

Committee Agenda



Epping Forest District Council

AREA PLANNING SUB-COMMITTEE WEST **Wednesday, 2nd December, 2020**

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

Virtual Meeting on Zoom
on **Wednesday, 2nd December, 2020**
at **7.00 pm**.

Georgina Blakemore
Chief Executive

Democratic Services
Officer:

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

Members:

Councillors D Dorrell (Chairman), J Lea (Vice-Chairman), N Avey, R Bassett, S Heather, H Kane, S Kane, Y Knight, J Leppert, A Mitchell, D Plummer, M Sartin and D Stocker

WEBCASTING/FILMING NOTICE (VIRTUAL MEETINGS)

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.

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 participating in this virtual meeting, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If members of the public do not wish to have their image captured they should ensure that their video setting throughout the virtual meeting is turned off and set to audio only.

In the event that technical difficulties interrupt the virtual meeting that cannot be overcome, the Chairman may need to adjourn the meeting.

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

1. WEBCASTING INTRODUCTION

1. This virtual meeting is to be webcast. Members are reminded of the need to unmute 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).

Please could I also remind Members of the Public who have registered to speak that they will be admitted to the meeting at the appropriate time.

Please also be aware that if technical difficulties interrupt the meeting that cannot be overcome, I may need to adjourn the meeting.”

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. APOLOGIES FOR ABSENCE

4. MINUTES (Pages 9 - 14)

To confirm the minutes of the last meeting of the Sub-Committee held on 4 November 2020.

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

Members are reminded that for the duration of the coronavirus pandemic, as decided at the Group Leaders' Meeting of 24 June 2020, **no member site visits will be conducted.**

Therefore, any planning application deferred for a site visit at an Area Planning Sub-Committee will be automatically referred to the District Development Management Committee for determination.

9. PLANNING APPLICATION - EPF/3471/17 LAND REAR OF OAKLEY HALL, HOE LANE, NAZEING EN9 2RN (Pages 15 - 24)

To consider the attached report for the demolition of derelict glasshouse and sundry structures, erection of 50 bed care home with associated ancillary parking and landscaping. (Resubmission of approved EPF/1907/10).

10. PLANNING APPLICATION - EPF/1881/20 HILLVIEW, ST LEONARDS ROAD, NAZEING EN9 2HQ (Pages 25 - 34)

To consider the attached report for the removal of the S106 Legal Agreement on planning permission EPF/1547/18 (Demolition of existing house and the erection of 5 (3, 2 bed and 2, 1 bed) flats. The 3 ground floor flats are to be provided for disabled residents and their families').

11. 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.

12. REFER SIGN (Pages 35 - 36)

If any member wants to **refer** a planning application to the District Development Management Committee (DDMC), please **hold up this refer sign** in front of your screen immediately after the vote has been taken. If at least 4 members agree/hold up their refer signs, the application will be referred to DDMC.

Alternatively, if any member wishes to **refer** a planning application to DDMC, they should propose a **motion to refer** this application immediately after the vote has been taken. The Chairman will then ask for a seconder. After a seconder has been sought, the Chairman will then ask if any other member wishes to support this resolution. If at least 4 members agree then the application will be referred to DDMC, otherwise the motion to refer will fail.

Advice to Public and Speakers at virtual meetings of 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 virtually if you are a speaker, or to view on the Council's website at <https://www.eppingforestdc.gov.uk/your-council/watch-a-meeting/> Only in special circumstances are the public excluded.

When is the meeting?

Details of the 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 Services. 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 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 virtually.

Only registered speakers will be admitted to the virtual meeting. This will be via the Zoom meeting invite you have been emailed by Democratic Services. Speakers must NOT forward this invite to anyone else under any circumstances. Alternatively, speakers may be contacted by phone at the appropriate time in the meeting when a Democratic Services Officer will contact you. If you are not present by the time your item is considered, the Committee will determine the application in your absence. Speakers should be following the meeting on the Council's webcaster to enable them to know when their item will be considered.

A transcript of your representation must be supplied in advance of the meeting to enable the Democratic Services Officer to read this out on your behalf should there be a technical problem. Please email your written statement to: democraticservices@eppingforestdc.gov.uk

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 <https://rds.eppingforestdc.gov.uk/mgMemberIndex.aspx?bcr=1>. 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.

Area Planning Sub-Committee West 2020-21

Members of the Committee and Wards Represented:



Chairman
Cllr Dorrell
Waltham
Abbey
Paternoster

Vice-Chairman
Cllr Lea
Waltham Abbey
North East

Cllr Avey
Broadley
Common,
Epping Upland
and Nazeing

Cllr Bassett
Lower Nazeing

Cllr Heather
Waltham
Abbey
Honey Lane



Cllr H Kane
Waltham Abbey
South West

Cllr S Kane
Waltham Abbey
Honey Lane

**Cllr Y
Knight**
Lower
Nazeing

Cllr Leppert
Waltham
Abbey
Paternoster

Cllr Mitchell
Waltham
Abbey North
East



Cllr Plummer
Waltham
Abbey South
West

Cllr Sartin
Roydon

Cllr Stocker
Waltham
Abbey
Honey Lane

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Area Planning Sub-Committee **Date:** 4 November 2020
West

Place: Virtual Meeting on Zoom **Time:** 7.00 - 7.40 pm

Members Present: D Dorrell (Chairman), J Lea (Vice-Chairman), N Avey, R Bassett, H Kane, S Kane, Y Knight, J Leppert and D Stocker

Apologies: S Heather, A Mitchell, D Plummer and M Sartin

Officers Present: J Godden (Heritage, Enforcement & Landscaping Team Manager), A Marx (Development Manager Service Manager (Planning)), L Kirman (Democratic Services Officer), G Woodhall (Team Manager - Democratic & Electoral Services), V Messenger (Democratic Services Officer) and R Moreton (Corporate Communications Officer)

40. 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.

41. WELCOME AND INTRODUCTION

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements agreed by the Council, to enable persons to address the Sub-Committee in relation to the determination of applications for planning permission.

42. MINUTES

RESOLVED:

That the minutes of the meeting of the Sub-Committee held on 9 September 2020 be taken as read and signed by the Chairman as a correct record.

43. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

44. ANY OTHER BUSINESS

The Sub-Committee noted that there was no other urgent business for consideration at the meeting.

45. 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

46. SITE VISITS

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

The Sub-Committee Members noted that, for the duration of the coronavirus pandemic, any planning applications deferred for a site visit at an Area Planning Sub-Committee will be automatically referred to the District Development Management Committee (or Council) for determination.

47. PLANNING APPLICATION - EPF/1533/20 FORMER DUKE OF WELLINGTON, WELLINGTON HILL, LOUGHTON

APPLICATION No:	EPF/1533/20
SITE ADDRESS:	Former Duke Of Wellington Wellington Hill Loughton IG10 4AH
PARISH:	Waltham Abbey
WARD:	Waltham Abbey High Beach
DESCRIPTION OF PROPOSAL:	Proposed demolition of existing buildings & construction of x2 no. apartment blocks, consisting of 8 flats , provision of ancillary car & cycle parking, electric vehicle charging points, amenity space, landscaping & boundary treatment.
DECISION:	Grant Permission (Subject to Legal Agreement)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=639473

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 No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.

- 3 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, 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.
- 4 No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 5 Following completion of the measures identified in the approved remediation scheme, and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 6 In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the Phase 2 report, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 7 The development must be carried out in accordance with the Drainage Strategy (Surface Water Drainage Strategy, July 2020, Ref SuDs-2637-2020, Rev B) submitted with the application unless otherwise agreed in writing with the Local Planning Authority.

- 8 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 9 The access arrangements, including visibility splays, vehicle parking and turning areas as indicated on the approved plans shall be provided and retained as such in perpetuity for their intended purpose.
- 10 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 11 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 12 Before any preparatory demolition or construction works commence on site, full ecological surveys, and where necessary a mitigation strategy, for the site shall be submitted to the Local Planning Authority for agreement in writing with a working methodology for site clearance and construction work to minimise impact on any protected species and nesting birds. Development shall be undertaken only in accordance with the agreed strategy and methodology.
- 13 Prior to first occupation of the development, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the Local Planning Authority. The ecological value shall be quantified using the Biodiversity Impact Assessment Calculator (BIAC) where appropriate. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
- 14 The development hereby permitted will be completed and retained strictly in accordance with the approved drawings numbers:
 - a) Drawing No. 2626.3 (Ground Floor Plan Block A)
 - b) Drawing No. 2626.4 (First Floor Plan Block A)
 - c) Drawing No. 2626.5 (Proposed Block A Front, Rear and Side Elevations Plan)
 - d) Drawing No. 2626.8 (Existing Plan including Key to Buildings)
 - e) Drawing No. 2626/9 (Former Public House Building A)
 - f) Drawing No. 2626./10 (Existing Buildings B& D)
 - g) Drawing No.2626/11 (Existing Building C)
 - h) Drawing No. 26.26.2A (Proposed Site wit Railings Added)
 - i) Drawing No. 2626.1A (Proposed Site Plan with Frontage Treatment Amended)
 - j) Drawing No. 2626.7A (Existing & Proposed Street Scenes)
 - k) Drawing No. (3926/1(Site Location Plan),Dated 20/05/2020.
 - l) Drawing No.(Artwork Site Plan)
 - m) Drawing No. (Street Scene From Wellington Hill)
 - n) Drawing No. LP1 Rev 1 (Proposed Landscape Plan Amended) Dated 10/08/2020.
 - o) Arboricultural Report and Tree Condition Survey for Proposed Development)
 - p) Desk Study/Preliminary Risk Assessment Report Ref no. P2529J1853/JWT Dated 06/12/2019.
 - q) Planning Statement

- r) Drawing No.2626.6 (Proposed Bike & Bin Stores)
- s) Transport Statement Letter Dated 15th July 2020.
- t) SuDS Statement Document Ref: SuDS-2637-2020 Revs:B- Final Dated 12/06/2020.

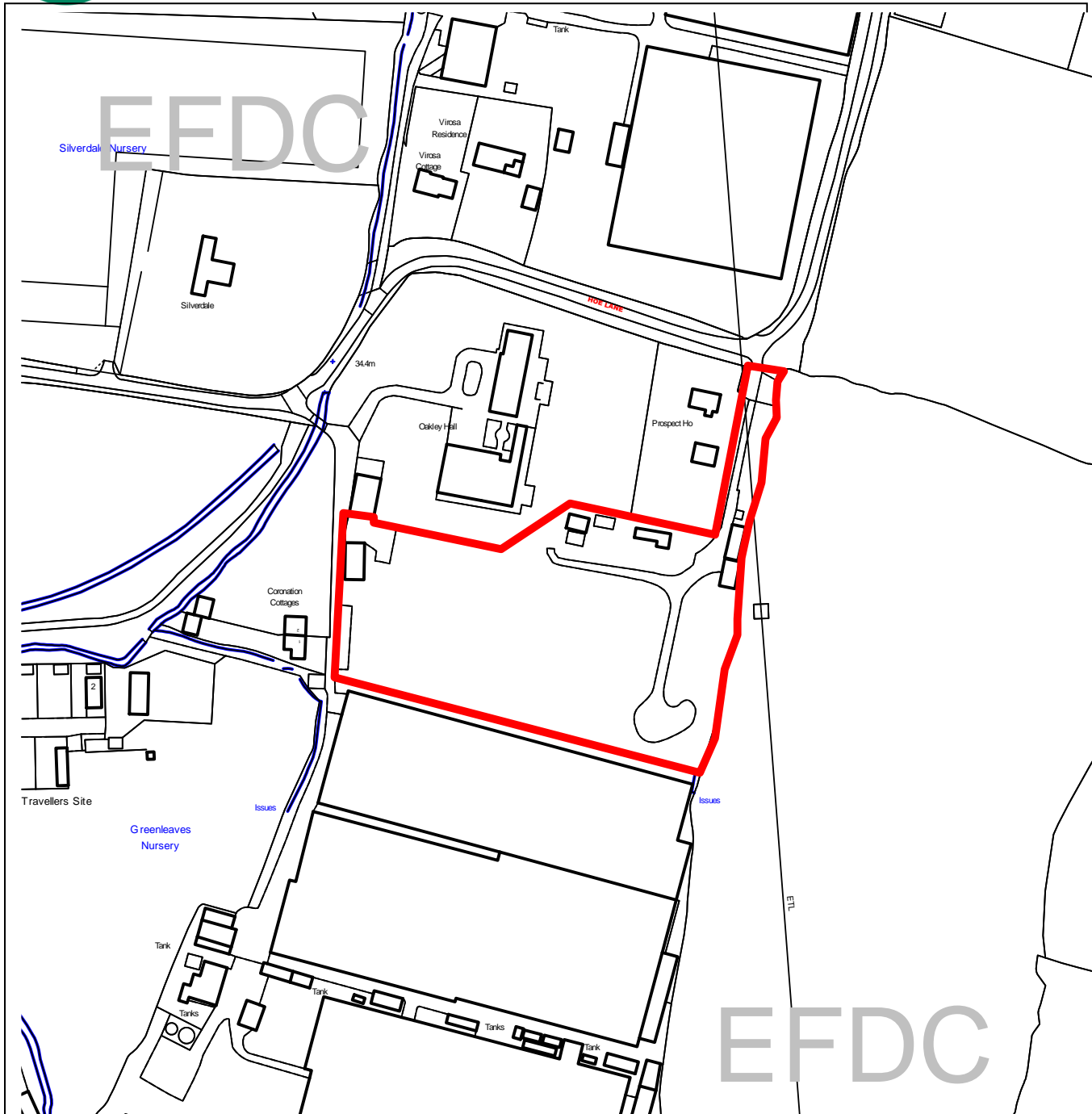
- 15 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- 1.The parking of vehicles of site operatives and visitors
 - 2. Loading and unloading of plant and materials
 - 3. Storage of plant and materials used in constructing the development
 - 4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - 5. Measures to control the emission of dust and dirt during construction, including wheel washing.
 - 6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
 - 7. Tree protection measures.
- 16 Prior to the first occupation of the dwellings the 4 electric charging points as per plan Drawing No. 2626.2A shall be installed and operational (and shall continue operation during occupation).

CHAIRMAN

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Epping Forest District Council



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Application Number:	EPF/3471/17
Site Name:	Land rear of Oakley Hall Hoe Lane Nazeing EN9 2RN
Scale of Plot:	1:2500

Report Item No: 9

APPLICATION No:	EPF/3471/17
SITE ADDRESS:	Land rear of Oakley Hall Hoe Lane Nazeing Waltham Abbey EN9 2RN
PARISH:	Nazeing
WARD:	Lower Nazeing
APPLICANT:	Essex Care Homes Ltd
DESCRIPTION OF PROPOSAL:	Demolition of derelict glasshouse and sundry structures, erection of 50 bed care home with associated ancillary parking and landscaping. (Resubmission of approved EPF/1907/10)
RECOMMENDED DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=603833

REASON FOR REFUSAL

- 1 The proposals represents inappropriate development within the Green Belt which by reason of its scale and mass and the associated extent of hard landscaping would have a significant and adverse effect on the character and openness of the Green Belt, which has not been justified by an established case of very special circumstances in support of the proposals. The development would therefore be contrary to policies CP2, GB2A and GB7A of the Adopted Local Plan and Alterations, policies DM4, DM5 and DM9 of the Local Plan Submission Version 2017, and the NPPF.
- 2 The application does not provide sufficient information to satisfy the Council, as competent authority, that the proposed development will not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the proposed development should be permitted. As such the proposed development is contrary to policies SP1, SP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policy DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.
- 3 The location of the development in an unsustainable location would be remote from public transport or local service facilities without adequate and safe access for pedestrians in particular to and from such facilities, thereby increasing dependence on private car use contrary to polices CPI , CP2, CP3, CP6 and STI of the Adopted Local Plan and Alterations, policies SP1, SP2, T1 and DM21 of the Local Plan Submission Version 2017, and the NPPF.

EPF/3471/17

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, and the Local Council confirms it intends to attend and speak at the meeting where the application will be considered (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).

Description of Site:

The application site comprises around 1.26ha and located to the south of Oakley Hall, itself on the east side of Hoe Lane. The site appears largely disused with remains of glass houses on the western half, and open ground to the east; it has evidently not been used for horticulture for a considerable period. Access to the site is from the north, along the flank of Prospect House.

The site and surrounding land all lies within the Green Belt and the eastern site boundary abuts the Nazeing and South Roydon Conservation Area.

The area comprises a mix of uses, immediately to the south lies glasshouses and such a common in the area. Oakley Hall and Prospect House are residential properties with separate access from each other and the site, and land to the east is of open character.

Description of Proposal:

The application proposes demolition of all existing structures and the erection of 50 bed care home with associated ancillary parking and landscaping, and is effectively a resubmission of a scheme previously approved under application EPF/1907/10.

The building lies on the western half of the site comprising effectively a central core with three wings. The buildings are mostly two storey with a simple elevational form, a glazed link breaks the structure into two main cores and the east wing includes a sloping roof continuing to ground level and featuring a green roof.

Individual rooms are of simple layout providing en-suite facilities and a bedroom. Communal lounges are located across the building and larger communal dining areas are provided on ground and first floor. A café lies at the central core and other facilities include cinema room, library, hairdressing space and multi-purpose space. Staff facilities include changing room and lounge, in a first floor cluster.

The land to the west of the building is enclosed to provide landscaped grounds and access is from the east side where parking is set in further grounds for 20 vehicles; provision is also made for an ambulance stand and four cycle stands abut the building.

Relevant History:

There is a history of applications relating to horticultural buildings and in the period leading up to the previous permission a number of refused applications for housing schemes.

EPF/1907/10 Demolition of derelict glasshouse and sundry structures, erection of 50 bed care home with associated ancillary parking and landscaping. This was itself a resubmission following an earlier withdrawn application. Officers initially recommended refusal but the application was referred to DDMC where permission was granted subject to conditions and a section 106 agreement.

Policies Applied:

Adopted Local Plan:

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

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

CP1	Achieving sustainable development objectives
CP2	Protecting the quality of the rural and built environment
GB2A	Development in the Green Belt
GB7A	Conspicuous development
NC1	SPA's, SAC's and SSSI's
NC3	Replacement of lost habitat
NC4	Protection of existing habitat
RP4	Contaminated land
U3B	Sustainable drainage systems
DBE1	Design of new buildings
DBE2	Effect on neighbouring properties
DBE4	Design in the Green Belt
DBE5	Design and layout of new development
DBE6	Car parking in new development
DBE9	Loss of Amenity
LL2	Inappropriate rural development
LL10	Adequacy of landscape protection
LL11	Landscaping schemes
ST1	Location of development
ST2	Accessibility of development
ST4	Road safety
ST5	Travel Plans
ST6	Vehicle parking

NPPF (February 2109):

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

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

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

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

- 9 Promoting sustainable transport – paragraphs 105, 108, 110
- 11 Making effective use of land – paragraphs 118, 121, 123
- 12 Achieving well designed places – paragraphs 124, 127, 128, 130, 131, 132
- 13 Protecting Green Belt land – paragraphs 134, 143 - 147
- 14 Meeting the challenge of climate change, flooding and coastal change – paragraphs 150, 151, 153, 163, 165
- 15 Conserving and enhancing the natural environment – paragraphs 170, 174-178, 180

Epping Forest District Local Plan (Submission Version) 2017:

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)."

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

POLICY	WEIGHT AFFORDED
SP1 Presumption in favour of sustainable development	Significant
SP2 Spatial Development Strategy	Some
SP6 Green Belt and District Open Land	Some
SP7 The Natural Environment, landscape character and green infrastructure	Significant
T1 Sustainable transport choices	Significant
T2 Safeguarding of routes and facilities	Significant
DM1 Habitat protection and improving biodiversity	Significant
DM2 Epping Forest SAC and Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM4 Green Belt	Significant
DM5 Green and Blue Infrastructure	Significant
DM9 High Quality Design	Significant
DM10 Housing design and quality	Significant
DM15 Managing and reducing flood risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM19 Sustainable water use	Significant
DM21 Local environmental impacts, pollution and land contamination	Significant
DM22 Air quality	Significant

Consultation Carried Out and Summary of Representations Received

Date of site visit: 29 June 2020
 Number of neighbours consulted: 83
 Site notice posted: 06 May 2020
 Responses received: No responses received from neighbours.

Parish Council: Initial consultation took place during the first lockdown at a time when the Parish Council was unable to comment. An individual Parish Councillor supported the application. Nazeing Parish Council were re-consulted once local meetings recommenced and have supported the application on grounds that the proposal will:

- i) Provide state of the art care for local people.*
- ii) Provide new jobs for local people.*
- iii) Remove another unsavoury site, which has become a dumping ground for rubbish.*

Further it is considered that there is a need for a Care Home in Nazeing which local people will be able to use without their visitors having to travel long distances. In addition, any potential issues in relation to Green Belt were resolved when the previous application was considered by EFDC.

Additional comment – Robert Halfon MP has submitted the following:

I would hope that the views of individual residents have been made directly to the district council including those of individual councillors.

I do however note that a similar application in 2010 was approved with conditions (although this did not go ahead) and that this had parish council and public support - it was believed to be a facility which would be beneficial to the local area.

I therefore very much hope that the view of those who have made representations will be carefully considered when this application is examined.

Main Issues and Considerations:

Representations refer to the previous permission for the development. That permission was finally issued in January 2013 and expired therefore in January 2016 without any works commencing. Planning permission has a limited life for a number of reasons, but primarily to allow development to be assessed against changing local and national planning policy. The policies against which this scheme is judged has changed significantly since 2013 with two revisions to the NPPF and the emergence of the Local Plan Submission Version. The site was considered as part of the Local Plan process, but did not proceed beyond initial assessment and has therefore not been allocated for development. Guidance on determining applications is clear, that significant weight needs to be given to the most up to date policy and guidance. In this context therefore, little weight should be given to a decision that pre-dates that up to date policy by a significant period.

Green Belt considerations

The primary consideration is therefore the consideration of the Green Belt issues. The site was previously used as glasshouses and would not meet the definition of previously developed land. In any event, from an inspection of the site it has been disused for a number of years and has merged somewhat into the landscape. National and local policy are therefore clear – that development of this nature is inappropriate in such a location as it fails to meet any of the exceptions in paragraph 145 of the NPPF, and policy DM4 of the LPSV.

As such it is necessary to consider whether very special circumstances exist which may justify departure from the adopted policy. The application is accompanied by a Care Needs Assessment which identifies a catchment of around 8 km from the site and this indicates an overall shortfall in the existing and planned capacity for care homes and extra care housing. It should be noted that due to the location of the site, this catchment area includes Harlow, Hoddesdon, Cheshunt and Waltham Abbey, as well as most of Epping. Officers suggest that including all of the major population centres in the surrounding area is likely to identify a higher level of need. The study does not identify a specific need for the accommodation on this site, or even within Nazeing Parish and this is significant in the context of the findings from the LPSV studies. These do identify a need for additional accommodation over the plan period, but include provision within the overall supply of land for all types of housing within the allocated sites, which include significant sites within the catchment study. It is noted that the study does not appear to have taken these allocations into account. As such, there is no overriding need for the accommodation, nor evidence to suggest it cannot be provided elsewhere (particularly not on sites which are within the Green Belt, or on sites that may be classed as previously developed land), then in the current policy framework, the development would be contrary to national and local policy designed to protect the Green Belt.

Epping Forest Special Area of Conservation

The site lies more than 3km from the EFSAC and has therefore been considered in terms of potential impact on air quality only. The application includes a transport assessment which argues that a comparative site in use as glasshouses would generate vehicular activity greater than the proposed care home (which it is suggested would be expected to generate around 105 movements per day). However, in terms of an appropriate assessment under the Habitat Regulations, this is a modelled calculation not based on any actual traffic data from the site, raising a number of issues. Firstly, there is nothing to suggest the modelled data is comparable to the application site (other than in terms of site area), and secondly, the site has been disused for some period and historic activity cannot be considered a relevant comparison.

In such circumstances, it must be concluded that the development will have a harmful effect on air quality within the EFSAC.

Location sustainability

The site lies in a remote location, some distance from any services and facilities. Hoe Lane is a narrow road without any footways or street lighting for much of its length. The Transport Assessment records bus services on Middle Street, around 1.3km from the site entrance, presenting extremely hazardous conditions for staff to travel to and from work by public transport. As a result, the development would not be considered as situated in a sustainable location and would rely almost entirely on journeys by car.

No evidence has been submitted to suggest any updated analysis has been carried out in terms of a sequential approach to reconsidering the site. Other allocated sites in Nazeing are allocated in the LPSV for new residential development of all types, which as set out above would include care accommodation and to locate development of this scale in such a location would be contrary to a range of policies seeking to reduce the need for car journeys.

Design considerations

The site is set back from the road and partially screened from public view. The building does not exceed two storeys, similar to the adjacent property and therefore the scale is not excessive nor unduly prominent architecturally. There is sufficient interest in the built form to break up the visual mass.

The overall scale of the building, together with the associated works of parking and access, and the managed grounds are that of a development to be found in a more urban setting and could not be described as in keeping with the overall character of the setting, nor a Green Belt location. This only adds to the potential wider harm, but the scheme could not be defined as of poor design when viewed in isolation.

Other matters

In highways terms, the development raises no safety issues for access and vehicle users, the existing access is designed for large vehicles visiting the former glasshouses and there are no highway objections.

No concerns arise in regards to potential impact on surrounding properties, the siting of the buildings away from boundaries with adjoining dwellings to the north and east prevents overshadowing and overlooking, and the overall level of external activity would not be seen as intrusive.

The historic uses mean that the site is likely to be contaminated, and has been confirmed in a contaminated land report submitted with the application. Further testing would be required if development were to be acceptable and this could be dealt with by condition.

The site has been identified as being of ecological interest, in that evidence of slow worms has been found on the site, and a nearby pond supports great crested newts. Given the semi-rural location, potential for bat and bird nesting activity has been identified. Mitigation measures are recommended if development were to proceed and can be controlled by condition.

The site lies within an EFDC Flood Risk Assessment Zone. A Flood Risk Assessment (FRA) accompanies the application and proposes a drainage strategy incorporating appropriate sustainable drainage techniques. These measures are supported in principle by the drainage authorities and conditions would provide opportunity for these measures to be fully designed.

The previous development was subject to a s106 agreement dealing with a number of off site matters, and a contribution for health care was paid. At this time no further obligations have been identified.

Conclusion:

Members are reminded that applications are required to be determined on the basis of the most up to date national and local planning policy. Historic decisions should carry little weight where wider circumstances have changed. That does not imply that the previous approval should be disregarded entirely, but planning permission last for a three year period for a reason, specifically to allow consideration of the changing planning requirements. The site was considered for allocation as part of the LPSV but did not proceed as other sites evidently are better suited to provide this type of accommodation – sites not in semi-rural Green Belt locations and those in more sustainable locations accessible directly by a range of transport modes; such sites include allocated sites within Nazeing.

The application site fails a number of key tests in terms of meeting criteria for exceptions to Green Belt policy and to approve the development now would undermine wider Green Belt protection in the vicinity.

However, taking account of the previous decision, if Members are minded to consider the development further, then it should be noted that the application could not currently be approved as it would result in an increased impact on air quality in the EFSAC area, and decision should be deferred pending resolution of a mitigation strategy in that regard.

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

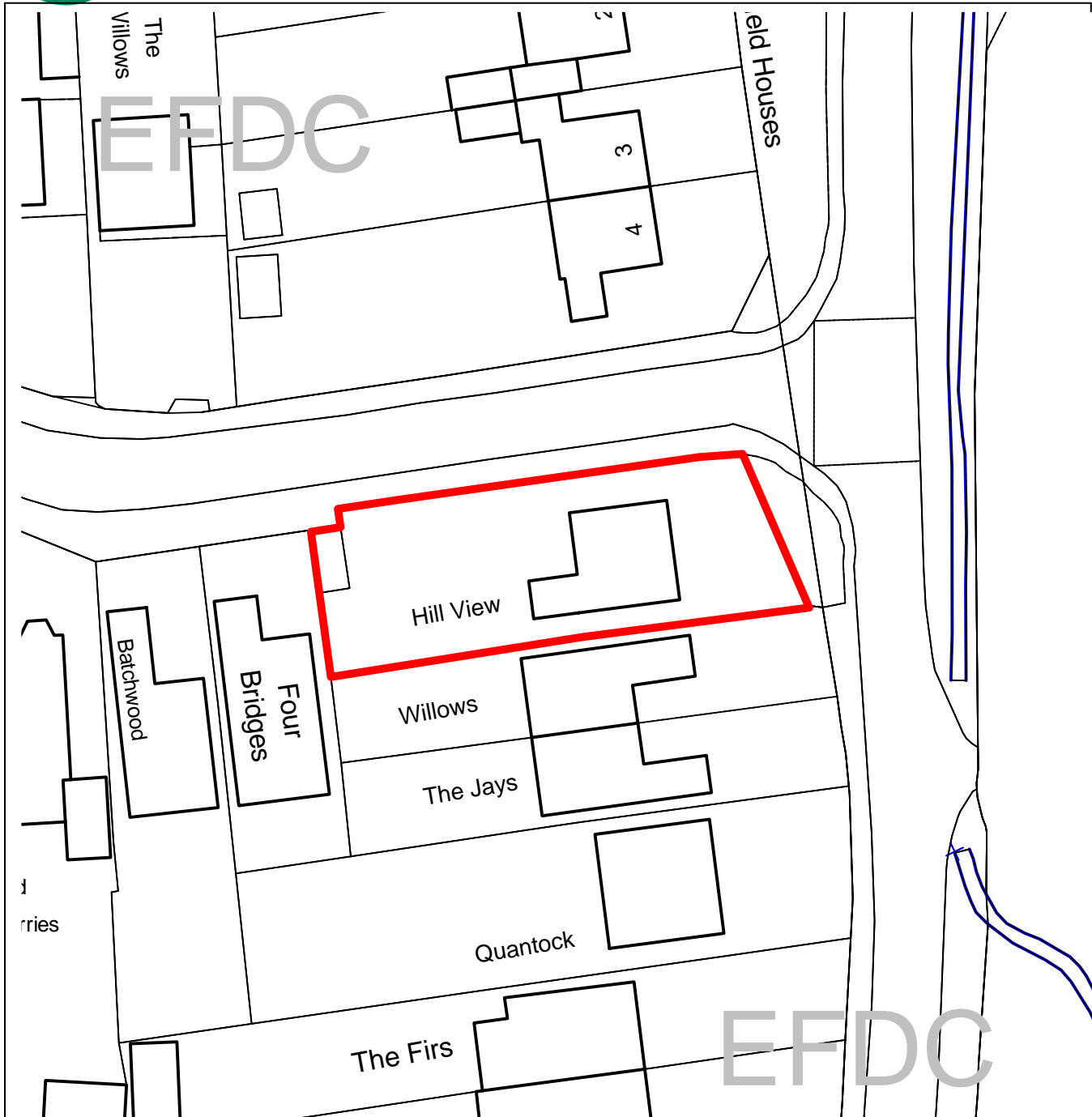
***Planning Application Case Officer: Ian Ansell
Direct Line Telephone Number: 01992 564481***

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/1881/20
Site Name:	Hillview, St Leonards Road Nazeing Essex EN9 2HQ
Scale of Plot:	1:500

Report Item No: 10

APPLICATION No:	EPF/1881/20
SITE ADDRESS:	Hillview St Leonards Road Nazeing Essex EN9 2HQ
PARISH:	Nazeing
WARD:	Lower Nazeing
APPLICANT:	Mr Robert Currell
DESCRIPTION OF PROPOSAL:	Removal of the S106 Legal Agreement on planning permission EPF/1547/18 (Demolition of existing house and the erection of 5 (3, 2 bed and 2, 1 bed) flats. The 3 ground floor flats are to be provided for disabled residents and their families')
RECOMMENDED DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=641113

REASON FOR REFUSAL

- 1 The applicant has failed to demonstrate sufficient justification for the removal of the Legal Agreement which was a significant material consideration justifying the approval of the development. The removal of the legal agreement would result in the loss of the much-needed local community benefit and a development that is contrary to policies CP1, DBE1, DBE6, DBE8, DBE9, 11A, ST4 & ST6 of the Epping Forest adopted Local Plan and Alterations (1998 & 2006) and policy SP1, DM9, DM10, D4, I1A and T1 of the Submission Version, 2017 and the NPPF, 2019.

This application is before this Committee since the recommendation is for Refusal contrary to Local Council support which is material to the planning merits of the proposal, and the Local Council confirms it intends to attend and speak at the meeting where the application will be considered (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).

Description of Site:

Hillview was a detached 3-bed chalet bungalow located on a corner at the junction of St. Leonards Road and Tatsfield Avenue which has now been partly demolished. The site is located towards the edge of Nazeing, outside of the Metropolitan Green Belt. The site is not within a Conservation Area or a Listed Building.

Description of Proposal:

This application seeks the removal of the 106 Legal Agreement of planning ref: EPF/1547/18 - the demolition of existing house and the erection of 5 (3, 2 bed and 2, 1 bed) flats. The 3 ground floor flats are to be provided for disabled residents and their families

The S106 agreement ensured that the disabled units were to be made available for those registered as disabled and would be for the benefit of the local community

- Clause 5 provided that the 3 disabled units should be built and fitted out to mobility standard.
- Clause 6 requires that the disabled apartment must be occupied by registered disabled persons
- Clause 7 requires that the disabled apartments must be marketed for sale and /or occupation to persons who have resided within 8 miles radius of the site for the previous 5 years.

The applicant has submitted a number of documents in support of the application claiming that there is a clear demand for disabled units within Nazeing and therefore there is no requirement for an Agreement as the market will determine that the units remain in occupation for disabled persons.

This documentation includes a Solicitor's letter which argues that the conditions in the Legal Agreement are affecting financiers coming forward to fund the project who consider the Legal Agreement to be too restrictive preventing their ability to take possession and re-sell should the owner fall into mortgage arrears. The assumption made is also that the prospective purchasers will be unable to obtain residential mortgages and without bank funding the scheme cannot go ahead.

Relevant History:

EPF/0833/20 - Modifications to S106 agreement on planning permission ref EPF/1547/18 Clause 6 & 7 (Demolition of existing house and the erection of 5 (3, 2 bed & 2, 1 bed) flats. The 3 ground floor flats are to be provided for disabled residents and their families) - Refused 28/07/2020

1. The application has failed to demonstrate sufficient justification for the removal of Clause 6 and the modification of Clause 7 of the Section 106 Legal Agreement which could involve the loss of a local Community benefit to Epping which was the main reason for the developments approval and is contrary to policies CP1, DBE6, DBE8, ST4 & ST6 of the Epping Forest adopted Local Plan (1998 & 2006) and the aims and objectives of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and policy SP1, DM10, D4 and T1 of the Local Plan Submission Version, 2017.

2. The development provides insufficient parking and is contrary to the aims and objectives of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, and policies ST4 & ST6 of the Epping Forest Adopted Local Plan, (1998 & 2006) and policy T1 of the Local Plan Submission Version, 2017.

EPF/1547/18 - Amendment to approved development Ref EPF/2548/15 - for the Demolition of existing house and the erection of 5 (3, 2 bed and 2, 1 bed) flats. The ground floor flats are to be provided for disabled residents and their families. Approved - subject to a Legal Agreement - Signed - 17/01/2020

The amendments involved: removal of the basement parking; a reduction in the depth of the building to accommodate, the reciting of the car parking spaces to the rear aspect. The numbers of parking spaces reduced from 8 to 5; the building was increased in height from 3.9m to 5.4m and the number of flats reduced from 6 to 5 with the number of beds increased.

Ref: EPF/2548/15 - Demolition of the existing detached chalet bungalow and the erection of a block of six flats - Approved subject to a Unilateral Undertaking - signed 24/04/2019

EPF/0582/05 - Two storey rear extension, raised roof ridge with two dormer windows to front and new garage to rear - Approved 28/09/05

EPF/1306/10 - Raising of roof, two storey rear extension, front porch, front dormer windows and detached garage to rear - Approved 10/09/10

EPF/2113/10 - Vehicle crossover - Refused 02/12/10

EPF/1153/11 - Raising of roof, two storey rear extension, gable over flat dormer and detached garage to rear (revised application from EPF/1306/10) - Approved 29/07/11

Policies Applied:

DEVELOPMENT PLAN CONTEXT

Local Plan (1998) and Alterations (2006)

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

CP1 Achieving sustainable development objectives
CP2 Protecting the quality of the rural and built environment
CP3 New development
DBE6 Car parking in new development
DBE8 Private Amenity space
11A Planning Obligations
ST4 Highway safety
ST2 Accessibility of development
ST4 Road Safety
ST6 Vehicle Parking Standards

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

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

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

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

- Paragraph 54 - 56 - Planning Conditions and Obligations
- Paragraph 102- 106- Promoting Sustainable Transport
- Paragraph 124 -136- Achieving well designed Places

Epping Forest District Local Plan Submission Version (LPSV) (2017)

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

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

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

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

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
D4 Community, Leisure & Cultural Facilities	Significant
I1A Planning Obligations	Significant
T1 Sustainable Transport	Significant

Consultation carried Out & Summary of Representations received:

NAZEING PARISH COUNCIL – NO OBJECTION

The community benefit of these purpose build disabled apartments is significant and fully support the much-needed disabled accommodation and should be approved.

The Parish Council wish to attend the meeting and make representations if minded to refuse.

Main Issues & Considerations:

The key considerations in this application are the

- Relevant planning history of the site
- Details of the approved development and reasons for the signed S106 Agreement

Relevant Planning History of the Site

Planning permission was granted in 2015 ref: EPF/2548/15 for the demolition of the existing detached chalet bungalow and the erection of a block of 6 flats, (2, 2 bed and 4 one-bed units). The 3 ground floor flats were to be exclusively for disabled residents and their families which formed part of a signed agreement with basement parking spaces for 8 car spaces and a vehicular access onto Tatisfield Avenue.

The applicant in the Design & Access Statement stated that: -

'a fundamental part of this application is that the ground floor flats will be designed to a full mobility standard and reserved solely for the occupation by disabled persons with families. There are no purpose-built facilities such as these in Nazeing, and the development will fulfil a local need'.

At the time of consideration, there were outstanding concerns with the proposed development. Essex Highways objected to the scheme due to insufficient parking and that the proposed spaces were substandard in size and did not meet the current bay dimensions which could lead to inappropriate kerbside parking. Essex Highways advised that the proposal if permitted would set a precedent for future similar developments which could in time lead to additional inappropriate parking and would undermine the principle of seeking to discourage on street parking in the locality.

The development would have been refused but as it offered to provide 3 units for disabled occupants residing within a five-mile radius of the site, the local community benefit was a major factor in favour of the development and a legal agreement was agreed to secure this. The application was approved at Committee with the full support of the Parish Council which suggested that there was a requirement within the local area for such a development.

The Committee emphasizing that in the event that the applicant failed to complete the Agreement Members would delegate powers to officers to refuse planning permission on the basis that the development would not comply with Local Plan policies regarding the provision of sufficient off-street parking provision.

A subsequent application submitted in 2018 (EPF/1547/18) sought to reduce the number of flats from 6 to 5 but to increase the number of 2-bed units (3, 2 bed and 2, 1 beds) and remove the basement parking. The parking spaces were then relocated to the allocated amenity space area thereby significantly reducing the amenity space to accommodate the parking spaces. There were a number of objections to the proposal both from residents and Essex Highways. Residents

considered the development to be over development but again the scheme was supported only on the grounds of the provision of disabled units for the local community within the scheme. When it came to the compilation of the agreement, the distance in which the disabled units could be sold was increased from 5 to an 8-mile radius to accommodate the applicant who considered that there would not be enough demand in such a short distance range.

Details of the approved scheme and Justification for the Legal Agreement

Planning Obligations should only be sought where they meet the following tests as set out in Paragraph 54 - 56 of the NPPF. Paragraph 56 states that Obligations should be: -

- Necessary to make the development acceptable in planning terms
- Directly related to the development and
- Fairly and reasonably related in scale and kind to the development.

This application seeks to remove the legal agreement completely from the approved scheme ref: EPF/1547/18 signed in January 2020.

The original approved development was in 2015 where the officers report went into some detail regarding the site and its location approximately 400m from Nazeing small local shopping parade with the closest train station i.e. Broxbourne Main Line Station, over 1.7 miles from the site and that it would take longer than 30 minutes to walk. Furthermore, whilst there is public transport available within this area it is limited and as such it would be expected that the majority of trips would be made by private vehicle use and it was not a sustainable location.

Only 8 car spaces were to be provided in the original scheme, 3 of which were to be disabled car spaces. Essex County Council Vehicle Parking Standards (2009) recommend a minimum of ten off-street parking spaces, which includes two visitor parking spaces. The development fell short of the required level of car parking provision however, because the scheme was supported by a legal agreement ensuring that the three ground floor flats would be occupied by Registered Disabled Persons and their families it was accepted that a lesser car parking provision could be provided for purpose built disabled accommodation since it is not uncommon for there to be less car ownership amongst Registered Disabled Persons. Only on this basis was it considered that the eight off-street parking spaces would be sufficient.

The submitted plans indicated the provision of three disabled bays on the highway but these could not be considered as part of this application since they would need to be secured through legislation outside of planning.

The applicant offered the disabled units as a way of securing planning consent and it was the disabled units which weighed significantly in favour of the development and its subsequent approval with an agreement.

Once the legal agreement was signed which ensured through Clause 6 and 7 that the disabled units were to be made available for those registered as disabled and would be for the benefit of the local community a new application was submitted removing the basement car park. The scheme was once again approved in 2020 with a further reduction in the number of parking spaces from 8 to 5 (with no provision for disabled car spaces) which took over the rear garden. Essex Highways again raised concerns with regard to the parking: 'from a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons: 'The proposal does not have sufficient parking provision and the proposed spaces are substandard in size that do not meet the current bay dimensions of 2.9m x 5.5m which could lead to inappropriate kerbside parking.

The Parking Standards Design and Good Practice September 2009 recommends minimum parking provision levels for residential properties - a minimum total of 10 spaces would be recommended for this proposal, nine residential spaces and a minimum of one visitor space. The proposal was contrary to the aims and objectives of the Highway Authority's policies ST4 & ST6 of the Local Plan

This application now seeks to remove the Legal Agreement completely because they view it as being too restrictive. Whilst there is a consensus that these disabled units are needed in the locality and the applicant by signing the agreement also has committed to providing them indicating a demand for them, their concern that on repossession there would be difficulty in selling them but there is no significant evidence to justify this assertion.

The 3-ground floor disabled units for the local community was seen as a public benefit and that tied in with the legal agreement was the main aspect of the application and it was this contribution that was given considerable support and weight by the council in its approval and, without the legal agreement the development would have been refused planning permission. This assessment still stands and is relevant to this application.

In addition, there are many areas of the development which fall short of the Council's standard requirements. The amenity space is unsatisfactory and poorly sited and provides no privacy for future occupiers. The site is not in a sustainable location with public transport more than a mile away and the number of car spaces is insufficient and substandard in size for the number of units resulting in a cramped and unsatisfactory form of environment contrary to the Local Plan and LPSV.2017. Therefore it is considered that the retention of the legal agreement is both justified and necessary and the case for its removal has not been made.

Additional Suggestion by the Applicant

An additional solicitor's letter has been submitted during the course of this application where they confirm that the ideal situation for the financial lenders is that the Legal Agreement is removed completely from the scheme but suggest that if the Agreement is to remain in place that the clauses be reviewed and amended so that Clauses 5 and 6 are retained with a modification to Clause 7 to read as:

'Clauses 5 and 6 relate to the first occupation of the property and do not apply to subsequent occupation'.

This alternative arrangement would mean after the first occupation of the 3 disabled units they could then be sold to any interested able-bodied person and the Legal Agreement would no longer be relevant, which very similar to this application.

Conclusion

The submitted Planning Statement advocates for the removal of the Legal Agreement supported by the Solicitor who maintains that the applicant is committed to providing the disabled units with a belief that there is a demand, for them, and therefore, a need for these units. From all the documents provided, including the Parish Council, there is a consensus that these disabled units are needed in the locality and the applicant by signing the agreement also has committed to providing them indicating a demand for them, therefore, their concern that on repossession there would be difficulty in selling them would be overstated and not borne out by the evidence presented.

The applicant accepted the obligations hence the planning approval to EPF/1547/18 and to seek the removal of the legal agreements would jeopardise the delivery of these much-needed units.

Furthermore, the legal agreement was considered necessary to make the development acceptable in planning terms and is directly related to the development. The clauses meet the tests as set out in paragraph 54-56 of the NPPF, and the removal of the Legal Agreement would result in a development that fails to provide suitably sized and sited amenity space and a sufficient number and sized car parking spaces that is harmful to the surrounding area and to its future occupants contrary to policies CP1, DBE1, DBE6, DBE8, DBE9, 11A, ST4 & ST6 of the Epping Forest adopted Local Plan (1998 & 2006) and policy SP1, DM9, DM10, D4, I1A and T1 of the Submission Version, 2017 and the aims and objectives of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 which seek to ensure, amongst other things, that new development is of a high-quality design, that respects its setting and the character and environment of the locality.

It is considered that the Council has been supportive of the development every step of the way and it is considered unreasonable to take away the most significant and main justification for approving the development without any substantial evidence that would justify such a removal. In the light of the above considerations it is recommended that planning permission is refused.

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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