can be properly considered at the detailed submission stage.

### **Other considerations:**

#### ***Amenity considerations:***

Given the location of the application site and since this proposal is for outline consent with all matters reserved it is considered that 7 dwellings could be erected on the site without causing any detrimental impact on neighbouring residents.

## **Conclusion:**

In light of the above, despite claims by the applicant, the site does not constitute previously developed (brownfield) land and the proposal does not meet any of the exceptions to inappropriate development as stated within the NPPF. The proposal for a 'land swap' does not render the application as 'not inappropriate' and as such the proposal continues to constitute inappropriate development that is, by definition, harmful to the openness of the Green Belt. In addition the site is located within an Environment Agency Flood Zone 2 and 3a with the proposed housing being shown to be within 3a, which is the highest flood risk and the development has not passed a Sequential Test or the Exceptions Test which are set out in the NPPF. Additionally the site is within the Lee Valley Regional Park and would harm the character of the Lee Valley Regional Park.

It is accepted that the Council cannot currently demonstrate a five year supply of housing sites, as required by paragraph 49, and it is accepted that the provision of seven self-build/custom houses

would assist in meeting the need in enabling individuals and community groups who want to acquire land for self-build homes to do so. Whilst both these factors weigh in favour of the development they are not in themselves overriding factors that should allow development with no regard to any other constraints.

The lack of a five year land supply means that Local Plan policies regarding the supply of housing are out-of-date however it does not mean that these should be completely disregarded. The National Planning Policy Framework contains clear policies requiring that *“local planning authority[s] should regard the construction of new buildings as inappropriate in the Green Belt”* (paragraph 89) and stating that *“inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk”* (paragraph 100).

It is recognised that the site is in a relatively sustainable location however it is not considered that this, or the other material considerations put forward are sufficient to outweigh the harm to the Green Belt through inappropriate development or to disregard the government objective of minimising development within the areas at highest risk of flooding.. Furthermore the proposal would be harmful to the character and amenity of the Lee Valley Regional Park which is given some weight against the proposal.

As such the proposal continues to be contrary to Government Guidance in the form of the NPPF, the Technical Guidance, the PPG and the Local Plan policies CP2, GB2A, RST24, U2A and RP4, as previously identified, and therefore the application is recommended for refusal.

The applicant has asked that this application and the application for 17 houses on the adjacent site should be considered together, as if they were a single application. Despite being advised that a single phased application would be the appropriate way of ensuring that the proposals were considered in that way, he has chosen to continue with the 2 applications.

The 7 house scheme does not work in isolation and would result in a significant spread of built development into an area that is not previously developed land and the retention of the existing previously developed and hard surfaced area, with no extinction of any existing use rights for that land.

Should members therefore be minded to consider this application in tandem with the “Phase 1” proposals and consider that the combined development would be acceptable then any approval would need to be subject to a legal agreement that prevents it from being implemented before the completion of the development of the 17 house scheme and the associated remediation of the remaining previously developed area, again to avoid the situation of just the road and the 7 houses on the lower site being constructed.

Officer advice remains, that even if the two applications are considered together, the combined development is inappropriate in the Green Belt, causes harm to the character of the LVRP, and fails to pass the sequential and exception tests As such the application is recommended for refusal.

Members are advised that given the clear failure to meet both national and local planning policy should they consider that this application can be approved, it will need to be referred to the District Development Management Committee for consideration.

### **Advice - Is there a way forward?**

Given the location of the site within the Metropolitan Green Belt, the Lee Valley Regional Park and in an Environment Agency Flood Zone 3 it is not considered that there is any way forward for residential development on this site.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Jill Shingler***

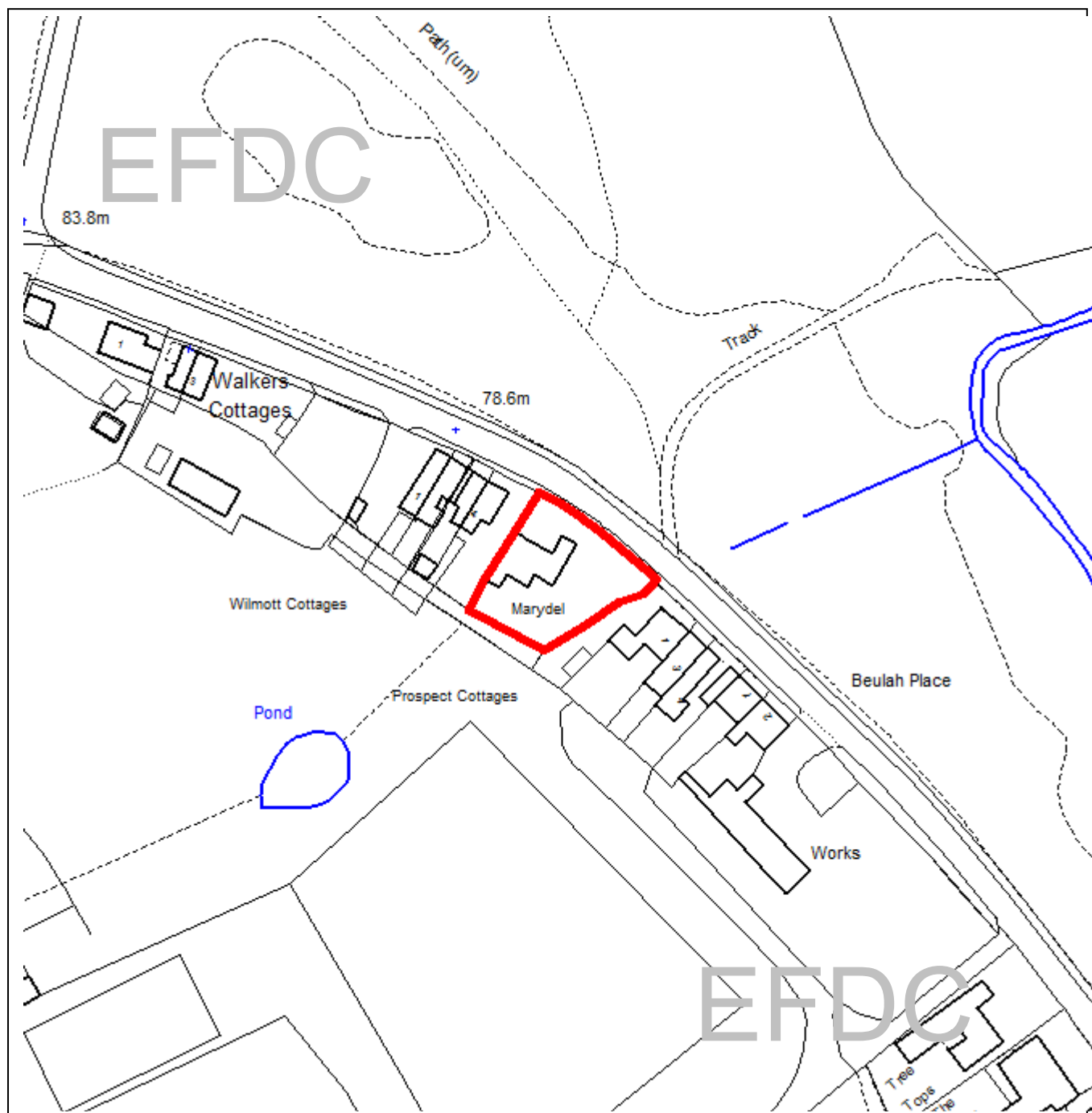
***Direct Line Telephone Number: 01992 564106***

***or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***



# Epping Forest District Council

## Agenda Item Number 3



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Application Number:	EPF/1782/17
Site Name:	Marydel, Copt Hall Green, Waltham Abbey, EN9 3TB
Scale of Plot:	1/1250



**Report Item No: 3**

<b>APPLICATION No:</b>	EPF/1782/17
<b>SITE ADDRESS:</b>	Marydel Copt Hall Green Waltham Abbey Essex EN9 3TB
<b>PARISH:</b>	Waltham Abbey
<b>WARD:</b>	Waltham Abbey High Beach
<b>APPLICANT:</b>	Mr Schmidt
<b>DESCRIPTION OF PROPOSAL:</b>	Demolition of existing bungalow. Construction of 3 bed detached house and 2 x 3 bed semi-detached houses.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

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

[http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=596634](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=596634)

**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: 1864/: 01D, 02F, 03 and the site location plan
- 3 No development shall have taken place until samples of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority in writing prior to the commencement of the development. The development shall be implemented in accordance with such approved details. For the purposes of this condition, the samples shall only be made available for inspection by the Local Planning Authority at the planning application site itself.
- 4 A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage, shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.

- 5 No development shall take place until details of foul and surface water 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.

- 6 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site.

Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works.

Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

- 7 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.

- 8 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.

- 9 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be

planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.

- 10 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 11 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.
- 12 Prior to the first occupation of the development the visibility splays, as shown on drawing no.1864/05, shall be fully implemented and retained clear to ground level in perpetuity.
- 13 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a minimum width of 5 metres for at least the first 6 metres from the back edge of the carriageway and provided with an appropriate dropped kerb crossing of the verge.
- 14 Prior to the first occupation of the development the existing redundant vehicular access to the site shall be permanently closed off, incorporating the reinstatement of the highway verge and full height kerbing.
- 15 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.
- 16 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 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.

*This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than two objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(f).)*

### **Description of site**

The application site is located on Copt Hall Green which is within the settlement of Upshire. Currently on the site is a bungalow with a relatively large foot print situated within a large plot. Adjacent to the site on its north western side is a row of two storey terrace dwellings and to its south east there is also a row of two storey dwellings. Opposite the site, across the road is an open field and woodland. The application site is located within the boundaries of the Metropolitan Green Belt and it is also located within a Conservation Area.

### **Description of proposal**

The proposal is to demolish the existing bungalow and to erect a detached dwelling and two semi-detached dwellings.

### **Relevant History**

WHX/0025/55 - Erection of Bungalow. – Approved

WHX/0213/62 - Erection of garage. – Approved

WHX/0177/68 - Living room extension. - Approved

### **Relevant Policies**

The following saved policies within the Council's adopted Local Plan (2004) and Alterations (2008) are relevant:

CP1 – Achieving Sustainable Development Objectives  
CP2 – Protecting the Quality of the Rural and Built Environment  
GB2A – Development in the Green Belt  
GB7A – Conspicuous development  
DBE4 – Design in the Green Belt  
DBE9 – Loss of Amenity  
ST4 – Road Safety  
LL1 – Rural Landscape  
LL9 – Felling of Preserved Trees  
LL10 – Adequacy of Provision for Landscape Retention  
LL11 – Landscaping Schemes  
DBE1 Design of new buildings  
RP4 Contaminated land  
U3B sustainable drainage  
DBE8 private amenity Space  
ST6 vehicle parking standards  
ST1 Location of development  
ST2 Accessibility of development  
H1A Housing Provision

Following the publication of the National Planning Policy Framework (The Framework, CLG, 2012), 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.

#### Epping Forest Draft Local Plan consultation document (2016)

The Epping Forest District Draft Local Plan is the emerging Local Plan and contains a number of relevant policies. At the current time only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies within the Draft Local Plan are:

SP1 – Presumption in favour of sustainable development  
SP5 – Green Belt and district open land  
SP6 – The natural environment, landscape character and green infrastructure  
T1 – Sustainable transport choices  
DM1 – Habitat protection and improving biodiversity  
DM2 – Landscape character and ancient landscapes  
DM9 – High quality design  
DM11 – Waste recycling facilities on new development  
DM15 – Managing and reducing flood risk  
DM18 – On site management of waste water and water supply  
DM21 – Local environment impacts, pollution and land contamination

The wider site is listed in the Draft Local Plan as designated District Open Land. At the current time only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions.

#### **Consultation carried out and summary of representations received**

##### WALTHAM ABBEY TOWN COUNCIL – NO OBJECTION

1 WILMOTT COTTAGES – OBJECTION – The proposed vehicle access is unsafe and will cause traffic issues. There is insufficient parking on the site for the number of dwellings proposed. The proposal will harm the character and appearance of the Conservation Area and it will cause a significant loss of light to neighbours.

2 WILMOTT COTTAGES – OBJECTION – The proposal is inappropriate in the Green Belt, will harm the character and appearance of the Conservation Area and the access onto the main road is unsafe.

3 WILMOTT COTTAGES - OBJECTION – The proposal offers an unsafe access and a lack of required parking. The proposal will cause excessive surface water run off. The proposal is inappropriate in the Green Belt and will cause significant harm to the Conservation Area.

4 WILMOTT COTTAGES – OBJECTION – The proposal will create an unsafe access and not enough parking. The proposal will harm the character and appearance of the Conservation Area and the Green Belt.

1 PROSPECT COTTAGE – OBJECTION - The proposal is an overdevelopment of the site which is within a sensitive location and there is inadequate vehicle parking.

4 PROSPECT COTTAGE – OBJECTION – The new houses will cause a significant loss of light, there will not be enough parking

FRIENDS OF EPPING FOREST – OBJECTION – The proposal is inappropriate in the Green Belt.

COPTHALL GREEN HOUSE – OBJECTION – The proposal is overdevelopment in the Green Belt, it will create a dangerous access onto the road and affect existing traffic and pedestrians. The proposal will also cause significant harm to the character and appearance of the Conservation Area and it will cause an excessive level of surface water run-off.

CITY OF LONDON CORPORATION – OBJECTION – The proposal is inappropriate development in the Green Belt and will harm wildlife.

NO ADDRESS GIVEN – OBJECTION – The proposal will create a dangerous access which has little visibility.

### **Issues and considerations**

The main issues to consider when considering this application are the issues of housing supply, the potential impacts on the Green Belt, the living conditions of the neighbours, the design of the proposal in the Conservation Area, highway and parking considerations, trees and landscaping, flood risk and land contamination.

#### **Five year housing supply**

The site is situated within a sustainable urban location close to local services, facilities and public transport and would make more efficient use of this large site. Given that 92.4% of the District is designated Green Belt the principle of further development within existing sustainable settlements outside of the Green Belt is generally considered to be appropriate, provided all other policies are complied with. In addition, paragraph 49 of the NPPF states that *“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”*.

The Council is currently in the process of preparing a new Local Plan where sites will be identified for residential development however the latest figures reveal that the Council can currently only demonstrate a 1.35 year supply of land for housing purposes. Due to this it has been shown in several recent appeal decisions, both within and outside of the district that such a lack of a demonstrable five year supply of housing weighs in favour of granting planning permission.

#### **Green Belt**

The Framework 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 NPPF 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 NPPF 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 paragraphs 89 and 90 of the NPPF allow some exceptions to inappropriate development, one of which is:

*Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*

The first part of this exception is to consider whether the site in question can reasonably be considered to be located within a village for the purposes of planning policy. Neither the Framework nor the Local Plan defines what constitutes a village and therefore it is up to the decision maker to make a judgement based on the context of the site.

The settlement of Upshire is an area of development primarily located on Copt Hall Green and Horseshoe Hill. Much of the development is located on the southern side of these two roads with the northern side mainly open land and woodland. Within the collection of development there are numerous residential dwellings, a bed and breakfast which was formally a pub known as the Good Intent, a village hall and a pub located on Horseshoe Hill known as the Horseshoes. Given the scale of this continuous development, as well as the various community facilities surrounding it, the settlement of Upshire is considered to be a village for the purposes of planning policy.

The second part of this exception is to consider whether the site amounts to infilling within the Green Belt. In this case the site is located betwixt a row of two storey dwellings to the north west and to the south east and appears to sit comfortably between these two existing forms of development. Whilst there is no development on the other side of the road, there is no prerequisite for this to be the case for a site to be considered as an infill site within the Green Belt. Rather, given its position with dwellings following a quite uniform pattern of development on the southern side of Horseshoe Hill and Copt Hall Green, the site is considered to be an infill site within the Green Belt.

The final part of this exception is to consider whether the infilling would be 'limited'. The erection of three, two storey dwellings in the context of two storey dwellings to the south east and north west the development is not considered to be excessively large and therefore the proposal would be limited for the purposes of planning policy.

The proposal therefore complies with this exception to inappropriate development in the Green Belt and is therefore compliant with policies GB2A and GB7A of the Adopted Local Plan.

It has been considered whether it is necessary to restrict Class A, B or E Permitted Development Rights to ensure the Local Planning Authority retains control over future development on the site. Given that it has been found that the erection of new dwellings represents a limited infilling in the Green Belt in this location, extensions to the buildings would also be considered as infilling and therefore it is not considered necessary to restrict such rights, which should only be done in exceptional circumstances.

Living conditions of neighbours

The two semi-detached dwellings are located some distance from the neighbouring dwellings to the north west and south east. These neighbours have relatively wide gardens and benefit from an open area to the rear. Consequently it is not considered that the development will appear overbearing, cause a significant loss of light and given that there are no windows on the side elevation, it is not considered that it will cause a significant loss of privacy to the neighbours.

Impact on the Conservation Area

The site is located within the Upshire Conservation Area and therefore the Conservation Officer has offered the following comments:

*Located between two rows of 19<sup>th</sup> century cottages – Wilmott Cottages (to the north) and Prospect Cottages (to the south) – the proposal site falls within the Upshire Conservation area.*

*At present, the site is occupied by a 1960/70s style bungalow. Made of poor quality materials and erected at single storey, which creates an incongruous gap into the streetscene, the building is considered to make a negative contribution to the conservation area. There is, therefore, no objection to its demolition.*

*In this context, the present planning application is felt as an opportunity for a sensitive redevelopment of the site. Drawn on architectural references from the attractive Willmott Cottages, the proposed three dwellings will strongly improve the appearance of the streetscene and that of the wider conservation area.*

*I believe the proposal will both preserve and enhance the significance of this part of the conservation area and recommend this application to be approved.*

*This is supported by policies HC6, HC7 and HC9 of our Local Plan and Alterations (1998 and 2006).*

The Conservation Officer also suggests a condition requiring photographic details of external materials, doors, windows, boundary treatment and soft surfacing to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of above ground works. This condition is reasonable and necessary to ensure a high quality finish.

#### Highway and parking issues

The original proposed access drew objection from the Highway Advisor who considered that due to its position it would lack the required 2.4 x 43m of visibility splay required onto Copt Hall Green.

A revised access was then devised which proposed to move the access from the north eastern boundary to the other side, further away from the bend in the road located to the north east. The Highway Advisor has now submitted further comments that the new access will offer suitable visibility plays onto the road and has removed the objection which was originally made.

One of the conditions of this new access is that the old and less desirable existing access shall be permanently blocked off. This is both reasonable and necessary to impose on the consent.

#### Tree and Landscape issues

The application site is within a Conservation Area and therefore trees are afforded legal protection. The Tree and Landscape Team have raised no objection to the application subject to conditions regarding protection of existing trees and hard and soft landscaping. These conditions are both reasonable and necessary to impose.

#### Land drainage

The development is of a size where it is necessary to avoid additional surface water run-off. A Flood Risk Assessment is therefore required, this can be secured through condition.

#### Land contamination

Potential land contamination risks are likely to be low, it should not be necessary for these risks to be regulated under the Planning Regime by way of standard conditions. It is the responsibility of the developer to ensure the safe development of the site (including the appropriate disposal of any asbestos within the existing building & hardstanding) and the addition of a single condition requiring the developer to stop development, contact the Local Planning Authority and carry out any necessary agreed investigation and remediation works if significant contamination is



encountered should suffice.

### **Conclusion**

The proposal is not considered to be inappropriate development in the Green Belt, will not cause excessive harm to the living conditions of the neighbours, provides suitable parking and access and satisfies all other material planning considerations. Therefore it is recommended that planning permission is granted.

**Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:**

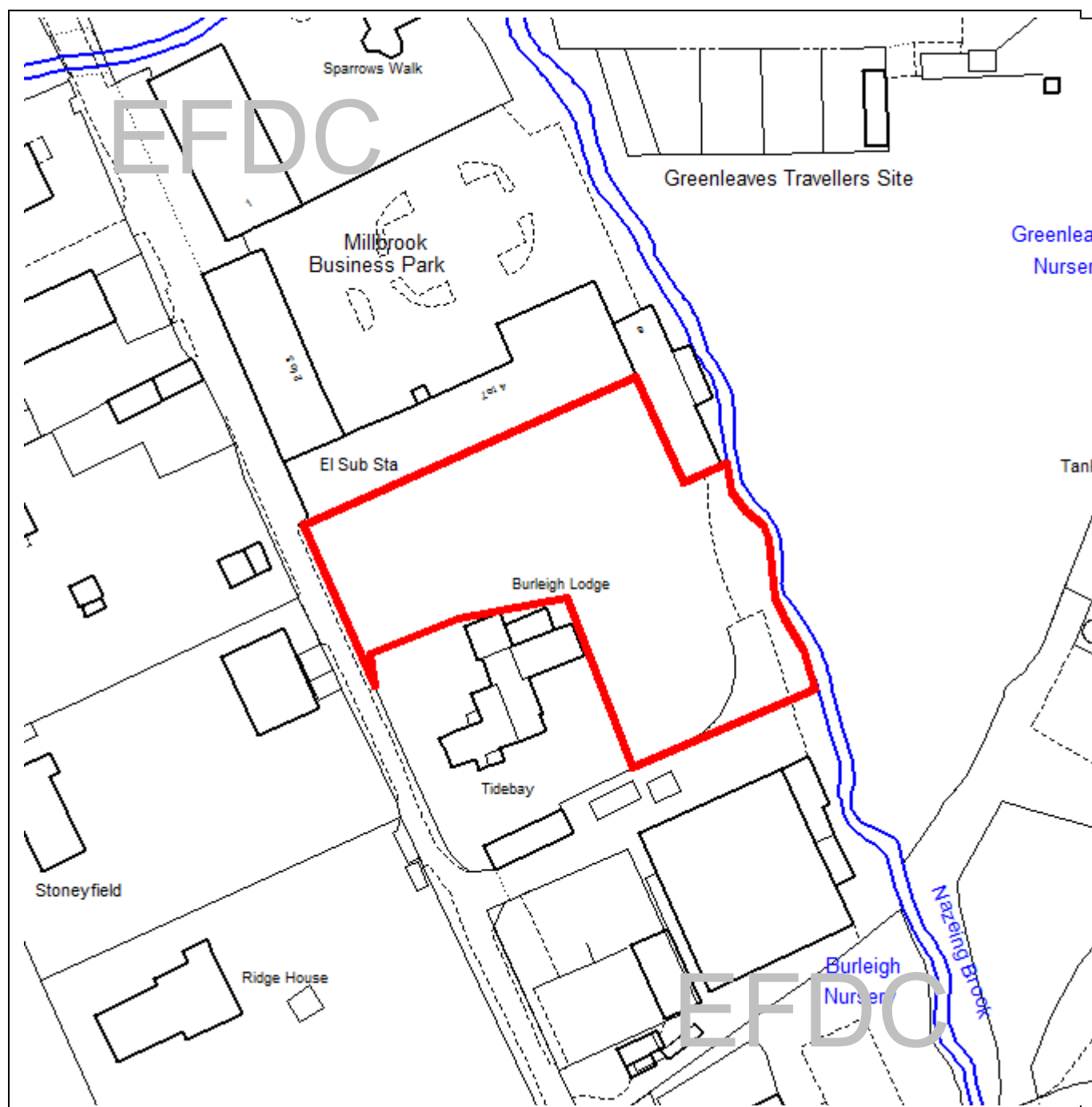
**Planning Application Case Officer: James Rogers  
Direct Line Telephone Number: 01992 564 371**

**or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)**



# Epping Forest District Council

## Agenda Item Number 4



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Application Number:	EPF/2047/17
Site Name:	Land at Burleigh Lodge, Hoe Lane, Nazeing, EN9 2RJ
Scale of Plot:	1/1250

**Report Item No: 4**

<b>APPLICATION No:</b>	EPF/2047/17
<b>SITE ADDRESS:</b>	Land at Burleigh Lodge Hoe Lane Nazeing Essex EN9 2RJ
<b>PARISH:</b>	Nazeing
<b>WARD:</b>	Lower Nazeing
<b>APPLICANT:</b>	Mr & Mrs Marsetic
<b>DESCRIPTION OF PROPOSAL:</b>	Erection of five detached residential dwellings
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

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

[http://planpub.eppingforestdc.gov.uk/NIM\\_websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=597713](http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597713)

**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: 12164-P0: 13, 14, 15, 16, 17 and 18
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
- 4 Prior to the commencement of any works a Phase I Habitat Survey must be submitted to EFDC. Should the survey reveal the likely presence of any European Protected Species, or their breeding sites or resting places, then protected species surveys need to be carried out. These surveys should also be submitted to EFDC. Should the protected species surveys reveal the presence of protected species, or their breeding sites or resting places on the site, then a detailed mitigation strategy must be written in accordance with any guidelines available from Natural England (or other relevant body) and submitted to EFDC. In some cases a European Protected Species Licence may be required from Natural England. All works shall then proceed in accordance with the approved strategy with any amendments agreed in writing.

- 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 No development shall take place until details of foul and surface water 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.
- 11 A flood risk assessment and management and maintenance plan shall be submitted to and approved 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 tool. 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.
- 12 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.
- 13 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 14 Tree protection shall be implemented prior to the commencement of development activities (including demolition) in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports unless the Local Planning Authority gives its prior written approval to any alterations. Tree protection shall be installed as shown on Andrew Day Arboricultural Consultancy drawing dated 4th September 2017.

- 15 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 16 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.

*This application is before this Committee since it is an application for residential development consisting of 5 dwellings or more (unless approval of reserved matters only) and is recommended for approval (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(d))*

### **Description of site**

The application site is located on Hoe Lane which is within the area of Nazeing. Currently the site is used as part of the residential garden of Burleigh Lodge. To the north of the site is Millbrook Business Park and to the south of the site is currently glass house buildings and warehouse buildings. The application site is located within the boundaries of the Metropolitan Green Belt and it is not within a Conservation Area.

### **Description of proposal**

The proposed development is to erect five new dwellings within the garden of the main dwelling.

## **Relevant History**

None

## **Relevant Policies**

The following saved policies within the Council's adopted Local Plan (2004) and Alterations (2008) are relevant:

CP1 – Achieving Sustainable Development Objectives  
CP2 – Protecting the Quality of the Rural and Built Environment  
GB2A – Development in the Green Belt  
GB7A – Conspicuous development  
DBE4 – Design in the Green Belt  
DBE9 – Loss of Amenity  
ST4 – Road Safety  
LL1 – Rural Landscape  
LL9 – Felling of Preserved Trees  
LL10 – Adequacy of Provision for Landscape Retention  
LL11 – Landscaping Schemes  
DBE1 Design of new buildings  
RP4 Contaminated land  
U3B sustainable drainage  
DBE8 private amenity Space  
ST6 vehicle parking standards  
ST1 Location of development  
ST2 Accessibility of development  
H1A Housing Provision

Following the publication of the National Planning Policy Framework (The Framework, CLG, 2012), 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.

## **Epping Forest Draft Local Plan consultation document (2016)**

The Epping Forest District Draft Local Plan is the emerging Local Plan and contains a number of relevant policies. At the current time only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies within the Draft Local Plan are:

SP1 – Presumption in favour of sustainable development  
SP5 – Green Belt and district open land  
SP6 – The natural environment, landscape character and green infrastructure  
T1 – Sustainable transport choices  
DM1 – Habitat protection and improving biodiversity  
DM2 – Landscape character and ancient landscapes  
DM9 – High quality design  
DM11 – Waste recycling facilities on new development  
DM15 – Managing and reducing flood risk  
DM18 – On site management of waste water and water supply  
DM21 – Local environment impacts, pollution and land contamination

The wider site is listed in the Draft Local Plan as designated District Open Land. At the current time only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions.

### **Consultation carried out and summary of representations received**

26 Neighbours consulted –

RIDGE HOUSE – SUPPORT - I live opposite the proposed development site and fully support this application, it will provide much needed housing on land that is under utilised.

NAZEING PARISH COUNCIL – NO OBJECTION

### **Issues and considerations**

The main issues to consider when assessing this application are the potential impacts on the Green Belt, the living conditions of neighbours, the character and appearance of the area, land drainage issues, tree and landscape, highway and access issues, land contamination and any other material planning considerations.

#### **Green Belt**

The Framework 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 NPPF 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 NPPF 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 paragraphs 89 and 90 of the NPPF allow some exceptions to inappropriate development, one of which is:

*Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*

The first stage of this assessment is to consider whether the site falls within a village for the purposes of planning policy. Neither the Local Plan nor the Framework defines what can reasonably be considered as a village and therefore it is for the decision maker to decide based on the context of the site in question.

In this case, the main part of Nazeing is located to the east and has a rather substantial amount of development within its boundaries as well as a number of shops and services. The result of which is that it can reasonably be considered as a village for the purposes of planning policy. The main question therefore, is whether the application site forms part of this village.

The application site is separated from the main settlement of Nazeing by Hoe Lane which contains rather more sporadic development than the main settlement to the east but which nonetheless continues the pattern of development eastwards. This linear and mostly unbroken pattern of development then forms an offshoot to the south and this part of Hoe Lane contains residential



dwelling, a large business unit and glass house development on either side of the road. Whilst this part of Hoe Lane reads as a distinct part of the settlement, it is still connected to the main part of Nazeing through the sprawled development on the northern end of Hoe Lane. As a result it is considered that the application site would be located as part of the main settlement to the east and therefore it falls within the definition of a village location for the purposes of planning policy.

The second part of this exception is to consider whether the proposal constitutes infilling within the Green Belt. In this case the site is bounded by a large warehouse to the north known as Millbrook Business Park, residential dwellings to the west and glasshouses to the south. It is important to note however that planning permission has been granted to erect six new dwellings to the immediate south of the site and once this has been built, the new development will be surrounded on three sides with quite substantial development. The result of this is that the site would be an infill site for the purposes of planning policy.

The final part of this exception is to consider whether the proposal would be 'limited' infilling within the Green Belt. The proposal to erect five new dwellings is a substantial amount of development for this location. However in the context of the six dwellings granted planning permission to the immediate south, which are in a similar layout as the ones proposed in this application, as well as the existing residential development to the west and large warehouse to the north, it is considered that the proposal can be considered limited within the context of its setting.

The proposal is considered to fall within this exception to inappropriate development in the Green Belt and it is therefore compliant with policies GB2A and GB7A of the Adopted Local Plan and with the objectives of the Framework.

It has been considered whether it is necessary to restrict Class A, B or E Permitted Development Rights to ensure the Local Planning Authority retains control over future development on the site. Given that it has been found that the erection of new dwellings represents a limited infilling in the Green Belt in this location, extensions to the buildings would also be considered as infilling and therefore it is not considered necessary to restrict such rights, which should only be done in exceptional circumstances.

#### Living conditions of neighbours and standard of accommodation provided

The new dwellings would be positioned around the existing dwelling known as Burleigh Lodge. Whilst this will cause some impact on the outlook of this property, the dwellings are a minimum of 25m away from the main dwelling and therefore will not cause any significant harm to its living conditions. It is not considered that there would be any harm caused to any other neighbouring property.

Unit 2 is located within close proximity to the warehouse to the north, however its garden area is approximately 14m long and therefore it is considered that this would allow an appropriate amount of light into the property.

Both units 1 and 2 are within close proximity to the Business Park to the north, however the hours of operation of these units is restricted to 7:30am – 6:00pm on weekdays and 8:00am – 1:00pm Saturdays and not at all on Sundays or Bank Holidays. This will ensure that the living conditions of the new dwellings would not be compromised.

It is therefore concluded that the new dwellings will offer a suitable standard of accommodation without causing significant harm to the living conditions of existing residents.

### Character and appearance of the area

The new dwellings would each have a conventional residential appearance with traditional hipped and gabled roof elements, which would not be dissimilar to existing dwellings within Hoe Lane.

In terms of their scale, bulk and massing each of the dwellings will adopt significance within the street scene but would be respectful to the prevailing pattern of development in the locality by not appearing overly prominent or disproportionately large.

It is therefore considered that the proposed dwellings will respect the character and appearance of the area and they are therefore compliant with policies DBE1, DEB4 and CP2 of the Adopted Local Plan.

### Land drainage

The development is of a size where it will be necessary to avoid excessive surface water run off and therefore a Flood Risk Assessment is required. Details of foul and surface water are also required and these elements can be secured through condition.

Given that some of the new dwellings are within 20m of a main river the Environment Agency were consulted as part of the application, however no comment has been received by the Council.

### Trees and Landscaping

The Tree and Landscape Team have not raised an objection to the application subject to conditions ensuring tree protection, details of hard and soft landscaping and retention of existing shrubs. These conditions are both reasonable and necessary to impose.

### Highway and parking issues

The parking offer is substantial for each dwelling and therefore raises no concerns. In terms of access, the dwellings will utilise Hoe Lane and the Highway Team have not raised any objection to this.

### Contaminated Land

Due to its former use as part of a Mushroom Farm, Horticultural nursery, haulage yard and vehicle maintenance and repair yard there is potential for contaminants to be present on the site. These issues can be remedied through the use of planning conditions.

### Ecology

There is potential for protected species to be located on or near the site and therefore a Phase one habitat survey shall be required and this can be secured through condition.

### **Conclusion**

The proposal is not considered to be inappropriate development in the Green Belt, will not harm the living conditions of the neighbours, will not cause harm to the character and appearance of the area and satisfies all other criteria of the development plan. Therefore it is recommended that planning permission is granted.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

Planning Application Case Officer: James Rogers  
Direct Line Telephone Number: 01992 564 371

or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)