



# Epping Forest District Council

## ***DISTRICT DEVELOPMENT MANAGEMENT COMMITTEE Wednesday 9th August 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 9th August 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), T Matthews (Vice-Chairman), C Amos, R Baldwin, H Brady, L Burrows, I Hadley, S Heap, S Heather, H Kane, H Kauffman, R Morgan, C C Pond, K Williamson and J M Whitehouse

**PLEASE NOTE THAT THIS MEETING IS OPEN TO ALL MEMBERS TO ATTEND**

**This meeting will be broadcast live and recorded for repeated viewing.**

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### **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 MS Teams 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.*

*Members are reminded to activate their microphones before speaking."*

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

General advice for those persons attending the meeting of the Committee is attached as an Appendix to this agenda.

**3. APOLOGIES FOR ABSENCE**

To be announced at the meeting.

To report non-attendance before the meeting, please use the [Members Portal webpage](#) to ensure 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'.

**4. SUBSTITUTE MEMBERS**

To report the appointment of any substitute members for the meeting.

**5. DECLARATIONS OF INTEREST**

Members to declare interests in any item on the agenda.

**6. MINUTES (Pages 7 - 12)**

To confirm the minutes of the meetings (attached) of the Committee held on:

(a) 19 April 2023; and

(b) 28 June 2023.

**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. SECTION 106 DEED OF VARIATION (Pages 13 - 20)**

(Service Manager – Development Management) To consider the attached report for a Deed of Variation to a cross-site Section 106 Legal Agreement at:

(i) Bakers Lane Car Park, Bakers Lane, Epping CM16 5BD; and

(ii) Former School, Centrepoint Building and Council Depot Land at St John's Road, Epping CM16 7JU.

**9. ANY OTHER BUSINESS**

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

**10. EXCLUSION OF PUBLIC AND PRESS**Exclusion

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

<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

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.

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

### **Are the meetings open to the public?**

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

## EPPING FOREST DISTRICT COUNCIL DISTRICT DEVELOPMENT MANAGEMENT COMMITTEE MEETING MINUTES

Wednesday 19 April 2023, 7.00 pm - 8.05 pm

### Council Chamber - Civic Offices

<b>Members Present:</b>	Councillors P Keska (Chairman), S Heap, S Heather, H Kane, H Kauffman, T Matthews, R Morgan, C C Pond, J M Whitehouse, K Williamson and S Kane
<b>Apologies:</b>	Councillor(s) R Baldwin, H Brady, I Hadley and S Patel
<b>Officers In Attendance:</b>	A Marx (Development Manager Service Manager (Planning)), G Woodhall (Team Manager - Democratic & Electoral Services), N Cole (Corporate Communications Officer) and N Finney (Interim Implementation Team Manager)
<b>Officers In Attendance (Virtually):</b>	V Messenger (Democratic Services Officer)

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### [A RECORDING OF THE MEETING IS AVAILABLE FOR REPEATED VIEWING](#)

#### 49 WEBCASTING INTRODUCTION

On behalf of the Chairman, the Team Manager for Democratic & Electoral Services made a short address to remind everyone present that the meeting would be broadcast live to the internet, and that the Council had adopted a protocol for the webcasting of its meetings.

#### 50 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 enable persons to address the Committee when determining applications for planning permission.

#### 51 SUBSTITUTE MEMBERS

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

- (a) Councillor S Kane for Councillor I Hadley.

#### 52 DECLARATIONS OF INTEREST

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

#### 53 MINUTES

##### RESOLVED:

- (1) That the minutes of the meeting of the Committee held on 18 January 2023 be

taken as read and signed by the Chairman as a correct record.

**54 SITE VISITS**

Cllr K Williamson proposed a site visit for agenda item 11, EPF/1974/22 at Land adjacent to Harlow Road, Roydon, which was seconded by Cllr R Morgan.

**Resolved:**

- (1) That planning application EPF/1974/22 for a Solar Farm on land adjacent to Harlow Road in Roydon be deferred pending a site visit by the Committee.

**55 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.

The Committee was advised that, as the Local Plan had now been approved by the Council, there was no longer any need for this item to appear on the agenda for future planning meetings.

**Resolved:**

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

**56 PLANNING APPLICATION EPF/1400/20 - EPPING UPPER CLAPTON RUGBY CLUB, 61 UPLAND ROAD, EPPING UPLAND CM16 6NL**

This application was [approved with conditions and subject to a Section 106 Legal Agreement](#).

**57 PLANNING APPLICATION EPF/1869/21 - WALTHAM ABBEY SWIMMING POOL, ROUNDHILLS, WALTHAM ABBEY EN9 1UP**

This application was [approved with conditions and subject to a Section 106 Legal Agreement](#).

**58 PLANNING APPLICATION EPF/1974/22 - LAND ADJACENT TO HARLOW ROAD, ROYDON, HARLOW**

This application was deferred pending a site visit by the Sub-Committee.

**59 ANY OTHER BUSINESS**

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



**60 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  
DISTRICT DEVELOPMENT MANAGEMENT COMMITTEE MEETING  
MINUTES**

**Wednesday 28 June 2023, 7.00 pm - 9.00 pm**

**Council Chamber - Civic Offices**

<b>Members Present:</b>	Councillors P Keska (Chairman), T Matthews (Vice-Chairman), C Amos, R Baldwin, I Hadley, S Heap, S Heather, H Kane, H Kauffman, R Morgan, C C Pond, K Williamson, J M Whitehouse and S Kane
<b>Apologies:</b>	Councillor(s) H Brady and K Rizvi
<b>Officers In Attendance:</b>	A Marx (Development Manager Service Manager (Planning)) and G Woodhall (Team Manager - Democratic & Electoral Services)
<b>Officers In Attendance (Virtually):</b>	I Ansell (Senior Planning Officer), N Finney (Interim Implementation Team Manager) and V Messenger (Democratic Services Officer)

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**[A RECORDING OF THE MEETING IS AVAILABLE FOR REPEATED VIEWING](#)**

**1 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.

**2 ADVICE FOR PUBLIC & SPEAKERS AT PLANNING COMMITTEES**

The Chairman welcomed everyone to the meeting and outlined the procedures and arrangements adopted by the Council to enable members of the public to address the Committee when determining applications for planning permission.

**3 SUBSTITUTE MEMBERS**

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

- (a) Cllr S Kane for Cllr K Rizvi.

**4 DECLARATIONS OF INTEREST**

(a) Pursuant to the Council's Member Code of Conduct, Councillor S Heather declared a personal interest in the following items of the agenda by virtue of being a member of the Lee Valley Regional Park Authority. The Councillor had determined that his interest was not prejudicial and indicated that he would remain in the meeting for the consideration of the application and voting thereon:

- (i) EPF/1974/22 – Land adjacent to Harlow Road, Roydon; and
- (ii) EPF/2587/22 – Sedge Gate Nursery, Sedge Green, Nazeing.

(b) Pursuant to the Council's Member Code of Conduct, Councillor H Kauffman declared a personal interest in the following item of the agenda by virtue of being a non-executive

member of the Qualis Board. The Councillor had determined that his interest was not prejudicial and indicated that he would remain in the meeting for the consideration of the application and voting thereon:

- (i) EPF/0540/23 – Cottis Lane Car Park, Cottis Lane, Epping.

## **5 MINUTES**

The Committee noted that the minutes of the last meeting held on 19 April 2023 were not yet available and would be confirmed at the next meeting of the Committee.

## **6 SITE VISITS**

There were no formal site visits requested by the Committee.

## **7 EPF/1974/22 - LAND ADJACENT TO HARLOW ROAD ROYDON**

The application was [refused](#).

## **8 EPF/2587/22 - SEDGE GATE NURSERY, SEDGE GREEN, NAZEING, EN9 2PA**

The application was [approved with conditions](#).

## **9 EPF/2702/22 - LAND NORTH OF SHONKS MILL BRIDGE, SHONKS MILL, STAPLEFORD TAWNEY**

The application was [approved with conditions](#).

## **10 EPF/0540/23 - COTTIS LANE CAR PARK, COTTIS LANE, EPPING, CM16 5LL**

The application was [approved with conditions, and subject to a Section 106 Legal Agreement](#).

## **11 ANY OTHER BUSINESS**

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

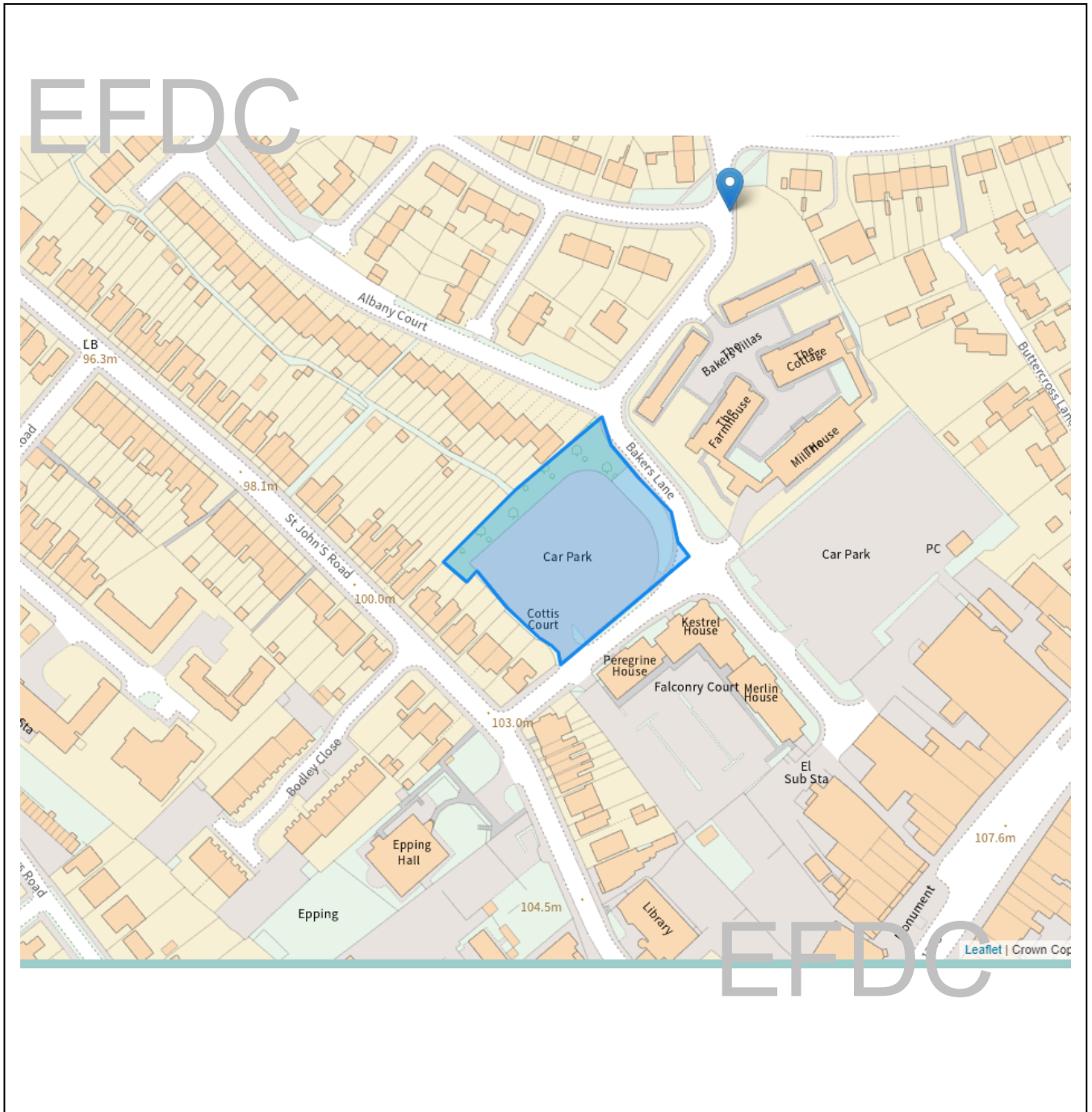
## **12 EXCLUSION OF PUBLIC AND PRESS**

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

**CHAIRMAN**



# Epping Forest District Council



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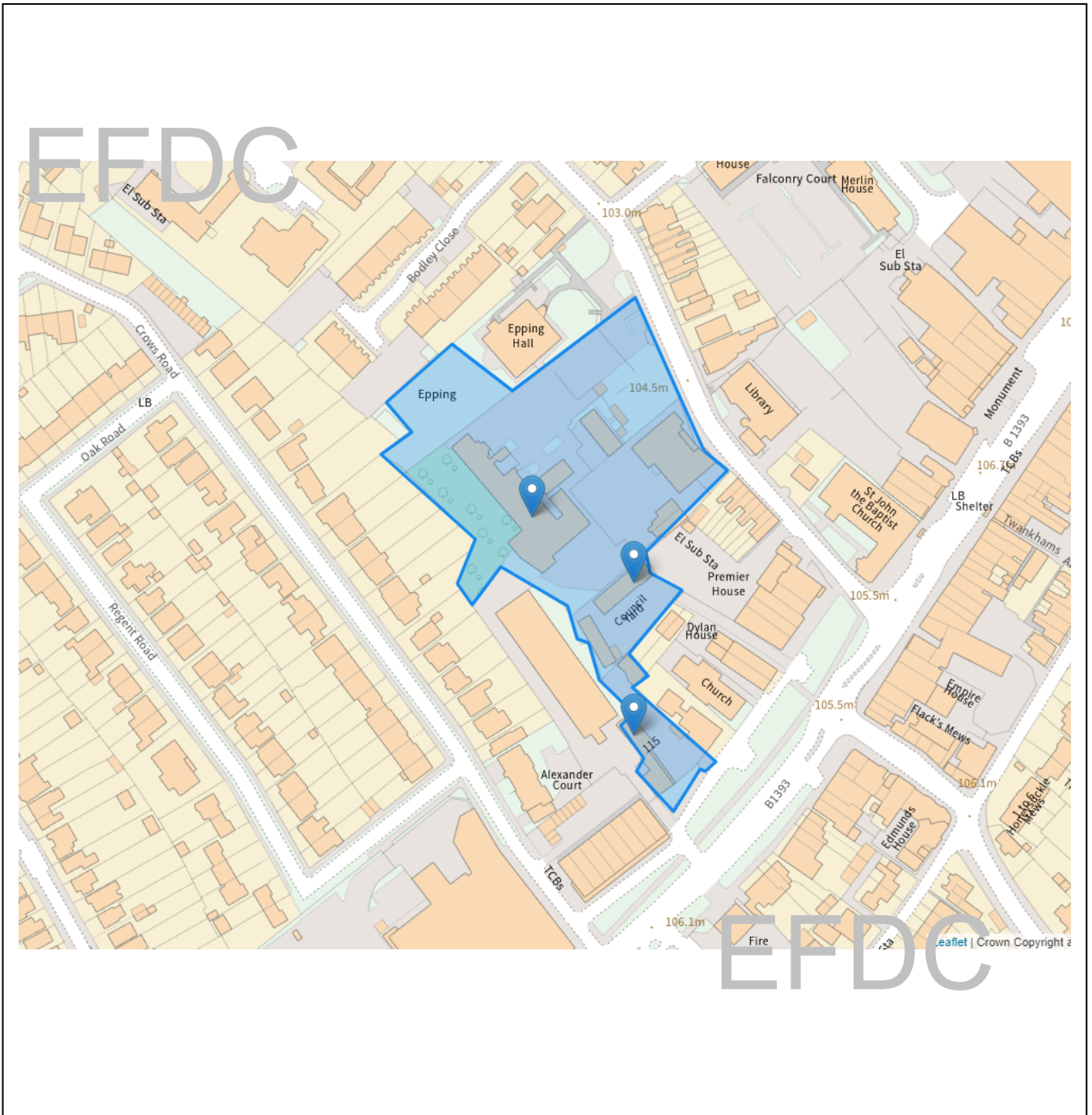
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Application Number:	
Site Name:	Bakers Lane Car Park Bakers Lane Epping CM16 5BD

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# Epping Forest District Council



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Application Number:	
Site Name:	Former School, Centrepoint Building and Council Depot Land at St John's Road Epping CM16 7JU

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# OFFICER REPORT

**Application Ref:** N/A (related to: EPF/2924/20 & EPF/0917/21)

**Application Type:** S106 Deed of Variation

**Applicant:** Qualis Commercial Ltd

**Case Officer:** Nick Finney

**Site Address:**

- Bakers Lane Car Park, Bakers Lane, Epping CM16 5BD; and
- Former School, Centrepont Building and Council Depot Land at St John's Road, Epping, CM16 7JU.

**Proposal:** Deed of Variation to cross-site s106 Legal Agreement

**Ward:** Epping Lindsey and Thornwood Common

**Parish:** Epping Town Council

**View Plans:** No plans to view

**Recommendation:**

Approve Deed of Variation by varying the wording that links the delivery of development on the St John's Road site with that on the Baker's Lane site by replacing the words 'Substantial Implementation' with 'Committed Delivery', including a definition of "Committed Delivery"

***This application is before this committee since it relates to a 'major' development where the Council is a landowner as defined in Article 10 of the Constitution.***

***The St John's Road site has been transferred from Council ownership to Qualis Commercial Ltd, however given that this is a wholly owned company of the Council, the proposal is considered to meet the DDMC terms of reference.***

**Description of Proposal**

This Deed of Variation proposal seeks to amend the cross-site s106 Legal Agreement to vary the wording that links the delivery of development on the St John's Road site with that on the Baker's Lane site. Within the Local Plan Submission Version 2017 (subsequently carried through to the adopted Local Plan 2022-2033), the Bakers Lane site is allocated for residential development and the St John's Road site for mixed use leisure and commercial development. The proposed loss of the residential allocation on Bakers Lane to be replaced by a new Epping leisure centre was remedied via the use of St John's Road as a donor site where the housing delivery numbers were to be made good.

This issue was considered at paragraph 14.35 of both the St John's Road (EPF/0917/21) and Bakers Lane (EPF/2924/20) committee reports (District Development Management Committee 27.10.21) as follows:

*These material considerations on their own do not balance against the overriding need to provide housing delivery. The loss of housing is to be given significant weight that if not mitigated would result in the proposal being an unacceptable departure from the LPSV. A mitigation however has been secured via the proposed development of the Land at St John's Road site for 184 new dwellings. This site is proposed to act as a 'donor site' site and will meet and exceed the shortfall by*

*providing at least 112 dwellings (78 dwelling shortfall plus the 34 dwelling allocation on St John's itself). The Legal Agreement Heads of Terms set out in this report include the placement of a restriction on the implementation of the Bakers Lane development until such time as substantial implementation on the Land at St John's Road site for a residential development of at least 112 dwellings.*

The definition of substantial implementation was not considered during the Committee determination. This requirement was however set out within the overarching cross-site s106 Legal Agreement subsequently concluded as follows:

*"Schedule 1*

*4 Bakers Lane Development and St Johns Development linkage*

*4.1 In relation to the Bakers Lane Application Site only, the First Owner covenants with the County not to implement or cause or permit or suffer Implementation of the Bakers Lane Development (save for the Permitted Below Ground Works) until the Council has served the St Johns SI Confirmation Notice....."*

The St Johns SI Confirmation Notice follows Substantial Implementation, which is defined as follows:

*"Substantial Implementation means completion of all demolition works necessary to carry out the St Johns Road Permission and completion of the foundations (including all services), ground floor slab, and erection of the frame up to the first floor of the Blocks shaded pink on the St Johns Road Block Plan (or such alternative block(s) as agreed in writing by the Council provided that the block(s) shall contain a minimum of 78 Dwellings) to be constructed pursuant to the St Johns Road Permission and Substantially Implemented shall be construed accordingly. "*

Epping Forest District Council which are taking forward the delivery of the new Epping leisure centre on the Bakers Lane site are therefore currently reliant on the delivery of development on the St Johns Road site being undertaken by Qualis Commercial Ltd before any substantive works can commence. The current Qualis development programme on the St Johns Road site is not anticipated to deliver the required stage of development for the quantum of homes for a number of years. The new Epping leisure centre however is being brought forward at an earlier stage with site preparatory works intended to commence shortly after the opening of the new Cottis Lane car park.

As a result, Epping Forest District Council in discussion with Qualis Commercial Ltd have sought a deed of variation to the cross-site s106 Legal Agreement.

It is proposed that while the cross-site linkage between the Bakers Lane and St Johns Road sites is maintained that it is modified to better align with current understanding of the development programme. It is proposed to replace the words '**Substantial Implementation**' with '**Committed Delivery**' and make any consequential amendments to ensure the inserted phrase works grammatically and procedurally. The definition of 'Committed Delivery' would be included as follows:

*"Committed Delivery means completion of all demolition works and site clearance necessary to carry out the St Johns Road Permission and the completion of contracts to commence the development and Committed Delivery shall be construed accordingly."*

### **Relevant Planning History**

The relevant planning history to this proposal is the five planning applications submitted by Qualis Commercial Ltd for development in Epping town centre comprising:

- Bakers Lane Car Park / EPF/2924/20 / Approved 25.02.22
  - Full application for the redevelopment of existing surface level car park to provide a leisure centre to include swimming pool, gymnasium, sports hall, squash courts and studio (mixed Class E (d) and F.2 (d)) together with disabled parking provision, new vehicular and pedestrian access, all hard and soft landscaping, and associated works.
- Cottis Lane Car Park / EPF/2925/20 / Approved 25.02.22
  - Full application for the redevelopment of existing surface level car park comprising the demolition of public toilets and the construction of a multi-deck car park, cinema (sui generis), commercial floorspace (mixed Class E), replacement public toilets and cycle store, all associated plant, together with new vehicular and pedestrian access, all hard and soft landscaping, and associated works.
- Former School, Centrepoint Building and Council Depot Land at St John's Road / EPF/0917/21 / Approved 25.02.22
  - Redevelopment of the former school buildings and depot. Demolition of five buildings and the retention of three locally listed buildings. Development to comprise erection of new apartment buildings and the conversion, extension and change of use of the existing locally listed Centrepoint building and Cookery School to provide a mix of residential units (Use Class C3) and ancillary communal amenity areas. Extension and refurbishment of two existing locally listed semi-detached caretaker cottages. Revised vehicular and pedestrian access from St Johns Road and new pedestrian access from High Street, all associated car and cycle parking, servicing, hard and soft landscaping and associated works.
- Epping Sports Centre / EPF/0918/21 / Approved 25.02.22
  - Redevelopment of existing Sports Centre and car park. Demolition of existing Sports Centre. Development to comprise a new apartment building and houses to provide a mix of residential units (Use Class C3), new vehicular and pedestrian access from Nicholl Road and new pedestrian access from Hemnall Street, all associated car and cycle parking, servicing, hard and soft landscaping and associated works.
- Civic Offices, Conder Building and Car Park / EPF/0919/21 / Approved 25.02.22
  - The redevelopment of the existing office building and car park. Demolition of the existing office building and alterations to connection to existing Listed Civic Centre. Development to comprise new apartment buildings and houses to provide a mix of residential units (Use Class C3), revised vehicular and pedestrian access from High Street, all associated car and cycle parking, servicing, hard and soft landscaping and associated works.

The five sites were considered collectively for the purposes of the planning assessment undertaken during their determination. As a result, a number of linkages between the developments were established (and secured via a cross-site s106 Legal Agreement) to ensure the appropriate sequencing of development and that the objectives of the site allocations within the Local Plan were secured.

**Consultation**

None required.

**Main Issue and Consideration**

Section 106A of the Town and Country Planning Act 1990 (as amended) states that a planning obligation can be modified or discharged by agreement (at any time) between the appropriate authority and the person or persons against whom it is enforceable.

Subsequently to the original drafting of the s106 Legal Agreement Qualis Commercial Ltd have shown intent to bring forward the St Johns Road development having undertaken a programme of site demolition and site preparation. In addition, a number of pre-commencement planning conditions have been discharged to enable the first phase of the development to commence. It is understood that Qualis are in the process of agreeing contracts to commence the first phase of the development that will comprise Block G on the former Council depot element of the site fronting Epping High Street. Qualis have also shown intent to deliver residential properties elsewhere in Epping with the Civic Offices/Conder Building development having commenced.

While a stricter form of control was originally felt appropriate, the progress on site demonstrated by Qualis and the revised information on the respective development programmes provides a material basis to consider a change to the wording to ensure development can commence.

In addition the delivery of the new Epping leisure centre is a priority for the Council and the material planning benefits it will deliver could be put in jeopardy if the development was held back at the current time.

**Conclusion**

It is considered that the obligation continues to serve a useful purpose but can serve that purpose equally well if the proposed modifications set out are put into effect.