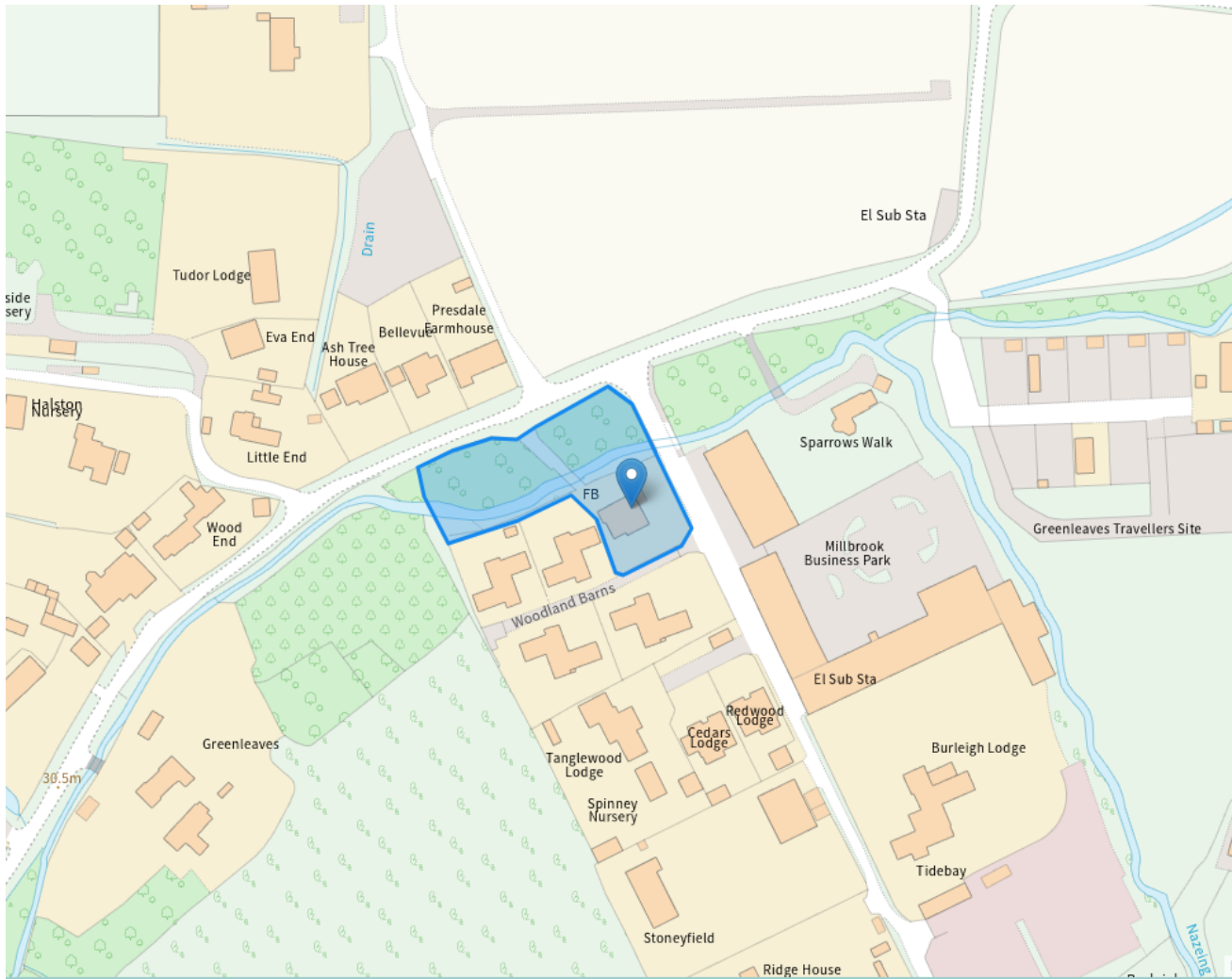




Epping Forest District Council

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|---------------------|--|
| Application Number: | EPF/2628/22 |
| Site Name: | Land at Winston Farm, Hoe Lane, Nazeing, Waltham Abbey EN9 2RJ |
| | |

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OFFICER REPORT

Application Ref: EPF/2628/22
Application Type: Householder planning permission
Applicant: c/o agent
Case Officer: Sukhvinder Dhadwar
Site Address: Land at Winston Farm, Hoe Lane, Nazeing, Waltham Abbey EN9 2RJ
Proposal: Demolition of Existing Bridge and Erection of New Access bridge.
Ward: Lower Nazeing
Parish: Nazeing
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000001Uhqa>
Recommendation: Refuse

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

Description of Site:

The application site covers an area of 0.25 hectares and contains a bungalow in the southern part of the site. The northern part of the site contains a stream running through a broadleaved wooded area. This section of the site falls within the Nazeing and South Roydon Conservation Area. It is protected by a blanket Tree Preservation Order along with one veteran tree and falls within Flood Zones 2 and 3.

The site is located to the south of Hoe Lane and to the west of the access road off of Hoe Lane. The surrounding area contains a variety of residential and commercial uses.

The site was originally included within the approved application for the demolition of the previous kennels and associated buildings and replacement with four dwellings which have now been built.

The whole application site falls within land designated as Green Belt.

Description of Proposal:

Permission is sought for the demolition of the existing timber decked bridge which measures 2.35 metres wide by 8.5 metres long and replace it with a new prefabricated steel bridge which measures measure 4.2 metres wide and 7.5 metres long. The new bridge will also have 1.2m high railings inset within 1.5m high brick piers.

Relevant History:

| Reference | Description | Decision |
|-------------|---|----------|
| EPF/0734/14 | Erection of four dwellings following the demolition of kennels and associated commercial buildings and relinquishment of residential mobile home. | Granted |
| EPF/1352/21 | Permission is sought for the demolition of existing building and erection of a new dwelling | Refused |
| EPF/0189/22 | Application to determine if Prior Approval is required for the enlargement of a | Approved |

| | | |
|---|--|----------|
| | dwellinghouse by construction of additional storeys | |
| EPF/3038/21 | Demolition of existing bridge and erection of a new access bridge. | Refused |
| <p>Reasons for refusal:-</p> <p>The proposed replacement bridge by reason of its increased width would have a conspicuous impact and detract from the character and appearance of the local rural landscape setting and from the openness of the Green Belt, contrary to the requirements of policy CP2, GB2A and GB7A of the Adopted Local Plan and Alterations (1998-2006) and policy SP6 and DM4 of the Local Plan Submission Version, 2017 and the NPPF, 2021</p> <p>The development lacks sufficient justification for the proposed replacement of the existing bridge and the proposed materials would fail to preserve the character and appearance of the conservation area contrary to policy HC6 and HC7 of the adopted Local Plan and Alterations and (1998 and 2006); policy DM7 of the Submission Version Local Plan (2017) and the NPPF, 2021</p> | | |
| EPF/1620/22 | Demolition of existing building and erection of a new dwelling. | Approved |

DEVELOPMENT PLAN

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:

| | |
|------|---|
| CP1 | Achieving Sustainable Development Objectives |
| CP2 | Protecting the quality of the rural and built environment |
| HC6 | Character, Appearance and setting of Conservation Area |
| HC7 | Development within Conservation Areas |
| DBE1 | Design of New Buildings |
| DBE2 | Effect on Neighbouring Properties |
| DBE4 | Design in the Green Belt |
| DBE9 | Loss of Amenity |
| ST4 | Highway Safety |
| LL10 | Adequacy of Provision for Landscape Retention |
| LL11 | Landscaping schemes |
| ST4 | Road Safety |
| ST6 | Vehicle Parking |
| NC1 | SPAs, SACs and SSSIs |
| NC3 | Replacement of Lost Habitat |
| NC4 | Protection of established Habitat |
| RP5a | Environmental Impacts |

NATIONAL PLANNING POLICY FRAMEWORK (FEBRUARY 2019)

The revised NPPF 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; (a) approving development proposals that accord with an up-to-date development plan without delay; or (b) 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.

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 14 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.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight afforded by your officers in this particular case indicated:

| Policy | Weight afforded |
|---|------------------------|
| T1 - Sustainable Transport Choices | Significant |
| DM1 - Habitat Protection and Improving Biodiversity | Significant |
| DM4- Green Belt | Significant |
| DM6 - Designated and Undesignated Open Spaces | Significant |
| DM7 - Heritage Assets | Significant |
| DM9 - High Quality Design | Significant |
| DM15 - Managing and Reducing Flood Risk | Significant |

| | |
|---|-------------|
| DM16 - Sustainable Drainage Systems | Significant |
| DM17 - Protecting and Enhancing Watercourses and Flood Defences | Significant |
| DM22 - Air Quality | Significant |

Consultation Carried Out and Summary of Representations Received

Number of neighbours consulted: 12
Responses received as follows:-

2 WOODLAND BARNS COMMENT: I support the proposed bridge replacement

PARISH COUNCIL: No objection as this will enhance the exit and this particular bridge will be safer than that which exists.

Main Issues and Considerations:

Background

This application is a resubmission of the identical previously refused scheme under reference EPF/3038/21 in October 2022 for the demolition of existing bridge and erection of a new access bridge. This application was found unacceptable on the grounds of the replacement bridge having a scale, character and appearance that was harmful to the character and openness of the Green Belt and would be harmful to the special significance of the Conservation Area.

Green Belt

The previous case officer found:-

The National Planning Policy Framework, (NPPF), 2021 states that 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. There is a presumption against inappropriate development which is, by definition, harmful to the green belt and should not be approved except in very special circumstances.

Paragraph 147-150 of the NPPF states that when considering planning applications, 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 are clearly outweighed by other considerations.

Paragraph 147 states that Local Planning Authorities should have regard to the construction of new buildings as inappropriate in Green Belt. Exceptions to this are extensions or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

Policy GB2A of the Local Plan seeks to resist inappropriate extensions to dwellings which would create a building of significantly larger or different in character when assessed against the original house.

The site lies within the Metropolitan Green Belt and in terms of the additional floor space, the proposal seeks to replace the existing pedestrian bridge involving a limited increase in floor area of some 15m².

Paragraph 150 of the NPPF considers engineering operations as not inappropriate development 'provided they preserve its openness and do not conflict with the purposes of including land within it'.

There is no objection to a replacement bridge that would be better supported and safer to use, but the bridge is doubling in width and would allow 2-way traffic giving the potential for the bridge to be very different from its original intended purpose. Its use would become more like a through road affording a more conspicuous suburban feature in an otherwise rural scene.

Overall, the development by reason of its increased width would add an imposing addition with a consequent effect on the visual open amenity of the rural surroundings contrary to the requirements of the NPPF, policy GB2A and GB7A of the adopted Local Plan and Alterations (2006-2008) and policy DM4 of the Local Plan (Submission Version), 2017.

Impact on the Nazeing and South Roydon Conservation Area

The Local Planning Authority has a legal duty under S72(1) of the Planning and Listed Building and Conservation Areas Act 1990 to pay special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Paragraph 199 of the Framework requires that great weight should be given to a heritage asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance. Paragraph 200 of the Framework states that any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 requires that, where a proposal would lead to 'less than substantial harm,' the harm should be weighed against the public benefits of the proposal.

The Conservation Officer has advised:-

Context & Significance

The subject site ('Land at Winston Farm') is located within a designated heritage asset—Nazeing and South Roydon Conservation Area. The site consists of a wide plot of land with a number of mature trees and a timber access bridge established in the late 20th century over a historic waterway ('Nazeing Brook'). The mid to late 20th century property associated with the subject site sits just outside the limit of the conservation area to the south and benefits from another direct access route from Winston Farm to the east. The conservation area covers a wide area as its primary elements of significance relate to the surviving historic landscape and patterns of settlement. Although development within this part of the conservation area was rapid in the 20th century, until then it consisted of only a handful of properties standing behind thick hedgerows and surrounded by mature trees. The site is typical of the area with the portion fronting the road covered by trees, all legally protected by Tree Preservation Orders.

Current Proposal

This application seeks consent for demolition of existing bridge and erection of new access bridge.

Comments

The current scheme is identical to that previously refused at the subject site. As such, Conservation comments on that scheme remain relevant, reproduced below for ease of reference:

"Firstly, we would like to question the need to upgrade the current bridge where a primary access to the property already exists to the side of the plot. No clear and convincing justifications have been provided as part of the Heritage Statement.

The introduction of a metal structure with solid brick peers would appear overengineered, at odds within this unspoilt portion of the site, and cause harm to the strong rural character and appearance of this part of the conservation area."

While relatively modern in date, the existing bridge structure is sympathetically designed with a simple, functional typology in traditional materials. As such, it is considered to achieve a suitable level of subservience within its sensitive context. Any proposed development within the site would be expected to remain sympathetically passive, subdued and informal in order to ensure the green, largely unbuilt

character and appearance of the site is preserved, in line with policies HC6 and HC7 of EFDC's Adopted Local Plan and Alterations (1998 and 2006). This is especially notable given that the property the bridge access route serves is also modern in date. It therefore differs considerably in character, appearance and significance then that of historic properties with access routes over the brook that are sited within the conservation area to the southwest.

The applicant has failed to offer any amendments to the scheme as a result of comments on the previous application.

As such, we consider the current scheme to be UNACCEPTABLE. Further to this, any future iterations of the scheme that include the objectionable elements noted above will similarly be deemed unacceptable.

Recommendations

We CANNOT GIVE OUR SUPPORT to the proposed scheme due to the harm it would cause to the significance of the conservation area.

This is supported by policies HC6, HC7 of our Adopted Local Plan and Alterations (1998 and 2006); policy DM7 of our Submission Version Local Plan (2017); and paragraphs 189, 194, 195, 197, 199, 200, 201 and 206 of the NPPF (2021).

Trees

The Trees Officer raised no objections subject to conditions in regard to the impact of the proposal on the health and stability of the existing trees on the site. The proposal therefore complies with the requirements of LL10 of the Local Plan and DM5 of the SVLP.

Ecology

The woodland and stream provide are suitable for commuting and foraging habitat and are likely to be used regularly by larger numbers of bats.

The trees and shrubs on the site provided suitable nesting and foraging habitat for birds.

There is also the likelihood that there was the presence of Invertebrates and fish living within the site along with moderate likelihood that Otters, Water Voles, hedgehogs, Amphibians, and reptiles were living on the site.

The proposal was reviewed by ECC Place Services – Ecology team, they advised insufficient information has been submitted and therefore the application cannot be approved. The justification for this was that:-

We have reviewed the Location Plan (DPA, November 2021), Proposed Site Plan (DPA, November 2021), Tree Survey (Ligna Consultancy, October 2021) and DEFRA's geographic information tool MAGIC, for the likely impacts of development on designated sites, protected & Priority habitats and species and identification of proportionate mitigation.

We are not satisfied that there is sufficient ecological information available for determination of this application. The proposals include the demolition of the existing bridge and the erection of a new access bridge. The bridge goes over a stream and the access cuts through a small block of woodland. The waterway could be being utilised by protected species, notably Otter or Water Vole.

As a result, we recommend that a Preliminary Ecological Appraisal is provided so that the LPA can fully assess the impacts of the proposals upon protected species. The Preliminary Ecological Appraisal

should provide details of any survey results, mitigation & enhancement measures. These details are required prior to determination.

The Arboricultural documents also do not indicate that any of the nearby trees will be removed, but the plans do indicate that the trees will be subject to crown lifts. The applicant is within their right to carry out maintenance to the trees. However, it would be good practice to include a Preliminary Bat Roost Assessment of trees during the recommended Preliminary Ecological Appraisal, due to the close proximity of the trees to the proposed works.

The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

This information is therefore required to provide the LPA with certainty of impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage (based on the judgement in the Hack Green Group (Appellant) v Cheshire East Council [2006] - APP/R0660/W/15/3131662). Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

Furthermore, we recommend that, to secure net gains for biodiversity, as outlined under Paragraph 174d and 180d of the National Planning Policy Framework 2021, bespoke biodiversity enhancement measures should be secured.

Officers then sought advice on the legal impact of requiring the undertaking of survey work, together with details of any mitigation that may be required in respect of protected species, be submitted for approval before the buildings are demolished as a pre-commencement condition.

Place Services advised that:-

We cannot recommend that this application should be approved without the provision of a Preliminary Roost Assessment to confirm the likelihood of bats being present and likely absent. A Preliminary Roost Assessment can be conducted at any time of year and is not restricted to the summer months.

The proposed demolition of the building has the possibility to damage or destroy a bat breeding or resting place, as well as intentionally or recklessly disturb a bat while it's in a structure or place of shelter or protection. As a result, the Preliminary Roost Assessment must be secured prior to determination to ensure that the LPA can manage any likely risk and ensure that they are not liable under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife Countryside Act 1981 (as amended) if bats are identified to be present and permission was granted.

The protected species surveys are also required prior to determination because the Local Planning Authority must consider the guidance under paragraph 99 of the ODPM Circular 06/2005. This advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of protected species being present and affected by the development,

the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted.

Therefore, it is highlighted that Protected species surveys should only be secured via a condition of any consent in exceptional circumstances, as outlined in the BS42021. This states:

The presence or absence of protected species, and the extent to which they could be affected by the proposed development, should be established before planning permission is granted; otherwise all material considerations might not have been considered in making the decision. The use of planning conditions to secure ecological surveys after planning permission has been granted should therefore only be applied in exceptional circumstances, such as the following:

a) Where original survey work will need to be repeated because the survey data might be out of date before commencement of development.

b) To inform the detailed ecological requirements for later phases of developments that might occur over a long period and/or multiple phases.

c) Where adequate information is already available and further surveys would not make any material difference to the information provided to the decision-maker to determine the planning permission, but where further survey is required to satisfy other consent regimes, e.g. an EPS licence

d) To confirm the continued absence of a protected species or to establish the status of a mobile protected species that might have moved, increased, or decreased within the site.

e) To provide detailed baseline survey information to inform detailed post-development monitoring.

Therefore, we cannot recommend a bespoke condition to secure the bat surveys

It for these reasons that the proposal is contrary to the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife Countryside Act 1981 (as amended) guidance contained within ODPM Circular 06/2005, policies NC3 and NC4 of the Local Plan and policy DM1 of the SVLP.

However, since reason for refusal was not cited on the decision notice for EPF/3038/21 and in regard to the application reference EPF/1620/22 for a replacement dwelling, members of the West Area Planning Committee determined to deal with this issue as pre-commencement conditions, this concern has therefore not been included by officers as a reason for refusal.

Environmental Protection and Drainage

Land drainage have no objection in principle but affirm that the applicant must be aware that as works are proposed 'on or near' an Environment Agency designated main river, and they will be required to follow the environmental permitting rules regulated under 'environmental permits', see below link for further information:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

Conclusion:

Given that this application is a duplicate of the previously refused scheme under reference EPF/3038/21 and there is no new material consideration sufficient to depart from the decision previously made, Officers therefore consider that the previous reasons for refusal remain justified.

These are that the replacement bridge, due to its increased width over unspoilt land; and metal construction with solid brick piers; will result in a development with a conspicuous suburban appearance that would detract from the character and openness of the rural landscape setting in which it is situated. It is therefore inappropriate development within the Green Belt and harmful to the special significance of the Nazeing and South Roydon Conservation Area and as such refusal is recommended.

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 | Sukhi Dhadwar | sdhadwar@eppingforestdc.gov.uk

Refusal Reason(s): (2)

- 1 The proposed replacement bridge, by reason of its increased width, would have a conspicuous impact and detract from the character and appearance of the local rural landscape setting and from the openness of the Green Belt, contrary to the requirements of policy CP2, GB2A and GB7A of the Adopted Local Plan and Alterations (1998-2006) and policy SP6 and DM4 of the Local Plan Submission Version, 2017 and the NPPF, 2021
- 2 The development lacks sufficient justification for the proposed replacement of the existing bridge and the proposed materials would fail to preserve the character and appearance of the conservation area contrary to policy HC6 and HC7 of the adopted Local Plan and Alterations and (1998 and 2006); policy DM7 of the Submission Version Local Plan (2017) and the NPPF, 2021.

Informatives: (2)

- 3 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.
- 4 This decision is made with reference to the following plan numbers:
1512_330; 1512_331; 1512_332; 1512_333.