

**committee agenda**



**Epping Forest  
District Council**

***District Development Management Committee  
Wednesday, 18th January, 2023***

You are invited to attend the next meeting of **District Development Management Committee**, which will be held at:

**Council Chamber - Civic Offices**  
on **Wednesday, 18th January, 2023**  
at **7.00 pm** .

**Georgina Blakemore**  
Chief Executive

**Democratic Services  
Officer**

G. Woodhall Tel: (01992) 564243  
Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

**Members:**

Councillors P Keska (Chairman), B Rolfe (Vice-Chairman), R Baldwin, H Brady, I Hadley, S Heap, S Heather, H Kane, H Kauffman, T Matthews, R Morgan, S Patel, C C Pond, J M Whitehouse and K Williamson

**SUBSTITUTE NOMINATION DEADLINE:**

**18:00**

**1. WEBCASTING INTRODUCTION**

This meeting is to be webcast and the Chairman will read the following announcement:

*“I would like to remind everyone present that this hybrid meeting will be broadcast live to the internet (or filmed) and will be capable of repeated viewing (or other such use by third parties). Therefore by participating in this 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 any public speakers on Zoom do not wish to have their image captured they should ensure that their video setting throughout the meeting is turned off and set to audio only.*

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

**2. ADVICE FOR PUBLIC & SPEAKERS AT PLANNING COMMITTEES (Pages 5 - 6)**

(Team Manager – Democratic & Electoral Services) General advice for those persons attending the meeting of the Committee is attached as an Appendix to this agenda.

**3. APOLOGIES FOR ABSENCE**

Please use the Members' Portal webpage to report non-attendance at meetings [https://eppingforestdc-self.achieveservice.com/service/Member\\_Contact](https://eppingforestdc-self.achieveservice.com/service/Member_Contact) to ensure that your query is properly logged.

Alternatively, you can access the Members' Portal from the front page of the Council's website, at the bottom under 'Contact Us' <https://eppingforestdc.gov.uk/your-council/members-portal/>.

**4. SUBSTITUTE MEMBERS**

(Team Manager – Democratic & Electoral Services) To report the appointment of any substitute members for the meeting.

**5. DECLARATIONS OF INTEREST**

(Team Manager – Democratic & Electoral Services) To declare interests in any item on the agenda.

**6. MINUTES (Pages 7 - 16)**

(Team Manager – Democratic & Electoral Services) To confirm the attached minutes of the meeting of the Committee held on 16 November 2022.

**7. 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.

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

(Service Manager – Development Management) A Planning Policy Briefing Note, dated October 2021, 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 and the Main Modifications to the LPSV published for consultation between 15 July and 23 September 2021.

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:

<https://www.eppingforestdc.gov.uk/wp-content/uploads/2021/10/Planning-Policy-Briefing-Note-06-October-2021-accessible.pdf>

**9. PLANNING APPLICATION EPF/1400/20 - UPPER CLACTON RUGBY CLUB, 61 UPLAND ROAD, EPPING UPLAND CM16 6NL (Pages 17 - 32)**

(Service Manager – Development Management) To consider the attached report for improvements to existing club infrastructure comprising a new all-weather pitch and relocation of existing floodlights, improvements to the club's function hall, golf range and current car parking including the addition of further car parking spaces and associated development, and enabling development in the form of the construction of 9 no. new dwellings and associated development.

**10. PLANNING APPLICATION EPF/1954/22 - BUILDING YARD, KEYSERS ROAD, NAZEING EN10 6RJ (Pages 33 - 50)**

(Service Manager – Development Management) To consider the attached report for a change of use for the site from a Builders Yard to a residential site, including the removal of the existing outbuildings.

**11. PLANNING APPLICATION EPF/1984/22 - UNITS 12, 14 AND 15 ARLINGHAM MEWS, SUN STREET, WALTHAM ABBEY EN9 1ED (Pages 51 - 66)**

(Service Manager – Development Management) To consider the attached report for the change of use of three vacant retail units to 2 x one-bed flats.

**12. ANY OTHER BUSINESS**

(Team Manager – Democratic & Electoral Services) 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.

**13. EXCLUSION OF PUBLIC AND PRESS**

Exclusion

(Team Manager – Democratic & Electoral Services) 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):

<u>Agenda Item</u>	<u>Subject</u>	<u>Paragraph Number</u>
Nil	None	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

(Team Manager – Democratic & Electoral Services) Article 17 (Access to Information) of the Constitution defines 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 one copy of each of the documents on the list of background papers for four years after the date of the meeting. Inspection of background papers can be arranged by contacting either the Responsible Officer or the Democratic Services Officer for the particular item.

## **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. If you wish to observe meetings live you can view the webcast on the Council's website at: <https://www.eppingforestdc.gov.uk/your-council/watch-a-meeting/> Alternatively, you can attend in person and will be seated in the public gallery of the Council Chamber.

### **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. You can register to speak at the meeting either virtually via Zoom or in person at the Civic Offices. 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: Only 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 **3 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 South or Area Plans Sub-Committee West you will either address the Committee from within the Council Chamber at the Civic Offices, or will be admitted to the meeting virtually via Zoom. Speakers must NOT forward the Zoom invite to anyone else under any circumstances. If attending virtually, your representation may be supplied in advance of the meeting, so this can be read out by an officer on your behalf should there be a technical problem. Please email your statement to: [democraticservices@eppingforestdc.gov.uk](mailto: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://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.

## EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** District Development Management Committee      **Date:** Wednesday, 16 November 2022

**Place:** Council Chamber - Civic Offices      **Time:** 7.00 - 8.20 pm

**Members Present:** Councillors P Keska (Chairman), B Rolfe (Vice-Chairman), R Baldwin, H Brady, S Heather, H Kane, H Kauffman, R Morgan, C C Pond, K Williamson, C Amos, S Kane and D Stocker

**Members Present (Virtually):** -

**Other Councillors:** -

**Other Councillors (Virtual):** -

**Apologies:** I Hadley, S Heap, T Matthews, S Patel and J M Whitehouse

**Officers Present:** A Marx (Development Management Service Manager (Planning)), G Woodhall (Team Manager - Democratic & Electoral Services) and A Buckley (Higher Level Apprentice (Internal Communications))

**Officers Present (Virtually):** L Kirman (Democratic Services Officer) and M Rahman (Planning Officer)

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### 25. WEBCASTING INTRODUCTION

On behalf of the Chairman, the Team Manager for Democratic & Electoral Services reminded everyone present that the meeting would be broadcast live to the internet and would be capable of repeated viewing, which could infringe their human and data protection rights.

### 26. ADVICE FOR PUBLIC & SPEAKERS AT PLANNING COMMITTEES

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements adopted by the Council to allow persons to address the Committee for the determination of applications for planning permission.

### 27. SUBSTITUTE MEMBERS

The Committee was advised that the following substitute members had been appointed for the meeting:

- (a) Cllr D Stocker for Cllr T Matthews;
- (b) Cllr S Kane for Cllr I Hadley; and
- (c) Cllr C Amos for Cllr J M Whitehouse.

**28. DECLARATIONS OF INTEREST**

No declarations of interest were made by members of the Committee, pursuant to the Council's Code of Member Conduct.

**29. MINUTES****RESOLVED:**

(1) That the revised minutes of the meeting of the Committee held on 21 September 2022, as published on the supplementary agenda, be taken as read and signed by the Chairman as a correct record.

**30. SITE VISITS**

There had been no site visits requested by members of the Committee for any of the applications on the agenda for the meeting.

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

The Committee was reminded that a briefing note had been prepared to ensure that a consistent approach was taken to the provision of planning policy advice, following the publication of the Epping Forest District Local Plan Submission Version (LPSV) on 18 December 2017 and the Main Modifications to the LPSV which had been published for consultation on 15 July 2021. Members were advised that the primary purpose of the briefing note was to inform development management activities and to provide assistance for Councillors, Officers, Applicants, Planning Agents and other persons involved in the development management process.

**Resolved:**

(1) That the Planning Policy Briefing Note for the Epping Forest District Local Plan Submission Version be noted.

**32. PLANNING APPLICATION EPF/0935/20 - UNIT 20, OAKWOOD HILL INDUSTRIAL ESTATE, LOUGHTON IG10 3TZ**

The Service Manager for Development Management, A Marx, presented a report for a proposed new four-storey office building and associated parking. The site was located within the Oakwood Hill Industrial Estate and was currently a scaffold yard with ad hoc storage structures and portacabins located behind a palisade fence. The site backed onto the TfL underground railway line and was not in either the Metropolitan Green Belt or a conservation area. The proposed building would be 13.3 metres in height and finished with a cladding; there would be provision for 22 parking spaces within the site.

A Marx advised the Committee that condition 5 required amending to remove the reference to cooking operations. In addition, there were two new conditions to be attached to the application if approved: nothing to be installed on the roof of the building without prior permission from the Council; and details of any roof mounted solar panels to be agreed by the Council before installation.

Planning Officers had concluded that the proposed development would not have an adverse impact on the Epping Forest Special Area of Conservation (EF SAC) subject to the imposition of relevant planning conditions including a workplace Travel Plan as



well as the provision of electric vehicle charging points, and the application was considered to be acceptable. The Committee noted the summary of representations that had been received in relation to this application, which included an objection from Loughton Town Council, before proceeding to debate the application.

The Committee debated the main issues of the application, including: the principle of the development; the design of the proposed building; the impact of the proposed building on amenity; parking and highways issues; and the impact of the proposal on the EF SAC.

Cllr C C Pond proposed the following three amendments to the planning conditions for the application, seconded by Cllr H Kauffman, but these were lost when put to the vote by the Committee:

- The submission of details of landscaping to include the west facing wall;
- The Construction Method Statement to include an additional point to minimise the use of vehicles with internal combustion engines during the construction of the building; and
- Six electric vehicle parking bays to be provided, not four.

Cllr C C Pond, seconded by Cllr H Kauffman, proposed an additional condition to remove the permitted development rights for the site to prevent future conversion of the proposed office block to residential premises, and this was agreed by the Committee.

#### **Decision:**

(1) That planning application EPF/0935/20 for Unit 20 on Oakwood Hill Industrial Estate in Loughton be granted planning permission subject to the following planning conditions:

1...The development hereby permitted shall begin not later than three years from the date of this decision.

2...The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

- 1991/01 Rev F
- 1991/02 Rev F
- 1991/03 Rev E
- 1991/04

3...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. With regards to dust control measures and wheel washing, reference shall be made to the Institute of Air Quality Management (IAQM) best practice Guidance on air quality monitoring in the vicinity of demolition and construction sites and Guidance on the assessment of dust from demolition and construction.

6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
7. Tree protection measures.

4...No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

5...No development shall take place until details of the arrangements for internal air extraction, odour control measures, noise levels, and discharge to atmosphere, including the location, appearance and finish of any external ducting and flues and associated screening have been submitted to and been approved in writing by the Local Planning Authority. The approved details shall be installed before the use hereby permitted commences and so retained. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions for the lifetime of the development and operated at all times when cooking is being carried out.

6...Prior to any above ground works, documentary and photographic details of the type 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 carried out in accordance with the approved details.

7...Prior to first occupation of the development hereby permitted a plan indicating the position, design, materials and type of boundary treatment to be erected, shall have been submitted to and approved by the Local Planning Authority. The approved boundary treatment shall be implemented prior to the occupation of the development and thereafter permanently retained.

8...Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

9...Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.

10...The premises shall be used solely for office use and for no other purpose (including any other purpose in Class E(g) of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order.

11...The use hereby permitted shall only be open to tenants between the hours of 07.00 to 20.00 on Monday to Friday and 08.00 to 17.00 on Saturdays, Sundays and Bank Holidays.

12...A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management

(LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation. The assessment shall include:

- (1) A survey of the extent, scale and nature of contamination and
- (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

12...B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

13...Prior to any above groundworks, details and location of the active electric vehicle parking spaces for all proposed parking spaces shall have been submitted to and approved in writing with the Local Planning Authority (LPA). The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation. The details shall include:

- Location of active charging infrastructure;
- Specification of charging equipment; and
- Operation/management strategy. The council will expect that a management plan for the charging points is set out clearly. This will address:
  - a) How charging point usage will be charged amongst users; and
  - b) Electricity supply availability. The electricity supply should be already confirmed by the Network Provider so that the supply does not need to be upgraded at a later date.

14...Prior to any above groundworks, details shall be submitted to the Local Planning Authority, to be approved in writing, for appropriate cycle parking for the proposal. The approved facility shall be secure, convenient, covered, and provided prior to the first occupation and shall be retained as such at all times.

15...Tree protection shall be installed as shown on agb Environmental Ltd 'Tree Protection Plan' drawing number 'P3343.1 002 Rev A' (dated 30th May 2019) prior to the commencement of development activities (including any demolition). The methodology for development (including Arboricultural supervision) shall be undertaken in accordance with the submitted Tree Survey/Arboricultural Method Statement reports.

16...Prior to the first occupation of the development the access arrangements, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.

17...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 the approved details and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.

18...The development shall be carried out in accordance with the flood risk assessment (Flood Risk Assessment, Ref P3343.3.0, 28th April 2020) and drainage strategy submitted with the application unless otherwise agreed in writing with the Local Planning Authority.

19...The development hereby permitted shall not be commenced until detailed design and method statements (in consultation with London Underground) for each stage of the development, have been submitted to and approved in writing by the local planning authority which:

- provide demolition details
- provide details for all of the foundations, basement and ground floor structures, or for any other structures below ground level, including piling (temporary and permanent) and superstructure
- provide details on the use of tall plant/scaffolding and lifting equipment
- there should be no opening windows or balconies facing the LU elevation
- demonstrate access to elevations of the building adjacent to the property boundary with London Underground can be undertaken without recourse to entering our land
- demonstrate that there will at no time be any potential security risk to our railway, property or structures.
- accommodate ground movement arising from the construction thereof
- mitigate the effects of noise and vibration arising from the adjoining operations within the structures.

The development shall thereafter be carried out in all respects in accordance with the approved design and method statements, and all structures and works comprised within the development hereby permitted which are required by the approved design statements in order to procure the matters mentioned in paragraphs of this condition shall be completed, in their entirety, before any part of the building hereby permitted is occupied.

20...Prior to any above ground works, details of levels shall have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.

21...A Workplace Travel Plan is to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development, which shall include the following details:

- travel plan co-ordinator;
- travel surveys;
- measures to be taken to encourage walking, cycling, use of public transport and reduce car travel by staff;
- monitoring and review; and
- programme for implementation.

22...No lift overrun, roof top plant or roof located paraphernalia (including communications antennae) to be installed without the prior written permission from the Local Planning Authority.

23...Prior to any above ground works, details of the roof mounted solar panels shall be submitted and approved before installation. The development shall be carried out in accordance with the approved details and the solar panels installed prior to first occupation.

24...The building hereby permitted shall at no time be converted in part or otherwise to residential use.

**33. PLANNING APPLICATION EPF/0610/22 - 32 HALFHIDES, WALTHAM ABBEY EN9 1LE**

The Service Manager for Development Management, A Marx, presented a report for a two-storey side extension and part one-storey, part two-storey rear extension. This application had originally been determined under Officer delegated authority; however, an objection by the Town Council had not been considered when assessing the application. Thus, the decision had been contrary to the Council's Scheme of Delegation and a Judicial Review was brought against the decision, which was successful. This application was now before this Committee as there was the possibility that the Council could be liable for costs or compensation.

A Marx stated that the site comprised of a semi-detached dwelling within the urban settlement of Waltham Abbey with a pedestrian alleyway along the western boundary linking Halfhides with Farm Hill Road. The site was not listed or within a conservation area, and there were no protected trees within the site. Planning Officers had considered the impact on the character and appearance of the locality, the impact on the living conditions of neighbours, and concluded that planning permission should be granted subject to planning conditions.

The Committee noted the summary of representations that had been received for this application, which included an objection from the Town Council. The Committee heard from an objector and the applicant's agent before proceeding to debate the application.

The Committee discussed whether to add an extra condition to prevent any windows being fitted to the wall facing the alleyway between Halfhides and Farm Hill Road. Whilst some members supported the recommendation to approve the application, Cllr C C Pond proposed a motion to refuse planning permission for the application – seconded by Cllr H Kane – on the grounds of the impact on the character and appearance of the area and neighbour amenity due to its mass, bulk and siting.

**Decision:**

(1) That planning application EPF/0610/22 at 32 Halfhides in Waltham Abbey be refused planning permission for the following reasons:

1...The proposed extension, by reason of its mass, bulk and siting, would have an over dominant and oppressive impact upon the character and appearance of the area when viewed from the highway and alleyway. This is contrary to Policies CP2 and DBE10 of the adopted Local 1998 & 2006, Policy DM9 of the Local Plan Submission Version 2017, and Paragraphs 126 & 130 of the NPPF 2021.

2...The proposed extension, by reason of its mass, bulk and siting, would have an overbearing visual impact upon neighbour amenity. As such, the proposal fails to safeguard or enhance the living conditions of neighbouring properties and is therefore

contrary to policies CP7 and DBE9 of the adopted Local Plan 1998 & 2006, Policy DM9

of the Local Plan Submission Version 2017, and the NPPF 2021.

**34. PLANNING APPLICATION EPF/1289/22 - 41 DUKES AVENUE, THEYDON BOIS CM16 7HQ**

The Planning Officer, M Rahman, presented a report for the demolishing of the existing two-storey side extension and replacement with a new three-bedroom detached dwelling. This application was originally considered by Area Planning Sub-Committee East with a recommendation to grant planning permission at its meeting held on 2 November 2022. The Sub-Committee narrowly voted to refuse the application, but it was referred to this Committee for a final decision under the Minority Reference rules within the Constitution.

M Rahman reported that the site was residential garden space for 41 Dukes Avenue, located on the corner of Dukes Avenue and Heath Drive. The site was not listed, nor within a conservation area, the Metropolitan Green Belt or a flood zone. The application had been recommended for refusal by the Sub-Committee on the grounds that the proposal did not relate positively to the locality due to its form, scale and massing. Planning Officers felt that a second reason for refusal should be added if the Committee upheld the Sub-Committee's recommendation, that the development failed to mitigate against the adverse impact it would have on the Epping Forest Special Area of Conservation in the absence of a Section 106 legal agreement.

The Committee noted the summary of representations that had been received for this application, including an objection from the Parish Council. The Committee heard from an objector, the Parish Council, and the applicant before debating the application.

The majority of the Committee felt that there was a consistency of design within Dukes Avenue, which this proposal would be in opposition to, and therefore the application could not be supported. It was also highlighted that it was not environmentally sustainable to demolish an extension that had only been erected 11 years ago.

**Decision:**

(1) That planning application EPF/1289/22 at 41 Dukes Avenue in Theydon Bois be refused planning permission for the following reasons:

1... The proposal, by reason of its form, scale, and massing, fails to relate positively to the locality or make a positive contribution to Theydon Bois, contrary to Policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, Policy DM9 (A – i & ii) & (D – ii & iv) of the Local Plan Submission Version 2017, and Paragraphs 126 & 130 of the NPPF 2021.

2... In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1 and CP6 of the adopted Local Plan 1998 & 2006, Policies DM2 and DM22 of the Local Plan Submission Version 2017, Paragraph 180 of the NPPF 2021, and the requirements of the Habitats Regulations 2017.

**35. ANY OTHER BUSINESS**

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

**36. EXCLUSION OF PUBLIC AND PRESS**

The Committee noted that there was no business which necessitated the exclusion of the public and press from the meeting.

**CHAIRMAN**

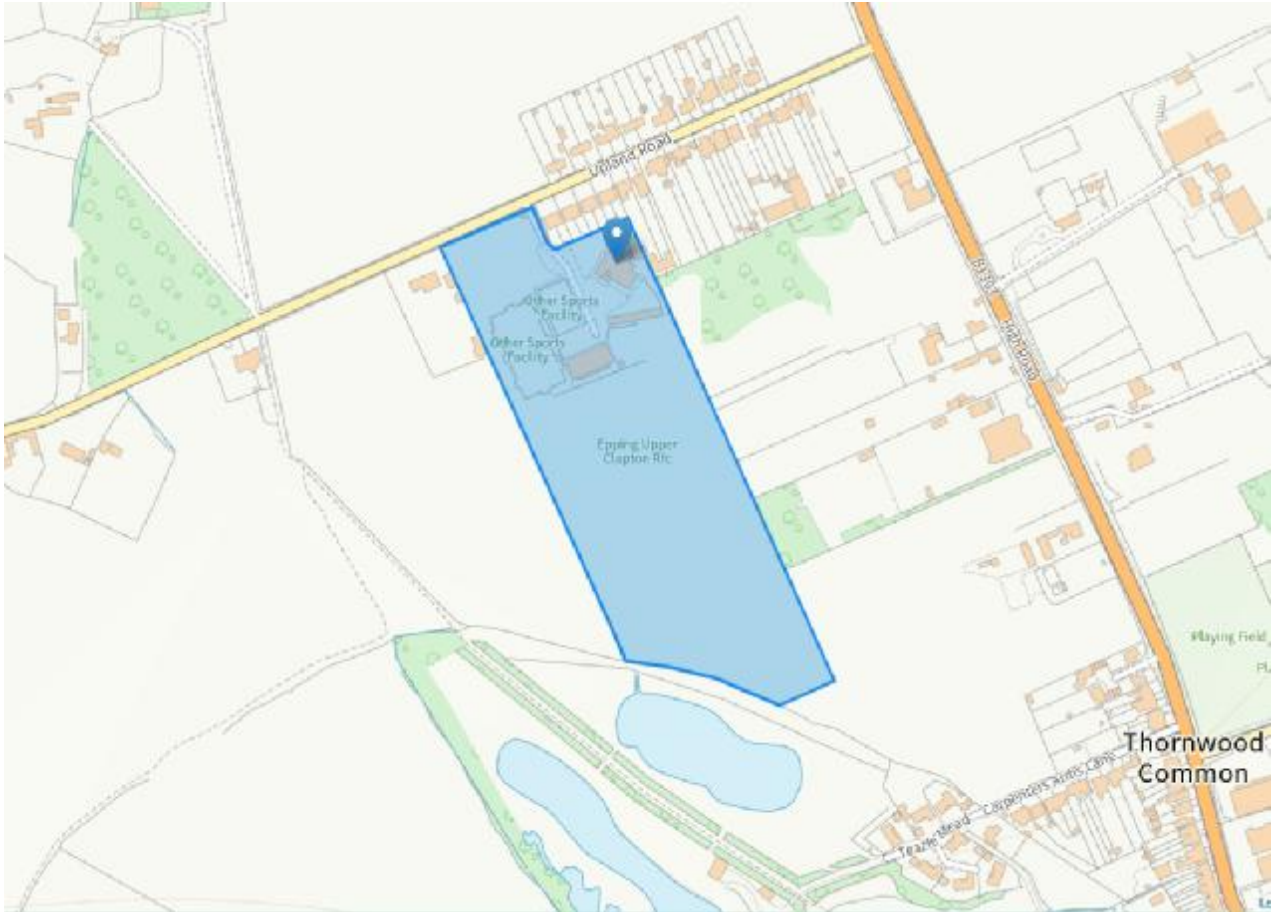
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Epping Forest District Council

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Application Number:	EPF/1400/20
Site Name:	Upper Clapton Rugby Football Club, 61 Upland Road Epping Upland CM16 6NL

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# OFFICER REPORT

**Application Ref:** EPF/1400/20  
**Application Type:** Full planning permission  
**Applicant:** Epping Upper Clapton Rugby Football Club (on behalf of Trustees)  
**Case Officer:** James Rogers  
**Site Address:** Upper Clapton Rugby Football Club  
61 Upland Road  
Epping Upland  
Epping  
CM16 6NL

**Proposal:** Improvements to existing club infrastructure comprising a new all-weather pitch and relocation of existing floodlights, improvements to the club's function hall, golf range and current car parking including the addition of further car parking spaces and associated development, and enabling development in the form of the construction of 9 no. new dwellings and associated development

**Ward:** Epping Lindsey and Thornwood Common  
**Parish:** North Weald Bassett  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000NypV>  
**Recommendation:** Refuse

## Recommendations:

- **That planning permission is refused for the following reasons:**
  - **The proposal constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition harmful to the Green Belt. In addition, the proposal would cause significant additional harm to its openness and would conflict with its fundamental purpose of keeping land permanently open. The nature of the proposal would cause a significant increase in the residential paraphernalia in and around the site which would cause additional significant harm to the character of the Green Belt. The very special circumstances advanced by the applicant do not clearly outweigh these identified harms to the Green Belt. The proposal is therefore contrary to policy DM 4 of the Epping Forest District Local Plan Submission Version (2017), with policies GB2A and GB7A of the Adopted Local Plan and Alterations (2006) and with the requirements of chapter 13 of the National Planning Policy Framework (2021).**
  - **Since there is no appropriate mechanism to secure the necessary financial contribution towards managing the effects of recreational pressure on the Epping Forest Special Area of Conservation, the proposal fails to demonstrate its compliance with policies DM 2 and DM 22 of the Epping Forest District Local Plan, policy NC1 of the Adopted Local Plan and Alterations (2006), with paragraphs 181 and 182 of the National Planning Policy Framework (2021) and with the requirements of the Habitat Regulations (2017)**

This application was reported to the Area Planning Sub-Committee East on 30<sup>th</sup> November 2022 to refuse planning permission for the reasons above. Following discussion on the merits of the application, Members voted in favour of the Officer recommendation to refuse planning permission. The application was then referred up to District Development Management Committee by resolution by a minority of Members in accordance with the Council's constitution. The proposal is put before Members of the District Development Management Committee with a recommendation from Area Planning Sub-Committee East to refuse planning permission.

The original committee report is appended below:

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

### **Site and Surroundings**

Upper Clapton Rugby Club is located on the southern side of Upland Road which is located within the settlement of Thornwood. To the east of the site there are a number of detached and semi detached dwellings in a linear formation fronting onto the road. The sports facilities on the site are set away from the front of the road and there is an open field adjacent to the main road. The site is located within the boundaries of the Metropolitan Green Belt and it is not in a Conservation Area.

### **Proposal**

The proposed development is for Improvements to existing club infrastructure comprising a new all-weather pitch and relocation of existing floodlights, improvements to the existing club house, erection of a new function hall, demolition of the existing golf range, the addition of further car parking spaces and associated development, and construction of 9 new dwellings.

### **Relevant Planning History**

EPF/0817/12 - Replacement club house and associated development and outline planning for enabling residential development. – Approved

EPF/0917/18 - Construction of 10 dwellings with associated access road and landscaping - Refused

### **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).

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
CP3	New Development
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality
H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
GB2A	Development in The Green Belt
GB7	Conspicuous Development
DBE1	Design of New Buildings
DBE2	Effect on Neighbouring Properties
DBE3	Design in Urban Areas
DBE6	Car Parking in New Development

DBE8	Private Amenity Space
DBE9	Loss of Amenity
LL10	Adequacy of Provision for Landscape Retention
LL11	Landscaping Schemes
ST4	Road Safety
ST6	Vehicle Parking

*National Planning Policy Framework (NPPF) (February 2019)*

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

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

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

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

Paragraph	108 - 110
Paragraph	117
Paragraph	124
Paragraph	127
Paragraph	130
Paragraph	131
Paragraph	133
Paragraph	143 - 145

*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 14<sup>th</sup> 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 2<sup>nd</sup> August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

The following 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
SP2 Spatial Development Strategy 2011-2033	Some
H1 Housing Mix and Accommodation Types	Some
T1 Sustainable Transport Choices	Significant
DM2 Epping Forest SAC and the 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
DM11 Waste Recycling Facilities on New Development	Significant
DM15 Managing and Reducing Flood Risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM17 Protecting and Enhancing Watercourses and Flood Defences	Significant
DM18 On Site Management of Waste Water and Water Supply	Significant
DM19 Sustainable Water Use	Significant
DM21 Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 Air Quality	Significant

### Summary of Representations

Number of neighbours Consulted: 24

86 Letters of support received including:

- The rugby club is a valued community facility and facilitates good physical, mental and social wellbeing for the community
- The development is critical to the continued use of the site for sport and recreation
- The upgrades to the club will prevent matches being postponed and allow expansion of existing operations
- The club upgrades will allow for more visiting teams to use the facilities
- The new facilities will allow a wider range of sports to be played
- The proposal will ensure the long term financial viability of the club
- The increased parking will be a benefit to the local area

8 letters of objection received including:

- The proposal is inappropriate development in the Green Belt
- Loss of local wildlife
- inadequate drainage facilities
- increased traffic
- Loss of existing trees and hedging

North Weald Parish Council – No objection

### **Planning Considerations**

The report will now consider the application against the requirements of the Development Plan and the emerging Local Plan.

#### *Principle*

This application site has not been proposed for allocation in the emerging Local Plan to deliver new housing in the District. A small number of windfall sites have been assumed in the Local Plan, but they are not required for the Council to meet its objectively assessed housing need. However since the Local Plan assumes a certain number of windfall sites will be delivered during the Plan Period, it follows that such sites can be acceptable, providing an application for such development complies with the requirements of the Development Plan and emerging Local Plan when considered as a whole. This issue is considered further in the final planning balance section of this report.

Turning to the potential improvements to the rugby club, such improvements to an existing sports facility can be acceptable in principle however they will need to be considered against the requirements of the Development Plan and emerging Local Plan as a whole.

#### *Green Belt*

The National Planning Policy Framework (NPPF) indicates that the Government attaches great importance to Green Belts. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should be refused planning permission unless very special circumstances can be demonstrated which clearly outweigh this harm.

The NPPF also emphasises that when considering an application, a Local Planning Authority should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

Firstly considering the proposed improvements to the Rugby Club, it is proposed to provide a new all weather pitch, including the relocation of existing flood lights, proposed improvements to the existing club house, a new function hall, the removal of the existing golf driving range and former club house and the provision of new parking.

The NPPF sets out that the construction of new buildings should be regarded as inappropriate development unless they are for one of a set of purposes. One of these exceptions is:

*Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it*

For clarity, the laying of an artificial grass pitch is an engineering operation since it changes the physical nature of the land. The proposed all-weather pitch would be used for a variety of different outdoor sports such as football, hockey and rugby and comfortably fulfils the first part of this exception.

Following on from the judgement from Fordent Holdings Ltd Vs SSCLG and Cheshire West and Chester Council, it is clear that paragraph 89 relates solely to buildings, therefore this exception relates to 'facilities' that are buildings. Paragraph 90 of the NPPF sets out other forms of development that are also not inappropriate, providing that they preserve openness and do not conflict with the purpose of including land within it. This includes, amongst other things, engineering operations.

In terms of appropriateness, the proposed new pitch can be considered as an engineering operation and its very nature of being open will ensure it will not cause material harm to the characteristics of the Green Belt.

The proposed function room is clearly inappropriate development since it goes beyond what could reasonably be considered necessary to facilitate outdoor sport and recreation. Since it does not fulfil this exception, nor any other as given by the NPPF it is concluded that it is inappropriate development, which is, by definition, harmful to the Green Belt.

However the planning application granted in 2013 gave consent for the function room in the exact position as the one proposed in this application as well as for floodlighting. Whilst these elements have not yet been erected; since the permission has been implemented they could still be built. In any event the proposed function room in this application is a little smaller than the already approved building and thus would have a lesser impact on openness. In addition the Council could impose a legal mechanism whereby the already approved flood lighting could not be carried out were this proposal to be granted.

Turning to the parking, it is proposed to increase the number of formalised spaces by 116 spaces to bring it to a total of 216 spaces. The new spaces would be contained within the existing site, where there is already existing hardstanding. Consequently the increased provision will not cause material harm to the Green Belt.

Finally and most substantially, the proposed erection of 9 new dwellings on the site is clearly inappropriate development. In addition it would cause significant additional harm to the openness of the Green Belt both spatially and visually, resulting in a conspicuous form of development on open Green Belt land. It would also directly conflict with the fundamental purposes of the Green Belt and would cause significant additional residential paraphernalia and domestic activity to the area thereby cause an additional significant adverse impact on the character of the Green Belt.

#### Impact on the surrounding area

Regarding the proposed new dwellings, the site currently consists of an open field which is currently used as an informal parking area from time to time by the rugby club. Set directly behind the site to the south is an existing 3G pitch also used by the club, with associated fencing and flood lighting. The site is however located within a predominately rural setting, which has open land directly opposite and, save from the single bungalow to the west, open land to the south west. To the immediate east is a cluster of houses which form a continuous frontage on both sides of Upland Road. The new dwellings will front onto Upland Road and would effectively follow this continuous pattern of linear development on this side of the road and although it would extend beyond the existing extent of development on the opposite side of the road, which emphasises its impact in Green Belt terms however it would be respectful to the prevailing pattern of residential development.

In terms of detailed design, each of the proposed new dwellings would effectively mirror the design of the existing dwellings to the east of the site and whilst the lack of variation in their architectural style is recycled and uninspiring, they are conventional and of a scale and size not dissimilar to the character or appearance of the street scene.

Turning to the proposed improvements to the rugby club, they will all be contained within the context of the existing club and in general terms would be well integrated within the existing site..

The proposal is therefore compliant with the design policies of the ALP, the EFDLP and the NPPF.

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

The existing dwellings which are located adjacent to the site are a significant distance from the edge of the closest of the proposed new dwellings. Therefore there will not be any significant harm caused to their living conditions either through overlooking or any other harm. The new dwellings would each offer a good standard of living accommodation for new residents.

Whilst the improvements to the rugby club could increase general activity in and around the site, this will not cause significant harm to the existing or new residents through general disturbance. Regarding the proposed new floodlighting, a condition could be attached to ensure that they are not used at unsociable times.

#### Highway and parking

The Essex County Council highway engineer has commented that the proposed access will have good visibility splays and will not cause harm to the safety or efficiency of the public

#### Land Drainage

The Land Drainage Team consider that the proposal is acceptable subject to planning conditions to ensure that there is a sustainable drainage strategy in place in accordance with the submitted Flood Risk Assessment.

#### Land Contamination

1940-1970 historic photographs show small buildings, disturbed ground & imported soils present along the Northern & North eastern boundary, 1990 photograph shows the onsite disposal of additional soils during construction of the offsite car park to the East, 2001-2004 photographs show a track created across the top of the site and down the Western side of the site between these dates, and more recent photography shows that made ground has been spread across the site following construction of the 4 dwellings on the former car park to the East.

It is reported that ground gas mitigation measures suitable for Characteristic Situation 2 are to be installed in lieu of additional ground gas monitoring (only a single round of gas monitoring reported to have been previously undertaken) in order to remove the accumulation and inhalation risks to occupiers pathway, which is acceptable provided that a verified proprietary gas membrane with a Gas Protection Score of 2 is used in addition to a very well ventilated beam & block floor void (the use of 1200g or 2000g polythene membranes is no longer acceptable).

Apart from ground gases, the submitted report has not mentioned any specific contaminants associated with former potentially contaminating uses (e.g. Made Ground: *asbestos, PAH, metals & inorganics* or the Electric Substation: *Petroleum Hydrocarbons & PCBs*) and the Qualitative Risk Assessment presented in Table C5 has not been carried out in accordance with the Classification of Severity criteria presented in Table C3 which classifies short term acute potential exposure risks as Severe (e.g.



inhalation of asbestos fibres and explosive/asphyxiant accumulation/inhalation ground gas risks) and chronic exposure risks as Moderate (e.g. Lead and Benzo(a)pyrene) which if there is considered to be a Low Likelihood of an event occurring, would result in a Moderate risk for exposure to asbestos and a Low/Moderate risk with respect to other made ground potential contaminants (PAH, Metals & Inorganics) and organic contaminants (PCBs & petroleum hydrocarbons) which would require further investigation.

Provided that a detailed list of potential pollutant linkages is submitted with the required Phase 2 investigation protocol, it should not be necessary for a Phase 1 condition to be added to any approval granted.

### The Epping Forest Special Area of Conservation

Biodiversity features within, or associated with, a Special Area of Conservation are given the highest level of protection under UK law, and national planning policy in England. The provisions of the EU Habitats Directive are given effect in UK law by the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations").

Under the Habitats Regulations, the EFSAC is classified as a 'European Site' and, as such, any plans and projects (including applications for planning permission) that are likely, either alone or in combination with other plans or projects, to have a significant effect on the EFSAC must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any plan or proposal, either alone or in combination, will have an adverse effect the integrity of the European Site.

The Council has a legal duty as the 'competent authority' under the Habitats Regulations (2017) to protect the EFSAC from the effects of development (both individually and in combination) having regard to the representations of Natural England ("NE").

Two specific issues relating to new development within the District have been identified as being likely to have a significant effect on the integrity of the EFSAC. Firstly, as a result of increased levels of visitors using the EFSAC for recreation arising from new development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Forest from atmospheric pollution generated by motor vehicles (referred to as "air quality"). Policies DM 2 and DM 22 of the EFDLP provide the policy context for dealing with the effect of development on the integrity of the EFSAC outlined above.

The LPSV was supported by a Habitats Regulations Assessment dated June 2021 ("the HRA 2021"). Two specific 'pathways of impact' relating to new development within the District were identified as being likely to have a significant effect on the integrity of the EFSAC. Firstly, an 'urbanisation' pathway of impact primarily as a result of increased levels of visitors using the EFSAC for recreation arising from new residential development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the EFSAC from an atmospheric pollution 'pathway of impact' (referred to as "air quality") caused primarily by motor vehicles using roads within 200m of it. The HRA 2021 undertook an Appropriate Assessment of the planned development proposed within the LPSV, including the effect of that development on the EFSAC. The HRA 2021 concluded that, subject to securing urbanisation/recreational pressure and air quality mitigation measures the adoption of the Local Plan will have no adverse effect on the EFSAC. Subject to the suitable delivery of such measures, NE have agreed that an adverse effect on the EFSAC can be ruled out.

### Recreational pressure

With regards to recreational pressure, the site is located within the 6.2km zone of influence to the EFSAC and as such new occupants of the development have the potential to use it for recreational purposes, which as noted above has the potential to cause it irreversible harm. However the Council does have a recreation strategy to mitigate against such potential adverse effects. The strategy includes various mitigation measures, including a Strategic Access Management and Monitoring Strategy ("SAMM strategy"). The measures identified require financial contributions from new residential development in the order of £343.02 per dwelling. This is of course dependent on an appropriate

method to deliver such financial contributions, which can only be through either a S106 legal agreement or a unilateral undertaking on behalf of the applicant and both are dependent on planning permission being granted.

### Air Quality

The HRA 2021 advises that without appropriate mitigation measures, new development proposed in the District would cause harm to the integrity of the EFSAC as a result of atmospheric pollution. A key contributor to atmospheric pollution arises from vehicles using roads in close proximity (i.e. within 200m of the EFSAC).

The Council undertook further technical work in relation to the atmospheric pollution 'pathway of impact' to provide the evidence base to support the development of the Air Pollution Mitigation Strategy (APMS), which has now been endorsed by the Council as a material consideration of significant weight. The APMS identifies a number of mitigation measures, a number of which are required to be delivered as part of individual planning applications alongside strategic initiatives and monitoring requirements, the implementation of which will require a financial contribution to be secured from individual developments.

The evidence base that has been developed to inform the APMS has taken into account Annual Average Daily Traffic (AADT) that would arise from proposed allocations in the EFDLP. The use of AADT is the appropriate method for understanding the effects of atmospheric pollution on both human and ecological health. The APMS therefore provides the mechanism by which the Council can arrive at a conclusion of no adverse effect on the EFSAC as a result of planned development.

The applicant has submitted that the proposal involves the demolition of an existing driving range which is not proposed to be replaced. However the application includes an additional 116 car parking spaces which increases the capacity of the site at peak times for use by the ruby club. The golf driving range is evidently a high traffic generating use and includes a relatively high turnover of vehicles throughout the day. Therefore, whilst the overall level of parking provision is higher, the turnover of comings and goings will be lower with the spaces being utilised solely by members of the rugby club.

Overall the applicant has demonstrated that there will be a net reduction of 114 AADT movements compared to the existing use. As such the proposal can be screened out beyond reasonable scientific doubt as not having an adverse effect on the EFSAC providing that the golf driving range is demolished and entirely removed from site prior to the first operation of the proposed development and this can be secured through condition.

### Very special circumstances advanced

Since the proposal constitutes inappropriate development in the Green Belt, which causes additional harm to its openness and conflicts with its fundamental purposes the applicant must advance very special circumstances to clearly outweigh these harms.

The applicant contends that the erection of the 9 new dwellings would serve as an enabling development, to finance further development on and general improvements to the rugby club. The notion of an enabling development is addressed in paragraph 208 of the NPPF which states:

*Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.*

The Government therefore considers that such development can be acceptable, contrary to a development plan where there would be a heritage asset which would otherwise be at risk. There is no provision for the same principle to be applied for the improvement of sporting or community facilities. However there have been High Court judgements which have suggested that other forms of development can also be considered against this principle, such as in (Thakeham Village Action Ltd) v Horsham DC [2014] EWHC 67 (Admin) where the judge concluded that:

*I do not believe that the principles of enabling development are limited to ventures that would protect a heritage asset or a facility that serves or is accessible to the public. And I also reject the submission that those principles do not extend to a financial contribution that would support development undertaken by another company on another site. The jurisprudence does not support either of those concepts.*

*The scope for enabling development is wide. There are many ways in which it may serve a proper planning purpose. It may fund works of repair or improvement to a listed building. It may fund the protection of a particular habitat. It may fund the provision of a swimming pool for public use, or some other public facility. But that is far from being an exhaustive list of the benefits it may help to provide*

Clearly, the notion of an enabling development to fund a community facility can be acceptable depending on the specific circumstances of the case. The enabling development must however be demonstrably in the public interest for such a proposal to clearly outweigh significant policy objections. It must therefore be demonstrated that without the proposed works to the rugby club, that its long term future will be compromised.

The starting point for this assessment is that the Council has previously accepted the notion of allowing an inappropriate enabling development on the land to the east of the application site to fund what the Council considered to be much needed improvements to the rugby club, an important community facility (EPF/0817/12). Under normal circumstances however, if any facility is to develop, expand or otherwise improve their services they would be expected to meet their own costs without requiring inappropriate forms of development.

Whilst the Council accepted the previous application on the grounds that very special circumstances existed, sufficient to outweigh the harm to the Green Belt, this proposal is to be assessed on its own merits. The bar for allowing inappropriate development in the Green Belt is rightly, very high. The question before members is whether the proposed upgrades to the rugby club are absolutely essential for its long term future and are they so fundamental that it justifies the significant harm that would be caused to the Green Belt.

Firstly it is important for Members to understand where the money from the previous application was spent and for an explanation as to why further inappropriate development is now proposed. so far the costs are as follows:

- Clubhouse - £868,971.14
- Enabling works – 131,492
- All weather pitch - £237,511.15
- Other costs (hot water cylinders, cabling, earthmoving, geogrid car park, all weather pitch equipment, legal fees) - £169,000
- Sinking fund - £70,000
- **Total - £1,476,974.29**

In this new proposal, the applicant contends that the enabling development which was previously approved did not allow all the necessary works to be undertaken to the club, this was in part due to alleged rising construction costs and lack of anticipated grant funding, the issue of grant funding is considered later in this report.

At the request of officers, the applicant has provided a financial breakdown of the estimated cost of the proposed works to the club as follows:

- Demolition of old clubhouse - £25,000
- Car parking provision - £261,090
- Netball court alterations - £10,000

- Car park lighting - £19,992
- Function hall - £547,794
- Upgrades to clubhouse (air conditioning, first floor toilets, boot clean extension) - £122,790
- Stormwater attenuation and drainage - £30,000
- Flood lighting - £691,198
- Cycle stands - £6,405
- Pitch improvements - £55,723
- Sinking fund (10-year maintenance for AWP) - £240,000
- **Total - £2,009,992**

Officers also requested a commentary from the applicant on why these works are essential for the long term future of the club. The applicant summarised that:

*The Club is the largest community facility in Epping and during the peak rugby season it has circa 1000 people through the door over a weekend and the current facilities simply cannot cater for this. The overriding factor is that the club wants to future proof itself and become self-sustaining rather than relying on land disposals. We would also refer to the very successful example of Chigwell Grange. This is home to Colebrook Royals football club and was provided by enabling development. The facilities here are amazing and the club has 32 teams, clubhouse, nature reserve and is self-sustaining now.*

Further justification was provided by the applicant that without the removal of the old clubhouse the increased parking cannot be provided; that the increased parking is essential to the ongoing success of the rugby club, that the function hall is required for improving financial viability of the club and that the new all-weather pitch will prevent events being cancelled in wet weather.

It is not disputed that the works noted above are desirable for the club, but their nature and the justification offered by the applicant for them are thoroughly unconvincing. Not a single element of the works noted above have been demonstrated to be essential for the continued use of the site as a sporting facility, which continues to operate despite them not currently being on site at present. On the contrary to the assertions of the applicant, the vast majority of the improvements are considered to be non-essential for its long term viability and should be funded through means other than inappropriate development.

Members attention should be drawn to the previously approved application (EPF/0817/12) where it was concluded that very special circumstances existed. In this previous application the main thrust of the justification was the need for a new clubhouse, which was in a poor state of repair and did not offer suitable changing facilities, as well as the delivery of the new all weather pitch. The need for the new clubhouse was fully supported by Sport England and the RFU as they concluded that:

*The clubhouse is no longer fit for purpose, beyond economic repair, is not energy efficient and there are problems with maintaining energy services. From a user perspective, the facilities are considered to significantly fall short of meeting the clubs current needs in terms of scale and quality... The quality of these facilities is considered to be poor due to the age and condition of the building and the design/layout of the clubhouse would not accord with Sport England or Rugby Football Union (RFU) guidance*

In addition a structural report was undertaken which demonstrated that the previous clubhouse had structural issues which were considerably more than cosmetic and a new building was required. This formed a key material consideration in the previous application when the Council considered that very special circumstances existed which clearly outweighed the substantial harm caused by the enabling development.

The replacement clubhouse was designed to meet the clubs current and future needs and would address all of the deficiencies of the existing facilities. The clubhouse has now been completed other

than the installation of air conditioning and first floor toilets. There is no evidence to suggest that either of these elements are essential for the continued use of the site as a sports club. It appears that rather than being essential, they are non-essential albeit desirable elements for the applicant. Similarly the delivery of a function hall (which does not directly facilitate the use of the site for outdoor sport), increased parking and a sinking fund cannot be considered to be essential.

Again, it is acknowledged that these works would be desirable for the club and would provide it with increased revenue streams, which in itself contributes to its long term future. However there is little evidence that the club is struggling financially, or with its member base and there is very little justification that without these works that the future of the club would be at risk. This position is taken in the context where the Council has already accepted that this is a valued community facility through the original consent and its long term survival is a strong material consideration. However, in light of the above, it does not follow that a refusal of planning permission would necessarily compromise the long-term viability of this facility and thus the works cannot reasonably be considered to be essential, resulting in a tangible public benefit.

Inappropriate enabling development in the Green Belt should be the last resort to bridging a funding gap and other means of funding should be thoroughly and extensively explored before this option can be favourably considered. So, turning to the proposed quantum of inappropriate development, the applicant has provided financial information which shows that the level of housing proposed would deliver the majority of the desired works to the rugby club, however officers are unconvinced that other potential sources of funding have been appropriately sought, in particular through grant funding or low interest loans.

The rugby club has previously sought and received grant funding from the following sources:

- £115,000 from the RFU in 2013
- £50,000 from Sport England in 2013
- £10,000 from ECC in 2013
- £5,000 from Grange Farm in 2013
- £5,000 from EFDC in 2014

These grants were made to contribute towards the delivery of the new all-weather pitch and new clubhouse, which as previously identified were accepted in the previous application as being essential infrastructure for the long term future of the rugby club. Again, to reiterate both of these elements have now been delivered on site.

It is noted that some grant requests made by the club have been refused, however the last of these requests was made in 2015. No grant requests have been sought since this time and as a result it cannot be concluded with conviction that there are no other potential sources of funding for the desired works.

Finally the applicant points to the Council's lack of a 5 year housing supply. Paragraph 74 of the Framework identifies that strategic policies should include a trajectory of expected housing delivery over the plan period. Local Planning Authorities should ensure that there is a supply of deliverable sites sufficient to provide for a minimum of five years worth of housing against their objectively assessed housing requirement.

The Council has a history of not meeting this target and that under existing Development Plan, cannot currently demonstrate a five year supply of sites against the housing requirement. However, as previously noted, the EFDLP is now at a very advanced stage in its production, with a new round of Main Modifications currently being consulted on at the time of writing this report.

The Inspectorate has confirmed in correspondence their acceptance of the Council's intention to deliver new housing through a "stepped" trajectory, where delivery of new housing will come forward relatively slowly in the first years after adoption and then significant delivery thereafter. Whilst under the existing Development Plan the Council concedes that it cannot provide for a five year supply of deliverable sites, upon adoption of the EFDLP the Council will have a clear strategy for delivering the necessary new homes through a plan led approach and through an adopted "stepped" trajectory.

In any event, the delivery of 9 new dwellings through this application will not significantly add to the existing housing stock within the District and therefore this only attracts moderate weight.

#### Sport England

Since the proposal would result in the loss of land which has been used as a playing field, consultation with Sport England is necessary. In summary, Sport England have offered no objection as a statutory consultee subject to:

- Sports Facilities Delivery
- Artificial Grass Pitch Design Specifications;
- Artificial Grass Pitch Certification;
- Natural Turf Pitch Improvement Scheme;
- Construction Phasing;
- Community Use Agreement;

Sport England have also offered support for the scheme as a non statutory consultee. Sport England seek to protect existing sport facilities and enhance the quality, accessibility and management of existing facilities and provide new facilities to meet demand. Sport England consider that the proposal has the potential to deliver enhanced sporting facilities that would make a major contribution towards meeting identified community sports facility needs in Epping Forest District. It is clear therefore that the desired improvements to the club have some merit and would provide benefit when considering the application purely from a sporting perspective.

#### Overall planning balance and conclusion

As previously identified in this report, the proposal constitutes inappropriate development in the Green Belt, which causes additional harm to its openness, conflicts with its fundamental purpose and introduces an increased amount of residential paraphernalia and domestic activity to the site causing harm to its character. In accordance with paragraph 148 of the NPPF, the decision maker must attach substantial weight to these harms and the applicant must advance very special circumstances to clearly outweigh them. (Officer emphasis)

The stringent test articulated by Sullivan, J in *R (Chelmsford) v First Secretary of State and Draper* [2003] EWHC 2978, which concerned national Green Belt policy in Planning Policy Guidance Note 2 (which has been replaced by the Framework however, for present purposes, current national Green Belt planning policy has not changed), states within paragraph 58:

*"58. The combined effect of paragraphs 3.1 and 3.2 [of PPG2] is that, in order to justify inappropriate development in the Green Belt, (a) there must be circumstances which can reasonably be described not merely as special but as very special, and (b) the harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations. Those other considerations must be capable of being reasonably described as very special circumstances. If they are capable of being so described, whether they are very special in the context of the particular case will be a matter for the decision maker's judgment."*

In *R (Basildon District Council) v First Secretary of State and Temple* [2004] EWHC 2759 (Admin), Sullivan, J clarified the test for demonstrating very special circumstances by confirming that it was not

necessary for each factor, of itself, to be 'very special' and that factors which individually were otherwise quite ordinary could cumulatively become very special circumstances.

Clearly therefore, In order to amount to very special circumstances the applicant has to demonstrate that the material considerations they rely upon clearly outweigh the harm by way of inappropriateness and any other harm.

It is not disputed that the proposed improvements to the club would be desirable and, with particular emphasis on the delivery of the proposed all weather pitch adjacent to the clubhouse, would contribute to enhancing the existing sport offer in the area and would reduce the likelihood of matches being postponed due to bad weather.

However in this instance the sheer quantum of development proposed (9 new houses) and its impact on the openness of the Green Belt is clearly disproportionate to the benefits that will be accrued from the development proposed. It has been demonstrated in this report that the benefits of granting planning permission are for the most part, very limited, non essential albeit desirable elements for the rugby club and are not overtly within the public interest to justify inappropriate development and the other harms to the Green Belt. In addition, the applicant has not adequately examined other potential sources of funding, as the last request for grant funding came in 2015.

In previously accepting development of 8 semi detached houses on the adjacent site as enabling development to secure improvements to the club, Members of this committee considered that the quantum was acceptable, given the very poor state of the existing facilities and the very clear argument put forward at the time that the 8 houses would secure the long term future of the club. In addition, the previously approved application was sited on previously developed land, albeit a car park, and further somewhat mitigated by the fact that development did not extend much further west than the established residential development opposite the site, and essentially therefore completed the ribbon development fronting the road. Neither of these factors apply to the current proposal.

The applicant has set out a number of considerations which they believe clearly outweighs the identified harm and these have been carefully considered, however when considered individually or in combination it is clear that they do not outweigh, never mind clearly outweigh the very significant harm caused by way of a substantial amount of inappropriate development, additional harm to openness, a significant conflict with the fundamental purposes of the Green Belt and further harm caused by increased residential paraphernalia and domestic activity. As such very special circumstances do not exist and the proposal therefore conflicts with policies GB2A and GB7A of the ALP, with policy DM4 of the EFDLP and with the Green Belt requirements of the NPPF. As such planning permission should be refused.

### **Recommended reasons for refusal**

1. The proposal constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition harmful to the Green Belt. In addition, the proposal would cause significant additional harm to its openness and would conflict with its fundamental purpose of keeping land permanently open. The nature of the proposal would cause a significant increase in the residential paraphernalia in and around the site which would cause additional significant harm to the character of the Green Belt. The very special circumstances advanced by the applicant do not clearly outweigh these identified harms to the Green Belt. The proposal is therefore contrary to policy DM 4 of the Epping Forest District Local Plan Submission Version (2017), with policies GB2A and GB7A of the Adopted Local Plan and Alterations (2006) and with the requirements of chapter 13 of the National Planning Policy Framework (2021).

2. Since there is no appropriate mechanism to secure the necessary financial contribution towards managing the effects of recreational pressure on the Epping Forest Special Area of Conservation, the proposal fails to demonstrate its compliance with policies DM 2 and DM 22 of the Epping Forest District

Local Plan, policy NC1 of the Adopted Local Plan and Alterations (2006), with paragraphs 181 and 182 of the National Planning Policy Framework (2021) and with the requirements of the Habitat Regulations (2017)

**Refusal Reason(s): (2)**

- 1 The proposal constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition harmful to the Green Belt. In addition, the proposal would cause significant additional harm to its openness and would conflict with its fundamental purpose of keeping land permanently open. The nature of the proposal would cause a significant increase in the residential paraphernalia in and around the site which would cause additional significant harm to the character of the Green Belt. The very special circumstances advanced by the applicant do not clearly outweigh these identified harms to the Green Belt. The proposal is therefore contrary to policy DM 4 of the Epping Forest District Local Plan Submission Version (2017), with policies GB2A and GB7A of the Adopted Local Plan and Alterations (2006) and with the requirements of chapter 13 of the National Planning Policy Framework (2021).
  
- 2 Since there is no appropriate mechanism to secure the necessary financial contribution towards managing the effects of recreational pressure on the Epping Forest Special Area of Conservation, the proposal fails to demonstrate its compliance with policies DM 2 and DM 22 of the Epping Forest District Local Plan, policy NC1 of the Adopted Local Plan and Alterations (2006), with paragraphs 181 and 182 of the National Planning Policy Framework (2021) and with the requirements of the Habitat Regulations (2017)





Epping Forest District Council

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Application Number:	EPF/1954/22
Site Name:	Building Yard, Keyzers Road, Nazeing, Waltham Abbey, EN10 6RJ

# OFFICER REPORT

**Application Ref:** EPF/1954/22  
**Application Type:** Full planning permission  
**Applicant:** Mr Matt Maskell  
**Case Officer:** Kie Farrell  
**Site Address:** Building Yard, Keyzers Road, Nazeing, Waltham Abbey, EN10 6RJ  
**Proposal:** Change of use: From Builders Yard to a Residential Site Removal of the existing outbuildings  
**Ward:** Lower Nazeing  
**Parish:** Nazeing  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000OfS9>  
**Recommendation:** Approved with Conditions (Subject to s106 Legal Agreement)

## Recommendation:

**(1) That planning permission is granted subject to conditions, completion of a suitable legal agreement to address matters set out below,**

**(2) Agree for relevant officers to add and/or amend any planning conditions or S106 planning obligations in respect of securing necessary measures to mitigate air pollution and recreational pressure impacts on the EFSAC.**

## Proposed conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

Drawing ELA/1 Rev A – Existing Layout  
Drawing ELA/2 Rev A – Existing Layout & Elevations  
Drawing ELA/3 Rev A – Proposed Layout & Elevations  
Drawing ELA/6 Rev A – Block Plan & Location Plan  
Contaminated Land Report  
Preliminary Ecological Appraisal Incorporating Bat Survey Inspection, August 2021.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

3. Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity, in accordance with policies DBE1 and DBE4 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021.

4. No preliminary ground works shall take place until an assessment of flood risk, focusing on surface water drainage, has been submitted to and approved by the Local Planning Authority. The assessment shall demonstrate compliance with the principles of Sustainable Drainage Systems (SuDS). The development shall be carried out and maintained in accordance with the approved details.

Reason:- The development is located in an area identified as being in an Epping Forest District Council flood risk assessment zone and would be likely to result in increased surface water run-off, in accordance with policy U2B of the adopted Local Plan and Alterations 1998 & 2006, policy DM15 of the Local Plan Submission Version 2017, and the NPPF 2021.

5. 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 the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.

Reason: To ensure satisfactory provision and disposal of surface water in the interests of Land Drainage, in accordance with policy RP3 of the adopted Local Plan and Alterations 1998 & 2006, policies DM16 and DM18 of the Local Plan Submission Version 2017, and the NPPF 2021.

6. Prior to any above ground works, full details of both hard and soft landscape works and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with policies CP2 and LL11 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.

7. Details of the biodiversity green roof shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity green roof shall be:

- a) biodiversity based with extensive substrate base (depth 80-150mm);
- b) laid out in accordance with the approved drawings;
- c) planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting, and shall contain no more than a maximum of 25% sedum). The biodiversity green roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency. The biodiversity green roof shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter. If within a period of five years from the date of the planting or establishment of the green roof it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective it shall be replanted / re-seeded with the same agreed mix of species as that originally planted and shall be planted at the same place.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.

8. A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.

9. A Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority following the recommendations made within the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (T4ecology Ltd, August 2021).

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

10. Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

Reason: The District is classed as being in an area of severe water stress and the reduction of water use is therefore required in the interests of sustainability and in accordance with policy CP2 of the Adopted Local Plan and Alterations and Policy DM 19 of the Epping Forest District Council Local Plan Submission Version 2017.

11. Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.

Reason:- To avoid the deposit of material on the public highway in the interests of highway safety, in accordance with the guidance contained within the National Planning Policy Framework, policy ST4 of the adopted Local Plan and Alterations, and Policy T 1 of the Epping Forest District Council Local Plan Submission Version 2017.

12. Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point shall be installed and retained thereafter for use by the occupants of the site.

Reason: To help support improvements to air quality in accordance with policies T1 and DM22 of the Local Plan Submission Version 2017, and the NPPF 2021.

13. 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.

Reason:- To limit the impact of the construction work on the living conditions of residents living in close proximity to the site, in accordance with the guidance contained within the National Planning Policy Framework, policies RP5A and DBE9 of the adopted Local Plan and Alterations, and policy DM 21 of the Epping Forest District Council Local Plan Submission Version 2017.

14. No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

Reason: To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours and in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, and policies DM9 and DM 21 of the Local Plan Submission Version 2017, and the NPPF 2021.

15. 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, B, D, E, F and AA of Part 1, and

Class A and B of Part 2 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.

Reason:- The specific circumstances of this site warrant the Local Planning Authority having control over any further development, in accordance with the guidance contained within the National Planning Policy Framework and policies GB2A and GB15A of the adopted Local Plan and Alterations and policies DM4 and DM9 of the Local Plan Submission Version 2017.

16. Prior to any above groundworks, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the Local Planning Authority (LPA). The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy.

Reason: To ensure the development contributes to supporting improved digital connectivity throughout the District and supports the wider aims and objectives for reducing car-led air pollution, improving the health and wellbeing of residents and visitors including the EFSAC, in accordance with policy CP1 of the adopted Local Plan 1998 & 2006, Policies D5, DM2, DM9, DM10 & DM22 of the Local Plan Submission Version 2017, and the NPPF 2021.

17. Access to the flat roof over the development 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.

Reason: To safeguard the privacy of adjacent properties, in accordance with policy DBE9 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

### **S106 obligations**

- i. Contribution to air quality impact mitigation comprising contribution of £335 per dwelling.**
- ii. Payment of 5% of total financial contribution monitoring fee.**

### **Report:**

1. This application was reported to Area Planning Sub-Committee West on 7th December 2022 with a recommendation to refuse permission on the following grounds:

**1. The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).**

**2. The proposed development by reason of its design, scale, footprint and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to**

policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

3. The proposed development by reason of its design, scale, footprint and siting would have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM2 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

2. Following discussion on the merits of the proposal, Members voted to support the application, subject to conditions and a legal agreement.

3. Since the approval of this development would constitute a departure from Local Plan policy, the application has been referred up to District Development Management Committee for a decision, with a recommendation from Area Planning Sub-Committee West to approve planning consent, subject to conditions and a legal agreement.

## **ORIGINAL REPORT**

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

*Called in by Councillor Richard Bassett on 21st October 2022.*

## **Committee Report - EPF/1954/22**

### **Address:**

Building Yard, Keyzers Road, Nazeing, Waltham Abbey, EN10 6RJ.

### **Description of Site:**

The application site comprises land between Keyzers Road, Great Meadow and Old Nazeing Road.

The site is currently vacant / not in use but was last in use as a Builder's Yard and back garden land.

The site contains several existing outbuildings all of which are single storey (maximum height 3m).

The site is within Environment Agency Flood Zone 2 (Medium probability of flooding).

### **Description of Proposal:**

Change of use: From Builders Yard to a Residential Site Removal of the existing outbuildings.

This application follows two recent refused applications for a similar schemes, the first of which was also dismissed at appeal in July 2022.

The current scheme comprises:

- Single storey, 2 bedroom (plus 'study') dwelling.
- 254 sq m floor area (Bedroom 1 - 25 sq m, Bedroom 2 – 40 sqm)
- Maximum height approximately 3.3m (maximum height of refused EPF/2959/21 scheme was 6.6m)
- 2 car parking spaces
- Green sedum roof
- Set off neighbouring boundaries by minimum of 1m.
- Garden areas of 237 sq m and 169 sq m.

### **Relevant Planning History:**

Building Yard site (023435):

EPF/1956/22

Enhancement of existing builders yard for use for scaffold yard  
Refused 08.11.2022.

Reasons for refusal:

1. The proposal by reason of its commercial nature would result in an incongruous and intrusive development which fails to respect its residential setting contrary to policies CP2, CP7, DBE1 and DBE2 of the adopted Local Plan 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017 and the NPPF 2021.

2. The proposal by reason of its commercial nature would result in an incongruous and intrusive development that would have a harmful impact on the occupiers of neighbouring residential properties by way of noise and disturbance. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

3. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

EPF/2959/21

Change of use: from builders yard to a residential site. Removal of the existing outbuildings, erection of a new 3-bed chalet style bungalow & replacement of the existing gate to a new gate. (Revised application to EPF/1579/21)  
Refused 17.01.2022.

Reasons for refusal:

1. The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).



2. The proposed development by reason of its design, scale, height, bulk and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

3. The proposed development by reason of its design, scale, height, bulk and siting would result in overlooking / a harmful loss of privacy to the rear gardens of neighbouring residential properties and would also have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

EPF/1579/21

Change of use from builders' yard to residential. Removal of existing outbuildings, erection of a new 3-bed chalet style bungalow and garage and replacement gate.

Refused 15.10.2021 and Dismissed at appeal 14.07.2022.

Reasons for refusal:

1. The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).

2. The proposed development by reason of its design, scale, height, bulk and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

3. The proposed development by reason of its design, scale, height, bulk and siting would result in overlooking / a harmful loss of privacy to the rear gardens of neighbouring residential properties and would also have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

EPF/2296/12

Change of use from Builders Yard to Tree Surgeons Yard, dismantle single garage and erect log store in new position.

Withdrawn 22/01/2013.

115 Old Nazeing Road (000250):

EPF/0470/13

115B Old Nazeing Road

Reinstatement of 2 windows

Approved 10/05/2013

EPF/1200/91

115 Old Nazeing Road

Change of use of shop to residential flat

Approved 27/01/1992

EPO/631A/73 (Reserved Matters)

Garage Building Details

Approved 16/10/1973

EPO/631/73 (Outline)

Outline application for the use of the land as an extension to the builders yard and the erection of garage for commercial vehicles at builders yard rear of 115 Old Nazeing Road

Approved 04/09/1973

W/EPO/556a/66

Details of Shop and Flat 115 Old Nazeing Road

Approved 28.03.1967

W/EPO/556/66

Outline application for shop and flat 115 Old Nazeing Road

Approved 07.02.1967

EPR/72/52

Rebuilding of store at rear of Nash's shop

Approved 16.5.52.

**Policies Applied:**

Adopted Local Plan:

CP3 New Development

CP4 Energy Conservation

CP5 Sustainable Building

I1A Planning Obligations

H2A Previously developed land

H3A Housing Density

H4A Housing Mix

DBE1 Design of New Buildings

DBE2 Effect on Neighbouring Properties

DBE3 Design in Urban Areas

DBE6 Car Parking in New Development

DBE8 Private Amenity Space

DBE9 Loss of amenity  
LL10 Adequacy of Provision for Landscape Retention  
LL11 Landscaping Schemes  
ST1 Location of Development  
ST4 Road Safety  
ST6 Vehicle Parking  
U1 Infrastructure Adequacy  
U2A – Development in Flood Risk Areas  
RP4 Contaminated Lane  
CP1 Achieving Sustainability Objectives

NPPF (July 2021):

The National Planning Policy Framework (NPPF) states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight. Epping Forest District Local Plan Submission Version) 2017 (LPSV):

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

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.

The appointed Inspector issued her initial advice on 2 August 2019 and since then, the Council has undertaken further work to address the actions identified by the Inspector. This has led to the production of a number of proposed changes to the Local Plan Submission Version 2017 (known as the Schedule of Main Modifications) and additional supporting documents associated with the Main Modifications. These are to address issues of soundness and/or legal compliance identified by the Inspector.

The Main Modifications include changes to some of the supporting text and Policies within the Plan, deletion and amendment to some site allocations, updated Housing Supply data to March 2020, along with associated changes to the mapping contained within the Plan.

The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan. Following the close of the consultation (ended 23rd September 2021), the representations will be passed to the Inspector for her consideration before the publication of the Inspector's final report.

The following policies in the LPSV are considered to be of relevance to the determination of this application:

SP1: Presumption in Favour of Sustainable Development  
H1: Housing mix and accommodation types

DM2: Epping Forest SAC and Lee Valley SPA  
DM9: High Quality Design  
DM10 Housing design and quality  
DM11: Waste Recycling facilities in New Development  
DM15: Managing and reducing flood risk  
DM16: Sustainable Drainage Systems

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

Nazeing Parish Council: Support.

“Resolved: No objection and support the application as it

- i) Complies with current legislation,
  - ii) Is a limited infill site,
  - iii) Is previously developed land at a sustainable location,
  - iv) Is also in a residential area so the current commercial use is out of keeping.
  - v) Addresses the reasons for refusal of the previous application for this change of use.
- It was noted that the Council would expect obscure glass windows to be installed as necessary.”

Number of neighbours Consulted: 22

4 comments in support of the application have been received as follows:

9 Great Meadow:

“We have taken a look at the proposed drawings submitted and are in favour of the new single storey 2 bedroom bungalow, it is in keeping with the current properties and has some environmental benefit i.e sedum roof.”

1 Great Meadow:

“I believe this is the best use of the land rather than an industrial unit. This will finally settle the use of this yard to the benefit of the local residents.”

109 Old Nazeing Road (2):

“I support this application on the condition it is built exactly as shown on the planning application and no further changes to the plan are made whatsoever even minor changes without further consultation with those in neighbouring properties or gardens and our comments being taken into consideration before any changes are agreed.”

“I support this application solely on the condition that no further changes whatsoever are agreed to this planning application even minor changes without consultation with those in neighbouring properties or gardens and their comments being taken into consideration before any agreement to changes are given.”

1 neutral comment has been received as follows:

109A Old Nazeing Road:

“No objection to the proposed bungalow provided the plans remain the same as submitted”.

1 comment objecting to the application have been received as follows:

7 Great Meadow:

"We object to this applications on the grounds that the high wall is fully across the bottom of our garden we will be looking directly onto it from our lounge 30 foot away and 20 foot from a bedroom. We will have no sky line no sun rise. The kitchen will be at the bottom of our garden and the utility room with all the noise that will create you have already allowed Number 9 to move there kitchen which now sides onto me as well, Surely we have the right to some piece in our garden and as its only 30 foot long we are getting crowded out by extension and new property proposals encroaching our space. Why can't they move the property to the centre of this land it might not upset the residents so much Its got a green roof but the wall backing onto us is too high for us to see over it. We have had our property on the market of a year now and because of all the applications made over this time we are now blighted and unable to sell we have had offers but once told about the applications for this land they all back out."

### **Consultation Responses**

Essex CC Highways: No objection

"From a highway and transportation perspective the Highway Authority has no objections to this proposal as it is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021."

EFDC Land Drainage comments dated 27th October 2022:

"Having reviewed the details supplied for the above application the Environmental Protection and Drainage team wish to put on a holding objection on the application on the grounds of flood risk in line with policy DM15 of the Local Plan Submission Version.

The site is located within flood zone 2 and the applicant has failed to provide sufficient information to demonstrate that the increase in vulnerability of the users has been considered and is sufficiently protected by incorporating the necessary mitigation measures and construction techniques. In order to overcome this objection, the applicant must provide a site specific flood risk assessment and meet the requirements set out in policy DM15 of the Local Plan Submission Version."

EFDC Trees and Landscape: No objection subject to landscaping condition.

EFDC Contaminated Land: No objection subject to condition.

"The Phase I Report (ref. 75139R1), dated August 2021, relating to potential contamination issues at the above site has been reviewed and I have the following comments to make regarding its content:

The report satisfactorily addresses the requirements for submission of Phase I contaminative study, in that it is signed, dated, contains relevant information and evidence of a site walkover performed; background information for the site and surrounding area; a detailed conceptual site model (CSM); and a preliminary risk assessment identifying and assessing potential contaminant linkages.

Reviews of historic maps and background checks have identified plausible pollutant pathways. As the CSM has highlighted potentially active pollutant linkages, the report has recommendations for further site investigations to assess the extent of any potential contamination at the site.

Due to the sensitive nature of the proposed residential use, I recommend that the land contamination condition NSCN57 be attached to any approval. Once a contaminated land assessment document has been received and reviewed the attached condition will be considered for discharge.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to

ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.”

Environment Agency comments:

“The sequential test is required if the site is in FZ2 and a sequential test for the same development hasn’t already been carried out at that site (see below) – link here: Flood risk assessment: the sequential test for applicants - GOV.UK ([www.gov.uk](http://www.gov.uk)).”

Essex CC Place Services (Ecology):

No comments received on the current application but in respect to the previous application (EPF/2959/21) there was no objection subject to securing biodiversity mitigation and enhancement measures.

**Main Issues and Considerations:**

**Flood Risk**

The application site is located within Environment Agency Flood Zone 2 (Medium probability of flooding) and would introduce 'more vulnerable' development to an area at risk of flooding.

As such a Sequential Test must be undertaken prior to the submission of any application. The aim of the Sequential Test is to steer development to areas with the lowest probability of flooding as development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

No Sequential Test has been submitted and therefore the proposal is contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF.

Notwithstanding the above, it is unlikely that the proposal would pass a Sequential Test given the number of alternative sites allocated within the Local Plan Submission Version, along with other potentially available sites considered as part of the site selection work that formed the evidence base to the new Local Plan.

The Council's Environmental Protection and Drainage Team have confirmed that the site is within Flood Zone 2. The applicant has not submitted a Flood Risk Assessment with this application and in the absence of this information has failed to demonstrate that the increase in vulnerability of the users has been considered and is sufficiently protected by incorporating the necessary mitigation measures and construction techniques. The Environmental Protection and Drainage Team has submitted a holding objection (full comments set out above) to the application.

The proposed residential development is therefore unacceptable on the grounds of Flood Risk.

In the appeal decision for the refused EPF/2959/21 scheme, the Planning Inspector comments as follows on Flooding:

“11. The Council and the Appellant dispute the location of the site as being within the Environment Agency’s Flood Zone 2 and the requirement for a sequential test as to why the development could not be located within another site with a lower probability of flooding. From the information submitted it is clear that the site is within Flood Zone 2 and so according to the National Planning Policy Framework, a sequential test is required. This has not been done.”

## **Existing Buildings**

The existing buildings shown on Drawing ELA/2 Rev A do not accurately reflect the actual buildings on the site which are in various states of disrepair.

## **Design, Character and Appearance**

Drawings submitted with previous applications stated that the combined floor area of the existing outbuildings on the site is 179 sq m.

It is unclear which of the existing buildings on the site are lawful and it is not necessarily the case that the floorspace of these buildings act as a guide as to the acceptable amount of floorspace for any future residential dwelling on the site.

All of the buildings on the application site are single storey with a maximum height of 3 metres, some of brick construction, some timber sheds.

The application site is located between two storey dwellings on Old Nazeing Road and modest single storey bungalows on Great Meadow.

The proposed dwelling is single storey with a maximum height of approximately 3.3m. The building is L shaped, in two parts.

The first part (accommodating living area/kitchen/study/hall) is on the footprint of the main existing building on the site (shown on the Existing Layout drawing as Units 1, 2 and 3) but also extends further forward and rearward than the existing building onto open garden land where sheds and a greenhouse are currently located.

The second part (accommodating two bedrooms and bathrooms) is on the footprint of other existing buildings (shown on the Existing layout drawing as Units 4, 5, 6 and 7) on land to the rear of 115 Old Nazeing Road and between the rear gardens of 111 and 117. The proposed building does not extend as far towards the houses on Old Nazeing Road as the existing buildings but is much wider, filling almost the full width of this part of the site but with 1m setbacks from the boundary on either side.

Any proposed dwelling must respect its setting in terms of scale, proportion, siting, massing, height, orientation, roof-line and detailing.

The proposed dwelling is single storey (with a flat green sedum roof) with a maximum height of approximately 3.3m and in that respect is not out of character with the existing buildings on site or the neighbouring bungalows in Great Meadow.

However, the proposed dwelling has a large footprint extending further forward and rearward of the existing Unit 1,2,3 building and in close proximity to the side boundaries (set back 1m from neighbouring boundaries).

It is considered that the footprint / floor area of the proposed dwelling is excessive resulting in a cramped and over intensive development which fails to respect its setting and therefore is unacceptable in design, character and appearance terms.

The floor area of the proposed dwelling is 254 sq m which significantly exceeds the combined floor area of the existing buildings on the site.

The proposed floor area of 254 sq m (including bedrooms of 25 sqm and 40 sq m) is also significantly larger than the minimum required floor area for a 2 bed, 4 person dwelling over a single storey (70 sq m).

For context, the national space standards state that the minimum floor area for a 6 bed, 8 person dwelling over a single storey is 125 sq m.

This suggests that there is considerable scope for the floor area / footprint to be reduced in order to set the building further back from the site boundaries in order to lessen the cramped and over intensive nature of the proposal.

#### Impact on the Residential Amenity of Occupiers of Neighbouring Residential Properties

Adopted Policy DBE2 states that Planning permission will not be granted for new buildings which have a detrimental effect upon existing neighbouring or surrounding properties in either amenity or functional terms.

Due to the single storey nature of the proposed dwelling and the absence of windows in flank walls the proposal would not result in harmful loss of privacy / overlooking of any neighbouring properties.

However, due to its proximity to boundaries with 7 Great Meadow and 111 and 117 Old Nazeing Road it is considered that the proposed dwelling would have a harmful overbearing visual impact on occupiers of these neighbouring residential properties which would have a 3.3m high brick flank wall set 1m off the shared boundaries.

The proposed development is therefore considered to be unacceptable in terms of its impact on the residential amenity of the occupiers of neighbouring residential properties.

The floor area of the proposed dwelling is 254 sq m which is significantly larger than the minimum required floor area for a 2 bed, 4 person dwelling over a single storey (70 sq m).

For context, the national space standards state that the minimum floor area for a 6 bed, 8 person dwelling over a single storey is 125 sq m.

This suggests that there is considerable scope for the floor area / footprint to be reduced and for the building to be set back further back from the site boundaries in order to mitigate the harmful visual impact on neighbouring properties.

#### Quality of Accommodation

The proposed dwelling has a floor area of 254 sq m which very significantly exceeds the minimum national residential space standard for a 2 bedroom, 4 person dwelling over a single storey (minimum 70 sq m).

All habitable rooms appear to benefit from good levels of light and outlook.

Two separate garden areas are proposed of 237 sq m and 169 sq m respectively.

Acceptable in this respect.

#### Highways

ECC Highways has no objection to the proposal. Vehicular access will be via the existing access from Keyzers Road. Off street car parking for two cars is proposed on the driveway to the front of the proposed dwelling.



**SAC:**

In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM2 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

**Conclusion:**

Recommended for refusal.

**Refusal Reason(s): (4)**

- 1 The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).
- 2 The proposed development by reason of its design, scale, footprint and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.
- 3 The proposed development by reason of its design, scale, footprint and siting would have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.
- 4 In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

**Informatives: (2)**

- 5 The Local Planning Authority has identified matters of concern within the officer's report and clearly set out the reason(s) for refusal within the decision notice. The Local Planning Authority

is willing to provide post-application advice in respect of any future application for a revised development.

6 This decision is made with reference to the following plan numbers:

Drawing ELA/1 Rev A – Existing Layout

Drawing ELA/2 Rev A – Existing Layout & Elevations

Drawing ELA/3 Rev A – Proposed Layout & Elevations

Drawing ELA/6 Rev A – Block Plan & Location Plan

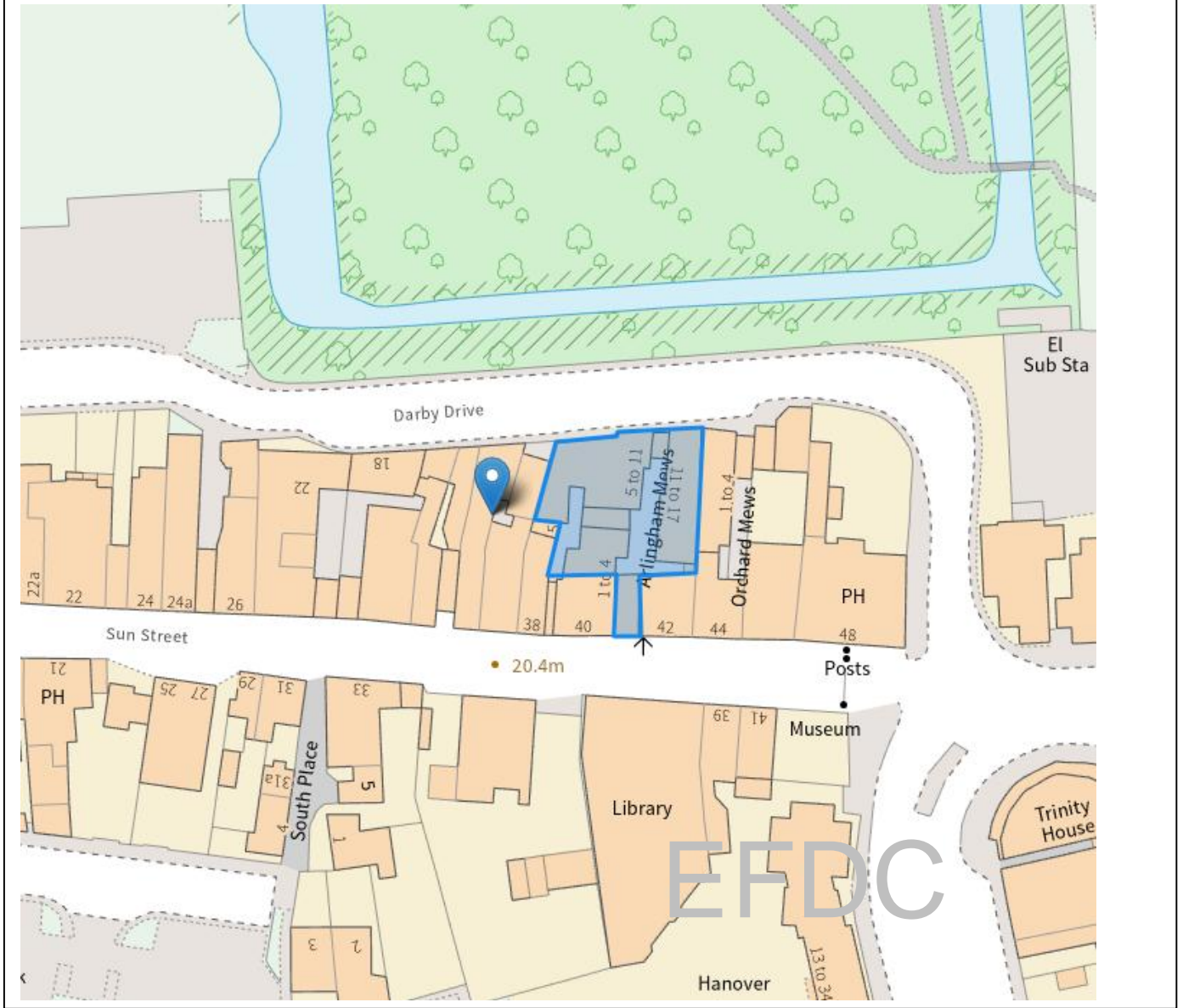
Contaminated Land Report

Preliminary Ecological Appraisal Incorporating Bat Survey Inspection, August 2021.



Epping Forest District Council

EFDC



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Application Number:	EPF/1984/22
Site Name:	Units 12,14, and 15 Arlingham Mews, Sun Street, Waltham Abbey, EN9 1ED

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## OFFICER REPORT

**Application Ref:** EPF/1984/22  
**Application Type:** Full planning permission  
**Applicant:** c/o agent Mr D Padalino - DPA (London Ltd)  
**Case Officer:** Kie Farrell  
**Site Address:** Units 12,14, and 15 Arlingham Mews, Sun Street, Waltham Abbey, EN9 1ED  
**Proposal:** Change of use of three vacant retail units, to two one bed flats.  
**Ward:** Waltham Abbey South West  
**Parish:** Waltham Abbey  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000OhqJ>  
**Recommendation:** Approved with Conditions (Subject to s106 Legal Agreement)

### Recommendations/Decisions Required:

**(1) That planning permission is granted subject to conditions, completion of a suitable legal agreement to address matters set out below,**

**(2) Agree for relevant officers to add and/or amend any planning conditions or S106 planning obligations in respect of securing necessary measures to mitigate air pollution and recreational pressure impacts on the EFSAC.**

### Proposed conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

Drawing 1464\_304 – Location Plan  
Drawing 1464\_305 – Block Plans  
Drawing 1464\_305 (sic) – Proposed Site Plan  
Drawing 1464\_307 – Existing Plans and Elevations  
Drawing 1464\_308 – Proposed Plans and Elevations  
Design, Access and Heritage Statement, dpa  
HRA.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

3. Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity, in accordance with policies DBE1 and DBE4 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021.

4. A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.

5. No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

Reason: To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours and in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, and policies DM9 and DM 21 of the Local Plan Submission Version 2017, and the NPPF 2021.

6. Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

Reason: The District is classed as being in an area of severe water stress and the reduction of water use is therefore required in the interests of sustainability and in accordance with policy CP2 of the Adopted Local Plan and Alterations and Policy DM 19 of the Epping Forest District Council Local Plan Submission Version 2017.

## **S106 obligations**

- i. Contribution to air quality impact mitigation comprising contribution of £1852.63 per dwelling.**
- ii. Contribution to recreational pressure impact mitigation comprising contribution of £352 per dwelling.**
- iii. Payment of 5% of total financial contribution monitoring fee.**

### **Report:**

1. This application was reported to Area Planning Sub-Committee West on 9th November 2022 with a recommendation to refuse permission on the following grounds:

**1. The proposed residential development is not a main town centre use and would result in the loss of ground floor Class E units within Waltham Abbey Town Centre and Waltham Abbey Conservation Area which would harm the vitality and viability of the Town Centre. Insufficient evidence has been provided to demonstrate that the units are not capable of being re-let for a main town centre use. As such the proposal is contrary to policies TC1 and TC3 of the of the adopted Local Plan and Alterations (1998 & 2006), policies E2 and P3 of the emerging Local Plan Submission Version (2017) and the NPPF (2021).**

**2. By reason of its design and proposed use, the proposed development would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE3, DBE10, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7, DM9 and DM10 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).**

**3. By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.**

**4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM2 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.**

2. Following discussion on the merits of the proposal, Members voted to support the application, subject to conditions and a legal agreement.

3. Since the approval of this development would constitute a departure from Local Plan policy, the application has been referred up to District Development Management Committee for a decision, with a recommendation from Area Planning Sub-Committee West to approve planning consent, subject to conditions and a legal agreement.

### **ORIGINAL REPORT**

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

### **Address**

Units 12,14, and 15 Arlingham Mews, Sun Street, Waltham Abbey, EN9 1ED.

### **Description of Site**

Arlingham Mews is a 1980s shopping/office arcade on two floors with access via a pedestrian courtyard running between Sun Street and Darby Drive.

The application site is located within Waltham Abbey Town Centre and the Waltham Abbey Conservation Area.

### **Description of Proposal**

Change of use of three vacant retail units, to two one bed flats.

The proposed development is similar to that proposed by recently refused application EPF/1213/21.

Three existing ground floor retail (Class E) units would be converted to two ground floor residential units and one further unit (Unit 11) would be reduced in size.

The application form states that 139.3 sq m of existing retail (Class E) floorspace would be lost.

Two residential units are proposed (both 1 bed, 2 person units).

An extension is proposed to the rear of one of the existing units in order to accommodate the living room of proposed Flat 1.

Existing Unit 11 (Shop 1) would be retained but would be reduced in size to accommodate the living room of proposed Flat 2.

An external toilet would be created at the rear of existing Unit 15 / alongside the bedroom of proposed Flat 2.

No off street car parking is proposed. No private amenity space is proposed.

### **Relevant History (003395)**

EPF/1503/22

Two extensions to the existing building  
Refused 24.08.2022.

Reason for refusal:

1. By reason of their design and siting, the proposed extensions would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE1, DBE3, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7 and DM9 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).

EPF/1213/21

Change of Use of Ground Floor Retail Units (A1) to 1 x Studio and 2 x 1 bed unit (C3)  
Refused 19.4.22

Reasons for refusal:

1. The proposed development would result in the loss of ground floor retail units, including some falling within the Primary Retail Frontage / Primary Shopping Area, that could harm the vitality and viability of Waltham Abbey Town Centre. Insufficient evidence has been provided to demonstrate that the units are not capable of being re-let for a main town centre use. As such the proposal is contrary to policies TC1 and TC3 of the adopted Local Plan and Alterations (1998 & 2006), policies E2 and P3 of the Local Plan Submission Version (2017) as amended by Main Modifications (July 2021) and the NPPF (2021).

2. By reason of its design and proposed use, the proposed development would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE3, DBE10, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7, DM9 and DM10 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).

3. By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

9 (Ground and First Floor) & 13 (First floor) Arlingham Mews

EPF/0849/05 (duplicate of EPF/1732/04)

Change of use of Unit 9 (A1 retail) and Unit 13 (B1 office) to residential to form 5 x one bedroom flats. (Resubmitted application)

Refused 03.08.2005 (Committee overturn). Dismissed at appeal 31.01.2006.

Reasons for refusal:

1. The proposal would result in the loss of existing retail units that could harm the vitality and viability of Waltham Abbey Town Centre. As such the proposal is contrary to the provisions of Policy TCR3 of the Essex and Southend on Sea Replacement Structure Plan. It has not been demonstrated that the units are not capable of being re-let and therefore the proposed conversion of the units into residential units would be contrary to the provisions of Policy H10 of the Epping Forest District Local Plan.

2. The proposed flats, by reason of their internal arrangement, would lead to excessive overlooking of neighbouring flats within the development and excessive transmission of noise to bedrooms from adjoining flats and communal areas. They would therefore result in poor living conditions for their occupants contrary to policy DBE9 of the Epping Forest Local Plan.

Relevant extract from Appeal Decision (APP/J1535/A/05/1189854) Paragraphs 7-11:

*“Vitality and Viability*

*7. The Appellants have provided no evidence of a specific marketing campaign, but there is persuasive advice from their letting agents as to a lack of demand for accommodation of this type within the shopping centre. There is nothing before me to suggest that a suitable tenant, or tenants, for the first floor accommodation is likely to be found in the foreseeable future and, in such circumstances, I find the*



*principle of a change to residential use to be acceptable and in accordance with both SP and LP policies.*

*8. However, because of its prominent location, the ground floor of Unit 9 represents a key element in the shopping frontage of the mews, the loss of which would materially harm the vitality and viability of the centre. I therefore conclude, notwithstanding my findings with regard to the first floor accommodation, that the proposal is unacceptable in its present form and in conflict with both SP Policy TCR3 and with Planning Policy Statement 6 – Planning for Town Centres, a key objective of which is to promote vital and viable town centres.*

#### Future Occupiers' Living Conditions

*9. The internal layout proposed for the residential units would result in kitchens within some flats adjoining bedrooms in others. Separating partitions are illustrated on the plans as being of lightweight construction, creating the clear possibility of unacceptable levels of noise transmission between flats. Whilst a planning condition could be imposed to address this problem, there is other legislation in place that would, in any event, require levels of sound insulation between flats sufficient to minimise any harmful noise transmission...*

*10. Of greater concern in my view, is the relationship between windows in the various flats. The only window in the living room of Flat 4, for example, would be directly overlooked, from just a few metres away, by two windows in the entrance hall of Flat 3. In addition, the living room in Flat 5 would be almost directly overlooked from the kitchen window in Flat 2, again from relatively close quarters, whilst there would be mutual overlooking between projecting oriel windows to the living rooms of Flats 1 and 2. To my mind and notwithstanding the built up town centre location, residential occupiers are entitled to a reasonable level of privacy which I consider the appeal proposal does not achieve.*

*11. Whilst LP Policy DBE9 seeks to protect the privacy and other amenities of neighbouring occupiers, I consider that its principles are equally applicable to occupiers of the development itself. My conclusion, therefore, on this issue, is that the proposal would fail to provide acceptable living conditions for future occupiers of the development with particular reference to privacy, in conflict with the objectives of LP Policy DBE9."*

9 & 13 Arlingham Mews (First floor units)

EPF/1732/04

Change of use of unit 9 (A1 retail) and unit 13 (B1 office) to residential to form 5 x one bedroom flats.  
Refused 20.12.2004 (Delegated)

1. The proposed loss of an existing retail unit would harm the vitality and viability of Waltham Abbey town centre; as such the proposal is contrary to the provisions of Policy TCR3 of the Replacement Essex and Southend on Sea Structure Plan and Government advice in Planning Policy Guidance 6 (Town Centre and Retail Development). It has not been demonstrated that the units are not capable of being re-let and therefore the proposed conversion of the units into residential units would be contrary to the provisions of Policy H10 of the adopted Local Plan.

9 Arlingham Mews

EPF/1322/03

Change of use from A1(retail) to four self-contained one bedroom flats.

Refused 12.09.2003.

Reasons for refusal:

1. The proposed loss of an existing retail unit would harm the vitality and viability of Waltham Abbey town centre, as such the proposal is contrary to the provisions of Policy TCR3 of the Replacement

Essex and Southend on Sea Structure Plan and Government advice in Planning Policy Guidance 6 (Town Centres and Retail Development).

2. The unit is not vacant or under-used and therefore the proposed conversion of a retail unit to four residential units would be contrary the provisions of Policy H10 of the adopted Local Plan.

Unit 17 Arlingham Mews

EPF/878/00

Change of use from office to residential flat.

Approved 06.09.2000.

### **Policies Applied**

The following saved policies within the Council's adopted Local Plan (1998) and Alterations (2006) are relevant:

CP1 – Achieving Sustainable Development Objectives

CP2 – Protecting the Quality of the Rural and Built Environment

DBE3 Design in Urban Areas

DBE9 – Loss of Amenity

DBE10 – Residential Extensions

U3B Sustainable Drainage

DBE8 Private Amenity Space

ST6 Vehicle Parking Standards

ST1 Location of development

ST2 Accessibility of development

H1A Housing Provision.

TC1 Town Centre Hierarchy

TC3 Town Centre Function

HC6 Character, Appearance and setting of Conservation Areas

HC7 Development within Conservation Areas

HC12 Development affecting the setting of Listing Buildings

NPPF (July 2021):

The National Planning Policy Framework (NPPF) states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

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

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

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.

The appointed Inspector issued her initial advice on 2 August 2019 and since then, the Council has undertaken further work to address the actions identified by the Inspector. This has led to the production of a number of proposed changes to the Local Plan Submission Version 2017 (known as the Schedule of Main Modifications) and additional supporting documents associated with the Main Modifications. These are to address issues of soundness and/or legal compliance identified by the Inspector.

The Main Modifications include changes to some of the supporting text and Policies within the Plan, deletion and amendment to some site allocations, updated Housing Supply data to March 2020, along with associated changes to the mapping contained within the Plan.

The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan. Following the close of the consultation (ended 23rd September 2021), the representations will be passed to the Inspector for her consideration before the publication of the Inspector's final report.

The following policies in the LPSV are considered to be of relevance to the determination of this application:

SP1: Presumption in Favour of Sustainable Development  
H1: Housing mix and accommodation types  
DM7: Heritage Assets  
DM9: High Quality Design  
DM10 Housing Design and Quality  
E2: Centre Hierarchy/Retail Policy.

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

Waltham Abbey Town Council – No response received.

26 Neighbours consulted. No responses received.

### **Issues and considerations**

The main issues to consider when assessing this application are the potential impacts on the vitality and viability of Waltham Abbey Town Centre, impact on heritage assets, design, character and appearance and residential amenity.

#### Loss of Retail / Class E Units

##### Adopted Plan:

Policy TC1 of the adopted Local Plan defines Waltham Abbey as one of three principal town centres within the district.

Policy TC3 states that residential accommodation will be permitted in appropriate locations in town centres but not at ground floor level and that any proposal that could have a detrimental impact on the vitality and viability of the centre will be refused.

The proposed residential units are at ground floor level within a Town Centre and the proposal is therefore contrary to adopted policy TC3 and is unacceptable in this respect.

### Emerging Plan:

Policy E2 of the emerging LPSV defines Waltham Abbey as a 'District Centre'. Map 5.7 shows that the part of the application site / proposed development falls within the Waltham Abbey Primary Shopping Area / Primary Frontage.

Residential development is not a main town centre use as defined by the NPPF glossary.

Parts B, C, D and F of Emerging Policy E2 currently read as follows (Submission Version):

"B - Proposals within defined Town and Small District Centres for retail, leisure, entertainment, offices, arts and culture, tourism and other main town centre uses, as defined by national planning guidance, will be supported where they will maintain and enhance the vitality and viability of the centres.

C - Within defined Primary Retail Frontage ground floor units will be maintained in A1 Class Uses in accordance with Policies P 1 to P 5. Proposals that would not result in a reduction in the specified percentage of A1 Class Uses will be permitted for other main town centre uses where this would support the function, vitality or viability of the Town or District Centre and maintain an active daytime frontage.

D - Within defined Secondary Retail Frontage ground floor units will be maintained in A1 Class Uses in accordance with Policies P 1 to P 5, but a wider range of main town centre uses may be supported where they would maintain the diversity, viability and vitality of the Town or Small District Centre. Proposals for non-A1 Class Uses within Secondary Retail Frontages must encourage active shop fronts, attract a high footfall consistent with other main town centre uses and positively contribute to the function of the Town or Small District Centre.

F - In Town and Small District Centres, the Council may permit residential development in appropriate locations and within Primary or Secondary Retail Frontages where it is above the ground floor and would not lead to a loss of main town centre uses, floorspace or frontage."

Inspector's Note to EFDC, 16 June 2022 – Comments on emerging Policy E2

In his note to EFDC dated 16th June 2022, the Local Plan Inspector provided comments on the existing text of the submitted plan and current main modifications, advising that further changes need to be made in the form of a new schedule of main modifications in order to move forward towards the adoption of the new Local Plan. The Inspector's comments on Retail Policy / Policy E2 were as follows:

"RETAIL POLICY...

"Part B of Policy E2 appears robust enough to work within the context of new Use Class E but the additional vitality and viability test for acceptability should be deleted for effectiveness because these are all uses appropriate to a town centre and there is no clarity for a developer as to what is required to meet such a test.

Action 13: remove the vitality and viability test.

Parts C and D of the policy are no longer effective because Use Class A1 does not exist.

Action 14: in both, all references to "A1" should be replaced by "E". Similarly, "retail" (as in "retail frontage") should be replaced with "commercial, business and service". There should be no attempt to distinguish between different elements within Class E because changes within Use Class E do not constitute development. Part F, including the modifications, has been rendered redundant by Class MA of the Town and Country Planning (General Permitted Development) Order 2015 as amended, which

allows changes of use from Class E to Class C3 (dwellinghouses) subject to certain conditions. The loss of town centre uses, floorspace or frontage is not a condition within MA.2.

Action 15: delete Part F (and do not adopt the previously worded modifications).”

The proposed residential units are at ground floor level within a District (Town) Centre.

Residential development is not a main town centre use as defined by the NPPF glossary.

The changes to emerging Policy E2 recommended by the Local Plan Inspector would update the policy to refer to Class E (commercial, business and service) instead of Class A1 (retail), however it is still considered that the proposed residential development would be contrary to the emerging policy E2 because residential development is not a main town centre use and the proposal would result in the loss of ground floor Class E units within a town centre, harmfully impacting vitality and viability.

The submitted Design and Access Statement states that the units are vacant however no coherent evidence has been submitted to demonstrate that the units have been marketed for Class E / a main town centre use and that they are not capable of being re-let for this purpose.

In his comments set out above, the Local Plan Inspector refers to Class MA of the Town and Country Planning (General Permitted Development) Order 2015 as amended, which allows changes of use from Class E to Class C3 (dwellinghouses) subject to certain conditions.

It is noted that one of the conditions set out in MA.2 which is relevant in this case is that where a building is located in a conservation area and the development involves a change of use of the whole or part of the ground floor, the Local Planning Authority have the opportunity to consider the impact of that change of use on the character or sustainability of the conservation area.

The proposed development is considered to be unacceptable in terms of the loss of ground floor Class E units within Waltham Abbey Town Centre.

#### Design, Character and Appearance and Impact on Heritage Assets

EFDC Conservation Officer comments 10th October 2022:

##### *“Context & Significance*

*Units No. 12, 14, and 15, Arlingham Mews are 1980s developments with ground floor retail units and residential use to the first floor, accessed via a historic alleyway and pedestrian courtyard running between Sun Street and Darby Drive. The subject site is located within the Waltham Abbey Conservation Area and sits adjacent to several listed buildings: Nos. 38, 40, 44 and 44A Sun Street. Sun Street is the historic market street that runs through the medieval core of Waltham Abbey. The remains of the narrow burgage plots and lanes leading from Sun Street to the historic open yards behind is one of the main factors that contributes to the character of the conservation area. The subject site is a surviving historic example of this arrangement, and as such, it greatly contributes to the significance of the associated designated heritage assets (Conservation Area and Listed Buildings)*

##### *Relevant Planning History*

*Planning permission was refused (ref EPF/1322/03) in 2003 for change of use from functional to residential to form No. 4 one-bedroom flats. This was primarily due to the harm it would cause to the site’s functional purpose within the local area, contrary the local policies.*

*Planning permission was refused (ref. EPF/1732/04) in 2004 for change of use of the units from functional to residential to form No. 5 one-bedroom flats. This was due to the harm it would cause to the*

*'vitality and viability' of Waltham Abbey town centre and the wider area. Planning permission was again refused (ref. EPF/0849/05) in 2005 on a duplicate application to the 2004 refusal; an associated appeal on this re-submitted planning application was dismissed in 2006.*

*Planning permission was refused (ref. EPF/1213/21) in April 2022 for two extensions to the existing building and change of use of the ground floor units from functional to residential. This was primarily due to the proposal's design that would not preserve or enhance the surviving characteristic areas of the site's open yards or the historic use and layout of the town. This application is the subject of an ongoing appeal, not yet determined.*

*Planning permission was refused (ref. EPF/1503/22) in August 2022 for two extensions to the existing building. This was due to the proposed extensions appearing the same as those that were previously assessed to be unacceptable by the recent refusal (ref. EPF/1213/21), but omitting the previously associated 'change of use.' The current application, the subject of this report, closely follows these two applications refused in 2022*

### *Current Proposal*

*This application seeks consent for change of use of No. 3 vacant retail units to No.2 one-bedroom flats.*

### *Comments*

*The current proposal appears nearly identical to previous application EPF/1213/21 and its associated resubmission EPF/1503/22, both refused earlier this year. The scheme still proposes the unsympathetic introduction of new domestic landscaping elements with fencing and gates; alteration of retail frontages within the yard; and loss of area within the yard and lane through modern extensions associated with the proposed conversion.*

*As such, our previous comments and the case officer's comments from these and similar past applications relating to the site's change of use and/or alteration still apply. A relevant portion of our comments are reproduced below, for clarity:*

*"... These open yards are very characteristic of the historic layout of the town ... The proposed extensions to Arlingham Mews would ... cause the loss of more of this characteristic enclosed area. In addition to this, the proposed scheme would change the historic character and use of these spaces, from functional to residential, for example through the domestication of the windows and the introduction of boundary treatments."*

*In line with previous refusals, we do not consider that the current scheme "would maintain the character and appearance of the Conservation Area," as asserted in the Design, Access and Heritage Statement. The proposed external alterations in the form of new boundary treatments and openings would fail to preserve the urban, functional character and distinctiveness of the site by introducing domestic elements and fragmenting the historic open yard. Further to this, the yard has undergone unsympathetic encroachment in the past as a result of modern conversion(s) and extensions. Despite these changes, the surviving area is still readable as a historic burgage plot with pedestrian lane that continues to serve a practical, occupational purpose to the existing market street. No further harm to this layout and its relationship to the designated heritage assets would be found acceptable.*

*Any future scheme proposing similar alterations or arrangements that fail to sustain or enhance the significance of the site and its setting and without putting it to viable use consistent with its conservation will be found similarly UNACCEPTABLE.*

## *Recommendations*

*We OBJECT to the proposed scheme due to the harm it could cause to the significance of the designated heritage asset (Waltham Abbey Conservation Area) and its setting.*

*This is supported by policies HC6, HC7 and HC12 of our Adopted Local Plan and Alterations (1998 and 2006); policy DM7 of our Submission Version Local Plan (2017); and paragraphs 189, 195, 196, 197, 199, 200, 202, 206 and 208 of the NPPF (2021)."*

The comments of the Conservation Officer are supported by the case officer and it is considered that the proposed extensions and change of use would have an unacceptable impact on the existing buildings, yard and surrounding Conservation Area.

### Quality of Accommodation

Two residential units are proposed and both of these are critically deficient in some way in terms of quality of accommodation to be provided as follows:

Flat 1 – Living room has poor outlook with only a high level window in the side elevation and a small window in the rear elevation. No elevation drawings have been provided showing the side or rear of Flat 1. The bedroom would be overlooked by Flat 2 opposite (5m between facing habitable room windows) and pedestrian passers by using the walkway between Sun Street and Darby Drive leading to unacceptable levels of privacy.

Flat 2 – Habitable rooms overlooked by facing habitable rooms of Flat 1 opposite (5m between facing habitable room windows) and pedestrian passers by using walkway between Sun Street and Darby Drive leading to unacceptable levels of privacy.

By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

Unacceptable in this respect.

### Highways and Parking

No off street car parking is proposed.

### EFDC Contaminated Land comments:

"I have screened readily available records held by the Council for this site including our GIS database and aerial photographs. From the records I can see the site has acknowledged potentially contaminated land due commercial use. Therefore, in accordance with this land use there is potentially contaminated land at this site.

As this proposal is for residential land use - a sensitive land use, it is necessary to investigate all potential land contaminative issues.

I have reviewed the documents submitted on behalf of this application and I have noted that no contaminated land assessment has been submitted for this application to date. Therefore, in line with Essex Contaminated Land Consortium Land Affected by Contamination Guidance and National Planning Guidance, the applicant is advised to submit a Phase 1 and as necessary, Phase 2 and Detailed Remediation Scheme produced by a National Planning Policy Framework defined "Competent Person" with any application made to develop the site.

Due to the sensitive nature of the proposed residential use, I recommend that the land contamination condition NSCN57 be attached to any approval granted. Once a contaminated land report assessing the site for this application has been received and reviewed, the attached condition may be considered for discharge.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021”.

### SAC

In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

### Conclusion

Recommended for refusal.

***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: Kie Farrell***  
***Direct email address: [kfarrell@eppingforestdc.gov.uk](mailto:kfarrell@eppingforestdc.gov.uk)***

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

### **Refusal Reason(s): (4)**

- 1 The proposed residential development is not a main town centre use and would result in the loss of ground floor Class E units within Waltham Abbey Town Centre and Waltham Abbey Conservation Area which would harm the vitality and viability of the Town Centre. Insufficient evidence has been provided to demonstrate that the units are not capable of being re-let for a main town centre use. As such the proposal is contrary to policies TC1 and TC3 of the of the adopted Local Plan and Alterations (1998 & 2006), policies E2 and P3 of the emerging Local Plan Submission Version (2017) and the NPPF (2021).
- 2 By reason of its design and proposed use, the proposed development would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE3, DBE10, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7, DM9 and DM10 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).
- 3 In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for



Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

- 4 By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

**Informatives: (2)**

- 5 This decision is made with reference to the following plan numbers:

Drawing 1464\_304 – Location Plan  
Drawing 1464\_305 – Block Plans  
Drawing 1464\_305 (sic) – Proposed Site Plan  
Drawing 1464\_307 – Existing Plans and Elevations  
Drawing 1464\_308 – Proposed Plans and Elevations  
Design, Access and Heritage Statement, dpa  
HRA.

- 6 The Local Planning Authority has identified matters of concern within the officer's report and clearly set out the reason(s) for refusal within the decision notice. The Local Planning Authority is willing to provide post-application advice in respect of any future application for a revised development.

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