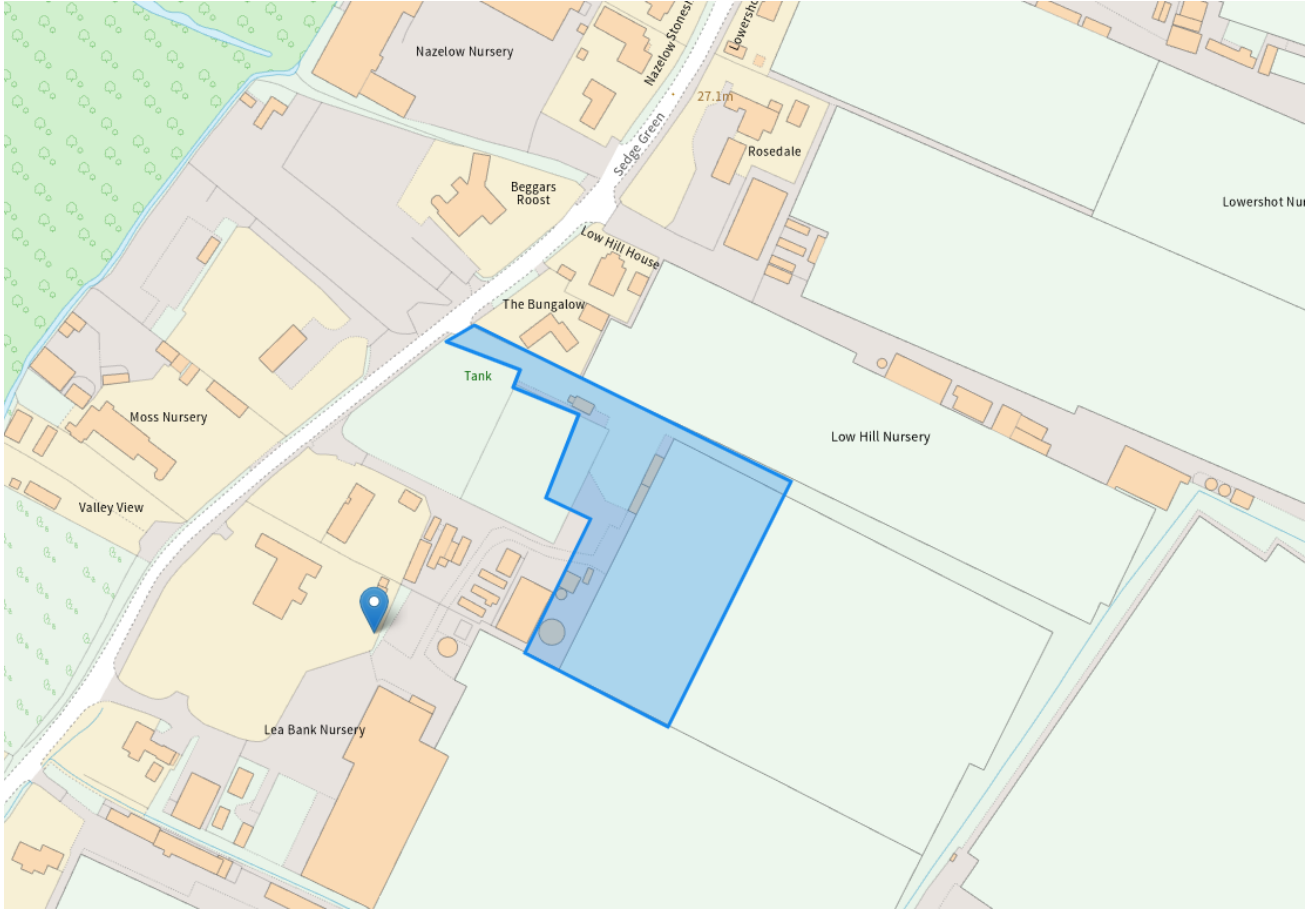




Epping Forest District Council

EFDC



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Application Number:	EPF/2072/22
Site Name:	Leabank, Meadgate and Hilside Nurseries, Sedgemoor Roydon CM19 5JS

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OFFICER REPORT

Application Ref: EPF/2072/22
Application Type: Change of use
Applicant: Mr Faranda
Case Officer: Muhammad Rahman
Site Address: Leabank Meadgate and Hillside Nurseries, Sedge Green, Roydon, Harlow, CM19 5JS
Proposal: Change of use of the site from horticulture to a site for storage purposes (Use Class B8).
Ward: Lower Nazeing
Parish: Nazeing
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000Onm9>
Recommendation: Refuse

This application is before this Committee since it has been 'called in' by Councillor Bassett (Pursuant to The Constitution Part 3: Part Three: Scheme of Delegation to Officers from Full Council).

Site and Surroundings

The site comprises of multiple large glasshouses within the Green Belt. There are no listed buildings on site, nor is the site within a conservation area, however it is within an EFDC flood assessment zone.

Proposal

The proposal is for change of use of some of the glasshouses and the wider site from horticulture to a site for storage purposes (Use Class B8), including the erection of a new proposed welfare block.

Proposed Opening Hours are:

7am - 6pm on Mondays to Fridays, 8am - 1pm on Saturdays and at no times on Sundays/Bank Holidays.

The application form states that the existing business employs 25 FTE staff and the proposal would retain this.

Relevant Planning History

Multiple histories against the wider site and the relevant case is below;

EPF/0346/00 - Erection of boiler house and glasshouses – Approved with Conditions

Development Plan Context

Local Plan and Alterations 1998 & 2006 (LP)

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006)

The following policies within the current Development Plan are considered to be of relevance to this application:

CP2 Protecting the Quality of the Rural and Built Environment
CP3 New Development
CP4 Energy Conservation
CP6 Achieving Sustainable Urban Development Patterns
CP8 Sustainable Economic Development
CP9 Sustainable Transport
GB2A Green Belt
GB7A Conspicuous Development
GB8A Change of Use or Adaptation of Buildings
RP5A Adverse Environmental Impacts
DBE1 Design of New Buildings
DBE4 Design in the Green Belt
DBE9 Loss of Amenity
ST4 Road Safety
E13B Protection of Glasshouse Areas

National Planning Policy Framework 2021 (Framework)

The Framework is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

1. approving development proposals that accord with an up-to-date development plan without delay; or
2. where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Paragraphs 84 & 85
Paragraph 110
Paragraphs 126 & 130
Paragraphs 137 & 147 - 150
Paragraph 180

Epping Forest District Local Plan Submission Version 2017 (LPSV)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14th December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2nd August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

Following the Examination Hearing Sessions for the emerging Local Plan, the Council has prepared a number of changes, known as Main Modifications, to the Epping Forest District Local Plan Submission Version (2017) to address issues of soundness and/or legal compliance identified by the Inspector. These are put forward without prejudice to the Inspector's final conclusions on the Plan.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional Main Modifications (MMs), significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework. The following table lists the LPSV policies relevant to the determination of this application and officers' recommendation regarding the weight to be accorded to each policy.

SP 6 Green Belt and District Open Land
 T 1 Sustainable Transport Choices
 E 1 Employment Sites
 E 3 Food Production and Glasshouses
 DM 2 Epping Forest SAC and the Lee Valley SPA
 DM 4 Green Belt
 DM 9 High Quality Design
 DM 15 Managing and reducing flood risk 100
 DM 16 Sustainable Drainage Systems
 DM 20 Low carbon and renewable energy
 DM 21 Local environmental impacts, pollution and land contamination
 DM 22 Air Quality

Summary of Representations

Number of neighbours consulted: 14.
 1 response received
 Site notice posted: Yes

CEDAR LEA - Objection – Summarised as:

- Intensification of use; and
- Drainage concerns

NAZEING PARISH COUNCIL – Resolved: To object to the proposal on the following grounds:

1) The roads in Nazeing are all either B-roads or lanes by name and nature and are not suitable for use by heavy lorries. There is already overuse of these roads by this type of vehicle, which has caused a rapid deterioration and subsequent hazardous conditions for users. This would be exacerbated by the proposed change of use.

2) The Lea Valley is well known for being a long-standing centre for salad and vegetable growing for the country and the greenhouse industry. Turning these greenhouses into warehouses is completely against this concept and will adversely alter the dynamics of the local community.

3) In the event that permission is granted, the Council considers that a condition should be attached that the warehouses are used only in connection with the existing greenhouses.

The Council have requested that District Cllrs Bassett and Pugsley call in this application.

Planning Considerations

The main issues for consideration in this case are;

- a) The impact on the Green Belt;
- b) The loss of agricultural glasshouses;
- c) Landscape/Visual Impact;
- d) Highway Safety;
- e) Living Conditions with particular regard to noise disturbance; and
- f) The Impact on the Integrity of the Epping Forest Special Area of Conservation (EFSAC).

Green Belt

The relevant exception to development in the Green Belt is Paragraph 150 (d) the re-use of buildings provided that the buildings are of permanent and substantial construction, and (e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). The proposed welfare block would be ancillary to the proposal so can be considered under the above 2 exceptions.

Para 150 (e) is a closed list, so the proposed change of use would not meet this exception. In terms of Para 150 (d) to establish whether the proposal would be acceptable depends on the building and the impact on the openness of the Green Belt, which has a spatial aspect as well as a visual aspect.

The accompanied structural report states the following;

Having carried out our structural appraisal we are satisfied the existing structures can be utilised for the proposed change of use to business-type units. Glass to be removed cladding to be placed over the frame with no structural effect.

So, based on the above, the existing buildings would be of a permanent and substantial construction, suitable for conversion.

Turning to the impact on the openness. In spatial terms, it is commonly accepted that a proportionate increase over the size of the original buildings is acceptable. Having said this, an assessment of a development on the Green Belt is not a purely mathematical exercise as reaffirmed by the recent High Court Judgement; in *Sefton MBC v SoS* (2021) EWHC 1082.

Notwithstanding the above, the proposal would result in a decrease of built form in volume terms on the site, so in spatial terms the impact would be negligible. No elevation plans have been submitted for the proposed welfare block, however it is assumed to be a single storey structure and given the reduction in built form on the wider site, this would unlikely have any material spatial impact to the openness of the Green Belt.

However the proposal; by reason of the solid form due to the additional cladding and materials, the increased hardstanding, parking spaces, and the increased associated activity and vehicle movements, will have a material visual impact to the openness of the Green Belt.

Members will note that Glasshouses fall within agricultural use, so are acceptable development within the Green Belt, and are generally lightweight buildings that are primarily glazed, which lessens their visual impact. However a solid structured warehouse, even when reduced in scale, would be far more solid and appear at odds with the Green Belt.

Due to the above it is considered that the proposed development would be inappropriate development within the Green Belt since it would not meet the exception of para 150 (d), and the proposal would result in further harm derived from loss of openness. As such the proposal is harmful to the Green Belt and should not be approved except in very special circumstances.

'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. This matter will be discussed later in the report.

Loss of glasshouses

The District has long been home to a major part of the Lea Valley glasshouse industry because of its favourable location in terms of topography, rich soil, ample water supply and good proximity to London. The application site is situated within a designated E13A site, which seeks to protect the Lee Valley Glasshouse industry. Adopted plan policy E13B clearly states:

The Council will refuse any application that it considers is likely to:

- (i) Undermine its policy approach of concentrating glasshouses in clusters to minimise damage to visual amenity and loss of openness of the Green Belt; and/or*
- (ii) harm the future vitality and/or viability of the Lea Valley glasshouse industry.*

Since the proposal would result in the loss of an existing glasshouse within a designated glasshouse area, the development would clearly be contrary to policy E13B and fails to support the Lea Valley Glasshouse industry.

The LPSV includes Policy E 3 (Food Production and Glasshouses) which is supportive of new or replacement glasshouses subject to a number of criteria. In addition, the supporting text to Policy E 3 sets out that *'Following a period of difficult trading conditions the market opportunities for home grown products, together with concern about food security and the widening gap between what the nation produces and requires is leading to renewed aspiration and real opportunities for growth in the sector. The industry appears to have good growth prospects, and food has been agreed as one of the sector priorities for the London Stansted Cambridge Corridor.'* Policy E 3 of the LPSV is supported by several evidence-based documents including The Lea Valley Food Task Force Final Report 2018 (EB615). The proposal would therefore undermine one of the objectives of the Local Plan which is to support the diversification of the agricultural economy including the expansion of the glasshouse industry, which Policy E 3 of the LPSV facilitates. It is also noted that Government published its Food Strategy in 2022 which focuses on longer-term measures to support a resilient, healthier, and more sustainable food system that is affordable to all.

Landscape/Visual Impact

The proposed development will result in an increase in the level of solid built development, hardstanding, and general activity on the site, resulting in an unacceptable intensification and urbanisation of the existing site that harms the wider landscape and character of this rural area, which predominantly consist of Glasshouses, contrary to policy CP2 of the adopted Local Plan and Policy DM9 of the LPSV, and the NPPF 2021.

Sustainability

The application site is situated within a rural location outside of any established settlements.

It is appreciated that this application is for a commercial business as opposed to new housing development and there would be a general expectation that the users of this business would use vehicles, however the proposal would include approx. 20 units with some 52 parking spaces. On this basis the proposal would lead to the promotion of further unsustainable patterns of growth where there are limited public transport choices. The proposal should be in a more sustainable location that allows for shorter vehicular trips than would occur from this rural setting.

Accordingly, the proposal would not comply with Policies CP1, CP3 and CP9 of the adopted Local Plan, Policy T1 of the LPSV, and the NPPF that seek to reduce reliance on the use of the private car, reduce the need to travel, ensure access by sustainable means of transport and generally promote sustainable patterns of development.

Highway Safety

The accompanied transport assessment incorrectly assesses the existing Horticulture use as B2 – Light Industrial and concludes that the proposal would generate less vehicle trips than existing. There are also further issues with the whole application. The application form & Design & Access statement describes the existing horticulture use as Sui Generis, whilst the Structural report describes the Glasshouses as agricultural buildings.

For clarity, horticulture falls within Agricultural use as defined under s336 of the Town & Country Planning Act 1990 below;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

The Highways Officer has also raised concerns regarding the existing access and as the applicants have incorrectly concluded that there would be less vehicle movements, they do not consider this to be an issue, so no changes, in their view, would be required to the existing access. Based on the information above, the Highways Officer has been unable to fully consider the impact of the proposal and whether there would be harm to the safety operation of the highway network.

Living Conditions with particular regard to noise disturbance

Officers have considered the potential impact to neighbouring properties from the increased activity including the level of noise that would be generated from the Scheme. The accompanied noise survey concludes that there would not be any material impact, and the Councils Noise Team have raised no objections to this survey. Too add, a condition restricting the use of the site in terms of operating hours and delivery would also further mitigate any harm.

As such it is considered that the proposal would have no significant impact to the neighbouring residents that warrants a further reason for refusal.

Epping Forest Special Area of Conservation (EFSAC)

A significant proportion of the Epping Forest Special Area of Conservation (the EFSAC) lies within the Epping Forest District Council administrative area. The Council has a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to assess whether the development would have an adverse effect on the integrity of the EFSAC. In doing so the assessment is required to be undertaken having considered the development proposal both alone and in combination

with other Plans and Projects, including with development proposed within the Epping Forest Local Plan Submission Version (LPSV).

The Council published a Habitats Regulations Assessment in January 2019 (the HRA 2019) to support the examination of the LPSV. The screening stage of the HRA 2019 concludes that there are two Pathways of Impact whereby development within Epping Forest District is likely to result in significant effects on the EFSAC. The Pathways of Impact are disturbance from recreational activities arising from new residents (residential development only) and atmospheric pollution as a result of increased traffic using roads through the EFSAC (all development).

Whilst it is noted that the independent Inspector appointed to examine the LPSV, in her letter dated 2 August 2019, raised some concerns regarding the robustness of parts of the methodology underpinning the appropriate assessment HRA 2019, no issues were identified in relating to the screening of the LPSV or the Pathways of Impact identified. Consequently, the Council, as competent authority under the Habitats Regulations, is satisfied that the Pathways of Impact to be assessed in relation to the likely significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

1. Recreation activities arising from new residents (recreational pressures); and
2. Atmospheric pollution as a result of increased traffic using roads through the EFSAC

As this application is for non-residential development it has been screened in relation to the atmospheric pollution Pathway of Impact only and concludes as follows;

- The development has the potential to result in a net increase in traffic using roads through the EFSAC and therefore could have a likely significant effect on the EFSAC in relation to the atmospheric pollution impact pathway.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to the atmospheric pollution Pathway of Impact.

Stage 2: 'Appropriate Assessment'

In order to be able to draw a conclusion of no adverse effect on the integrity of the EFSAC in relation to atmospheric pollution, the Council has adopted an Air Pollution Mitigation Strategy (APMS). In light of this, the application does not provide sufficient Annual Average Daily Traffic (AADT) information to be able to properly assess impacts on the EFSAC in this regard. The applicant has also incorrectly assessed the Horticulture use as B2 – Light Industrial and concluded that there would be a reduction in vehicular movements from the proposed use.

Thus, for the reasons set out above, the Council cannot be certain beyond reasonable scientific doubt that the proposed development either alone, or in combination with other developments within the District would not cause harm to the integrity of the EFSAC with particular regards to air quality. As such the proposed development fails to comply with the requirements of the Habitats Regulations 2017, Polices DM2 & DM22 of the LPSV 2017, and Paragraph 180 of the Framework 2021.

Other Considerations

Officers note the drainage concerns raised by the neighbouring resident; however, the Council's Drainage Officer has raised no objections to the proposal, nor requested any conditions be attached should Permission be granted.

Planning Balance & Conclusion

The applicants have concluded that the proposal is acceptable in Green Belt terms, so did not consider that any 'very special circumstances' (VSC) would be necessary.

Having reviewed the case as whole, the core argument seems to be that the existing business is no longer sustainable and cannot operate due to the increased energy and labour costs including costs of sales. No evidence has been provided on whether the site has been marketed to other potential business owners including a financial appraisal.

Para 84 of the Framework acknowledges that Planning policies and decisions should enable: a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. However, Para 85 goes on to state; in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

To conclude, the Council disagrees with the applicants conclusions on Green Belt, Highway safety and EFSAC grounds, and for these reasons Para 84 & 85 of the Framework, including the impact on neighbouring amenity are afforded neutral weight. Officers note the multiple permissions quoted within the Design & Access statement, however, each case is assessed on its own merits, so these are afforded limited weight.

Members will be aware that the protection of the Green Belt is a matter of legitimate wider public interest. The same applies as regards character and appearance, and location of the development. This is reflected in both the development plan and national planning policy.

Thus, the proposed development constitutes inappropriate development in the Green Belt, when assessed against the Framework, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances. The development would also be contrary to at least 1 (Para 138 c) of the identified purposes of the Green Belt. The Framework is clear that substantial weight should be given to any identified harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The Council consider that the cumulative reasons advanced by the applicant do not amount to very special circumstances to clearly outweigh;

1. The harm by reason of inappropriate development in the Green Belt, the additional harm derived from loss of openness (in visual terms), and conflicting with fundamental purposes of including land within it;
2. The harm from the loss of glasshouses contrary to policy E13B;
3. The harm by reason of its location, in that it is not a sustainable location;
4. The harm to the safety operation of the highway network; and
5. The Council, as competent authority, cannot be certain beyond reasonable scientific doubt that the proposed development will not adversely affect the integrity of the EFSAC with particular regards to air quality.

Consequently, the 'very special circumstances' necessary to justify the development do not exist. The proposal would therefore be contrary to the Framework, to the policies of the adopted Local Plan, the LPSV, and the Habitats Regulations.

Thus, the application of policies in the Framework that protect the Green Belt and Habitats Sites provide a clear reason for refusing the development proposed (as per footnote 7). Paragraph 11 of the Framework – the presumption in favour of sustainable development is not therefore engaged.

For the reasons set out above having regard to all the matters raised, it is recommend that that planning permission is refused.

If you wish to discuss the contents of this report item please contact the case officer by 2pm on the day of the meeting at the latest. If no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

Case Officer | Muhammad Rahman | mrahman@eppingforestdc.gov.uk

Refusal Reason(s): (6)

- 1 The application site is located within the Metropolitan Green Belt and the proposed development would constitute inappropriate development harmful to the Green Belt, including harm derived from loss of openness. No very special circumstances exist that clearly outweighs the harm from the development and therefore the proposal is contrary to Policies CP2, GB2A, GB7A, GB8A & E13B of the adopted Local Plan 1998 & 2006, Policies SP6 & DM4 of the Local Plan Submission Version 2017, and Paragraphs 137, 147 - 150 of the NPPF 2021.
- 2 The proposed development would result in the loss of existing glasshouses situated within a designated E13A glasshouse area, which would undermine the policy approach of protecting the Lea Valley glasshouse industry, contrary to policy E13B of the adopted Local Plan and Alterations, and policy E 1 and E 3 of the Submission Version Local Plan (2017).
- 3 The proposed development will result in an increase in the level of hardstanding and general activity on the site, resulting in an unacceptable intensification and urbanisation of the existing site that harms the wider landscape and character of this rural area, which predominantly consist of Glasshouses, contrary to policy CP2 of the adopted Local Plan 1998 & 2006, Policy DM9 of the LPSV, and the NPPF 2021.
- 4 The proposed development, due to its unsustainable location, would result in a reliance on the use of the private vehicles and lead to the promotion of unsustainable patters of growth where there are limited public transport choices, contrary to Policies CP1, CP3, and CP9 of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021.
- 5 By reason of the lack of sufficient information, the Council are unable to determine the whether the proposal could be carried out without a detrimental impact to the safety operation of the Highway Network, contrary to Policy ST4 & GB8A of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021.
- 6 The application does not provide sufficient information to satisfy the Council, as competent authority, that the proposed development will not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative

reasons of overriding public interest why the proposed development should be permitted. In the absence of such information, and including any mitigation measures, the proposed development is contrary to Policies DM2 and DM22 of the Local Plan Submission Version 2017, Paragraph 180 of the NPPF 2021, and the requirements of the Habitats Regulations 2017.

Informatives: (2)

- 7 The Local Planning Authority has identified matters of concern within the officer's report and clearly set out the reason(s) for refusal within the decision notice. The Local Planning Authority has a formal post-application advice service. Please see the Councils website for guidance and fees for this service - <https://www.eppingforestdc.gov.uk/planning-and-building/apply-for-pre-application-advice/>. If appropriate, the Local Planning Authority is willing to provide post-application advice in respect of any future application for a revised development through this service.

- 8 This decision is made with reference to the following plan numbers: 1467_300, 1467_301, 1467_303, 1582_310, 1582_311, 1582_320, 1582_321, and Supporting Documents.