

Committee Agenda



Epping Forest District Council

Area Planning Sub-Committee East Wednesday, 5th February, 2020

You are invited to attend the next meeting of **Area Planning Sub-Committee East**, which will be held at:

**Council Chamber, Civic Offices, High Street, Epping
on Wednesday, 5th February, 2020
at 7.30 pm .**

**Georgina Blakemore
Chief Executive**

**Democratic Services
Officer**

Democratic Services Tel: (01992) 564243
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors P Keska (Chairman), B Rolfe (Vice-Chairman), N Bedford, P Bolton, H Brady, L Burrows, I Hadley, S Jones, C McCredie, M McEwen, J McIvor, R Morgan, J Philip, P Stalker, B Vaz, C Whitbread, H Whitbread, J H Whitehouse and J M Whitehouse

WEBCASTING/FILMING NOTICE

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed. The meeting may also be otherwise filmed by third parties with the Chairman's permission.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy.

Therefore by entering the Chamber and using the lower public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for web casting and/or training purposes. If members of the public do not wish to have their image captured they should sit in the upper council chamber public gallery area or otherwise indicate to the Chairman before the start of the meeting.

If you have any queries regarding this, please contact the Corporate Communications Manager on 01992 564039.

1. WEBCASTING INTRODUCTION

1. This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking.

2. The Chairman will read the following announcement:

“I would like to remind everyone present that this meeting will be broadcast live to the internet (or filmed) and will be capable of repeated viewing (or another use by such third parties).

If you are seated in the lower public seating area it is likely that the recording cameras will capture your image and this will result in the possibility that your image will become part of the broadcast.

This may infringe your human and data protection rights and if you wish to avoid this you should move to the upper public gallery.”

2. ADVICE TO PUBLIC AND SPEAKERS ATTENDING THE COUNCIL PLANNING SUB-COMMITTEES (Pages 5 - 8)

General advice to people attending the meeting is attached.

3. MINUTES (Pages 9 - 12)

To confirm the minutes of the last meeting of the Sub-Committee held on 27 November 2019.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

To declare interests in any item on this agenda.

6. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, requires that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

7. EPPING FOREST DISTRICT LOCAL PLAN SUBMISSION VERSION - PLANNING POLICY BRIEFING NOTE

A Planning Policy Briefing Note (March 2018) has been produced by the Planning Policy Team to ensure that a consistent approach is taken to the provision of planning policy advice for the District, particularly in relation to the Epping Forest District Local Plan Submission Version, which was published on 18 December 2017.

The primary purpose of the Planning Policy Briefing Note is to inform the development management process and to provide assistance for Development Management Officers, Councillors, applicants and planning agents. The Planning Policy Briefing Note is available at:

<http://www.efdclocalplan.org/wp-content/uploads/2018/03/Planning-Policy-Briefing->

[Note_Mar-2018.pdf](#)

8. SITE VISITS

To identify and agree requirements for formal site visits to be held with regard to any planning application listed in this agenda, prior to consideration of the application.

9. PLANNING APPLICATION - EPF/1235/19 - 7 BEULAH ROAD, EPPING (Pages 13 - 24)

To consider the attached report.

10. PLANNING APPLICATION - EPF/2449/19 - 4 CARTERS LANE, EPPING (Pages 25 - 32)

To consider the attached report.

11. PROBITY IN PLANNING - APPEAL DECISIONS, 1ST APRIL 2019 TO 30ST SEPTEMBER 2019 (Pages 33 - 86)

To consider the attached report.

12. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Background Papers: Article 17 - Access to Information, Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information and in respect of executive reports, the advice of any political advisor.

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

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Advice to Public and Speakers at the Council's District Development Management Committee and Area Plans Sub-Committees

Are the meetings open to the public?

Yes all our meetings are open for you to attend. Only in special circumstances are the public excluded.

When and where is the meeting?

Details of the location, date and time of the meeting are shown at the top of the front page of the agenda along with the details of the contact officer and Members of the Committee.

Can I speak?

If you wish to speak **you must register with Democratic Services by 4.00 p.m. on the day before the meeting**, by telephoning the number shown on the front page of the agenda. Speaking to a Planning Officer will not register you to speak; you must register with Democratic Service. Speakers are not permitted on Planning Enforcement or legal issues.

Who can speak?

Three classes of speakers are generally allowed: One objector (maybe on behalf of a group), the local Parish or Town Council and the applicant or his/her agent. In some cases, a representative of another authority consulted on the application may also be allowed to speak.

What can I say?

You will be allowed to have your say about the application but you must bear in mind that you are limited to three minutes. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Committee members.

If you are not present by the time your item is considered, the Committee will determine the application in your absence.

If you have registered to speak on a planning application to be considered by the District Development Management Committee, Area Plans Sub-Committee East, Area Plans Sub-Committee West or Area Plans Sub-Committee South you will address the Committee from within the Council Chamber at the Civic Offices. If you simply wish to attend a meeting of any of these Committees to observe the proceedings, you will be seated in the public gallery of the Council Chamber.

Can I give the Councillors more information about my application or my objection?

Yes you can but it must not be presented at the meeting. If you wish to send further information to Councillors, their contact details can be obtained from Democratic Services or our website www.eppingforestdc.gov.uk. Any information sent to Councillors should be copied to the Planning Officer dealing with the application.

How are the applications considered?

The Committee will consider applications in the agenda order. On each case they will listen to an outline of the application by the Planning Officer. They will then hear any speakers' presentations.

The order of speaking will be (1) Objector, (2) Parish/Town Council, then (3) Applicant or his/her agent. The Committee will then debate the application and vote on either the recommendations of officers in the agenda or a proposal made by the Committee. Should the Committee propose to follow a course of action different to officer recommendation, it is required to give its reasons for doing so.

An Area Plans Sub-Committee is required to refer applications to the District Development Management Committee where:

- (a) the Sub-Committee's proposed decision is a substantial departure from:
 - (i) the Council's approved policy framework; or
 - (ii) the development or other approved plan for the area; or
 - (iii) it would be required to be referred to the Secretary of State for approval as required by current government circular or directive;
- (b) the refusal of consent may involve the payment of compensation; or
- (c) the District Development Management Committee have previously considered the application or type of development and has so requested; or
- (d) the Sub-Committee wish, for any reason, to refer the application to the District Development Management Committee for decision by resolution.

Further Information

Further information can be obtained from Democratic Services or through our leaflet 'Your Choice, Your Voice'.

Area Planning Subcommittee East 2019-20
Members of the Committee and Wards Represented:



**Chairman
Cllr Keska**
Chipping Ongar,
Greensted and
Marden Ash

**Vice-
Chairman
Cllr Rolfe**
Lambourne

Cllr Bedford
Shelley

Cllr Bolton
North Weald
Bassett

Cllr Brady
Passingford



Cllr Burrows
Epping
Lindsey and
Thornwood
Common

Cllr Hadley
Moreton and
Fyfield

Cllr Jones
Theydon Bois

**Cllr
McCredie**
Epping
Hemnal

Cllr McIvor
North Weald
Bassett



Cllr McEwen
High Ongar
Willingale and
the Rodings

Cllr Morgan
Hastingwood,
Matching and
Sheering
Village

Cllr Philip
Theydon Bois

Cllr Stalker
Lower Sheering

Cllr Vaz
Chipping Ongar,
Greensted and
Marden Ash



**Cllr C
Whitbread**
Epping
Lindsey and
Thornwood

**Cllr H
Whitbread**
Epping Lindsey
and Thornwood
Common

**Cllr J H
Whitehouse**
Epping Hemnal

**Cllr J M
Whitehouse**
Epping
Hemnal

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Area Planning Sub-Committee **Date:** 27 November 2019
East

Place: Council Chamber, Civic Offices, **Time:** 7.30 - 8.25 pm
High Street, Epping

Members Present: P Keska (Chairman), B Rolfe (Vice-Chairman), N Bedford, P Bolton, H Brady, L Burrows, I Hadley, S Jones, C McCredie, J McIvor, R Morgan, J Philip, B Vaz, C Whitbread, H Whitbread and J H Whitehouse

Other Councillors:

Apologies: P Stalker and J M Whitehouse

Officers Present: M Johnson (Development Management Manager), R Perrin (Democratic Services Officer) and G Woodhall (Senior Democratic Services Officer)

56. WEBCASTING INTRODUCTION

The Chairman made a short address to remind all present that the meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings. The Sub-Committee noted the Council's Protocol for Webcasting of Council and Other Meetings.

57. WELCOME AND INTRODUCTION

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements adopted by the Council to enable persons to address the Sub-Committee, in relation to the determination of applications for planning permission. The Sub-Committee noted the advice provided for the public and speakers in attendance at Council Planning Sub-Committee meetings.

58. MINUTES

RESOLVED:

That the minutes of the meeting held on 30 October 2019 be taken as read and signed by the Chairman as a correct record.

59. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Conduct, Councillors P Keska and B Vaz declared a non-pecuniary interest in the following item of the agenda by virtue knowing the applicant and objectors in their role as the Ward Councillors. The Councillors had determined that they would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1928/19 – Delimores, 19 High Street, Ongar, Essex, CM5 9DS

(b) Pursuant to the Council's Code of Conduct Councillor J McIvor declared a non-pecuniary interest in the following item of the agenda by virtue of owning a business at the other end of the Ongar high street. The Councillor arrived after the Planning Officer had started his presentation and therefore advised that he would abstain from voting on the following application:

- EPF/1928/19 – Delimores, 19 High Street, Ongar, Essex, CM5 9DS.

60. ANY OTHER BUSINESS

It was noted that there was no other urgent business for consideration by the Sub-Committee.

61. EPPING FOREST DISTRICT LOCAL PLAN SUBMISSION VERSION - PLANNING POLICY BRIEFING NOTE

It was noted that the Epping Forest District Local Plan Submission Version Planning Policy Briefing note was available at:

http://www.efdclocalplan.org/wpcontent/uploads/2018/03/Planning-Policy-Briefing-Note_Mar-2018.pdf

62. SITE VISITS

There were no formal site visits requested by the Sub-Committee.

63. PLANNING APPLICATION - EPF/1928/19 - DELIMORES, 19 HIGH STREET, ONGAR, ESSEX, CM5 9DS

APPLICATION No:	EPF/1928/19
SITE ADDRESS:	Delimores 19 High Street Ongar Essex CM5 9DS
PARISH:	Ongar
WARD:	Chipping Ongar, Greensted and Marden Ash
DESCRIPTION OF PROPOSAL:	Application for Variation of Condition 3 "opening hours" for EPF/1320/18. (Conversion of hairdressers A1 use to cafe A3 use and alterations to shopfront).
DECISION:	Granted (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=627033

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 cafe hereby permitted shall not be open for customers other than between 0730hr and 18230hrs Mondays to Saturdays, 0930hrs to 1400hrs on Sundays, and at no time on Bank Holidays. No food preparation within the premises shall take place more than 30 minutes before the opening time above.
- 3 The extract ventilation system incorporating anti-vibration mountings and incorporating filters shall be maintained in full accordance with the details approved by the Local Planning Authority at the time of installation for the duration of the use.
- 4 Grease separators fitted to any drainage serving the kitchen previously approved by the Local Authority shall be maintained in working order in accordance for the duration of the use.
- 5 The rear door/s to the ground floor of the premises, the subject of this permission, shall remain closed during times when cooking is taking place.

64. PLANNING APPLICATION - EPF/2217/19 - LAND AT POTASH ROAD, MATCHING GREEN, ESSEX, CM17 0RN

APPLICATION No:	EPF/2217/19
SITE ADDRESS:	Land at Potash Road Matching Green Essex CM17 0RN
PARISH:	Matching
WARD:	Hastingwood, Matching and Sheering Village
DESCRIPTION OF PROPOSAL:	Erection of two dwellinghouses (Revised Design 3) including the removal of existing underground storage tanks. (Revised application to EPF/0189/19).
DECISION:	Deferred

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=628293

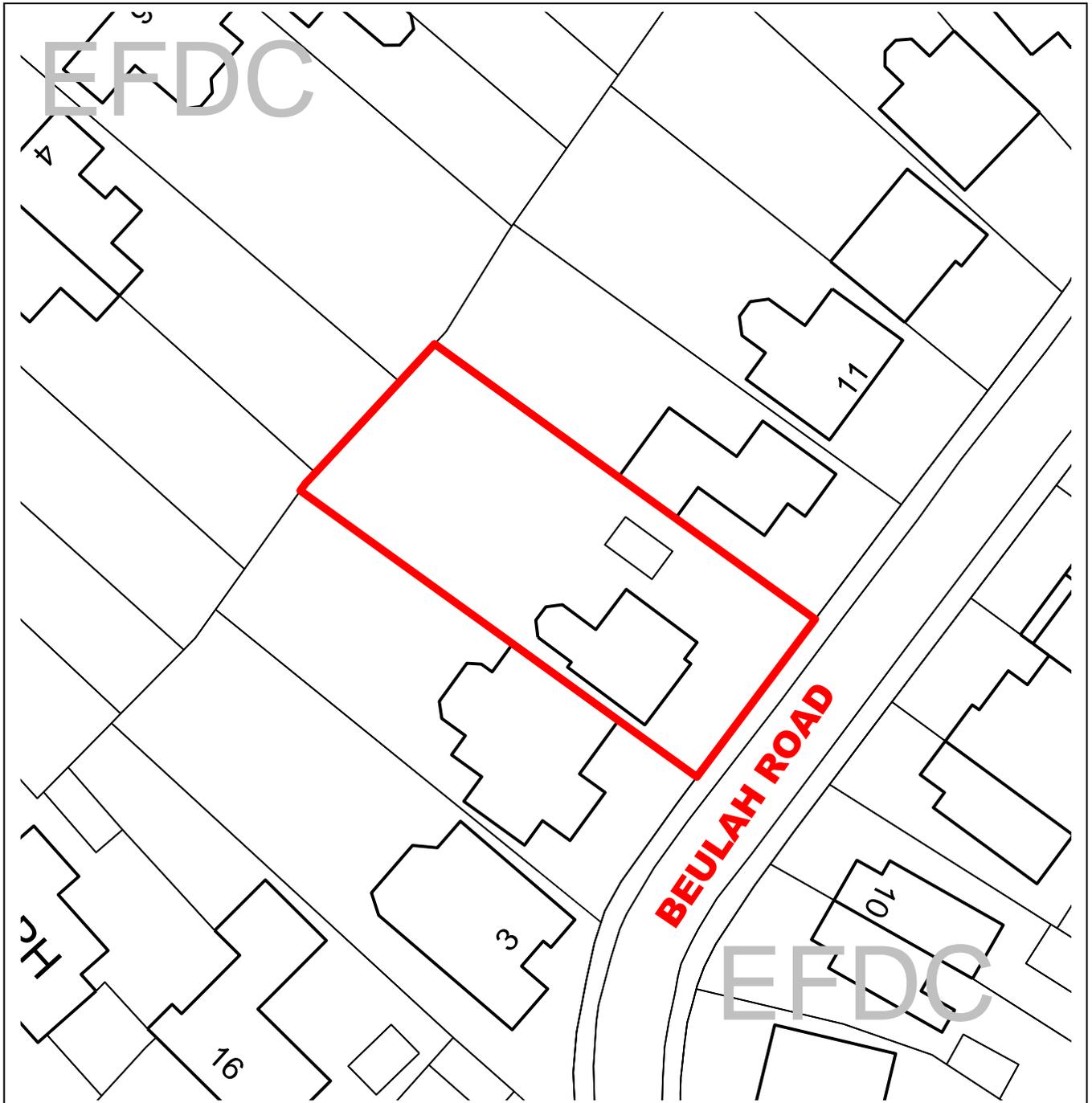
Deferred to District Development Management Committee.

CHAIRMAN

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Epping Forest District Council



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Application Number:	EPF/1235/19
Site Name:	7 Beulah Road Epping Essex CM16 6RH
Scale of Plot:	1:500

APPLICATION No:	EPF/1235/19
SITE ADDRESS:	7 Beulah Road Epping Essex CM16 6RH
PARISH:	Epping
WARD:	Epping Lindsey and Thornwood Common
APPLICANT:	Mr & Mrs Anthony Smith
DESCRIPTION OF PROPOSAL:	Two storey and single storey side and rear extensions involving an increase in the height of the main roof, roof alterations, a rear dormer window and replacement and additional windows to the existing dwellinghouse to provide an annexe and additional living accommodation and an additional vehicle access.
RECOMMENDED DECISION:	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=624018

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 and retained strictly in accordance with the approved drawings numbers: 01A; 02A; 03A; 04C; 05B; 06B; 07B
- 3 Materials to be used for the external finishes of the proposed development shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.
- 4 Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 5 Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a seating area, roof garden, terrace, patio or similar amenity area.
- 6 The proposed development shall only be used as ancillary accommodation for the existing dwellinghouse and shall not be occupied as a unit separately from the dwelling known as 7 Beulah Road.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (or any other order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Classes A-C of Part 1, of Schedule 2 to the Order, shall be undertaken without the prior written permission of the Local Planning Authority.

This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Scheme of Delegation, Appendix 3) and they confirm that they will attend and speak.

RECOMMENDATION

That planning permission be **GRANTED**

SITE AND SURROUNDINGS

No. 7 is a 2-storey, 3 -bed pitched roof detached dwellinghouse set in a large curtilage to the north of Beulah Road which is residential in character defined by predominantly detached and semidetached houses that vary in design, size and spacing with some benefiting from larger separation distances than others.

The dwellinghouse has an existing detached side garage with a rear conservatory and a 2 -storey side extension with one additional car space sited in front of the side garage.

The site is within an urban area which is outside of a conservation area and is not listed.

PROPOSED DEVELOPMENT

The proposal seeks planning permission for the:

- Replacement of the detached side garage with a 2-storey side extension with hip roof set in 2m from the east boundary and set back 1m from the front main building line of the house to accommodate a ground floor annexe for a relative and additional living accommodation.
- Raising the height of the main roofs and the eaves by 0.7m involving roof alterations and a gable rear dormer window.
- Reconfiguring the form of windows to the front and rear elevations and a new second floor front window
- Single storey flat roof rear extension with parapets projecting to a depth of 5m at a height of 2.9m with parapets at a height of 3.15m built up to the west boundary and set in 2m from the east boundary.

RELEVANT PLANNING HISTORY

EPF/0743/02 - Erection of a first-floor side extension – Approval- 20/05/2002

EPF/0320/02 - Erection of first floor extension - Approved

EPF/0202/00 - Erection of a conservatory - Approved

EPF/0633/93 - Renewal of Planning Permission - Approved 02/09/1993

CONSULTATION AND REPRESENTATIONS

9 adjoining neighbours were notified on the 29/05/2018 and 4 objections have been received. Site Notice: Not required.

Neighbours

6 Beulah Road, Epping

- The proposal more than doubles the existing building ground plan at the site and with the addition of any patio, decking, outbuildings and new front driveway, all omitted from the plans, will constitute a major urbanising development out of scale and character with existing properties in the road. Perpetuate the terrace effect on the north side of the road further diminishing the unique open aspect
- The addition of a 2nd floor window in the roof space facing Beulah Road is intrusive and out of character with all other properties in the road. A more sympathetic approach would be to use hanging tiles on the gable end similar to other properties.
- Loss of the front garden to parking, omitted from the plan, which would be detrimental to the amenity value of the road and potentially increase flooding due to runoff.

9 Beulah Road

Significant impact on the visual amenity and the density of building on the road as a result of the size of the proposed extension, as well as a loss of privacy for our property arising from the proposed side access. Footprint which is twice the size of the existing house and garage, much wider and significantly taller than the current house, and much closer to the road. This will be a very large and dominant structure, which will affect the character of the road, and impact the visual amenity and density of building.

While the development has been reduced in size from the pre-planning application, it still reaches to 2 metres from our boundary, and includes a new side window and door overlooking our ground floor window. The conifer hedge along the boundary was taken down last year. As a result of the proposed development we would be losing sunlight on the side and rear of the house during the morning and early afternoon and in winter when the sun is lower in the sky. It will also impact the privacy of our ground floor. In order to reduce these impacts, and retain some of the current sense of space we request that the development extends no closer to the boundary than the existing garage wall on the plot of number 7.

14 Beulah Road -

The proposed development will hugely increase the bulk of the building. The frontage will be nearly twice as wide as currently. Viewed from opposite this increase is excessive.

The object to raising the height of the roof. Other than Beulah Lodge, which of course is of a different age, there are no other three storey houses in Beulah Road and so it would be out of keeping. There may well be loft conversions but no other houses have windows at third storey level. Again, it is an over-development of the property.

We would like to know how the Council propose to enforce the use of the side extension as an 'annex'. We understand from conversations with the elderly relative concerned that he has no intention of returning to the property so use of this as an annex at any time would seem to be very unlikely.

The mature hedge and large tree at the side of the property visible in the photographs would have had a softening effect and might have provided some degree of screening but sadly these were removed soon after the new owners moved in.

A small extension which keeps the existing character of the property would not be unreasonable but we feel the proposed development would be disproportionate in terms of the plot itself and the road generally.

Epping Society -

Vast increase in size has a negative impact on the street scene and overshadow the neighbour at no. 9. Loss of Trees and a mature hedge lost to the front and a side of the site.

If approved, the integral annexe should be conditioned as not to become a separate dwelling.

Statutory consultees

Drainage and Water Team - No objection in principle. Further details of the disposal of surface water is required prior to preliminary groundworks commencing.

Epping Town Council - OBJECTION

- Overdevelopment of the site in terms of its scale, bulk and density. There is a vast increase in the size of the existing property which would result in a detrimental effect on the street scene. No support for the felling of any trees. Any approval would require a condition in the annexe preventing it being used a separate unit of accommodation.
- The addition of a 2nd floor window in the roof space is intrusive and out of character with all other properties in the road. Loss of front garden to parking detrimental to the amenity value of the road and potentially increase in flooding.

DEVELOPMENT PLAN

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of

the Development Plan, so far as is material to the application and to any other material planning considerations.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan currently comprises the saved policies of the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006) ("the Adopted Local Plan"). The following Adopted Local Plan policies are relevant to the determination of this application:

- CP1 Achieving Sustainable Development Objectives
- CP2 Protecting the Quality of the Rural and Built Environment
- CP3 New Development
- CP6 Achieving Sustainable Urban Development Patterns
- CP7 Urban Form and Quality
- U3B Sustainable Drainage Systems
- DBE1 Design of New Buildings
- DBE2 Effect on Neighbouring Properties
- DBE3 Design in Urban Areas
- DBE6 Car Parking in New Development
- DBE9 Loss of Amenity
- LL10 Adequacy of Provision for Landscape Retention
- LL11 Landscaping schemes
- ST4 Road Safety
- ST6 Vehicle Parking

The relevance of the identified saved Local Plan policies to the determination of this appeal and the weight to be accorded to each policy are addressed in further detail within Section 12 of this report.

NATIONAL PLANNING POLICY FRAMEWORK

The current version of the National Planning Policy Framework ("the Framework" or "NPPF") was published in February 2019. It provides the framework for producing Local Plans for housing and other development, which in turn provide the policies against which applications for planning permission are decided.

Reflecting the proper approach identified in the previous section of this Report, the NPPF explains (at paragraph 2) that:

- "2. *Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.*"²

Paragraph 11 of the NPPF concerns the presumption in favour of sustainable development and states (so far as relevant):

"Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; 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."*

Paragraph 11 d) ii. is often referred to as the 'tilted balance'.

In summary, the effect of footnote 7 is that where a local planning authority is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 73 of the NPPF, or where the Housing Delivery Test indicates that the delivery of housing was substantially below (that is less than 75% of) the housing requirement over the previous three years, *"the policies which are most important for determining the application"* are deemed to be *"out-of-date"*, so that the presumption in favour of sustainable development applies and planning permission should be granted unless either sub-paragraph (i) or (ii) is satisfied.

For the purposes of sub-paragraph (i) of paragraph 11, footnote 6 lists the policies in Framework (rather than those in development plans) that protect areas or assets of particular importance including: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, or Local Green Space; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63 of the NPPF); and areas at risk of flooding.

The presumption in favour of sustainable development does not, however, change the statutory status of the development plan as the starting point for decision making. In accordance with paragraph 213 of the NPPF and subject to paragraph 11 d) and footnote 7 referred to above, policies in the development plan should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Rather, due weight should be given to such policies according to their degree of consistency with the NPPF; in other words the closer the policies in the development plan to the policies in the NPPF, the greater the weight that may be given to them).

In addition to paragraph 11, the following policies in the NPPF are relevant to this application:

- Paragraph 105 - 106
- Paragraph 117

EMERGING LOCAL PLAN

On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2nd August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.

Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "*may give weight to relevant policies in emerging plans according to:*

- a) *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- b) *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*
- c) *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).²²"*

Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.

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 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.

Policy	Weight afforded
SP1 Presumption in Favour of Sustainable Development	Significant
DM9 High Quality Design	Significant
DM10 Housing Design and Quality	Significant
DM11 Waste Recycling Facilities on New Development	Significant
DM15 Managing and Reducing Flood Risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM18 On Site Management of Waste Water and Water Supply	Significant
T1 Sustainable Transport Choices	Significant

PLANNING CONSIDERATIONS

The main issues for consideration in this case are:

- The impact of the development on the character and appearance of the locality;
- The impact to the living conditions of neighbours;
- Parking/Highway
- Drainage

Design and Visual Amenity:

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Chapter 12 of the NPPF attaches great importance to the design of the built environment. 'Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'.

Paragraph 130 requires that decisions should ensure that development will add to the overall quality of the area as well as respond to the local character, history and reflect the identify of local surroundings.

Epping Forest Local Plan Policies seeks to ensure a high quality of design and that development respects and relates to the character and context of the locality, maintaining and where possible enhancing the character of the existing area. These objectives are broadly consistent with the core principles of the NPPF that planning should seek to secure high quality design. Policy DBE1 of the Local Plan requires that new buildings will: -

- Respect their setting in terms of scale, proportion, siting, massing, height, orientation, roof-line and detailing
- Are of a size and position such that they adopt a significance in the streetscene which is appropriate to their use or function; and
- Only employ external materials which are sympathetic in colour and texture to the vernacular range of materials.

The properties in Beulah Road vary in scale and design with both adjoining properties and other properties in Beulah Road being quite substantial in size many of which have been extended. In this instance, the proposed alterations to the main dwellinghouse and proposed extensions are considered of an appropriate design, roof form and height that would be more in keeping with the surrounding properties. The side extension is to be set in 2m from the east boundary, with a roof set down from the main roof and recessed by 1m from the front main building line of the property and considered of a scale that is proportionate in width and subordinate in form and which would respect the spatial character and the pattern of development in Beulah Road. The increase in the height of

the original roof is not significant in relation to the streetscape and the rear dormer window is of a scale and form which is not considered intrusive and would enable the roof space to be made habitable.

The proposed single storey rear extension at a depth of 5m, a maximum height of 3m, built up to the west boundary and set in 2m from the east boundary is considered of a scale and form which is in keeping with the character of the property and the surrounding area.

Overall the development in terms of its scale and detailing draws references from the design features of properties in Beulah Road and the surrounding area and is considered in keeping with the character and appearance of the area complying with policy DBE1 and DBE3 of the Local Plan and Alterations, (1998-2006) and policy DM9 and DM10 of the Submission Version, 2017 and the National Planning Policy Framework, 2019 that seeks to ensure that development is of a high standard of design and layout.

Impact on Neighbouring Amenity:

The proposed side extension is to be set in 2m from the shared boundary with No. 9 which has a side garage and rear additions with the main west elevation of the dwellinghouse set in 2.9m from the shared boundary with the application site. The adjoining semi-detached dwellinghouse of no. 5 has a 2 -storey rear extension built up to the shared boundary with no. 7, which extends to a depth of over 5m from the rear main building line of No. 7. As such, the siting, separation distance and form of the development is not considered to result in any significant harmful amenity implications in terms of loss of light, outlook, overlooking or privacy to the adjoining properties. There is a proposed main habitable ground floor window to the east elevation, and No. 9 also has habitable main windows. Whilst there is no longer a substantial hedge along this boundary these windows are at ground floor level and appropriate fencing could be erected to protect against a loss of privacy.

For the reasons outlined above, it is considered that the amenity of the adjoining occupiers would be maintained to an acceptable level and accords with the requirements of policy DBE9 of the Local Plan.

The objections and comments from the Parish Council and neighbours in the surrounding area are noted. The extension is considered of a scale and form that would assimilate into the spatial pattern of the road and its design and spacing would be more in keeping with the character of Beulah Road that comprises of large dwellings that have been substantially extended. Appropriate conditions will be attached at approval to ensure that the annexe remains ancillary to the main dwellinghouse. In order to prevent the dwelling from being extended further to the detriment of the area or adjoining dwellings it would be reasonable to impose a condition on any planning permission removing permitted developments rights so that an assessment can be made on any further or future additions to the properties. None of the trees within the site are protected by Tree Preservation Orders and the site is not within a conservation area and as such there is nothing to prevent the applicant removing the hedgerow or trees from the property. Most of the properties in Beulah Road use the frontage for the accommodation of cars and the parking requirement meets the councils Local Plan standards.

Parking and Highway Considerations

The proposed extension would result in the loss of a garage space and an increase in the number of bedrooms from 3 to 5. The property is sited in a relatively sustainable location and two/three car spaces can be accommodated in the front forecourt of the property

utilising the existing vehicle access onto Beulah Road with the creation of an additional access which meets the minimum standards required by the Essex Parking Standards and policies ST4 and ST6 of the Local Plan and policy T1 of the Local Plan Submission Version 2017.

Land Drainage

The Council's Land Drainage engineer requests details of surface water drainage to be submitted for consideration in accordance with policy U2B of the Local Plan which are considered reasonable and necessary.

Planning Balance & Conclusion

It is considered that the development would not result in any appreciable harm to the local context and spatial pattern of development. The extensions and alterations are considered of an appropriate design and scale that is in keeping with the character and appearance of the dwellinghouse and would sufficiently maintain the established spatial pattern of development of Beulah Road and would not result in any amenity implications on neighbouring dwellings; other aspects in relation to parking/highway safety and landscaping are considered satisfactory. The application is considered to be in accordance with the adopted Local Plan and Alterations (1998-2006) and the emerging Local Plan, Submission Version, 2017 and with the relevant parts of the National Planning Policy Framework. In the light of the above considerations it is recommended that planning permission is approved subject to conditions.

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: Caroline Brown

Direct Line Telephone Number: 01992 564182 or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

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Epping Forest District Council



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Application Number:	EPF/2449/19
Site Name:	4 Carters Lane Epping Upland Epping CM16 6QJ
Scale of Plot:	1:1250

APPLICATION No:	EPF/2779/19
SITE ADDRESS:	4 Carters Lane Epping Upland Epping CM16 6QJ
PARISH:	Epping Upland
WARD:	Broadley Common, Epping Upland and Nazeing
APPLICANT:	Mr & Mrs Tim Walker
DESCRIPTION OF PROPOSAL:	Part single, part double storey rear extension, single storey front & side extension & a loft conversion.
RECOMMENDED DECISION:	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=630537

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 and retained strictly in accordance with the approved drawings numbers: 058; 01, 02, 03, 04, 05
- 3 Materials to be used for the external finishes of the proposed development shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.
- 4 Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.

This application is before this committee since the recommendation is for approval contrary to an objection from a Local Council which is material to the planning merits of the proposal, supported by 1 local resident (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)

RECOMMENDATION

That planning permission be GRANTED for the following reason(s):

- I. The design of the proposal would be acceptable
- II. The proposal would not cause adverse harm to the living conditions of neighbours

SITE AND SURROUNDINGS

The application site is a two storey semi-detached property with front and rear gardens, located on the North side of Carters Lane. The proposal site is not located within the Metropolitan Green Belt. It is not located within a Conservation Area and it is not a Listed Building.

PROPOSED DEVELOPMENT

Part single, part double storey rear extension, single storey front and side extension and a loft conversion.

RELEVANT PLANNING HISTORY

EPF/1243/18 - Ground floor front, side and rear extension and a hip to gable loft conversion. (05/07/2018) – Grant Permission (With Conditions)

EPF/0921/17 - Ground floor front, side and rear extension and a hip to gable loft conversion (Revised application to EPF/0168/17) (23/06/2017) – Grant Permission (With Conditions)

EPF/0168/17 - Ground floor front, side and rear extension with a first floor rear extension and loft conversion. (withdrawn by applicant)

CONSULTATION AND REPRESENTATIONS

Number of neighbours Consulted: 8. 1 response(s) received
Site notice posted: No, not required

Neighbours

NOELMS: OBJECTION – overdevelopment of the site, design not in keeping with the character of the surrounding area, loss of privacy.

Statutory consultees

N/A

Internal consultees

Land Drainage – no objection however a condition should be added to provide details on how foul and surface water is to be disposed

Parish Council

OBJECTION - This would be an overdevelopment of an already extended property. Would also draw attention to previous planning (EPF/1243/18) which included a condition to retain the front hedge which has been currently been removed and should be reinstated.

Other Consultation

N/A

DEVELOPMENT PLAN

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan currently comprises the saved policies of the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006) ("the Adopted Local Plan"). The following Adopted Local Plan policies are relevant to the determination of this application:

CP1	Achieving Sustainable Development Objectives
DBE2	Effect on neighbouring properties.
DBE9	Loss of Amenity
DBE10	Design of Residential Extensions

The relevance of the identified saved Local Plan policies to the determination of this appeal and the weight to be accorded to each policy are addressed in further detail within Section 12 of this report.

NATIONAL PLANNING POLICY FRAMEWORK

The current version of the National Planning Policy Framework ("the Framework" or "NPPF") was published in February 2019. It provides the framework for producing Local Plans for housing and other development, which in turn provide the policies against which applications for planning permission are decided.

Reflecting the proper approach identified in the previous section of this Report, the NPPF explains (at paragraph 2) that:

"2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.²"

Paragraph 11 of the NPPF concerns the presumption in favour of sustainable development and states (so far as relevant):

"Plans and decisions should apply a presumption in favour of sustainable development.

*For **decision-taking** this means:*

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; 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."

Paragraph 11 d) ii. is often referred to as the 'tilted balance'.

The presumption in favour of sustainable development does not, however, change the statutory status of the development plan as the starting point for decision making. In accordance with paragraph 213 of the NPPF and subject to paragraph 11 d) and footnote 7 referred to above, policies in the development plan should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Rather, due weight should be given to such policies according to their degree of consistency with the

NPPF; in other words the closer the policies in the development plan to the policies in the NPPF, the greater the weight that may be given to them).

EMERGING LOCAL PLAN

On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.

Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "*may give weight to relevant policies in emerging plans according to:*

- a) *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- b) *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*
- c) *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).²²*

Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.

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 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.

Policy	Weight afforded
SP1 Presumption in Favour of Sustainable Development	Significant
DM9 High Quality Design	Significant

PLANNING CONSIDERATIONS

The main issues for consideration in this case are:

- a) The impact on the character and appearance of the locality;
- b) The impact on the living conditions of neighbours

Character and Appearance

The rear extension will not be visible from public areas of the street scene but is conventionally designed and will therefore not cause any harm to its character or appearance.

The side and front extensions are considered acceptable and would not appear overly prominent in the street scene. Furthermore, front extensions are not uncommon along Carters Lane and, as a result, it will not appear discordant within the street scene.

The first floor extension, although large, will be on the rear elevation of the property and therefore will not cause any harm to the character or appearance of the street scene. The hip to gable roof extension is a common residential feature that does not cause any visual harm. The attached neighbour, who submitted a matching application alongside this proposal, has already undertaken the hip to gable extension and a rear dormer window under permitted development. These features are similar in design to those at nos. 6, 8 and 10 Carters Lane. The proposal would therefore comply with policies CP2 and DBE10 of the adopted Local Plan (1998) and Alterations (2006) and policy DM9 of the SVLP 2017

Impact on the Living Conditions of Neighbours

The proposed rear extension will be set on the shared boundary with no. 6 and will project 6m from the existing rear elevation and will have a height of 3.2m. The depth mirrors that which has recently been approved at the attached neighbour.

The application dwelling has a very long garden (some 40m). As a result, the attractive open outlook to the rear that no. 6 Carters Lane currently enjoys will not be compromised by the extension given its reasonable height and projection.

Weight must also be given to the fact that planning permission has already been granted for a 6m deep extension at the application site just not directly on the boundary. Furthermore a recent approval has been given to the adjoining neighbour for an identical scheme with the intention that they would be constructed together (although the neighbours extension has already been implemented).

The single storey side and front extension would be set off the eastern side boundary by 1m and wraps around the front of the dwelling for a depth of approximately 2m from the existing front elevation and will be set on the shared boundary with no. 6. It is single storey height and given its modest depth would not cause any significant harm to their living conditions. The front extension mirrors that approved at both nos. 6 and 10 Carters Lane.

The first floor extension will not cause any harm to neighbours and shall mirror the approved development at 6 Carters Lane.

Rear dormer windows are generally accepted forms of residential development. Indeed, the majority of rear dormers are permitted development and, as a result, the Government views them as developments which do not cause excessive harm to the living conditions of neighbours. The application property has full permitted development rights and therefore a rear dormer window could be built without planning permission. Nevertheless, planning permission has been sought as it forms part of the wider application and in this

case it would have no unacceptable impact on the privacy of neighbours over and above the existing situation where views can be had from existing first floor windows.

The proposal would comply with policy DBE9 of the adopted Local Plan (1998) and Alterations (2006) and policy DM9 of the SVLP 2017

Other Considerations

The Parish Council have suggested that a breach of condition has occurred in relation to the previous permission EPF/1243/18. Whilst it appears that such a condition was requested by the Parish Council on this previous application, no such condition was imposed. As such, this matter cannot be a consideration as part of this specific application.

PLANNING BALANCE & CONCLUSION

The design of the proposal would be acceptable and would not cause excessive harm to the living conditions of neighbours. Furthermore it is identical to the extension recently approved at No. 6 Carters Lane ref: EPF/2762/19.

For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission to be granted subject to conditions.

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: Alastair Prince

Direct Line Telephone Number: 01992 564462 or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

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**Epping Forest
District Council**

Report to Area Plans Sub-Committee

Date of meeting: 5 February 2020

Subject: Probity in Planning – Appeal Decisions, 1st April 2019 to 30st September 2019

**Officer contact for further information: Nigel Richardson (01992 564110).
Democratic Services: (01992 564243)**

Recommendation:

That the Planning Appeal Decisions from 1 April 2019 to 30st September 2019 be noted.

Report Detail:

Background

1. (Director of Planning) In compliance with the recommendation of the District Auditor, this report advises the decision-making committees of the results of all successful allowed appeals (i.e. particularly those refused by committee contrary to officer recommendation).
2. The purpose is to inform the committee of the consequences of their decisions in this respect and, in cases where the refusal is found to be unsupportable on planning grounds, an award of costs may be made against the Council.

Performance

3. Over the six-month period between 1 April 2019 and 30 September 2019, the Council received 56 decisions on appeals (54 of which were planning related appeals, the other 2 were enforcement related).
4. 7 appeals out of 54 were allowed (13%). Broken down further, Committee reversals performed very well with only 2 out of 14 allowed (14.3%) and there was also a good Officer delegated decisions performance of 5 out of 40 (12.5%) allowed.
5. Out of the planning appeals that arose from decisions of the committees to refuse contrary to the recommendation put to them by officers during the 6-month period, the Council was not successful in sustaining the committee's objection in the following cases:

COMMITTEE REVERSALS - APPEALS ALLOWED (2):

Area Committee East

Sheering

EPF/0141/18

Erection of 3 no. new dwellings complete with garages, infrastructure, and associated works, including access from Church Lane.

Land East of Church Lane

Area Committee South

Loughton

EPF/3302/18	Erection of a one storey roof extension to provide an additional 2 no. flats (2 x 1-bedroom penthouse flats) (- as an addition to 5 storey building being erected on the site under EPF/2600/14.)	Rear of 165 High Road
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6. The 12 cases where the committees were successful are as follows:

COMMITTEE REVERSALS - APPEALS DISMISSED (12):

Area Committee East

Epping

EPF/0282/18	Demolition of existing dwelling, erection of a detached building comprising 9 self contained apartments incorporating revisions to vehicular access, associated car parking and on-site amenities	12 Station Road Epping
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EPF/1847/18	Redevelopment of existing shop (including new shopfront) with flat above, involving alteration and refurbishment of existing building plus new two storey building to the rear containing two flats.	55 High Street Epping
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EPF/2120/18	Proposed change of use of care home(Use Class C2) to 6 flats (Use Class C3), including rear extensions and side extensions.	Lindsey House 15 Lindsey Street Epping
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Moreton, Bobbingworth and the Lavers

EPF/0904/18	Proposed conversion of existing barn to form a single detached residential unit, retaining existing access and on-site car parking.	Barn adjacent Great Notts Moreton Road Bobbingworth
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Sheering

EPF/1339/18	Erection of three detached dwellings	Land adj Hoppit The Street Sheering
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Theydon Bois

EPF/0429/18	Removal of existing caravan and removal of stable building. Erection of security hut to be used as ancillary 24-hour security for the riding school.	Hydes Riding School Abridge Road Theydon Bois
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EPF/0712/18	Replacement of existing dwelling house with new single family dwelling house and new pavement crossover	Cornerways The Green
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Theydon Mount

EPF/1406/18	Demolition of barn and erection of two detached houses (Revised application to EPF/2248/17)	1 Mount End Mount End Road
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Area Committee South

Loughton

EPF/0471/18	To replace 1 existing dwelling(detached) with 2 new dwellings(semi-detached).	38 High Beech Road Loughton
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EPF/1012/17	Residential redevelopment to provide 4 x 3 bed houses.	12A Alderton Close Loughton
EPF/1893/17	The demolition of an existing 2-3 storey detached house and the development of a new 2-3 storey building consisting of 7 flats (2 x 1 bed, 5 x 3 bed) and including 9 no. car parking spaces, cycle stores and bin stores.	60 Traps Hill Loughton

District Development Committee

Epping

EPF/1583/18	Demolish existing house and replace with 9 apartments	1 Buttercross Lane Epping
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7. Out of 2 **ENFORCEMENT NOTICE APPEALS** decided, both were dismissed. These are as follows:

Dismissed

ENF/0141/18	Unauthorised installation of extraction equipment to the rear of the building in breach of condition 4 of EPF/1145/17	54 Sun Street Waltham Abbey Essex EN9 1EJ
ENF/0523/17	Without planning permission the unauthorised erection of enclosure to shop front not in accordance to approved plans EPF/1150/17	240 High Road Loughton IG10 1HA

Costs

8. During this period, there were no successful award of costs against the Council.

9. Costs can be awarded against any party who has behaved unreasonably and where this behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Conclusions

10. Whilst performance in defending appeals at 22.6% appears modest, there is no national comparison of authority performance. Members and Officers are reminded that in refusing planning permission there needs to be justified reasons that in each case must be not only relevant and necessary, but also sound and defensible so as to avoid paying costs. This is more important now than ever given a Planning Inspector or the Secretary of State can award costs, even if neither side has made an application for them. Whilst there is clearly pressure on Members to refuse in cases where there are objections from local residents, these views (and only when they are related to the planning issues of the case) are one of a number of relevant issues to balance out in order to understand the merits of the particular development being applied for.

11. Finally, appended to this report are the appeal decision letters, which are the result of Members reversing the planning officer's recommendation (and therefore refusing planning permission) at planning committees, 2 of which were allowed and 12 which were dismissed and therefore refused planning permission. Only those appeals relevant to the relevant Area Plans Sub-Committee are

attached.

12. A full list of appeal decisions over this six month measured period appears below.

Total Planning Application Appeals

Allowed With Conditions

Epping

1 EPF/0114/19 Proposed first floor side extension over existing garage with dormer windows to front and rear. 35 Bury Road Epping

Loughton

2 EPF/0332/19 Proposed single storey rear extension, two storey side extension and first floor extension with a pitched roof and rooms in void with associated crossovers and hard landscaping. 62 The Crescent Loughton

3 EPF/3302/18 Erection of a one storey roof extension to provide an additional 2 no. flats (2 x 1-bedroom penthouse flats) (- as an addition to 5 storey building being erected on the site under EPF/2600/14.) Rear of 165 High Road Loughton

Nazeing

4 EPF/2505/18 Application for Removal of Condition 4 'Removal of permitted development rights' and Condition 5 'No conversion of roofspace to living space' of EPF/2698/16 (Demolition of the existing service station and construction of 6 x 2 Bedroom Houses with amenity space, off-street Parking and landscaping. Alternative design to approved scheme EPF/0303/13 with higher roof heights). Nazeing Service Station Nazeing Road Nazeing

North Weald

5 EPF/3171/18 First floor extension to form a x 2 no. bedroom house. Forest Bungalow Woodside North Weald

Sheering

6 EPF/0141/18 Erection of 3 no. new dwellings complete with garages, infrastructure, and associated works, including access from Church Lane. Land East of Church Lane Sheering

Chigwell

7 EPF/1523/18 Two storey rear extension (part Allowed). 31 Chester Road Chigwell

Dismissed

Buckhurst Hill

8 EPF/0256/19 Proposed first floor and gable roof extension with full width box dormer assembly to rear roof pitch. 102 Forest Edge Buckhurst Hill

9 EPF/0310/19 Retrospective application for rear patio and horizontal fencing and wall to patio. 124 Queens Road Buckhurst Hill

10 EPF/2307/18 Retention of raised decking area, with addition of obscure glazed screens to sides. 31 St Johns Court Buckhurst Hill

11	EPF/2891/18	Demolition of a bungalow and construction of a two-storey block of five flats with rooms in the roof.	142 Buckhurst Way Buckhurst Hill
12	EPF/2935/18	Hip to gable and rear dormer with Juliet balcony loft conversion.	37 Forest Edge Buckhurst Hill
13	EPF/2875/18	Prior approval application for a 6 metre deep single storey rear extension, height to eaves 2/3 metres and maximum height of 4 metres.	5 Chestnut Avenue Buckhurst Hill
Chigwell			
14	EPF/2720/18	Installation of CCTV Security Mast.	86 Manor Road Chigwell
Epping			
15	EPF/0282/18	Demolition of existing dwelling, erection of a detached building comprising 9 self contained apartments incorporating revisions to vehicular access, associated car parking and on-site amenities	12 Station Road Epping
16	EPF/0893/18	Erection of detached dwelling.	66A Bower Hill Epping
17	EPF/1583/18	Demolish existing house and replace with 9 apartments	1 Buttercross Lane Epping
18	EPF/1847/18	Redevelopment of existing shop (including new shopfront) with flat above, involving alteration and refurbishment of existing building plus new two storey building to the rear containing two flats.	55 High Street Epping
19	EPF/2120/18	Proposed change of use of care home(Use Class C2) to 6 flats (Use Class C3), including rear extensions and side extensions.	Lindsey House 15 Lindsey Street Epping
Fyfield			
20	EPF/1417/18	Change of use from agricultural to residential and erection of three dwellings.	Priory Farm Norwood End Fyfield
Loughton			
21	EPF/0162/18	Erection of new dwelling and detached garage, following demolition of existing garage.	11 Crossfields Loughton
22	EPF/0174/19	Loft conversion including a new dormer extension to front and rear roof slopes including Juliet balcony to rear.	84 Lushes Road Loughton
23	EPF/0181/19	Loft conversion with dormer extensions to front and rear roof slopes including Juliet balcony to rear.	92 Alderton Hall Lane Loughton
24	EPF/0471/18	To replace 1 existing dwelling(detached) with 2 new dwellings(semi-detached).	38 High Beech Road Loughton
25	EPF/1012/17	Residential redevelopment to provide 4 x 3 bed houses.	12A Alderton Close Loughton
26	EPF/1366/18	Application for variation of condition 2'plan numbers' and 3 'use of rear double doors' on planning application EPF/0808/17 (Erection of rear	209 D/E High Road Loughton

	conservatory)		
27	EPF/1893/17	The demolition of an existing 2-3 storey detached house and the development of a new 2-3 storey building consisting of 7 flats (2 x 1 bed, 5 x 3 bed) and including 9 no. car parking spaces, cycle stores and bin stores.	60 Traps Hill Loughton
28	EPF/2585/18	Replace existing single house with a pair of semi-detached houses.	2 Carroll Hill Loughton
29	EPF/2656/17	Construction of 5 residential properties	Land adjacent to Englands Lane Loughton
Loughton			
30	EPF/2958/18	Retrospective change of use from two storey side extension into separate residential accommodation	7 Chester Path Loughton
Moreton, Bobbingworth and the Lavers			
31	EPF/0129/19	Single storey side/rear extension and front cart lodge.	Envilles Farm Abess Road Little Laver
32	EPF/0386/18	Change of use of Coach House to offices (retrospective) with new wall, windows and replacement roof.	The Coachhouse Schwier Farms Church Road Moreton
33	EPF/0904/18	Proposed conversion of existing barn to form a single detached residential unit, retaining existing access and on-site car parking.	Barn adjacent Great Notts Moreton Road Bobbingworth
Nazeing			
34	EPF/1441/18	First floor extension to form residential flat and ground floor extension to replace store for restaurant use.	King Harolds Head Nazeing Common Nazeing
35	EPF/1710/18	Demolition of existing two storey detached dwelling and erection of four new detached houses	Ridge House Hoe Lane Nazeing
36	EPF/1831/18	Variation of condition 3 on planning permission EPF/2319/14 (Demolition of existing nursery/ commercial buildings and erection of 17 no. B1/B2/B8 commercial units with ancillary parking) to enable access by vehicles up to 18 tonnes in weight.	Leaside Nursery now Leaside Industrial Park Sedge Green Nazeing
37	EPF/2128/18	Barn/storage unit.	1 Langridge Cottages Paynes Lane Nazeing
North Weald			
38	EPF/3258/17	New vehicular access off Hastingwood Road.	Glovers Farm Barn Glovers Lane Hastingwood
39	EPF/1688/18	Proposed two storey side and rear extension and single storey front extension.	2 New House Farm Cottages Stondon Road

Ongar

Roydon

- 40 EPF/0885/19 Proposed first floor side and rear extension with gable roof over, a hip to gable roof extension, front canopy and alterations to the front and side of the property. (Amendment to EPF/3353/18).
Croft Cottage
Tylers Road
Roydon
- 41 EPF/2009/18 Retention of two residential caravans used in connection with the existing road haulage business
Ricotta Transport
Tylers Cross Nursery
Epping Road
Roydon

Sheering

- 42 EPF/1339/18 Erection of three detached dwellings
Land adj Hoppit
The Street
Sheering

Theydon Bois

- 43 EPF/0074/19 Proposed loft conversion raising the ridge of the existing bungalow allowing for bedrooms on the first floor with a proposed rear and front extension.
Sunnycroft
Loughton Lane
Theydon Bois
- 44 EPF/0156/19 Removal of artificial turf and retention of footpath and decking (Revised application to EPF/2169/18).
Ivy House
Coopersale Lane
Theydon Bois
- 45 EPF/0429/18 Removal of existing caravan and removal of stable building. Erection of security hut to be used as ancillary 24-hour security for the riding school.
Hydes Riding School
Abridge Road
Theydon Bois
- 46 EPF/0712/18 Replacement of existing dwelling house with new single family dwelling house and new pavement crossover
Cornerways
The Green
Theydon Bois
- 47 EPF/2550/18 Demolition of detached bungalow and erection of replacement with pedestrian and vehicle access from the existing private access roadway within the site. (Revised application to EPF/2528/17)
Lillicroft Nurseries
Abridge Road
Theydon Bois

Theydon Garnon

- 48 EPF/0864/18 Erection of one dwelling within the garden of the former farm house and creation of a vehicular access onto Hobbs Cross Road to serve the proposed dwelling and no. 2 Hobbs Cross Cottages.
Land forming part of the garden of Hobbs Cross Farmhouse and 2 Hobbs Cross Cottages
Hobbs Cross Road
Theydon Garnon

Theydon Mount

- 49 EPF/1406/18 Demolition of barn and erection of two detached houses (Revised application to EPF/2248/17)
1 Mount End
Mount End Road
Theydon Mount

Waltham Abbey

- 50 EPF/1419/18 Demolish garden centre shop/office and erect building with 10 no. affordable apartments.
Garden Centre
Crown Hill
Waltham Abbey
- 51 EPF/2583/18 Demolition of existing garden centre buildings and
Garden Centre

	the erection of 2 no. semi-detached houses.	Crown Hill Waltham Abbey
52 EPF/2747/18	First floor extension to side of property with a roof terrace on top of the existing ground floor extension.	158 Honey Lane Waltham Abbey
53 EPF/3280/18	Proposed first floor extension to replace existing chalet style loft extension with first floor rear balcony and side facing first floor windows.	Mousetrap Rats Lane Loughton
Willingale		
54 EPF/2744/18	The retention of existing gates and pillars to paddock.	Hill Farm Cottage Millers Green Road Willingale



Appeal Decision

Site visit made on 4 June 2019

by Sarah Dyer BA BTP MRTPI MCI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2019

Appeal Ref: APP/J1535/W/18/3219178

12 Station Road, Epping CM16 4HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alex Lal against the decision of Epping Forest District Council.
 - The application Ref EPF/0282/18, dated 31 January 2018, was refused by notice dated 10 October 2018.
 - The development proposed is demolition of existing dwelling, erection of a detached building comprising 9 self contained apartments incorporating revisions to vehicular access, associated car parking and on-site amenities.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Epping Forest District Council Local Plan (Submission Version) (2017) has been published and submitted but has yet to be examined. It only attracts limited weight in my determination of the appeal as a further material consideration.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the surrounding area with particular regard to the height, scale and massing and design of the building; and
 - the living conditions of the occupiers of 14 Station Road and 1 Nicholl Road.

Reasons

Character and appearance

4. Station Road leads from the main shopping streets in Epping towards the station. Although there are buildings in commercial use close to its junction with High Street/High Road, Station Road is predominantly characterised by housing of a variety of types including bungalows and detached houses.
5. 12 Station Road (No. 12) occupies a corner plot at the junction with Nicholl Road which serves part of the wider residential area. The majority of buildings which front Nicholl Road are two storey houses, set back from the road with

- front gardens or parking spaces adjacent to the pavement. There is a pleasant vista along Nicholl Road towards Station Road which is enclosed by an attractive building on the opposite side of the junction.
6. The existing two storey building has a domestic scale and style and presents a frontage to Station Road which is compatible with the general appearance of the street scene. A high brick wall follows the boundary of the site to Nicholl Road and this obscures views of the single storey flat roof projections to the rear of No. 12. As such the existing building on the site has a limited effect on the character and appearance of Nicholl Road, despite the extensive width of the frontage of the site to this street. Overall although the existing dwelling occupies a prominent location, its scale, height and form is such that it does not dominate the street scene.
 7. The proposed building would present a much greater height and bulk to the junction between Station Road and Nicholl Road and the two-storey form with rooms in the roof would continue along the Nicholl Road frontage for a significant distance. Given its prominent corner siting and the substantial built form on the Nicholl Road frontage the new building would have a considerable impact on the street scene.
 8. Whilst the increased height and bulk would not be out of character with Station Road the scale and bulk of the building and its design would jar with the domestic scale of the architecture of Nicholl Road. The consistent ridge and eaves height would not respond positively to the small-scale bungalow at No. 1 Nicholl Road and the hipped and gabled projections which would be of an inconsistent height, width and style would be incompatible with the regularity of the bay projections on the houses on the opposite side of the road. These adverse impacts would be further exaggerated by the limited space between the building and the site boundary which would not reflect the prevailing arrangement in Nicholl Road.
 9. The appellant has referred to examples of flatted development in the vicinity of the site, including at the corner of Station Road and Hemnall Street. I have limited information before me regarding the details of these developments. However, in terms of their location they appear to be much closer to Epping High Street where there are generally more buildings of significant height and scale and where the mix of uses is more wide ranging than at the junction of Station Road and Nicholl Road. For these reasons the references are not directly comparable to the appeal scheme and they attract limited weight in my consideration of this main issue.
 10. I conclude that the appeal scheme would harm the character and appearance of the surrounding area with particular regard to the height, scale and massing and design of the building. The development is therefore contrary to Policy DBE1 of the Epping Forest District Council Local Plan (1998) (the Local Plan) and Policies CP2 and CP7 of the Epping Forest District Council Local Plan Alterations (2006) (the Local Plan Alterations). These policies jointly, amongst other things, safeguard the character and townscape of the urban environment, support higher densities where they are compatible with the character of the area and require new buildings to respect their setting in terms of scale, massing, height and detailing.

Living conditions

11. 14 Station Road (No. 14), which neighbours No. 12, is a two-storey house. It is set back slightly further into the site in comparison with No. 12 and has a two-storey projecting element to the rear. The single storey extensions to No. 12 would have a very limited impact on the living conditions of the residents of No. 14.
12. The footprint of the proposed building would not be any closer to the boundary with No. 14 than the existing house. but, where some elements of the house are single storey, the new flat block would be two-storey in height. This change has the potential to have an overbearing and visually dominant impact on No. 14. However, the layout which would align the rear wall of the closest element of new building with the rear wall of No. 14 and would step the remaining parts of the building away from the boundary, would reduce this adverse impact to a level which would not have a significant impact on the living conditions of the occupiers of No. 14.
13. 1 Nicholl Road (No. 1) shares a boundary with the appeal site. There is a narrow space between this bungalow and the boundary hedge which appears to lead to a rear garden and there are dormer windows which would face the flat block. The side elevation of the new building which would have a hipped crown roof would be set off the boundary with No. 1 and the intervening space would accommodate car parking and bin and cycle storage. Whilst the flat block would be visible from the windows in No. 1 it would not have a significant impact on the private amenity space. Given the separation distance, the new building would not have an overbearing or visually dominant impact on No. 1.
14. I conclude that the appeal scheme would not harm the living conditions of the occupiers of 14 Station Road and 1 Nicholl Road. The development is therefore in accordance with Policy DBE9 of the Local Plan which requires that new development does not result in an excessive loss of amenity for neighbouring properties.

Other Matters

15. The appellant cites the benefits of the appeal scheme as the development of a site in close proximity to shops and services, direct and indirect employment associated with construction activities and the contribution to the housing supply. Whilst the accessibility of the site is clear and attracts significant weight, there is limited evidence before me to quantify the benefits of the scheme in terms of its effect on the local economy through job creation or the impact it would make on the supply of housing. Given the scale of the development these benefits are not likely to be significant, therefore they attract limited weight in my determination of this appeal.
16. The appellant considers that the Council cannot demonstrate a five-year supply of housing land (5YHLS) and the Council has not disputed this. Even if I were to conclude that there is a shortfall in the 5YHLS and that relevant policies for the supply of housing should be considered out-of-date, the adverse impact of the development which would arise from the harm to the character and appearance of the surrounding area would significantly and demonstrably outweigh the benefits which I have identified.

17. Notwithstanding the grounds set out in its reason for refusal, the Council has raised concerns about the potential for overlooking from the flats towards neighbouring dwellings in its Written Statement. This is echoed in comments from local residents. I also acknowledge the concerns raised by local people, in addition to those relating to the main issues, including additional demand on resources, traffic generation and parking. Given that I find the proposal to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.
18. The Council has confirmed that the site is close to Epping Forest. The Forest is defined as a Special Area of Conservation (SAC) because it is an important conservation site and a SAC falls within the definition of a European site. The Conservation of Habitats and Species Regulations 2017 requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an appropriate assessment must be made in view of that site's conservation objectives. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.

Conclusion

19. For the reasons set out above, the appeal is dismissed.

Sarah Dyer

Inspector



Appeal Decision

Site visit made on 4 June 2019

by **Sarah Dyer BA BTP MRTPI MCMi**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2019

Appeal Ref: **APP/J1535/W/18/3218625**

55 High Street, Epping CM16 4BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Vanda Watling against the decision of Epping Forest District Council.
 - The application Ref EPF/1847/18, dated 4 July 2018, was refused by notice dated 10 October 2018.
 - The development proposed is described as 'redevelopment of existing shop with flat above, involving alteration and refurbishment of existing building plus new two storey building to the rear containing two flats'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the development on the living conditions of the occupiers of:
 - the existing flat on the first floor of 55 High Street with regard to privacy and outlook, overlooking and access.
 - No.s 53 and 57 High Street with regard to outlook.
 - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to privacy and outlook, the potential for noise and disturbance and access.

Reasons

Living conditions (53, 55 and 57 High Street)

3. 55 High Street (No. 55) is part of a terrace of buildings which front High Street. It is flanked by No. 53 and No. 57. The appeal site has a two-storey outshot to the rear which shares a gable with a similar feature on No. 57. Both buildings have single storey flat roof elements to the rear. A two- storey detached building has been constructed to the rear of No. 53 and No. 51 which is accessed by a passageway leading off High Street between the two buildings. No. 51 also has a deep two-storey outshot. The overall character of the group of buildings is of a close-knit conglomeration of built forms.

4. The appeal scheme would introduce a two-storey detached building into the rear garden of the site to accommodate two flats. Changes would also be made to the layout of the existing building to form a passageway from High Street to provide access to the existing flat and the new flats. Partially enclosed cycle and bin stores would be made available between the rear walls of the refurbished shop and the new building.
5. There are first floor windows in No. 55, one in the main building serving a bedroom and an obscure glazed window in the outshot serving a bathroom. The outlook from these windows is towards the rear of the site which is currently open and the supermarket car park beyond the tree on the boundary. Access to the first floor flat in No. 55 is via a staircase within the ground floor shop unit, however there are two doors within the shopfront which would facilitate a separation of the access to the flat.
6. The outlook from the first-floor windows in No. 55 would be altered. Nevertheless, given the nature of the built forms in the vicinity, the roof over the bin store and the external appearance of the new building, this outlook would not be significantly harmful to the living conditions of the occupiers of No. 55. Similarly, the window to window distance between the upper floor windows in the first floor flat in No. 55 and the new building would be comparable with those between windows in the adjacent development at No. 53 and would not give rise to an unacceptable degree of overlooking.
7. As a consequence of the appeal scheme, access to the first floor flat would be provided via a passageway which would also serve the new flat block. The access would be gated and would provide a safe and convenient access to the upper floor of No. 55.
8. There is a window in the rear elevation of No. 53 which provides oblique views of the appeal site. The outlook from the first-floor window in No. 53 is already dominated by the two-storey building which lies to the rear and the flue serving the commercial use. This window is set off the boundary by a significant distance and the introduction of the new flat block in the view from it would not be harmful to the living conditions of the occupiers of No. 53. Similarly, the amenity area serving the flats to the rear of No. 51 and No. 53 is well screened and would not be adversely affected by the development.
9. The boundary between the appeal site and No. 57 is a dilapidated fence and there are clear views between the two rear gardens. There are windows in the ground floor projecting element of No. 57, the first floor and an outbuilding adjacent to the rear fence. All of these windows provide an oblique view of the site.
10. Whilst the footprint of the new flat block would not be dissimilar to that of the building to the rear of No. 53, as a consequence of its full two storey height it would have a significantly greater enclosing effect on the outlook from the garden area associated with No. 57. The reintroduction of a fence between No.s 55 and 57 as is proposed would improve the outlook from the ground floor windows in No. 57, including those in the outbuilding. However, a significant part of the side wall of the flat block would be visible above the fence and this would adversely affect the outlook from the ground and first floor windows in No. 57 and its garden, leading to a deterioration in living conditions.

11. The distance between the rear windows in No. 55 and the side gable of the flat block to the rear of No. 53 is materially greater than would be the case between No. 57 and the appeal scheme. In that respect I do not find the impact of the development to the rear of No. 53 on the living conditions of No. 55 to be directly comparable with the appeal scheme. Therefore, in this respect, it attracts limited weight in my determination of the appeal.
12. In summary whilst the appeal scheme would preserve the living conditions of the occupiers No.s 53 and 55 High Street it would have a harmful impact on the occupiers of No. 57 in relation to outlook. Therefore, the development is contrary to Policy DBE2 of the Epping Forest District Local Plan (1998) (the Local Plan) and Policy CP7 of the Epping Forest District Local Plan Alterations (2006) (the Local Plan Alterations). These policies jointly, amongst other things, resist new development in urban areas which would result in loss of amenity to neighbouring properties.

Living Conditions (Future occupants)

13. The proposed flats to the rear of the site incorporate windows facing the adjacent car park and back towards the existing terrace. I have already concluded that the arrangement of first floor facing windows would not compromise privacy or outlook.
14. The outlook from the ground floor window would be towards the bin storage area, however there would be adequate space for screen planting which could be secured by planning condition. Such screening would provide for a reasonable outlook from the bedroom window and reduce the impact on privacy arising from the use of the bin store and cycle parking area. Access to the upper floor would be located in a projecting element of the building which would segregate the comings and goings associated with its use from the ground floor bedroom window. As such the layout of the site would ensure that an acceptable level of privacy was provided to residents of the ground floor flat.
15. The proposed layout of the site separates most of the activity associated with the shop from the residential units and I have very limited evidence before me to indicate that any harm would arise from the interaction between the two uses. On this basis, I see no reason to conclude that the use of the shop, even during extended opening hours, would lead to unacceptable living conditions for future occupants.
16. The proposed amenity space to serve the occupiers of the existing flat and the new flats takes the form of a courtyard and a garden. There would be two access points to the garden one from the ground floor flat via folding doors and the other via a narrow gap between the building and the boundary fence. Whilst the width of the side access may deter occupants of the upper flat from accessing the garden it would enhance the enjoyment of the balcony at first floor level. Access to amenity space for the occupants of the existing flat would be likely in practice to be limited to the courtyard, nevertheless in the close-knit urban context of the site this would, on balance, be appropriate.
17. I conclude that the appeal scheme would provide acceptable living conditions for future occupants, with regard to privacy and outlook, the potential for noise and disturbance and access. In this respect, the development accords with Policies DBE3 and DBE5 of the Epping Forest District Local Plan (1998) (the

Local Plan) and Policy CP7 of the Epping Forest District Local Plan Alterations (2006) (the Local Plan Alterations). These policies jointly, amongst other things, require that all spaces are functional and safe for their intended users, that layouts allow for convenient movement within the development and resist new development in urban areas which would result in loss of amenity.

Other Matters

18. The appellants cite a benefit of the development as making efficient use of land in a highly accessible location, which attracts significant weight in favour of the development. Whilst the contributions which it would make towards the supply of housing and the vitality and viability of the town are also referred to, there is limited evidence to substantiate these benefits, consequently they attract limited weight in favour of the development.
19. The appellants consider that the Council cannot demonstrate a five-year supply of housing land (5YHLS) and the Council has not disputed this. Even if I were to conclude that there is a shortfall in the 5YHLS and that relevant policies for the supply of housing should be considered out-of-date, the adverse impact of the development which would arise from the harm to the living conditions of the occupiers of No. 57 would significantly and demonstrably outweigh the benefits which I have identified.
20. The Council has confirmed that the site is close to Epping Forest. The Forest is defined as a Special Area of Conservation (SAC) because it is an important conservation site and a SAC falls within the definition of a European site. The Conservation of Habitats and Species Regulations 2017 requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an appropriate assessment must be made in view of that site's conservation objectives. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.
21. I acknowledge the concerns raised by Epping Town Council, the Epping Society and local residents, in addition to those relating to the main issues which I have identified, including the impact of building operations, parking provision and traffic. Given that I find the proposal to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.

Conclusion

22. For the reasons set out above, the appeal is dismissed.

Sarah Dyer

Inspector



Appeal Decision

Site visit made on 18 April 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 4th June 2019

Appeal Ref: APP/J1535/W/19/3221501

Lindsey House, 15 Lindsey Street, Epping CM16 6RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Daletrent Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/2120/18, dated 20 July 2018, was refused by notice dated 5 December 2018.
 - The development proposed is change of use of care home (Use Class C2) to 6 flats (Use Class C3), including rear extensions and side extensions.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. An emerging plan, the Epping Forest District Local Plan Submission Version 2017, was submitted to the Secretary of State on 21 September 2018 for examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with the National Planning Policy Framework (the Framework), I give it limited weight and it does not alter my conclusions.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the appeal building and area;
 - the living conditions of occupiers of 17 Lindsey Street (No 17), as regards overshadowing and outlook.

Reasons

Character and appearance

4. Lindsey Street is a predominantly residential street, lying just outside of the town centre, principally defined by detached and semi-detached housing. The properties in the immediate vicinity of the appeal site are varied in design, form and massing.
5. The appeal property is a large 2-storey building, previously in use as a care home. It has been extended several times, including rear and side extensions. The overall effect of the various additions is a rather cluttered arrangement affecting the appearance of the rear of the building. The front of the building presents as a large single detached house in 1930s Mock Tudor style.

6. The proposed changes to the building would be towards the rear, with limited views from the street. The front of the building would be unchanged. Consequently, there would be a limited effect on the streetscene. In any respect, the proposal would end the untidy arrangement of incongruous building elements to the rear and provide a design more in keeping with the building as a whole. The gable ends, pitch roofs and materials of the rear façade would complement the period design of the original property, while the new pitch roof elements would follow the pitch of the existing outrigger roofs. The proposed fenestration and detailing would create a pleasing degree of symmetry. The overall effect would be to create a more uniformed design to the rear following the existing rhythm of the property.
7. For these reasons, the proposed development would not harm the character and appearance of the building or area. As such, it is not in conflict with Saved Policy DBE1 of the Epping Forest District Local Plan (2008) (LP) which seeks to protect the character and appearance of places.

Living conditions, occupiers of No 17

8. The appeal building extends around 11.5 metres at first floor level beyond the rear elevation of No 17, with much of the building being on or near the shared boundary. The appeal proposal would materially affect the current arrangement by extending the total length of the rear projection and creating a first-floor extension over the existing roof terrace at the rear of the building. This would result in two storeys with a depth of around 15.5m from the rear elevation of No 17, on or close to the shared boundary.
9. Due to the current building form, and the orientation of the existing building broadly to the south, the garden of No 17 experiences a significant amount of overshadowing. This is evident in photographs provided by the occupiers of that property, at different times of year, and on which I place strong weight.
10. The photographs also show shadows of the railings associated with the existing roof terrace and the light between, and adjacent to, the railings which would not reach the garden were the proposed first floor extension over the roof terrace built. In my judgement, this would unacceptably erode the amount of direct sunlight reaching the garden of No 17. The fact that the current building form already significantly reduces direct sunlight to the garden does not justify a further reduction, but rather makes it more unacceptable.
11. The appellant has submitted an expert report¹ which concludes that 92% of No 17's garden would receive at least 2 hours of direct sunlight on the spring equinox (21 March) under the proposal, compared to 93% at present. This is said to be acceptable, particularly as British Research Establishment (BRE) criteria² recommend that at least half (50%) of an amenity area should receive at least two hours of sunlight on that date.
12. However, while I acknowledge that much of the garden would receive at least 2 hours of sunlight on the date referred, it does not diminish the unacceptable harm that would be caused by increased shadow to the garden experienced by the occupiers, and which would be particularly pronounced at times.

¹ Overshadowing Report for the Proposed Development at 15 Lindsey Street, Epping, Essex, CM16 6RB (Malcolm Hollis LLP, 21 January 2019, Ref: 75082/IM/BSC)

² Building Research Establishment (BRE) Report "Site Layout Planning for Daylight and Sunlight – a guide to good practice" 2nd Edition, 2011

13. The increased mass of built form, in combination with the existing considerable bulk of development on or close to the shared building, would also be overbearing and create a sense of oppression to the occupiers of No 17 when using their garden. While I acknowledge that a tunnel effect would not be created, due to an open aspect to the garden on its northern boundary with No 19, this would not sufficiently temper the harmful effect of the considerable built form of the proposal on the southern boundary so far as to make it acceptable.
14. For the above reasons, the proposed development would cause significant harm to the living conditions of the occupiers of No 17 through overshadowing and impact on outlook. As such it is contrary to Saved Policies DBE2 and DBE9 of the LP which together seek to protect the amenity of neighbouring occupiers.

Other Matters

15. The proposed development would provide 6 homes on previously developed land, bringing a vacant building into active use, which would be benefits of the proposal in support of the Framework's aims to boost the supply of housing and make efficient use of land. There would also be economic benefits through construction and those associated with local spending by future occupiers. However, taken in totality these benefits would not outweigh the significant harm to the living conditions of No 17 that the proposed development would cause.
16. The appellant is willing to enter into a Planning Obligation (PO) to make a financial contribution towards mitigating adverse effects to the Epping Forest Special Area of Conservation (SAC) caused by the creation of new homes within its surrounding area. As the appeal is being dismissed for reasons relating to the main issues, it is not necessary to consider the PO any further.

Conclusion

17. The proposed development would not accord with the development plan as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Andrew Walker

INSPECTOR

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Appeal Decision

Site visit made on 8 May 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2019

Appeal Ref: APP/J1535/W/19/3220256

Site adjacent Great Notts, Ongar, Essex CM5 0LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Shirley Bates against Epping Forest District Council.
 - The application Ref EPF/0904/18, is dated 27 March 2018.
 - The development proposed is conversion of existing barn to form a single detached residential unit, retaining existing access and on-site car parking.
-

Decision

1. The appeal is dismissed and planning permission is refused

Procedural Matters

2. The appeal form states that this is an appeal against conditions. However, there is no decision notice before me and other evidence suggests that a decision notice was not issued. It is therefore an appeal for non-determination and this is the basis upon which I have determined the appeal. I have identified my main issues having reviewed the evidence from the main parties and other representations.
3. The Council has confirmed that the Epping Forest Local Plan Submission Version 2017 (the EFLPSV) was submitted for examination in September 2018 and that examination hearings commenced in February 2019. Although I understand that the examination process is yet to conclude, where the content of relevant policies has been substantiated in the evidence before me, I have given them limited weight in my consideration of this appeal. This is because their content may yet change prior to being formally adopted.

Main Issues

4. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt, having regard to the revised Framework policies and any relevant development plan policies; and,
 - Whether the proposals would accord with local policies, national guidance and legislation with regard to the Epping Forest Special Area of Conservation (the SAC).

Reasons

Whether or not inappropriate development

5. The revised National Planning Policy Framework (the revised Framework) (February 2019) sets out, under paragraph 146, that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One of these forms of development is the re-use of buildings provided that the buildings are of permanent and substantial construction. In addition, the revised Framework sets out, under paragraph 145, that 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, should not be regarded as inappropriate (irrespective of any associated effect on openness).
6. In this instance I am satisfied that the proposal would represent the re-use of a permanent and substantial building and that the alterations proposed to the building as part of its conversion would not result in disproportionate additions to it. I must therefore consider, in accordance with the provisions of paragraph 146 of the revised Framework, whether the proposed re-use of the building would preserve the Green Belt's openness.
7. A residential use of the building would generate vehicle movements, associated parking requirements and the introduction of residential paraphernalia to its immediate surroundings. It was however apparent from inspection that there is existing paraphernalia related to the building's existing use (including various materials, tools and other equipment) stored externally and alongside the building. Whilst my single visit to the site cannot be relied upon to give an accurate account of precisely how the building and its immediate surroundings are used on a day-to-day basis, I consider that the extent of external paraphernalia that would realistically be expected to be generated by the proposed conversion would not noticeably exceed the extent of external storage (albeit not domestic in character) generated by the building's existing use, such that a loss of openness would not be caused.
8. I am also content that the proposed re-use of the building would not generate a noticeable increase in traffic movements or parked vehicles such that openness would be compromised. Indeed, it is reasonable to assume that the building, used in its current agricultural capacity, would generate vehicle movements and lead to the parking of vehicles on the site. I am thus content that the proposal would preserve the Green Belt's openness and would not conflict with the purposes of including land within it.
9. For the above reasons, the proposal would not be inappropriate development in the Green Belt and it would accord with revised Framework policies.

Special Area of Conservation

10. The site lies in the proximity of the Epping Forest Special Area of Conservation (the SAC) and therefore the requirements of The Conservation of Habitats and Species Regulations 2017 apply (the Regulations). These regulations require that I, as the competent authority, must ensure that there are no significant effects from the proposed development (either alone or in-combination with other projects) that would adversely affect the integrity of the SAC.

11. The SAC is comprised of various habitats of high nature conservation value and supports a nationally outstanding assemblage of invertebrates, major amphibian interest and an exceptional breeding bird community.
12. Interim advice to the Council from Natural England (NE) identifies in-combination recreational and air pollution impacts as areas of specific concern that would threaten the various habitats and important species contained within the SAC. Potential harm to the SAC from residential development is considered to include recreational trips by future occupiers and associated disturbance to fauna, the trampling and wearing of vegetation and eutrophication from dog fouling. This application, however, falls outside the NE's Zone of Influence (ZOI) with respect to recreational impact.
13. The Council's interim approach to managing recreational pressures requires, inside the ZOI, a contribution of £352 per new dwelling to contribute to mitigation in respect of recreational impacts. I am satisfied that such a contribution would not be required in this instance because the proposal does not fall within the ZOI and would thus not be anticipated to have a recreational impact on the SAC.
14. However, with respect to air pollution impacts, NE advises that for 'minor development', likely significant effects and adverse effects on the integrity of the SAC cannot be ruled out. There is no ZOI, and NE advises that all residential and employment proposals within the Epping Forest District are likely to have an air pollution impact on the SAC. Applications are therefore subject to a Habitat Regulations Assessment (HRA).
15. The appeal site has a close geographical relationship with the SAC, and there is a fairly direct road link. Whilst only a single dwelling is proposed, it is highly likely to generate additional traffic and associated air pollution in the proximity of the SAC. This could have detrimental effects upon the high value habitats. Taking a precautionary approach, I conclude that additional air pollution would be detrimental to the integrity of the SAC.
16. The Council has confirmed that to date, there is no mechanism in place to offset the potential impact of a development proposal from air pollution through contributions. Nor is there anything before me to indicate that the development would not contribute to additional air pollution or to suggest alternative means of mitigation. In the light of the above I conclude that the development would have an adverse effect on the integrity of the SAC and given the statutory weight attached to the Regulations, I give this significant weight.
17. I acknowledge that evidence suggests that the appellant would contribute £250 towards mitigation. It is however unclear how this level of contribution has been calculated and what precise scheme of mitigation it would be put towards. Even if I considered that £250 was sufficient to provide adequate mitigation for air pollution impacts arising from the development, there is no completed obligation before me.
18. I appreciate that the Planning Inspectorate has indicated that an Environmental Impact Assessment would not be required. However, this does not alter the position with regard to the SAC. Indeed, the NE is clear in its interim advice that minor developments, due to the in-combination impacts they will have upon the SAC, should be considered as being complex in this context.

19. For the above reasons, I cannot be satisfied that the proposal would not adversely affect the integrity of the SAC. The proposal would fail to accord with local policies, national guidance and legislation with regard to the SAC. The proposal also conflicts with Policy NC1 (Sites of Special Scientific Interest (SSSIs)) of the Epping Forest District Local Plan (January 1998) and with paragraphs 170, 175 and 176 of the revised Framework in so far as these policies require that the UK's international obligations for those SSSIs designated or proposed as Special Protection Areas or Special Areas of Conservation will be complied with.

Other Matters

20. Third parties to this appeal have noted that the existing barn was originally intended to be used for agricultural purposes and consider that an unfortunate precedent would be set by granting planning permission for its conversion here. I am also aware that previous planning applications to convert the barn were refused. I am however content that the proposal would represent the re-use of a permanent building such that it would be eligible to be considered not inappropriate in the Green Belt. This is irrespective of whether or not the proposed conversion would be essential to oversee or manage adjacent campsite activities. For the avoidance of doubt, I have considered the proposal against the provisions of the revised Framework.

21. I acknowledge that a third party to this appeal has raised various matters, including with respect to highway safety. As I have found the development unacceptable for other reasons however, it is not necessary for me to consider these matters further.

Conclusion

22. Whilst I have found that the proposal would not be inappropriate development in the Green Belt, I cannot be satisfied that the conversion would not adversely affect the integrity of the SAC. That is the overriding consideration.

23. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 20 February 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 01 July 2019

Appeal Ref: APP/J1535/W/18/3214103

Hoppit, The Street, Sheering, Harlow CM22 7LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Founthill Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/1339/18, dated 11 May 2018, was refused by notice dated 5 September 2018.
 - The development proposed is erection of three detached dwellings.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Founthill Ltd against Epping Forest District Council. This application is the subject of a separate Decision.

Procedural Matter

3. I note the Epping Forest District Local Plan Submission Version 2017 (emerging Local Plan), however since there is no certainty that the policies within it will be adopted in their current form, I give them limited weight.

Main Issues

4. Although the appeal site lies within the Green Belt, the main parties agree that the proposal constitutes limited infilling within villages and would not be inappropriate development in the Green Belt. Consequently, the main issues are:
 - the effect of the proposed development, including the proposed loss of trees, on the character and appearance of the area;
 - the effect of the proposed development on Epping Forest Special Area for Conservation;
 - the effect of the proposed development on the living conditions of the occupiers of 12 and 12a The Street with particular regard to light from vehicles;
 - the effect of the proposed development on biodiversity; and
 - the effect of the proposed development on highways safety.

Reasons

Character and appearance

5. The buildings along The Street are generally one and two-storey dwellings with modest spacing that give the ribbon development a spacious feel. The appeal site currently appears to be part of Hoppit, a large detached property set a significant distance away from the highway in a large plot. Given the height of the trees and maturity of the hedgerow at the boundary with The Street, they form a significant part of the character and appearance of the street scene. As such the site contributes to the spacious character of the area and provides a green aspect.
6. I acknowledge the comments relating to density. However, the three proposed two storey dwellings would have limited spacing resulting in narrow plot widths that would diminish the spacious character of the area. While the proposed dwellings would be set back from the pavement roughly in line with Hoppit and may not be visually prominent in the street scene, they would be incongruous given the pattern of development of the other dwellings of The Street in this regard. The proposed dwellings would also appear discordant given the neighbouring large dwelling and spacious plot of Hoppit.
7. While the forms of the nearby dwellings are varied, the majority including Hoppit are either fully or partially rendered, which together with the modest spacing, results in an attractive street scene. From the evidence before me, the external walls of the proposed dwellings appear to be fully brickwork which would be discordant with the other properties along The Street. Although the proposed bridge would consist of timber railings and balusters it would be of a substantial length that would make it appear prominent and discordant in the street scene which is dominated by dwellings with small gardens.
8. Turning my attention to the effect of the loss of trees on the character and appearance of the area, removing a significant portion of this vegetation would open the view to the proposed dwellings and the associated landscaping and parking area to the front. Given that the adjacent dwellings have small front gardens and the large plot of Hoppit would remain screened by tall trees, the proposed loss of trees would reveal the proposed dwellings and associated parking area and would be incongruous in the street scene. However, I am satisfied that a suitable condition could be imposed to require details of replacement tree planting, that would mitigate any such harmful effects on the character and appearance of the area. However, the lack of harm in this respect would not outweigh the adverse effects on the character and appearance of the area caused by the proposed dwellings as discussed above.
9. Notwithstanding the lack of harm regarding the loss of trees, for the foregoing reasons the proposed development would harm the character and appearance of the area. It would conflict with Policy CP2 of the Local Plan Alterations Adopted July 2006 (LP Alterations), Policy DBE1 of the Epping Forest District Local Plan Adopted January 1998 (LP) and with Policy DM9 paragraph D of the emerging Local Plan which together seek to safeguard the character of the urban environment and respond positively to their context among other things.
10. The proposed development would not conflict with LP Policies LL10 and LL11 which restrict development that would make inadequate provision for the retention of trees and landscaping.

Epping Forest Special Area for Conservation (EFSAC)

11. I note the reason for refusal regarding the EFSAC. Had I found the appeal development to be acceptable in terms of the effect on the character and appearance of the area, I would have found it necessary to investigate this matter in greater detail as part of my appropriate assessment. However, in the circumstances of this case this has not proved to be a determinative matter given the harm to the character and appearance of the area that would arise from the development.
12. I acknowledge that Natural England have yet to publish a mitigation strategy. However, from the evidence before me it appears likely that the proposed development would give rise to at least some harm to the EFSAC were that harm not to be mitigated. While the appellant has suggested a willingness to provide financial contributions, from the evidence before me I have concerns about how such mitigation would be secured.
13. While not determinative, as it has not been demonstrated that the proposal would not harm the EFSAC, it would not accord with LP Policy NC1 which seeks to protect Special Areas of Conservation. It would also not accord with Policies DM2 and DM22 of the emerging Local Plan.

Living conditions

14. The proposed access to the appeal site is located opposite to Nos 12 and 12a The Street (Nos 12 and 12a) which are part of a two-storey terrace of dwellings that are in close proximity to the back of pavement of The Street. Given that the proposal is for 3 dwellings, the frequency of vehicles exiting the site is likely to be limited and any disturbance from headlights would be largely during twilight and dark hours. Consequently, while the occupiers of Nos 12 and 12a may be affected by headlights from vehicles exiting the site, any disturbance would be limited such that there would not be undue harm to the living conditions of the occupiers.
15. Therefore, the proposed development would not harm the living conditions of the occupiers at 12 and 12a The Street with particular regard to light. It would not conflict with LP Policy DBE9 and with Policy DM9 paragraph H(iv) of the emerging Local Plan which require that developments address issues of light pollution and disturbance.

Biodiversity

16. An updated ecology report was submitted as part of the appeal which concludes that the proposed development would not cause harm to wildlife, particularly protected species, in the vicinity of the site. From the evidence before me I see no reason to disagree. The conclusion of the report has not been disputed by the Council.
17. Therefore, the proposed development would not harm biodiversity in the vicinity of the site and would not conflict with LP Policy NC4 which seeks to protect established habitats of local significance for wildlife. It would also accord with Policy DM1 of the emerging Local Plan.

Highways safety

18. The Street is a single carriageway and is the primary road running through Sheering. It has a speed limit of 30mph denoted by a digital speed sign that is located near the appeal site that also advises motorists to slow down when the speed limit is breached.
19. While I acknowledge local concerns including regarding the speed of traffic and the proximity of the bus stop, the proposal would allow adequate visibility splays that could be controlled by condition, such that vehicles exiting the site would have sufficient visibility to react to oncoming vehicles from both directions.
20. Furthermore, the Highway Authority did not object to the proposal on the basis that adequate visibility splays could be imposed, and from the evidence before me I see no reason to disagree.
21. Consequently, the proposed development would not harm highways safety and would accord with LP Alterations Policy ST4 and emerging Local Plan Policy T1 paragraph F(i) which seek development that does not harm highways safety.

Other Matter

22. I acknowledge local concerns regarding construction traffic and drainage, however these and none of the other matters raised outweigh or alter my overall decision.

Conclusion

23. Overall, for the reasons given above, the appeal is dismissed.

R Sabu

INSPECTOR



Appeal Decision

Site visit made on 20 February 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: Friday, 26 July 2019

Appeal Ref: APP/J1535/W/18/3215238

Hydes Riding School, Abridge Road, Theydon Bois, Epping CM16 7NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Tina Smith against the decision of Epping Forest District Council.
 - The application Ref EPF/0429/18, dated 9 February 2018, was refused by notice dated 10 October 2018.
 - The development proposed is the removal of the existing caravan and extension of the barn to create a security hut to be used as ancillary 24-hour security for the riding school.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is within the Green Belt and so the main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt, including its effect on openness; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development

3. The Framework establishes that new buildings within the Green Belt are inappropriate with a number of exceptions. A few of these have been raised by the main parties.
4. Paragraph 145(d) of the Framework provides the exception of the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. While the use of the proposed building may be ancillary to the purpose of the stable, given that its purpose is for accommodation for security purposes rather than a stable, it nevertheless would not be the same use as that of the existing building to be replaced in the terms of para 145(d), therefore the proposed development would not meet the exception.

5. Paragraph 145(b) of the Framework provides the exception of the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The proposed development would be for the use of the equestrian centre which would fall under outdoor sport and recreation and may not be inappropriate subject to the facilities preserving the openness of the Green Belt which is assessed below.
6. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. The mobile home is not a building for planning purposes, and therefore the proposed development cannot be considered to be replacing it in the terms of the Framework. From the evidence before me and my observations on site, there is a clear void underneath the mobile home and it did not appear to have construction that would permanently fix its location, which means that although it may have been in its current position for some time, it could be removed and is therefore a temporary structure. Consequently, the effect of the mobile home on openness has little weight.
7. While the proposed development may be smaller than the mobile home and stable building combined, given that the mobile home could be removed, I give greater weight to the effect of only the permanent stable building on the openness to the Green Belt. The proposed development would be a 23% increase in volume compared with the stable building and it would have a footprint of some 45 sqm compared to the stable building which has a footprint of some 38sqm. This represents a material increase in size.
8. Given that the proposed development would appear larger in volume and footprint than the stable building, and that the appeal site is surrounded by open fields, it would lead to a loss of the visual aspect of openness of the Green Belt as well as spatial aspect, thereby failing to fulfil a fundamental aim of Green Belt policy. Consequently, the proposed development does not meet the exception stated in paragraph 145(b) of the Framework.
9. In summary, the proposed development would not preserve the openness of the Green Belt and would therefore be inappropriate development in the terms of the Framework, specifically paragraphs 145(b), and would also fail to meet the criteria of paragraph 145(d). From the information before me, I have found no other reason to believe that the proposals would not be inappropriate development in the Green Belt.

Other considerations

10. I note the evidence with regard to the need for enhanced security at the appeal site given its proximity to the motorway in order to sustain the existing business, community facility and potential for employment. While it may be said to require a 24-hour presence at the appeal site, there is likely to be a range of solutions available other than the proposed development alone. Therefore, I give this point limited weight. Furthermore, similar circumstances are likely to be experienced by other equestrian centres and rural uses in the Green Belt, such that they can carry only limited weight in assessing whether very special circumstance existing in the terms of the Framework.

11. The design of the existing mobile home is not in keeping with the stables in the appeal site which are of an agricultural character. The removal of the mobile home and stable building and their replacement with the proposed development, which is in keeping with the agricultural character and appearance of the site, would result in an improvement to the character and appearance of the area. As explained above, since the mobile home can be removed, it is a temporary structure. Therefore, this improvement carries limited weight in favour of the proposal.
12. I note the Council's comments with regard to the likelihood of enforcement action being taken to secure the removal of the mobile home. However, this does not negate the impermanence of the mobile home and the outcome of any such action is uncertain, such that I attribute very little weight to this point.
13. I acknowledge the planning permissions for other sites which were also for ancillary accommodation. However, there is limited evidence before me and in any event each case must be determined on its own individual merits. Therefore, I give these permissions limited weight.
14. The proposed development would not conflict with Policy GB2A of the Local Plan Alterations Adopted July 2006 (LP) which restricts development of new buildings in the Green Belt with a number of exceptions including for the purposes of outdoor participatory sport and recreation or associated essential small-scale buildings, without any reference to openness. However, the harm to openness of the Green Belt identified above carries substantial weight under the terms of the Framework; and this material consideration under Section 38(6) of Planning and Compulsory Purchase Act 2004 outweighs the apparent absence of development plan policy conflict.

Conclusion

15. Notwithstanding the absence of development plan policy conflict, substantial weight must be attached to any harm to the Green Belt given the importance that the government attaches to its protection, as embodied in the Framework. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The substantial weight to be given to Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances given that those benefits are reasonably modest commensurate to the modest scale of the development proposed.
16. For the reasons given above the appeal is dismissed.

R. Sabu

INSPECTOR

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Appeal Decision

Site visit made on 2 April 2019

by **David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Thursday, 11 April 2019

Appeal Ref: APP/J1535/W/18/3213366

Cornerways, The Green, Theydon Bois, Epping, CM16 7JH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Gillespie against the decision of Epping Forest District Council;
 - The application Ref. EPF/0712/18, dated 10 March 2018, was refused by notice dated 5 September 2018.
 - The development proposed is the replacement of the existing dwelling with a new single family house and pavement crossover.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed new dwelling on the character and appearance of the area.

Reasons

Policy Context

3. The development plan includes the Epping Forest Local Plan (LP) 1998 with alteration adopted in 2006. The Council is also producing the Epping Forest Local Plan Submission Version 2017, however, I understand that there are unresolved objections to part of the plan and it has not been found to be sound. This limits the weight that can be given to the emerging plan at this stage.

Background

4. The appeal site contains a detached two storey house which lies on the corner of Avenue Road and The Green in the village of Theydon Bois and opposite a large area of open space known as Theydon Green. It is proposed to demolish the house and erect a new one. A similar proposal was refused by the Council in 2017 and a subsequent appeal was dismissed under ref. APP/J1535/17/3181028. I have had regard to the Inspector's reasoning for this decision as a material consideration. I also note that the current revised scheme was recommended for approval by the Council officers but this recommendation was not accepted by the Council's Planning Committee.

Effect on character and appearance

5. The local area contains houses in a variety of architectural styles and forms together with the triangular form of the Baptist Church on the opposite corner of Avenue Road and the large building bulk of the telephone exchange south of the appeal site. The existing dwelling is traditional in design and modest in scale and although it has a narrow gable facing The Green, the side elevation to Avenue Road also has some architectural interest with a secondary gable with bay windows facing the road. The previous Inspector said that the existing dwelling had 'few distinguishing features, resulting in a limited contribution to the street scene' and given the Council's reasons for objection, concluded that there was no objection in principle to this dwelling being replaced. I agree.
6. The previous Inspector described that scheme as having a contemporary appearance with a split-level roof feature and modern materials including the use of zinc on the roof. While the Inspector did not consider the use of that material to be unacceptable, the Inspector found that the proximity of the side elevation to Avenue Road would result in a lack of openness on the corner. This coupled with the contrasting roof form gave rise to a contemporary feature which would fail to integrate successfully with the street scene.
7. The current scheme utilises the same form of dwelling as previously proposed below roof level, but above the eaves the scheme revises the roof to a hipped crown roof which would have 'ridges' running parallel to both The Green and Avenue Road and the roof is proposed to be clad in zinc. Further, the width of the building has been reduced by leaving a slight gap between the flank wall of the garage and the street; and the two storey side extension with a cat-slide roof from the main roof has been set back slightly from being on the pavement edge as in the previous scheme.
8. Although I note the changes that have been made to the scheme, I have concerns about the overall bulk and dominance of the building proposed on this prominent and sensitive corner site. The new house would be sited in a position that would project further forward than the existing house and the adjacent White Cottage and although I note the relative position of the Baptist Church on a similar building line, the siting of the new house would appear proud and prominent when approaching along The Green from the south. Further, despite the changes that have been made to ease the building mass from Avenue Road I am not convinced that visually the 'stepping in' would make much difference to the dominance of the building bulk as identified by the previous inspector.
9. I acknowledge that the height of the building is about the same as the ridge of The White Cottage but while the split-level roof has been replaced with a crown roof this would still have an imposing and awkward design. At my site visit I could not see other examples locally of a crown roof used on a two storey building, and although it is a subjective judgement, in my view the combination of the width and length of this roof on two elevations would give rise to a significant and mostly unrelieved building bulk. The use of a zinc cladding adds to this impact but almost the same impact would arise with the use of traditional tile form.
10. Overall, I find that the bulk, form and siting of the replacement dwelling would have a dominating and harmful effect on this sensitive corner site and would not accord with the requirements of policies CP2 and DBE1 of the Local Plan to

safeguard and enhance the setting, character and townscape of the urban environment and that new development should respect the setting of the site. For similar reasons I do not consider that the proposal accords with the emphasis placed on good design as set out in section 12 of the National Planning Policy Framework (NPPF).

11. The Council also puts forward an objection to the form of the first floor roof terrace with a glass balcony, however, the extent and position of this feature is such that I do not consider that it would have a harmful effect on the living conditions of neighbours nor is the design so inappropriate that it would add to the concerns I have about the appearance and impact of the proposal as outlined above.

Planning balance

12. On the main issue I have found that, judged on its individual merits, the replacement dwelling now proposed would harm the character and appearance of the area as the bulk, form and siting of the new dwelling would have a dominating and imposing effect on this sensitive corner site. This harm means that the proposal conflicts with the provisions of the relevant part of the development plan.
13. This finding needs to be balanced with other considerations. I have taken account of the fact that the appellants seek to build a modern house with a sustainable form and construction. Their architect has also attempted to overcome the previous objection to a scheme at appeal. I also acknowledge that the NPPF seeks to achieve sustainable development and this national guidance and LP policy CP7 seek to ensure that effective use is made of existing developed land and buildings.
14. However, I find that these benefits are general in nature and do not outweigh the specific adverse impact that the development would cause locally to this sensitive site. I conclude that the proposal would not accord with the NPPF when this is read as a whole.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR

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Appeal Decision

Site visit made on 8 May 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2019

Appeal Ref: APP/J1535/W/18/3215400

1 Mount End, Theydon Mount, Epping, Essex CM16 7PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Shaw on behalf of ARA Homes Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/1406/18, dated 18 May 2018, was refused by notice dated 10 October 2018.
 - The development proposed is demolish the barn at 1 Mount End, CM16 7PS and erect two detached houses.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has confirmed that the Epping Forest Local Plan Submission Version 2017 (the EFLPSV) was submitted for examination in September 2018 and that examination hearings commenced in February 2019. Although I understand that the examination process is yet to conclude, where the content of relevant policies has been substantiated in the evidence before me, I have given them limited weight in my consideration of this appeal. This is because their content may yet change prior to being formally adopted.

Main Issues

3. In light of the site's proximity to the Epping Forest Special Area of Conservation (the SAC) and of the Council having brought to my attention interim advice in this regard issued by Natural England (NE) in June 2018, I have elevated the effect of the proposal on the integrity of the SAC to a main issue in this appeal.
4. The main issues are:
 - whether or not the proposal is inappropriate development in the Green Belt, and, if so, whether very special circumstances exist to justify the development in the Green Belt;
 - the effect of the proposal upon the living conditions of occupiers of neighbouring properties, with particular regard to outlook; and
 - the effect of the proposal on the integrity of the SAC.

Reasons

Whether or not inappropriate development

5. The National Planning Policy Framework (February 2019) (the Framework) is a material consideration in regard to assessing proposals for development that affect the Green Belt. Policy GB2A of the Epping Forest Local Plan Alterations (July 2006) does not fully reflect the exceptions to inappropriate development that are clearly set out in the Framework and that are relevant here. Whilst therefore of limited relevance to my considerations, Policy GB2A nonetheless allows for planning permission to be granted for proposals that accord with another Green Belt policy.
6. The Framework sets out that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless, amongst other exceptions, they represent the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
7. I am satisfied that the appeal site adheres to the definition of previously developed land as set out in the Framework. Thus, to establish whether the proposal is inappropriate in the Green Belt, I must consider whether the proposal would have a greater impact on the openness of the Green Belt when compared to the existing barn.
8. The existing barn is a substantial structure constructed around a metal frame. A mixture of timber cladding and open sides are in place to the building's perimeter. It is a prominent structure that I noted from inspection was readily visible from various publicly accessible vantage points nearby, including from Mount Road across open farmland situated to the rear of the site. I understand that the barn, whilst originally used for agricultural purposes, is now used for domestic storage associated with 1 Mount End (No 1). The appeal site is also made up of land that surrounds the barn, and which is enclosed by a mixture of post and rail fencing and hedging.
9. The proposal involves the construction of 2 dwellings, both of which would extend to 2 stories in height with gabled ends. Notwithstanding the relatively long extent of rear roof slope proposed to each dwelling, their full ridge positions would be set at a lower height when compared to the full height of the existing barn.
10. One of the proposed dwellings would be set entirely within the barn's existing footprint. The other would be partly contained within this footprint but would extend beyond it to the rear with its full ridge height aligning approximately with the rear extent of the barn. Much of this projection beyond the rear of the barn, I note, would be at only a single storey and across a narrow width. This differs with respect to a similar proposal at the site dismissed at appeal in August 2018¹, where it is apparent that 2 storey development was found to sprawl beyond the limits of the existing building.
11. The Council has raised concerns that this appeal proposal would result in a sprawl of development to the rear of the building. I do not find this to be the

¹ APP/J1535/W/18/3201577

case. The projection of development would appear relatively limited, particularly when viewed alongside an existing similarly positioned and laid out single storey building that is in place on the adjacent site to the south. It is also apparent that a portion of the barn's existing footprint would become clear of built development as a result of the proposal and, from inspection of the submitted drawings, I am content that an overall reduction in building footprint would result.

12. I note that the appellant has stated that, until recently, the barn was covered in timber cladding and that this cladding was removed to allow for ease of access. I am not, however, persuaded that I should consider the barn fully enclosed for the purposes of my considerations here. More relevant is the building's current composition which incorporates the potential for views to be formed through it (as would appear to have been the case with the similar proposal dismissed at appeal in August 2018).
13. It was apparent from inspection however that views through the barn were only available from certain angles and vantage points. I also noted that the building's sides sit beneath a substantial roof structure that incorporates solid and expansive roof slopes as well as, to its highest part, boarding to each of its ends. This roof structure is a highly visible element of the barn and can be seen from various orientations and distances from the site. The newly proposed dwellings, whilst being of fully enclosed design, would be markedly smaller in both scale and mass when compared to the barn. This is an important factor when considering the effect on openness.
14. I accept that the barn is of agricultural character and of simplistic utilitarian design. But, due to its significant scale and bulk, it appears to dominate, rather than blend in with, its agricultural surroundings.
15. With respect to the parcel of land that surrounds the barn and is contained within the appeal site, it is the appellant's position that this forms private amenity/garden land. Whilst this status has been questioned by a third party to this appeal who has provided evidence of livestock having grazed the land during past years, it was apparent from inspection that the land was distinct and separate to surrounding agricultural land and had been actively maintained through mowing. Indeed, whilst clear of residential paraphernalia or planting other than grass, the land took the appearance of either a domestic garden or paddock area and is readily accessible to residential occupiers at No 1, albeit without, for the most part, having an immediate relationship to the dwelling.
16. I accept that it would be reasonable to expect that additional domestic paraphernalia and parked cars would result from the proposed future occupation of 2 dwellings on the appeal site. The proposal also involves the erection of a small extent of additional post and rail fencing to sub-divide the land. However, particularly given that the area is already served by fencing/hedging to its perimeter, I consider that any loss of openness caused as a result of additional fencing and anticipated paraphernalia including parked cars would be limited.
17. As discussed above, the proposal would result in built development of comparatively lower height, smaller footprint and lesser volume. Whilst a limited loss of openness would likely be expected within the external areas of the appeal site earmarked to serve as private garden land for the proposed dwellings, the proposal, when considered in overall terms, would not have a

greater impact on the openness of the Green Belt when compared to existing development on the site.

18. For the above reasons, the proposal would not be inappropriate development in the Green Belt and, in this regard, it would accord with the guidance set out in the Framework. Very special circumstances do not therefore need to be demonstrated in order to justify the proposal.

Living conditions

19. The appeal is positioned such that it incorporates land located to the rear of both No 1 and 5 Mount End (No 5). Whilst the closest proposed dwelling to Nos 1 and 5 would be sited close to common boundaries, it would be set away slightly when compared to the alignment of the existing barn. I also note that this closest proposed dwelling would not be set directly to No 5's rear. Whilst a 2 storey, east-facing gable end proportioned to sit beneath a cat-slide roof is proposed, in addition to a centrally positioned north-facing dormer/glazed element, I do not consider that this closest proposed dwelling would have an excessive visual impact so as to cause harm to neighbouring living conditions at either No 1 or No 5 through loss of outlook.
20. I am satisfied that the proposal would not result in an excessive visual impact such that the living conditions of any neighbouring occupiers would be harmed with particular regard to outlook. The proposal accords with Policy DBE 9 of the Epping Forest District Local Plan (January 1998) which requires that a change or intensification of use, extension or new development does not result in an excessive loss of amenity for neighbouring properties.

Integrity of the SAC

21. The site lies in the proximity of the Epping Forest Special Area of Conservation (SAC) and therefore the requirements of The Conservation of Habitats and Species Regulations 2017 apply. These regulations require that I, as the competent authority, must ensure that there are no significant effects from the proposed development (either alone or in-combination with other projects) that would adversely affect the integrity of the SAC. It is apparent from the evidence before me that the SAC is comprised of various habitats of high nature conservation value and that it supports a nationally outstanding assemblage of invertebrates, major amphibian interest and an exceptional breeding bird community.
22. The Council has brought to my attention interim advice for development issued by Natural England (NE) in June 2018 in light of additional work being undertaken to update the Local Plan level Habitats Regulations Assessment (HRA). The interim advice, to which I apportion significant weight, identifies in-combination recreational and air pollution impacts as areas of specific concern that would threaten the various habitats and important species contained within the SAC.
23. The Council has confirmed that the site lies further than 3km from the SAC such that they consider a recreational impact would not be had. Whilst from the evidence before me NE have referenced 6.2km as the appropriate distance threshold, the Council has confirmed that Council's Cabinet has recently resolved to take up an interim approach to managing recreational pressures on the SAC whereby a contribution of £352 per each new dwelling located within

- 3km of the SAC boundary is to be sought. I see no reason to dispute the Council's considered assessment in this regard and am thus satisfied that the proposal would not be anticipated to have a recreational impact upon the SAC.
24. With respect to air pollution impacts, NE advise that, with respect to proposals for 'minor development', neither an adverse nor a likely significant effect nor an effect on the integrity of the SAC can be ruled out. The Council has confirmed that it is awaiting instruction from NE as to what mitigation measures are required to address the air quality impacts of the proposal.
25. The potential harm arising from the provision of two dwellings would be from additional traffic and associated air pollution being generated in the proximity of the SAC so as to have detrimental effects upon the various habitats of high nature conservation value that are present. I note the close geographical relationship that exists between the site and the SAC, and the relatively direct nature of the linking vehicular route. Whilst only two dwellings are proposed, I consider, taking a precautionary approach, that additional traffic on roads in the proximity of the SAC would realistically be expected.
26. The appellant has confirmed a willingness, in principle, to entering into a legal agreement that requires the establishment of a mitigation strategy or the making of a financial contribution with respect to the SAC. However, I do not have a completed legal agreement and, from the evidence before me, there is not sufficient clarity or guidance in place at this point in time to direct what any such agreement should specifically contain with regard to air pollution mitigation.
27. Whilst I note the appellant's willingness to make an appropriate contribution at a later date, planning permission should only be granted where it has been demonstrated that the development will not adversely affect the integrity of the SAC. An appropriate contribution cannot therefore be delayed until a later date for the purposes of determining this appeal. In the absence of appropriate mitigation in an air pollution context, I am unable to allow this appeal.

Other Matters

28. An occupier at No 5 has raised concerns about potential overlooking being caused. It is, however, apparent that the proposed dwellings have been carefully designed and orientated so as to avoid undue overlooking occurring. Whilst openings would be provided within the north-facing elevation of the dwelling that would be sited closest to No 5, any internal views to be provided of No 5's neighbouring rear garden area would be at an oblique angle and, as such, would not be direct. I also note the intended provision of additional landscaping to the appeal site's boundary with No 5 to offer further assurances in this context and to also help in fully ensuring that the privacy of existing and future occupiers would be appropriately safeguarded.
29. I also consider that it would be unlikely for any potential associated light pollution from illumination associated with the proposed development to reach such an extent to cause material harm to the living conditions of neighbouring occupiers and note that neither has the Council raised concerns in this respect. Furthermore, I am content that full details of foul and surface water disposal could be adequately secured via condition should the appeal be allowed.

30. Theydon Barn makes up part of a cluster of traditionally designed former agricultural buildings to the south of the site and is grade II listed. It makes up part of a compact arrangement of linear barn type buildings that would appear historically connected with the farmhouse at Sawkins Farm to the front, which is also grade II listed.
31. It is apparent from the evidence before me that, in contrast to the previous proposal at the site that was ultimately dismissed at appeal in August 2018, a courtyard arrangement is now proposed in the interests of respecting the existing pattern of development exhibited by the cluster of buildings to the south. It is also apparent that the proposed dwellings would be relatively uncomplicated in their design and appearance and would utilise materials, including timber boarding, that would allow for them, in their proposed setback position from Mount End, to blend appropriately with their historic and wider surroundings. I note these findings are consistent with comments made by the Council's Conservation Officer. I am satisfied that the proposal would preserve the setting of nearby designated heritage assets such that no harm would be caused in this context.
32. It should also be noted that concerns raised by the appellant with respect to how the planning application (which is now the subject of this appeal) was determined by the Council are not relevant to the planning merits of the main issues in this appeal and have therefore not been taken into account in this decision.

Conclusion

33. I have found that the proposal would not be inappropriate in the Green Belt and would not cause harm to the living conditions of neighbouring occupiers. However, as there is no agreed mitigation in place at the current time to address the effect of air pollution, I cannot be satisfied that the proposal, in combination with other development, would not adversely affect the integrity of the SAC. This is the overriding consideration.
34. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 18 April 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 14th May 2019

Appeal Ref: APP/J1535/W/19/3220974

1 Buttercross Lane, Epping, Essex CM16 5AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Shaw (ARA Homes Ltd) against the decision of Epping Forest District Council.
 - The application Ref EPF/1583/18, dated 5 June 2018, was refused by notice dated 28 November 2018.
 - The development proposed is demolish existing house, replace with 9 apartments.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. An emerging plan, the Epping Forest District Local Plan Submission Version 2017, was submitted to the Secretary of State on 21 September 2018 for examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with the National Planning Policy Framework (the Framework), I give it limited weight and it does not alter my conclusions.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the Epping Conservation Area (CA); and
 - the living conditions of occupiers of 3 Buttercross Lane (No 3), as regards outlook.

Reasons

Character and appearance

4. The appeal site lies within the CA. I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability.

5. According to its Character Appraisal¹, the special architectural and historic interest of the CA derives from the historic layout of the settlement and the large number of historic buildings. The majority of the CA is taken up by Epping High Street; a long wide busy street lined with shops. The CA also includes several lanes and roads leading off the High Street, including Buttercross Lane which according to the Appraisal is a quiet residential cul-de-sac with a slightly quaint and charming character.
6. The appeal property is a twentieth-century 2-storey detached house in spacious grounds, mentioned in the Appraisal, on the western side of the Lane. Due to proximity and the slight curve of the Lane to the east, the house is prominent and one of the first residential dwellings seen after entering the Lane from the junction with the High Street.
7. Consequently, while stated of neutral value in the Appraisal and not of particular historical significance in its own right, the property is pivotal in securing the early impression of the Lane as a quiet residential cul-de-sac. Further, it successfully marks the transition from the more densely developed commercial properties fronting the High Street to the pleasant arrangement of mainly detached dwellings of the Lane which together provide its charming character.
8. The transitional effect is strengthened because the property is markedly different, in scale and design, to the adjacent taller weather-boarded buildings at No 269 High Street and Doubleday House. While the latter building comprises residential flats, submitted evidence indicates that it was originally an office block and it more closely associates with commercial properties behind it rather than with the mainly detached single dwellings in the Lane. The importance of the appeal property in acting as a gateway to similar residences in the Lane beyond is therefore enhanced.
9. The proposed development would demolish the appeal property and replace it with a significantly larger building with 9 apartments. Although it would have a similar width and front building line as the existing property, the flatted development would be taller. The southern element of the L-shaped building comprising 3 floors of accommodation would extend around 15 metres deeper into the plot than the existing house. Accordingly the building, and particularly the southern elevation as experienced after entering the Lane from the High Street, would appear significantly more dominant than the existing house.
10. The significantly increased height, bulk and massing of the proposal would end the positive effect that the current property exerts on the character and appearance of the CA, and would fail to preserve it. Notwithstanding the intended design of the building as a large detached house when seen from the front, other views including those experienced when coming from the High Street would produce a visual disassociation between the property and the quaint and charming ribbon of mainly detached single dwellings forming the cul-de-sac. The use of weather-boarding and design features similar to Doubleday House, which is itself incongruous with the prevailing residential built form of the Lane, would reinforce this disassociation.
11. I acknowledge that there are buildings to the south which are similar in height or taller than the proposal, including flatted developments, which have been

¹ Epping Conservation Area Character Appraisal and Management Plan, November 2009.

approved by the Council. However, these developments are more closely associated with commercial properties on the High Street and therefore do not contribute to the character and appearance of Buttercross Lane and the CA in the same way as the appeal site for the reasons given.

12. Having regard to paragraph 196 of the Framework, whilst the harm caused to the significance of the CA would be less than substantial, it is a matter of considerable weight and importance. The proposal would provide a net gain of 8 modern homes on previously developed land outside of the Green Belt, but these public benefits do not outweigh the harm.
13. I conclude the proposal would fail to preserve the character or appearance of the CA, and would cause less than substantial harm to its significance as a designated asset. The public benefits do not outweigh this harm and the proposal is therefore contrary to Policies DBE2, HC6 and HC7 of the Epping Forest District Local Plan which together seek to ensure that proposals protect the character and appearance of places, including conservation areas. The proposal is also contrary to the heritage protection and design principles of the Framework.

Living conditions, occupiers of No 3

14. The nearest part of the proposed building would be around 1.5 metres further away from the southern elevation of No 3 than the current building, due to the creation of an access road between the properties. The roof mass of the proposed development would also be stepped-down adjacent to No 3 by approximately 1.6 metres.
15. Notwithstanding the above, the proposed development would replace an existing 2-storey dwelling with a considerably larger block of flats with 3 floors of accommodation. The rear projection of the L-shaped building, while being located next to the site's southern boundary, would represent a significant bulk of built form that would extend around 15 metres beyond the rear building line of the existing house and No 3. Although I acknowledge that the appellants have designed the proposal with a view to ensuring that the new building is outside of any 45-degree sight lines from the windows of No 3, its sizeable bulk would significantly reduce the outlook from the rear patio and garden of that property. This would cause an oppressive sense of enclosure to the occupiers.
16. While I acknowledge that the outlook south from No 3 currently includes views of flatted developments associated with properties to the rear of the High Street, the proposed development would introduce a significant amount of built form in the foreground which, through its scale and proximity to No 3, would materially impact upon outlook from that property. Landscaping and planting on the northern boundary of the appeal site and either side of the access road, as suggested by the appellants, would not be effective in sufficiently softening the form of the building to reduce its impact due to its scale.
17. For the above reasons, the proposed development would detrimentally affect the outlook from No 3 causing significant harm to the living conditions of occupiers. As such it is contrary to Policy DBE2 of the Epping Forest District Local Plan which seeks to ensure that proposals do not have a detrimental effect on neighbouring properties. The proposal is also contrary to the design principles of the Framework.

Other Matters

Housing supply

18. The Council's officer report to its District Development Management Committee advises that the Council cannot demonstrate a 5-year housing land supply. The appellants have also said that the Council is failing to meet its housing targets.
19. Even if I were to conclude there is a shortfall in the supply of housing and that the most important policies for determining the proposal should be considered out-of-date with the Framework, Paragraph 11d) and footnote 6 would be engaged as an important material consideration. This states that planning permission should be granted unless the application of policies in the Framework that protect "areas or assets of particular importance" provide a clear reason for refusing the development proposed.
20. As the CA is an "area or asset of particular importance", and as I have found that less than substantial harm to the significance of a designated heritage asset is not outweighed by public benefits, this is a clear reason for refusing the proposed development. As such, even were I to find that there was a shortfall in housing supply, it does not indicate that the proposal should be permitted in spite of its conflict with the development plan.

Planning Obligation

21. The appellant is willing to enter into a Planning Obligation (PO) to make a financial contribution towards mitigating adverse effects to the Epping Forest Special Area of Conservation (SAC) caused by the creation of new homes within its surrounding area. As the appeal is being dismissed for reasons relating to the main issues, it is not necessary to consider the PO any further.

Conclusion

22. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Andrew Walker

INSPECTOR



Appeal Decision

Site visit made on 8 May 2019

by **Andrew Smith BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 June 2019

Appeal Ref: APP/J1535/W/18/3216022

Land East of Church Lane, Sheering

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by The Chelmsford Diocese Board of Finance against the decision of Epping Forest District Council.
 - The application Ref EPF/0141/18, dated 16 January 2018, was refused by notice dated 13 June 2018.
 - The development proposed is erection of 3no. new dwellings complete with garages, infrastructure, and associated works, including access from Church Lane.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 3no. new dwellings complete with garages, infrastructure, and associated works, including access from Church Lane at Land East of Church Lane, Sheering, in accordance with the terms of the application, Ref: EPF/0141/18, dated 16 January 2018, subject to the conditions set out at the end of this decision.

Procedural Matters

2. The Council has confirmed that the Epping Forest Local Plan Submission Version 2017 (the EFLPSV) was submitted for examination in September 2018 and that the hearings commenced in February 2019. Although I understand that the examination process is yet to conclude, where the content of relevant policies has been substantiated in the evidence before me, I have given them limited weight in my consideration of this appeal. This is because their content may yet change prior to being formally adopted.

Main Issue

3. The main issue is whether or not the proposal is inappropriate development in the Green Belt, and, if so, whether very special circumstances exist to justify the development in the Green Belt.

Reasons

4. The revised National Planning Policy Framework (February 2019) (the revised Framework) sets out that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless, amongst other exceptions, they represent limited infilling in villages. It is common ground between the main parties to this appeal that, for the purposes of assessing

- whether the proposal constitutes inappropriate development in the Green Belt, the site is located within the village of Sheering.
5. The revised Framework is a very important material consideration in regard to assessing proposals for development that affect the Green Belt. Policy GB2A of the Epping Forest Local Plan Alterations (July 2006) does not fully reflect the exceptions to inappropriate development that are clearly set out in the revised Framework and that are relevant here. Whilst therefore of limited relevance to my considerations, Policy GB2A nonetheless allows for planning permission to be granted for proposals that accord with another Green Belt policy.
 6. A nationally prescribed definition for limited infilling is absent in the revised Framework. Whether the proposal constitutes limited infilling in a village is therefore a matter of planning judgement based on the details of the proposal put forward and the site-specific circumstances at hand.
 7. The site, which is roughly rectangular in shape and takes the form of grassed agricultural land, is situated such that is surrounded by existing development on three of its sides with only the eastern side of the site adjoining undeveloped land. The Church Hall building located immediately to the south of the site, I note, is a sizeable structure and is served by a large expanse of hard-surfacing set out to its rear. Church Lane is characterised by built development on both of its sides on the approach from the appeal site to the core of the village situated to the north.
 8. The proposed development is not insignificant in scale. Indeed, each dwelling would provide two stories of living accommodation and be served by a detached garage. However, I am satisfied that the proposed development would sit comfortably with the surrounding character of the village. Because the appeal site is largely enclosed with built development, I am satisfied that the proposed development would not encroach into the open area and it would amount to the circumstances of limited infilling. My findings here are not inconsistent with the circumstances of a scheme advanced by the appellant for a similar development in proximity to the appeal site that was approved by the Council.
 9. For the above reasons, the proposal would not be inappropriate development in the Green Belt and, in this regard, it would accord with the revised Framework. As I have found that the proposed development is not inappropriate development in the Green Belt in accordance with an exception that does not expressly state a need to assess its effect on openness, the proposal should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.¹ Very special circumstances do not need to be demonstrated in order to justify the proposal.

Other Matters

10. The site lies in the proximity of the Epping Forest Special Area of Conservation (the SAC) and therefore I must consider the appeal against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects, I (as the competent

¹ Court of Appeal judgement Lee Valley Regional Park Authority v Epping Forest District Council, 2016 refers.¹

authority) must make an appropriate assessment of the implications of the project in view of the relevant site's conservation objectives.

11. It is apparent from the evidence before me that the SAC is comprised of various habitats of high nature conservation value and that it supports a nationally outstanding assemblage of invertebrates, major amphibian interest and an exceptional breeding bird community.
12. The Council has brought to my attention interim advice for development issued by Natural England (NE) in June 2018 in light of additional work being undertaken to update the Council's plan-level Habitats Regulations Assessment (HRA) (relating to the emerging Epping Forest Local Plan). The interim advice, to which I apportion significant weight, identifies in-combination effects from recreational activities and air pollution impacts from increased road traffic as areas of specific concern that would threaten the various habitats and important species contained within the SAC. With respect to recreational impacts, the appeal site is located considerably in excess of the 6.2km zone of influence identified as relevant by NE (the appeal site being some 14km from the SAC). As such, I am satisfied that there would be no likely significant effects associated with recreational impacts.
13. With respect to air pollution impacts from increases in road traffic, NE's interim advice relating to the emerging Local Plan states that, with respect to proposals for 'minor development', neither a likely significant effect nor an effect on the integrity of the SAC can be ruled out. Indeed, they advise that all residential and employment proposals within the Epping Forest District likely to have an air pollution impact on the SAC will need to be subject to HRA.
14. In my judgement, the site does not have an immediate relationship with the SAC. The appellant has stated that it is located in excess of 14km away and I have no reason to doubt this to be an accurate assessment of the separation distance that is involved. I must take a precautionary approach and note that the number of trips that would be expected to be generated by three dwellings would likely be greater than the number of trips generated by the site's present use as grazing land. Despite this, I do not consider that the quantum of additional traffic on roads (and associated air pollution) in the proximity of the SAC could realistically be expected to result in a demonstrable net increase in traffic as a result of a proposal that is for merely three dwelling houses given the distance involved.
15. I therefore conclude that there would be no likely significant effects on the SAC due to the lack of demonstrable evidence of any increase in traffic on roads within or adjacent to the SAC that could be attributable to the appeal site.
16. I acknowledge that Church Lane is narrow in width and is not afforded a footway along either of its sides close to the site. The access arrangements that are proposed appear appropriate in a highway safety context and have drawn no objections from the Local Highway Authority. A development of three dwellings would not be expected to generate significant flows of traffic. The appeal site, it appears, would be able to satisfactorily accommodate construction traffic (including parked vehicles) during the construction phase of development so as not to be likely to cause obstructions along Church Lane, particularly given that the proposed dwellings themselves would be setback within the site.

17. I note that concerns have been raised by a local resident due to their personal circumstances and difficulties that are encountered with hearing traffic noise and the associated challenges posed by the lack of footways along Church Lane. I have had regard to the equalities implications and associated duties arising but, due to the limited scale of development proposed, I do not consider that the proposal, once occupied, would likely lead to a noticeable change in the number of traffic movements experienced along Church Lane. Construction traffic movements to be generated would be expected to be relatively limited in terms of both their frequency and duration. I am content that the proposal would have an acceptable effect notwithstanding the specific circumstances raised.
18. Concerns have been raised by third parties to this appeal about grave space capacity at the nearby Church's graveyard. It is however apparent that the appeal site (i.e. that delineated in a red line on the submitted location plan) does not immediately adjoin the existing graveyard such that it would not appear that the proposal would prejudice any potential future extension to the graveyard that may be required. In any event, I am not aware of any planning restriction/requirement that would dictate that this matter should be considered any further here.
19. I also note that whilst the proposed dwellings are of relatively generous size, they would not, I consider, appear unduly large or prominent when considered alongside other housing stock in the immediate locality.

Conditions

20. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and has noted. I have considered the suggested conditions against advice in the revised Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes. Pre-commencement conditions have only been applied where agreed to by the appellant and where necessary to guide initial works on site.
21. In the interests of certainty, a condition specifying the approved plans is required. Following consultation with the main parties, I have adjusted (when compared to the plans listed on the Council's decision notice) the revision references for plans 3277:03 Rev B (now 3277:03 Rev C), 3277:04 Rev A (now 3277:04 Rev C) and 3277:05 (now 3277:05 Rev B). This is to ensure that full elevational details of all 3 of the dwellings are secured. I am of the understanding that these plans were before the Council when it made its decision to refuse planning permission and I am content that no interested party to this appeal is prejudiced by me taking this approach.
22. To ensure that the potential for archaeological remains to be present is properly investigated, a condition securing a written scheme of investigation is required. In the interests of highway safety, conditions requiring wheel washing facilities to be in place on site during construction and requiring approved parking areas to be retained for such purposes are required. A condition to limit construction hours in the interests of safeguarding neighbouring living conditions is also reasonable and necessary.
23. In the interests of visual amenity and safeguarding the character and appearance of the area, conditions are required securing details of intended

- external-facing materials and hard and soft landscaping (including means of enclosure, external levels and the provision of replacement planting where necessary). It is not necessary for the hard-landscaping details to cover car parking layouts, as these are already illustrated on the approved plans. The submission of an Arboricultural Method Statement is required to ensure that existing trees of value are properly safeguarded and protected. A condition securing the submission of an ecological enhancement scheme is also reasonable in the interests of seeking to enhance biodiversity.
24. The provision of electric vehicle charging points is reasonable and necessary in the interests of seeking to support air quality improvements (although, for the avoidance of doubt, their provision is not determinative in my finding that the proposal would not adversely affect the integrity of the SAC). With respect to seeking to limit water use, a condition securing the achievement of a water efficiency standard is reasonable. To ensure enforceability, conditions shall be worded so as to secure full details of the intended charging points and water efficient measures prior to their installation.
25. Conditions securing compliance with the submitted flood risk assessment and the future stopping of development works, should unexpected contamination be found, appear prudent and reasonable. Details of surface water disposal mechanisms are reasonable and necessary to secure prior to the development's first occupation. These details, noting that the mechanisms would likely be installed late in the construction phase of development, are not required before any development takes place.
26. I note that the Council, in the interests of preventing a future need for additional buildings in a Green Belt location, has suggested a condition requiring that garages are only used for the parking of cars together with any ancillary storage. I see merit in guarding against the future development of buildings at the site, such that a condition to this effect would be both reasonable and necessary.

Conclusion

27. For the reasons set out above, the appeal is allowed.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted will be completed strictly in accordance with the following approved plans: Location Plan (scale 1:1250); 3277:01 Rev E; 3277:02 Rev E; 3277:03 Rev C; 3277:04 Rev C; 3277:05 Rev B.
- 3) No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which shall first be submitted to and approved in writing by the local planning authority.
- 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 first be submitted to and agreed in writing by the local planning authority. The approved installed washing/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 an implementation programme 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, details of existing features to be retained, proposed finished levels or contours, means of enclosure and 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) 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 and agreed in writing by 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.
- 7) If any tree, shrub or hedge intended to be retained (as illustrated via details to be submitted in accordance with Condition 6 of this permission) 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.

- 8) No construction works above ground level shall take place until full details of the types and colours of the external finishes of the development have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with such approved details.
- 9) Prior to the first occupation of the development, details to demonstrate that the development secures a water efficiency standard of 110 litres (or less) per person per day shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with such approved details.
- 10) Prior to the first occupation of the development, measures to improve the ecological value of the site shall be implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 11) Prior to the first occupation of the development, an electric vehicle charging point shall be provided for each of the approved dwellings in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 12) Prior to the first occupation of the development, details of surface water disposal shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved details have been implemented in full, which shall thereafter be retained at all times.
- 13) All construction/demolition works and ancillary operations, including vehicle movements on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 0730 to 1830 Monday to Friday and 0800 to 1300 hours on Saturdays, and at no time during Sundays and Public/Bank Holidays.
- 14) 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, all development works shall be stopped, the local planning authority contacted and a scheme to investigate the contamination risks and/or to set out any required remedial measures shall be submitted to and agreed in writing by the local planning authority prior to the recommencement of development. Following the completion of development and prior to its first occupation, information to demonstrate that any required remedial measures were satisfactorily implemented or confirmation that no unexpected contamination was encountered shall be submitted to and approved in writing by the local planning authority.
- 15) The external parking areas shown on the approved site layout plan (Ref 3277:02 Rev E) shall be provided prior to the first occupation of the

development hereby approved and shall at all times be retained free of obstruction and for the sole purpose of parking vehicles.

- 16) The garages hereby approved and shown on the approved site layout plan (Ref 3277:02 Rev E) shall be retained at all times such that they are capable of accommodating parked vehicles together with any ancillary storage in connection with each of the dwellings hereby approved, and no garage shall be converted into a habitable room or used for any other purpose.
- 17) The development hereby approved shall be carried out in accordance with the flood risk assessment (Evans Rivers and Coastal - Flood Risk Assessment and Surface Water Drainage/SuDS Strategy, Ref 1937/RE/11-17/01 Revision A January 2018).