

Committee Agenda



Epping Forest District Council

Area Planning Sub-Committee East Wednesday, 8th November, 2017

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

**Council Chamber, Civic Offices, High Street, Epping
on Wednesday, 8th November, 2017
at 7.30 pm .**

**Glen Chipp
Chief Executive**

**Democratic Services
Officer**

R. Perrin Tel: (01992) 564243
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors S Jones (Chairman), P Keska (Vice-Chairman), N Avey, N Bedford, A Boyce, H Brady, W Breare-Hall, A Grigg, M McEwen, R Morgan, J Philip, B Rolfe, D Stellan, B Surtees, C Whitbread, H Whitbread, J H Whitehouse and J M Whitehouse

WEBCASTING/FILMING NOTICE

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

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

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

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

1. WEBCASTING INTRODUCTION

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

2. The Chairman will read the following announcement:

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

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

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

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

General advice to people attending the meeting is attached.

3. MINUTES (Pages 9 - 30)

To confirm the minutes of the last meeting of the Sub-Committee held on 11 October 2017.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

(Director of Governance) To declare interests in any item on this agenda.

6. ANY OTHER BUSINESS

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

7. DEVELOPMENT CONTROL (Pages 31 - 82)

(Director of Governance) To consider planning applications as set out in the attached schedule

Background Papers:

(i) Applications for determination – applications listed on the schedule, letters of representation received regarding the applications which are summarised on the schedule.

(ii) Enforcement of Planning Control – the reports of officers inspecting the properties listed on the schedule in respect of which consideration is to be given to the enforcement of planning control.

8. PROBITY IN PLANNING - APPEAL DECISIONS, 1 APRIL 2017 TO 30 SEPTEMBER 2017 (Pages 83 - 152)

(Director of Governance) To consider the attached report.

9. EXCLUSION OF PUBLIC AND PRESS

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

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

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

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

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

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

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

Are the meetings open to the public?

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

When and where is the meeting?

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

Can I speak?

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

Who can speak?

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

What can I say?

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

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

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

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

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

How are the applications considered?

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

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

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

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

Further Information

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

Area Planning Subcommittee East 2017-18
Members of the Committee and Wards Represented:



Cllr Jones
Theydon Bois

Cllr Keska
Chipping Ongar,
Greensted and
Marden Ash

Cllr Avey
Epping
Hemnal

Cllr Bedford
Shelley

Cllr Boyce
Moreton and
Fyfield



Cllr Brady
Passingford

Cllr Breare-Hall
Epping
Lindsey and
Thornwood
Common

Cllr Grigg
North Weald
Bassett

Cllr McEwen
High Ongar
Willingale
and the
Rodings

Cllr Morgan
Hastingwood,
Matching and
Sheering
Village



Cllr Philip
Theydon Bois

Cllr Rolfe
Lambourne

Cllr Stallan
North Weald
Bassett

Cllr Surtees
Chipping Ongar,
Greensted and
Marden Ash

**Cllr C
Whitbread**
Epping
Lindsey and
Thornwood



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

**Cllr J H
Whitehouse**
Epping Hemnal

**Cllr J M
Whitehouse**
Epping
Hemnal

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Area Planning Sub-Committee **Date:** 11 October 2017
East

Place: Council Chamber, Civic Offices, **Time:** 7.00 - 9.45 pm
High Street, Epping

Members Present: S Jones (Chairman), P Keska (Vice-Chairman), N Avey, N Bedford, A Boyce, H Brady, A Grigg, M McEwen, R Morgan, J Philip, B Rolfe, D Stallan, H Whitbread, J H Whitehouse and J M Whitehouse

Other Councillors: None.

Apologies: W Breare-Hall, B Surtees and C Whitbread

Officers Present: V Messenger (Democratic Services Officer), N Richardson (Assistant Director (Development Management)) and P Seager (Chairman's Secretary)

29. WEBCASTING INTRODUCTION

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

30. WELCOME AND INTRODUCTION

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

31. MINUTES

RESOLVED:

That the minutes of the meeting held on 6 September 2017 be taken as read and signed by the Chairman as a correct record.

32. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor H Brady declared a non-pecuniary interest in the following item of the agenda by virtue of knowing the neighbour at The White House who lived next to the applicant. The Councillor had determined that she would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1973/17 – Newstead, 19 Coopersale Common, Coopersale, Epping.

(b) Pursuant to the Council's Code of Member Conduct, Councillor A Grigg declared a non-pecuniary interest in the following item of the agenda as one of the objectors was known to her. The Councillor had determined that she would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1973/17 – Newstead, 19 Coopersale Common, Coopersale, Epping.

(c) Pursuant to the Council's Code of Member Conduct, Councillor D Stallan declared a non-pecuniary interest in the following item of the agenda, by virtue of knowing one of the speakers and one of the objectors as they were customers of his business. The Councillor had determined that he would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1629/17 – 13 Vicarage Lane, North Weald Bassett

(d) Pursuant to the Council's Code of Member Conduct, Councillor P Keska declared a non-pecuniary interest in the following item on the agenda by virtue of being a member of Ongar Town Council. He stated he had no connection with the application or knowledge of the applicant. The Councillor had determined he would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1913/17 – Ellensmead, Stondon Road, Ongar.

(e) Pursuant to the Council's Code of Member Conduct, Councillor H Whitbread declared a non-pecuniary interest in the following item of the agenda, by virtue of knowing one of the objectors, Councillor B Scruton from Epping Town Council who was registered to speak, and being a member of the Town Council. The Councillor had determined that she would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1973/17 – Newstead, 19 Coopersale Common, Coopersale, Epping.

33. ANY OTHER BUSINESS

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

34. DEVELOPMENT CONTROL

RESOLVED:

That the planning applications numbered 1 – 12 be determined as set out in the schedule attached to these minutes.

CHAIRMAN

Report Item No: 1

APPLICATION No:	EPF/2523/16
SITE ADDRESS:	Brent House Farm Harlow Common North Weald Essex CM17 9JD
PARISH:	North Weald Bassett
WARD:	Hastingwood, Matching and Sheering Village
DESCRIPTION OF PROPOSAL:	Demolition and reconstruction of the Farm House together with the erection of 19 no. additional dwellings, served off the existing approved vehicular access on Harlow Common/ Foster Street together with internal road layout, parking and a scheme of landscaping and tree planting. (Alterations to existing consents EPF/2027/14, EPF/1285/11 and EPF/1370/10).
DECISION:	Grant Permission (Subject to Legal Agreement)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=587893

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: Assessment of Traffic Implications by Glanville ref CV8160979/JB/002 dated 24 August 2016, Planning Statement 22 September 2016, Glanville: GEO - Environmental Assessment 24 August 2016 ref CV8760979/JB/DW/004, GEA Soil Testing ref J12203B Source Protection Zones and Desk Study report ref J12203a 20 September 2012, Remediation Proposal Report by Glennys LLP, ELMAW Consulting: Initial ecological site assessment July 2009, Glanville Flood Risk Assessment 24 August 2016 ref CV8160979/JB/DW/003 Peakecology Ltd Preliminary Ecological Appraisal Project no. ScoBr01-1 dated 8/9/2016, Design and Access Statement September 2016, Arboricultural Impact Assessment September 2016 by Tree and Woodland Company ref 1136-R-001 ROS, 15806 A TP: (12) 5)1 rev 1, (12) 4)1 rev 1, (12) 3 001 rev 1, (12) 1 001 rev 1, (11) 5 001 rev 1, (11) 4 002 rev 1, (11) 4 001 rev 1, (11) 3 001 rev 1, (11) 2 001 rev 1, (11) 1 001 rev 1, (10) 5002 rev 1, (10) 5 001 rev 1, (10) 4 002 rev 1, (10) 4 001 rev 1, (10) 3 002 rev 1, (10) 3 001 rev 1, (10) 2 002 rev 1, (10) 1 002 rev 1, (10) 2 001 rev 1, (00) 002 rev 1, (00) 006 rev 1. FRNT - 17.566_201 - Location Plan_A3 Planning A, FRNT 17.566_200_B_ Proposed Site Plan _ A1 Planning, FRNT_17.566_203_Proposed GEA Area A.

- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
- 4 No development shall take place until details of surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 5 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 6 Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 (or of any equivalent provision in any Statutory Instrument revoking or re-enacting that Order), the garage(s) hereby approved shall be retained so that it is capable of allowing the parking of cars together with any ancillary storage in connection with the residential use of the site, and shall at no time be converted into a room or used for any other purpose.
- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Classes A, B, D and E of Part 1 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.
- 8 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, 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, unless the Local Planning Authority gives its written consent to any variation.

- 9 No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.
- 10 A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tools. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.
- 11 No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]
- 12 Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]

- 13 Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]
- 14 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 15 In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.
- 16 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.

- 17 Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.
- 18 This permission shall not be implemented unless and until the recommendations set out in section 5.2 of the Preliminary Ecological Appraisal by peakecology ltd September 2016 reference ScoBr01.1/Hastingwood Park Harlow has been fully undertaken and these mitigation measures shall be maintained for the duration of the use.
- 19 Prior to the commencement of above ground works a biodiversity plan shall be submitted to and approved in writing by the Local Planning Authority.
- The biodiversity plan shall be carried out in accordance with the details so approved, and shall be maintained as such thereafter.
- 20 Prior to the commencement of above ground works a construction method statement shall be submitted to and approved in writing by the Local Planning Authority.
- The construction method statement shall be carried out in accordance with the details so approved, and shall be maintained as such thereafter.

And

That planning permission be issued after the completion of a legal agreement (Section 106 of the Town and Country Planning Act 1990) within 3 months of the date of this committee meeting that ensures the following as necessitated by development proposal:

- (A) a satisfactory financial contribution to the Council in respect of:-**
- (1) £90,000 for off-site Affordable Housing;**
 - (2) The payment of £50,000 towards the provision of local community facilities, prior to first commencement of the development hereby approved, and**
- (B) provide on site, 2 of the proposed 2 bed town houses as affordable rented units in accordance with the Council's normal affordable housing requirements.**

Report Item No: 2

APPLICATION No:	EPF/1629/17
SITE ADDRESS:	13 Vicarage Lane North Weald Bassett Essex CM16 6ET
PARISH:	North Weald Bassett
WARD:	North Weald Bassett
DESCRIPTION OF PROPOSAL:	Erection of games room/outbuilding to rear with pitched roof.
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=595816

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development shall match those specified within the submitted application, unless otherwise agreed in writing by the Local Planning Authority.

Report Item No: 3

APPLICATION No:	EPF/2057/17
SITE ADDRESS:	95 High Road North Weald Epping Essex CM16 6HS
PARISH:	North Weald Bassett
WARD:	North Weald Bassett
DESCRIPTION OF PROPOSAL:	Proposed first floor extension over existing single storey extension.
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597734

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.
- 3 Prior to commencement of this development, the Local Planning Authority, in line with The Environmental Protection Act 1991 requires the developer put in place measures to control the distribution of brick dust arising from construction, details of which shall be submitted to and approved in writing by the Local Planning Authority.
- 4 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 5 Prior to first occupation of the development hereby approved, the proposed window opening in the west flank elevation shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.

Report Item No: 4

APPLICATION No:	EPF/1913/17
SITE ADDRESS:	Ellensmead Stondon Road Ongar Essex CM5 9BU
PARISH:	Ongar
WARD:	Chipping Ongar, Greensted and Marden Ash
DESCRIPTION OF PROPOSAL:	New front boundary wall and railings. New outbuilding at rear.
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597196

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.
- 3 The landscaping of the front garden as shown on the Planting Plan submitted with this application, shall be carried out before first use of the boundary entrance as approved and maintained as such thereafter.

Report Item No: 5

APPLICATION No:	EPF/1762/17
SITE ADDRESS:	Land to the rear of Mountford and Bishops Bron Oak Hill Road Stapleford Abbots Essex RM4 1JL
PARISH:	Stapleford Abbots
WARD:	Passingford
DESCRIPTION OF PROPOSAL:	Application for eight new build houses (six semi-detached, two detached), with associated parking and amenity.
DECISION:	Deferred

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=596534

This application was deferred for a Members site visit.

Report Item No: 6

APPLICATION No:	EPF/2041/17
SITE ADDRESS:	1 Curtis Mill Lane Stapleford Abbotts Romford Essex RM4 1HS
PARISH:	Stapleford Abbotts
WARD:	Passingford
DESCRIPTION OF PROPOSAL:	Proposed 3 bed detached chalet bungalow. (Revised application to EPF/0794/17)
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597673

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: CJEF/17/02A, 03A, 04, 05, 07, 09 and 10
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
- 4 No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 5 A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage, shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.

- 6 No development shall take place until details of levels 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.
- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Class A, B or E of Part 1 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.
- 8 All the existing buildings and structures within the application site as shown on drawing no. CJEF/17/02A shall be removed together with its resultant debris prior to first occupation of the replacement house hereby approved and shall not be reinstated thereafter.
- 9 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site.
- Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works.
- Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.
- 10 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Report Item No: 7

APPLICATION No:	EPF/2174/17
SITE ADDRESS:	Trade Winds Oak Hill Road Stapleford Abbotts Essex RM4 1EH
PARISH:	Stapleford Abbotts
WARD:	Passingford
DESCRIPTION OF PROPOSAL:	Proposed cart lodge style garage
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=598297

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 If any tree, shrub or hedge shown to be retained in accordance with the approved plans and particulars is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 3 The tree protection, methodology for construction adjacent to trees and Arb site supervision shall be undertaken in accordance with the submitted Tree Survey/Arboricultural Method Statement unless the Local Planning Authority gives its prior written approval to any alterations. Tree protection shall be implemented as shown on Andrew Day Arboricultural Consultancy Ltd Tree Protection Plan dated 1st August 2017.

The Committees attention was drawn to a letter from Stapleford Abbotts Parish Council withdrawing their objection.

Report Item No: 8

APPLICATION No:	EPF/1973/17
SITE ADDRESS:	Newstead 19 Coopersale Common Coopersale Epping Essex CM16 7QS
PARISH:	Epping
WARD:	Epping Hemnall
DESCRIPTION OF PROPOSAL:	The demolition of 19 Coopersale Common and erection of six detached houses (2 x 3 bedroom and 4 x 4 bedroom) and associated amenity space, car parking, cycle storage and landscaping.
DECISION:	Referred to District Development Management Committee

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597455

Members agreed to grant permission, but referred the application to District Development Management Committee for a decision.

Report Item No: 9

APPLICATION No:	EPF/2086/17
SITE ADDRESS:	49 Ash Groves Sheering Essex CM21 9LN
PARISH:	Sheering
WARD:	Lower Sheering
DESCRIPTION OF PROPOSAL:	Demolition of existing conservatory to no. 49 Ash Groves and erection of a detached 3 bedroomed chalet bungalow with associated car parking.
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597825

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: BRD/17/030/001, BRD/17/030/002, BRD/17/030/003
- 3 Materials to be used for the external finishes of the proposed development shall match those of No. 49 Ash Groves, unless otherwise agreed in writing by the Local Planning Authority.
- 4 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, 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, unless the Local Planning Authority gives its written consent to any variation.

- 5 The tree protection, methodology for construction adjacent to trees and Arb site supervision shall be undertaken in accordance with the submitted Tree Survey/Arboricultural Method Statement unless the Local Planning Authority gives its prior written approval to any alterations. Tree protection shall be implemented as shown on Open Spaces drawing number TPP-OS1454-17.1 dated July 2017.
- 6 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 7 An assessment of flood risk, focussing on surface water drainage, shall be submitted to and approved by the Local Planning Authority prior to commencement of the development. 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.
- 8 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Report Item No: 10

APPLICATION No:	EPF/1824/17
SITE ADDRESS:	The Downtons 114 Crown Close Sheering Essex CM22 7NE
PARISH:	Sheering
WARD:	Hastingwood, Matching and Sheering Village
DESCRIPTION OF PROPOSAL:	Erection of livestock building
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=596813

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: Planning Statement reference 3681/17/PS, 3681/1, 3681/2, 3681/3, 3681/4.
- 3 A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage, shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.
- 4 No development shall take place until details of surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 5 The number of pigs on the site shall not exceed 25 at any time.
- 6 Prior to the installation of any lighting within the site, details of a bat friendly lighting scheme which accords with Bat Conservation Trust guidance and is positioned away from neighbouring residential dwellings shall be submitted to and approved in writing by the Local Planning Authority.

The lighting scheme shall be carried out in accordance with the details so approved, and shall be maintained as such thereafter. No other lighting shall be installed within the site.

Report Item No: 11

APPLICATION No:	EPF/2591/15
SITE ADDRESS:	Belgique (Theydon) Ltd 14 Forest Drive Theydon Bois Epping Essex CM16 7EY
PARISH:	Theydon Bois
WARD:	Theydon Bois
DESCRIPTION OF PROPOSAL:	Use of area at front of shop as an enclosed seating area.
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=579860

CONDITIONS

- 1 Within three months of the date of this decision details of measures to ensure the visibility of the wall enclosing the land in front of the shop during hours of darkness shall be submitted in writing to the Local Planning Authority. The measures approved shall be implemented within 3 months of the date of the Local Planning Authority giving its written approval of such details. If the requirements for submission of details and implementation of approved details are not complied with and no appeal is made against this condition within 6 months of the date of this decision, the wall enclosing the land in front of the shop shall be demolished and a level surface formed where the land adjoins surrounding land comprising private forecourt and footway.

Report Item No: 12

APPLICATION No:	EPF/1628/17
SITE ADDRESS:	56 Dukes Avenue Theydon Bois Essex CM16 7HF
PARISH:	Theydon Bois
WARD:	Theydon Bois
DESCRIPTION OF PROPOSAL:	Proposed single storey rear and side extension.
DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=595815

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.

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AREA PLANS SUB-COMMITTEE 'EAST'

8 November 2017

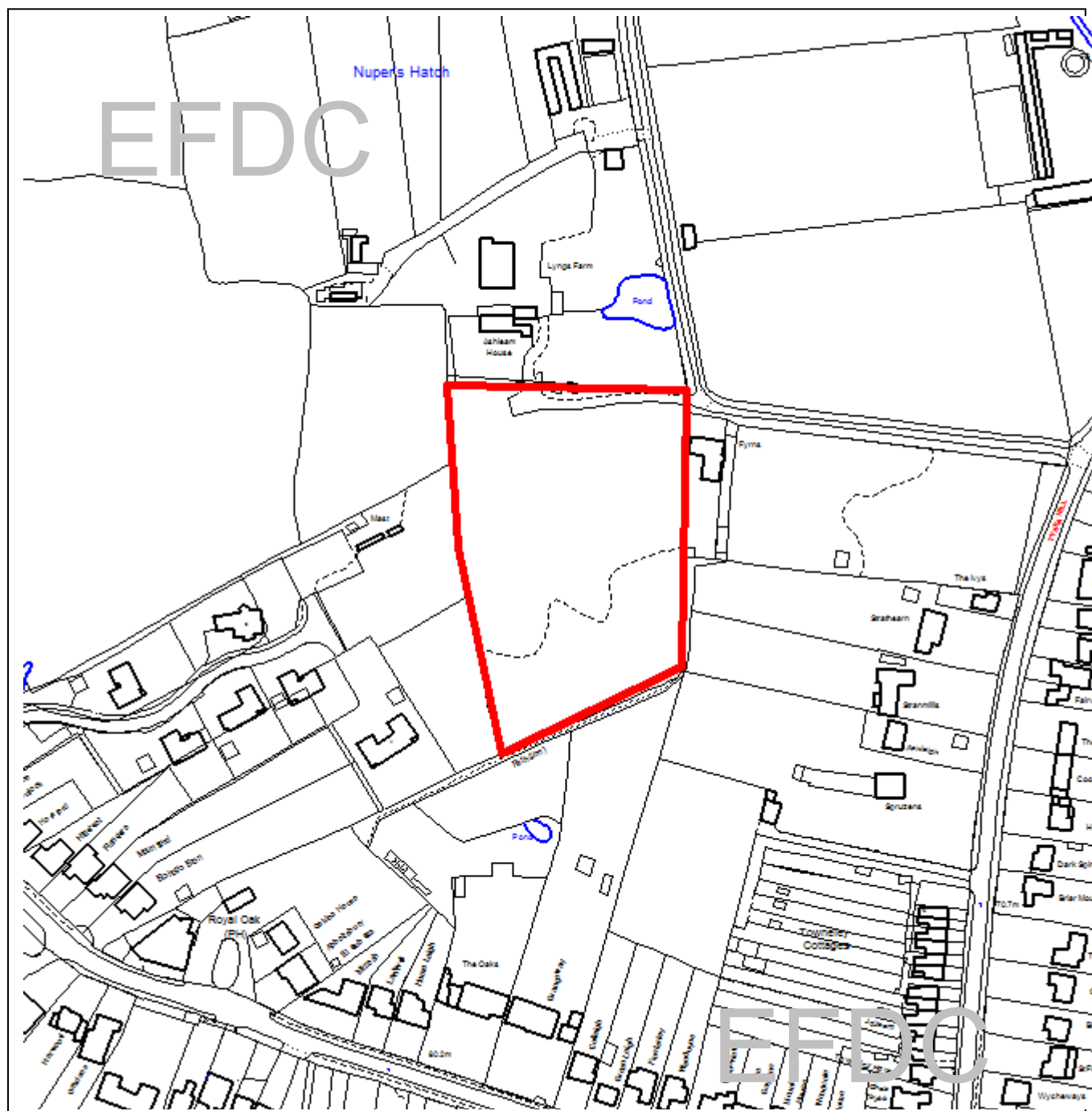
INDEX OF PLANNING APPLICATIONS/ENFORCEMENT CASES

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Epping Forest District Council

Agenda Item Number 1



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Application Number:	EPF/0852/17
Site Name:	Ashleam House, Lyngs Farm, Nupers Hatch, Stapleford Abbots, RM4 1JR
Scale of Plot:	1/2500

Report Item No: 1

APPLICATION No:	EPF/0852/17
SITE ADDRESS:	Ashleam House Lyngs Farm Nupers Hatch Stapleford Abbotts Essex RM4 1JR
PARISH:	Stapleford Abbotts
WARD:	Passingford
APPLICANT:	Mr Luke Kousoulou
DESCRIPTION OF PROPOSAL:	Change of use of approximately a hectare of land from agricultural use to a leisure use, including gymnasium and assault course, with associated parking area.
RECOMMENDED DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=593064

REASON FOR REFUSAL

- 1 The proposed development, including the proposed buildings constitutes inappropriate development in the Green Belt, having a significant and adverse effect on the openness and character of the Green Belt in this location and thereby contrary to policies GB2A and GB7A of the adopted Local Plan, and the NPPF
- 2 The proposal will give rise to excessive levels of noise general activity and disturbance within the site, and increased noise and disturbance from vehicular movements on a little used private road, such that the use would have a significant adverse effect on the amenities of adjoining resident, contrary to policy DBE9 of the adopted Local Plan, and the NPPF.

This application is before this Committee since it is an application that is considered by the Director of Governance as appropriate to be presented for a Committee decision (Pursuant to The Constitution, Part Three: Scheme of Delegation, Appendix 3)

Description of Site:

The application site forms part of land also known as Lyngs Farm, located to the west of Nupers Hatch, a single track part surfaced road off Tysea Hill. The full site includes the building known as

Ashleam House, a large detached dwelling rebuilt on the site of the original farm buildings, a number of outbuildings extensive grounds beyond.

The application relates to an area immediately adjacent to the site entrance onto Nupers Hatch and extending to the south and west, overall comprising around 2 acres. The southern part of the site is heavily wooded and there are tree screens (predominantly deciduous) on the east and west boundaries.

The site and surrounding area lies within the Green Belt. There is a separate dwelling immediately adjoining the site entrance on Nupers Hatch and there are other irregularly located farm buildings and dwellings located to the north. Beyond the western site boundary lies the modern residential development of Kensington Park, and to the south residential properties in Oak Hill Road. To the east beyond the neighbouring house are predominantly open fields set behind mature tree screening.

Description of Proposal:

The application is described as a change of use from agricultural land to leisure use, including a gymnasium and assault course with associated parking. Parts of the use have already commenced; including the external elements. These include a cross country running route through the wooded area, a range of obstacles, mostly self-built. Areas for more organised sporting activities are also provided, including netball and a five-a-side football area.

The application also proposes a new free standing building towards the east side of the site to provide additional internal facilities including gym equipment (currently provided in a marquee), changing rooms, office space, basic canteen facilities and other ancillary accommodation.. The building will cover around 127 sq.m. and is T-shaped, timber clad and single storey. The off centre pitched roof will be a maximum of 4 metres high, and around 2.8m high at eaves on the east side abutting the immediately adjoining house with only high level windows in this face. An existing toilet block is retained in situ \abutting the west side of the building. Parking for around 20 vehicles is provided abutting the new building, and further parking is shown in the north west corner of the site. The marquee currently housing the gym equipment is intended to remain, to provide additional ancillary space for specialist classes and events..

The application indicates proposed hours of 6am – 9pm weekdays and 6am – 6pm weekends, but the applicants have indicate this relates to the whole operation and that they would agree to further restrictions on the use of the external areas.

In support of the proposals, the applicants have submitted that the use provides a diverse fitness experience, combining internal gym work with outdoor training opportunities for all. The layout of the building will be flexible, a boxing ring is indicated on the application drawings as an example of an activity that may be provided, but the space is intended to be flexible for other fitness classes, dance based exercise or similar. The applicants comment that the gym is around a third of the area of other local gym facilities, further illustrating the linked character of the activities.

Relevant History:

None

Policies Applied:

Adopted Local Plan:

CP2	Protecting the quality of the rural and built environment
GB2A	Development in the Green Belt

GB7A	Conspicuous development
RST1	Recreational, sporting and tourist facilities
RST22	Potentially intrusive activities
DBE2	Effect on neighbouring properties
DBE4	Design in the Green Belt
DBE9	Loss of Amenity
ST4	Road safety
ST6	Vehicle parking

NPPF:

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 215 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.

Draft Local Plan:

At the current time, only limited weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies in this case are as follows:

SP5	Green Belt and District Open Land
SP6	Natural Environment, landscape character and green infrastructure
T1	Sustainable transport choices
T2	Safeguarding routes and facilities
DM9	High Quality Design
D4	Community, Leisure and Cultural facilities

Consultation Carried Out and Summary of Representations Received

Date of site visit: 27 July 2017

Number of neighbours consulted: Eleven

Site notice posted: 27 July 2017

Responses received: Individual objections have been received from 3 KENSINGTON PARK, and from FYRNS and NUPERS COTTAGE, NUPERS HATCH. Residents of 1, 2, 4, 5, 6, 7 and 8 KENSINGTON PARK have submitted copies of essentially the same letter. Objectors raise the following issues:

- Appropriateness of the development in the Green Belt
- Impact on Green Belt and open countryside
- Cumulative impact of all elements, out of character with the surroundings.
- Bulk and siting of the gym building.
- Direct amenity impacts – noise (including from amplified music) and general activity, lighting, general impact from vehicles
- Traffic generation – impact from vehicle movements on amenity, and on the road surface on this private road
- Proposed hours of use unacceptable
- Impact on public right of way in the locality
- Precedent for other similar uses.

Parish Council: - Stapleford Abbots Parish Council have objected to the application, making the following comments:

We objected in the grounds of:

Noise and light pollution in a very rural area;

Opening hours 06.00-21.00 7 days a week, which would heighten the above issues;

An excess of traffic by clients and commercial traffic entering and exiting Nupers Hatch onto a dangerous bend in the busy Tysea Hill would present a traffic hazard;

Land drainage that off Nupers Hatch into Tysea Hill, in the winter months this turns to ice and has been the scene of several RTAs

The visual impact of advertising boards at the entrance to Nupers Hatch is not in keeping with the rural street scene

Concerns that the change of use to leisure & entertainment may lead to further noise & light pollution in future

There is a public footpath adjacent to the proposed development

Development of this type is inappropriate in the green belt or any rural setting

A gym & assault course are mentioned in the application but on the plans there is provision for a football facility: this would add to the noise pollution.

Main Issues and Considerations:

Green Belt considerations

Paragraph 89 of the NPPF is applicable. This provides that new buildings are inappropriate in the Green Belt but that exceptions can be made, inter alia, for *'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'*. This does not however automatically suggest that such facilities are appropriate, it simply provides a basis on which very special circumstances justifying the development may be founded.

Thus, the impact of the elements of the application on the openness and character of the Green Belt remains material. The application site is relatively enclosed, in some parts by adjacent buildings within and outwith the site boundaries and otherwise by the dense areas of trees screening. As such, the character differs somewhat from the more open character of land in close proximity to the north east and west. Views into and across the site are therefore somewhat limited and low key development could be permitted without significant impact. In this context, and having regard to paragraph 89 of the NPPF, officers consider that the extent of the external elements of the proposed use – the assault course, team sports area, the running routes etc could be considered appropriate in this location.

In this context, such uses are likely to require a degree of ancillary building. This might include any or all of changing accommodation, toilets, refreshment facilities and administration facilities, and associated car parking. Such support facilities can be provided in small building designed for purpose and strategically located within the context of the external sporting facilities. Evidently, the buildings proposed exceed these requirements.

The new building is of satisfactory design and appearance in broader terms and is sited in a position that means it is largely concealed from surrounding land with the opportunity for further screening to be added as appropriate. Officers also acknowledge that the concept of the indoor/outdoor training model is of itself innovative. However, neither argument makes the case sufficiently that the development in its entirety is required to be provided within the Green Belt in general or in this location specifically and accordingly would not appear to constitute very special circumstances sufficient to be considered an exception.

Amenity considerations

A number of resident objections refer to noise, activity and general disturbance arising from the use since it opened. Some of this can be put down to the temporary nature of the existing facilities, music played in the marquee for example during gym sessions would be much better contained within a permanent building, and could be controlled by condition. Other special one-off events have also given rise to complaints of noise and disturbance.

It should be noted that in terms of the typical character of such leisure facilities, activity is spread over an extended period. The main building would provide an element of screening to the immediate neighbour and noise from within can be controlled. External activities can be expected to be focussed with the number of users varying throughout the times of use. Residents have expressed concern at the proposed hours of use and the applicants have indicated a willingness to accept a condition particularly on the use of the external space. In this regard, if the gym building were acceptable limited use by members early morning and at night is unlikely to generate such activity of itself to be unacceptably intrusive.

Evidently the level of activity will be greater than existed prior to the use commencing but there remains uncertainty as to the full potential which could only be fully ascertained once the use is fully operational. At this stage however, officers cannot be fully satisfied that the general use would not affect the immediate neighbour in particular, and more generally properties to the west.

In terms of direct physical impact from the works, this primarily relates to the impact of the gym on the immediate neighbour. The building is indicated as a minimum of 7 metres from the boundary and is only 4 metres high at the ridge. Some screening already exists and can be added to by condition if required. Thus the direct impact from the neighbour from the gym building is not considered excessive. Residents in Kensington Park have raised issues around some of the external equipment being visible but as the nearest houses are over 40 metres from the boundary, this has a negligible impact.

Parking and traffic

Residents raise various issues around vehicular activity and implications for a public right of way that runs along Nupers Hatch. In highway terms, the site lies on a private road and the highway authority have no comments to make. There is a public right of way but the application does not propose any development that will impair or hinder this. Officers are satisfied that adequate off street parking is provided within the site, and the applicants have indicated an intention to provide cycle parking (which could be dealt with by condition). Overall the application does not raise issues of safety on the public highway and matters raised about the private road are not for this application. Whether vehicle activity constitutes a disturbance to the immediate neighbour is somewhat linked to issues of activity and disturbance discussed above.

Other matters

It is noted that as land previously used as part of a farm, there is a risk of contaminants being present in the soil. Thus if Members were minded to grant planning permission, then appropriate conditions should be included

Conclusion:

Officers see the issues in the case to be finely balanced. The provision of outdoor sports and leisure facilities are not immediately inappropriate in the Green Belt and some element of related development facilitating that would by implication be reasonable. The general concept of a use that combines indoor and outdoor exercise within a Green Belt setting also has some broad merit.

However, such considerations do not immediately justify any scale of built development as part of the acceptable elements. Notwithstanding the applicants submission that the gym is modest when compared to other similar uses, the building is substantial in the context of the site and the Green Belt. The overall level of use resulting has the potential to affect residential amenity particularly the immediate neighbour.

As a result, officers consider that the proposed use is unacceptable in principle and should be refused.

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

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

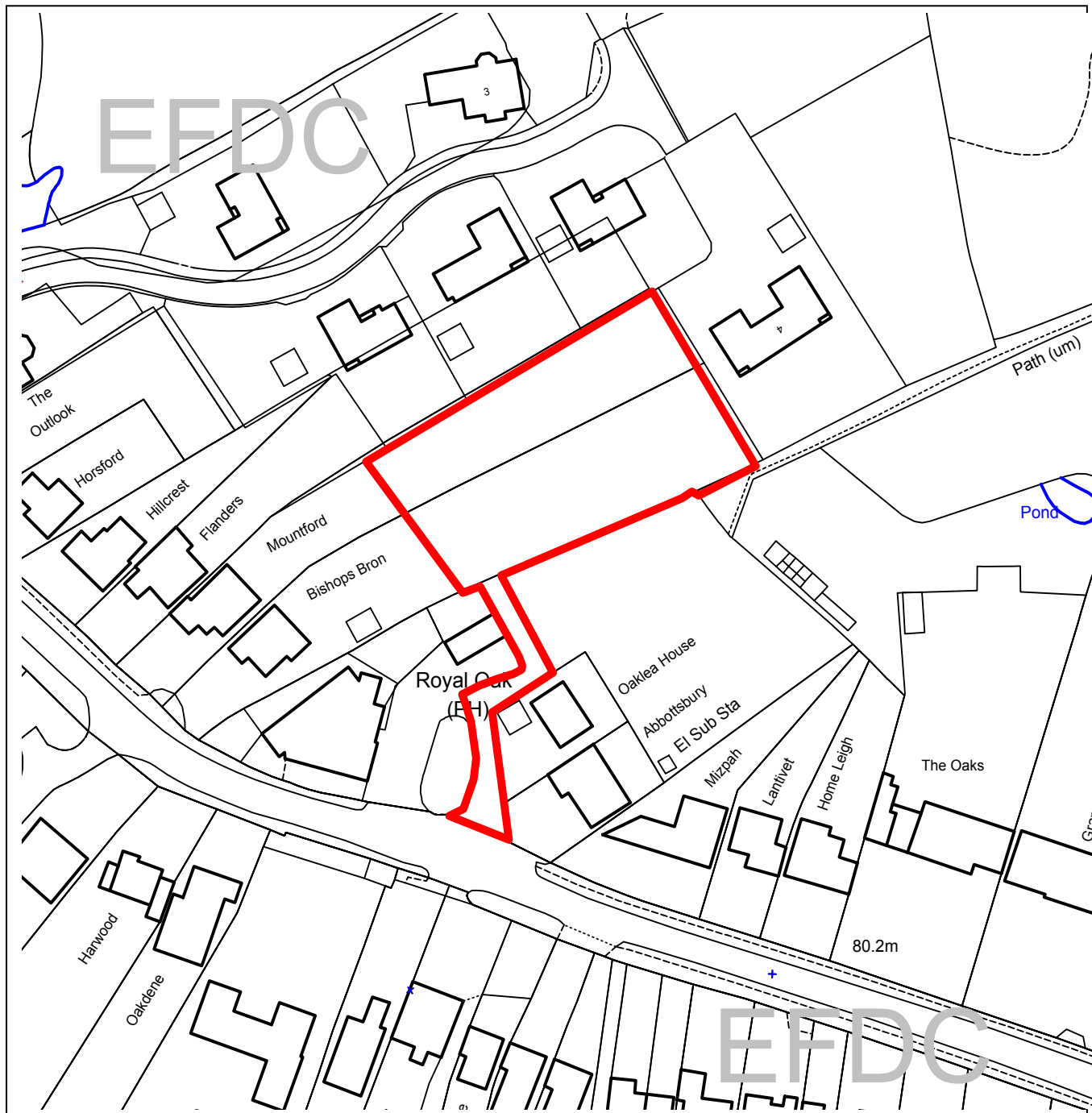
or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

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Epping Forest District Council

Agenda Item Number 2



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Application Number:	EPF/1762/17
Site Name:	Land to the Rear of Mountford and Bishops Bron, Oak Hill Road, Stapleford Abbots, RM4 1JL
Scale of Plot:	1/1250

Report Item No: 2

APPLICATION No:	EPF/1762/17
SITE ADDRESS:	Land to the rear of Mountford and Bishops Bron Oak Hill Road Stapleford Abbotts Essex RM4 1JL
PARISH:	Stapleford Abbotts
WARD:	Passingford
APPLICANT:	Mr Gerard Higgins
DESCRIPTION OF PROPOSAL:	Application for eight new build houses (six semi-detached, two detached), with associated parking and amenity.
RECOMMENDED DECISION:	Grant Permission (with Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=596534

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: FQB_100, 100A, 150A, 200RevC, 201, 202, 203 and 204,
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
- 4 Prior to first occupation of the development hereby approved, the proposed rooflight windows serving the second floor in the north facing rear elevation(s) shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 5 No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.

- 6 A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tool. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.
- 7 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site.
- Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the recommencement of development works.
- Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.
- 8 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 9 No development shall take place, including any ground works or demolition, until a construction management plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period. The plan shall provide for the following all clear of the highway:
- Safe access into the site
 - The parking of vehicles of site operatives and visitors
 - Loading and unloading of plant and materials
 - Storage of plant and materials used in constructing the development
 - Wheel and underbody washing facilities
- 10 Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.

- 11 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation, per dwelling, of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council.
- 12 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 13 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 Class A, B and E of Part 1 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.
- 14 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, 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, unless the Local Planning Authority gives its written consent to any variation.
- 15 Prior to first occupation, details and construction on site of boundary walls/fences, including provision for a solid wall along the flank boundary adjacent to the rear garden of no.4 Kensington Park, Stapleford Abbots, shall be submitted and agreed in writing by the local planning authority.
- 16 The removal of trees, scrub or hedgerows shall be undertaken outside of the bird breeding season (commonly between 1st March and 31st August). If this is not possible, habitat removal shall be supervised by an ecologist.
- 17 Prior to the occupation of the development hereby approved two bird boxes shall be installed/constructed on site in accordance with details submitted to and approved in writing by the Local Planning Authority.

This application is before this Committee since the recommendation is for approval and the application is for residential development consisting of five dwellings (and is not for approval of reserved matters only); more than two expressions of objection have been received; contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council function, Schedule 1, Appendix A.(d) (f) and (g))

This application was deferred from the last meeting to enable members to carry out a site visit. The original report is reproduced below.

Description of Site:

The application site is a fenced off area that formerly was the end half of the rear gardens of two houses, Mountford and Bishops Bron, which front Oakhill Road. The application site is between the former car-park area of the Royal Oak public house to the south, which is being developed for five houses that are almost completed and the rear gardens and houses of 5, 6 and 7 Kensington Park to the north and the side garden and house at 4 Kensington Park to the east. There are high leylandii trees running east to west through the centre of the site that previously defined the boundary of these two houses at the rear.

The site is located within the Metropolitan Green Belt and within the village of Stapleford Abbots. Houses front Oakhill Road to the south and west, whilst Kensington Park is a cul-de-sac to the north of 7 detached houses in wide plots built in the early 2000's. Public Footpath no. 33 runs south of but is outside the application site.

Description of Proposal:

Three pairs of a total of 6 x 3 bedroom semi-detached houses, flanked each end by a detached house (2 x 5/6 bedroom houses), that will run as a row east to west fronting onto a proposed new private road. Each house will have two parking spaces, and the plans have been revised to show provision for two visitor parking spaces and a turning area at the eastern far end for vehicle movement and turning area. Access will be from the western end, off the road serving a recent built 5 house residential development to the south, which in turn accesses off Oakhill Road that serves the car park area to the Royal Oak PH.

Design wise, these will be a mix of facing brick and render on two floors, with traditional dual pitch sloping roofs either side of a central ridge (9m high). The front roof elevations of each proposed house will face towards the recent built housing development to the south and have a small dormer, whilst on the rear roof slope, there will be a pair of flat roof lights. The roof void area will serve a pair of bedrooms.

Relevant History:

EPF/1024/14 – Five detached dwellings on adjacent site (former Royal Oak PH car park) -
Granted 19/09/2014

Policies Applied:

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
CP9 - Sustainable Transport

- GB1 – Green Belt Boundary
- GB2A – Development in the Green Belt
- GB7A - Conspicuous Development
- H2A – Previously Developed Land
- H3A – Housing Density Mix
- H4A - Dwelling Mix
- H5A – Affordable Housing
- H6A - Site Thresholds for Affordable Housing
- H7A - Levels of Affordable Housing
- DBE1 – Design of New Buildings
- DBE2 – Detrimental Effect of Existing Surrounding Properties
- DBE4 – Development in the Green Belt
- DBE6 - Car Parking
- DBE8 – Private Amenity Space
- DBE9 – Excessive Loss of Amenity for Neighbouring Properties
- LL1 – Character, Appearance and Use
- LL7 – Promotes the Planting, Protection and Care of Trees
- LL10 – Adequacy of provision for Retention
- LL11 – Landscaping Schemes
- ST4 – Road Safety
- ST6 – Vehicle Parking

NPPF The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 215 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.

Draft Local Plan:

At the current time, only limited weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The current draft, as at October 2017, shows the site earmarked for residential development for a potential 10 houses – ref: as site ref:

The relevant policies in this case are as follows:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy 2011-2033
- SP4 Place Shaping
- SP6 The Natural Environment, Landscape Character and Green Infrastructure
- H1 Housing Mix and Accommodation Types
- DM5 Green Infrastructure: Design of Development
- DM9 High Quality Design
- DM10 Housing Design and Quality
- DM11 – Waste recycling facilities on new development
- DM15 Managing and Reducing Flood Risk
- DM16 Sustainable Drainage Systems

Consultation Carried Out and Summary of Representations Received

47 neighbours were consulted and a site notice was displayed. This resulted in 9 local neighbour objections being received.

STAPLEFORD ABBOTTS PARISH COUNCIL – Object. Overdevelopment in an already crowded site with 5 New builds under construction, with at times the Royal Oak car park overspill using the access road; properties of Kensington park in close proximity coupled with the proposed

development it would appear to create a mini housing estate off of Oakhill Road; concerns of access for emergency & amenity vehicles with the possible parking problems mentioned above; provisions made for 2 cars per property but no provision for visitors.

HORSFORD, OAKHILL ROAD – Object. Increased development in the village harming overall rural look and greenbelt area, decrease house values, 3 storey houses behind existing 2 houses is overpowering, intrusive, out of character with current style of surrounding properties and harms privacy, reduced area of car park to the pub has resulted in further on-street parking so that it is hazardous which the proposal will make worse, increase in noise level, should not let a village of mainly cottages, bungalows and farms be compromised with 3 storey houses squashed into small greenbelt areas.

ROSEMOOR, OAKHILL ROAD – Object. Too extensive for very small plot of land, will reduce privacy to the houses it backs onto as are 3 stories and in close vicinity, concern will cause added parking and traffic flow on the brow of the hill of Oak Hill Rd, where drainage is not good, especially as other housing development allowed, motorists do not stick to 30mph speed limit, village is in a rural setting with mostly linear development, but development like this on previous gardens will set a precedent and ruin the village.

3 KENSINGTON PARK - Strong objection due to overdevelopment and inappropriate form of development using rear garden in the Green Belt, accepted planning permission been granted for five detached dwellings on the neighbouring Royal Oak public house site but was previously developed land, concept of a 'limited' development is multi-faceted and varies, relies on several factors such as plot size, number of dwellings, size of houses, and the relationship with the surrounding built development, out of keeping as surrounding built-up enclave primarily consists of sizeable detached dwellings in spacious plots and open character, proposal will be in contrast of this.

1, 2, 4, 5 6, and 8 KENSINGTON PARK (separate letters of but virtually the same content) - Strong objection to the application due to overdevelopment and inappropriate form of development using rear garden in the Green Belt, accepted planning permission been granted for five detached dwellings on the neighbouring Royal Oak public house site but was previously developed land, 3 storey will be significantly higher than surrounding one and two storey houses, 8 houses are not limited infill, row of dwellings proposed would not fill a gap in an otherwise continuous frontage or continue any existing built form and would therefore not constitute an 'infill' development in the Green belt, is a built-up enclave but Stapleford Abbots is not a village and appeal decisions on matter of what is and is not a village are contained in out of area and within EFDC area appeal decisions (e.g. Mott Street, Waltham Abbey), conclude therefore is not a limited infill in a village to justify this is appropriate development in the Green belt, small rear gardens and back to back housing distance not repeated in rest of the village, car dominated frontage, contrary to Essex Design Guide in respect of house distance to rear garden boundary is less than 15m, loss of light to rear gardens because of size and position, overlooking from upper floors resulting in loss of privacy, increase light and noise pollution, not sustainable location as trips rely on car journeys and village only as local store and a pub, loss of wildlife habitat through removal of many mature trees on the site, trees on the boundary to Kensington Park should be protected, removal of 70 to 100 trees will make drainage worse, underprovision of parking in number and size contrary to Essex CC parking standards.

EEC HIGHWAYS – the impact of the proposal is acceptable to the Highway Authority subject to a number of measures that can be controlled by condition.

Main Issues and Considerations:

The main issues to be considered are the acceptability of the development within the Metropolitan Green Belt; the principle of the residential development; its impacts on the character and appearance of the area including whether it would result in excessive loss of amenity to occupants of neighbouring residential properties; highways and access; loss of trees and landscaping and parking provision.

Green Belt

The site is located within the Metropolitan Green Belt, where development is inappropriate unless it benefits from an exception. Paragraph 89 of the NPPF sets out exceptions to when a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. One such exception is limited infilling in villages.

The proposal would infill an area of former residential gardens that is surrounded on all sides by residential properties. Exceptions to development being inappropriate in the Green Belt include limited infilling in villages and not necessarily on previously developed sites, so long as the proposal would not have a greater impact on the openness of the Green Belt. The five houses adjacent to the south that are nearing completion was on the former car park hardstanding area of The Royal Oak Public House and because of its location and similar surroundings, was considered to be infill, as well as in that case a brownfield site.

To be limited infill, it does not need to be a brownfield site. Given this is surrounded by houses, is in a village and furthermore, is included in the draft Local Plan for housing, then it is considered such limited infilling to be green belt compliant, in principle. The cases referred to by objectors are in a sporadic hamlet setting and not comparable to Stapleford Abbots. The Local Plan defines Stapleford Abbots as a small village, it does not for Mott Street (High Beech) so infill in principle is acceptable and has been allowed on this basis on the adjacent site and elsewhere in the village.

The visual impact of the proposal on the surrounding countryside and visual amenities of the Green Belt is limited by the development that surrounds it. Therefore, there would be no significant harm either to the open character of the green belt or the character and appearance of the area, including the countryside beyond.

Character and Appearance

The pattern of development surrounding the site generally consists of good sized detached dwellings, set within fairly large plots, but there are also examples of properties in smaller, shorter rear garden plots. Although the development proposed smaller plot sizes, they would still provide reasonable size and shape of private amenity space and the development would not appear cramped. The supporting text to policy DBE8 of the current Local Plan recommends that the detached houses should be looking to provide private amenity space of about 180 square metres and the terrace houses should be looking to provide 100m². The submitted plans show that this is provided for the two detached houses and provision is around 70 to 80 square metres for the terraces. However, this wording derives from the original 1998 version, and subsequently, when the Council has previously tried to refuse planning permission on any shortfall, then at appeal (and likely why it is not addressed as such a requirement in the 2012 National Planning Policy Framework) the Planning Inspector has not supported it and would in this case consider there is adequate living conditions for future occupants of the proposed dwelling.

Therefore, although the development proposes smaller plot sizes generally than the surrounding area, they would still provide good levels of amenity and separated from each other by about 2.5 metre distances, the development would not appear cramped.

The houses are two storey with pitched roof that will provide living space in the roof void. The 5 houses on the adjacent former car park are of similar scale and design and it is considered that the proposal represents good house types adding to the mix in the local area. They are traditional design and use external materials which prevail in the local area. Due to their backland position, they will have limited visual impact on the main road, but even if visible, they add to the built-form quality in the local area. The position of parking at the front served off a new estate road would have little visual impact and is deemed to be acceptable.

Neighbour amenities:

The proposed dwelling would provide accommodation on three floors. Those properties therefore most affected will be the houses at the rear at nos. 5, 6 and 7 Kensington Park. These are sizeable houses in larger plots and a further distance away from the rear boundary shared than those proposed at the application site. There is also a considerable thick vegetation screen of leylandii trees along this boundary and further into the application site, which would be removed to allow the development to take place. Back to back distances will be just under 30 metres, which is more than acceptable to safeguard against loss of privacy to rooms in these neighbouring houses. Distances to the rear garden boundary are less than the 15 metres referred to in the current Essex Design Guide (9 to 10 metres) but this is not unusual in this district and does not require strict adherence – it is a guide.

Visually, there will be a significant outlook change for these three residents because of the vegetation removal, but the position, size and design of the proposed houses is acceptable and not harmful. However, the perceived overlooking from three floor levels could be controlled by conditions requiring the second floor roof lights to be obscure glazed only and remove permitted development rights to prevent replacement with dormers on this elevation. In fact, it is appropriate that permitted development rights are taken away for any future extensions or outbuildings so that they are subject to further planning control.

The existing houses to the south–west in Oak Hill Road are a further distance away, and will view the side of the nearest of the proposed houses where no windows are proposed. There will be no loss of amenity to these residents, in fact, where glimpses of the new houses would be seen between existing house gaps to the north south and west, it will not be a dominant one and would not harm the street scene.

The existing house to the north-east at 4 Kensington Park could potentially be affected by the proposed position of the road turning area, particularly with the removal of non-native trees on this boundary. The revised plans show a brick boundary wall in its place, which is considered necessary to safeguard against vehicle movement harming this neighbours amenity, given it will be close to part of their rear garden.

Finally, on this matter, the proposed houses will face forward towards the new houses almost completed on the former pub car park to the south-east. A separation distance of 25m window to window is acceptable in terms of this relationship, which will also be across the new estate road.

Concerns have also been raised with regards to disturbance and nuisance as a result of construction works, however such matters are also not material planning considerations as this harm would only be temporary during the period of construction. Conditions to control the time constraints for construction works are suggested in order to minimise any impact on neighbours.

Trees and Landscape

Discussions have taken place with the Council's Tree and Landscape Officer, but the trees are not worthy of a tree preservation order and were looked at before the site was put in the draft Local

Plan for housing. There are therefore no objections to the removal of the existing trees, despite their abundance.

Highways, Access and Parking

Officers at Essex County Council have been consulted on the application and do not raise any objection, subject to the imposition of planning conditions. Access to the site from the main road is an existing one and previously served a large car park. Providing access to a smaller pub car park and new housing would not result in increased highway safety concerns and was considered acceptable on previous planning approvals for this location. However, to minimise disturbance to residents in Oak Hill Road, a condition requiring details to be further agreed of a management construction plan is appropriate in this case.

Since initial submission, the plans have been amended to show not only a revised turning area so that emergency and larger vehicles can turn around at the end of the new road, but visitor parking has also been added. Otherwise, each house will off-street parking for two vehicles.

The issue of not being a sustainable location was not a reason for refusal of planning permission on the 2014 planning permission and would be very difficult to sustain now, particularly as it is an identified site for housing in the current draft Local Plan site allocation, when this and other issues were considered.

Drainage

Details of foul and surface water drainage can be dealt with by condition, as is normal practice, and removal of trees has not resulted in an objection raised by the Council's Land Drainage section, who have stated a requirement for a flood risk assessment, which can be dealt with by a suitable worded planning condition should planning permission be granted and is recommended as such by officers. .

Local Plan and 5 Year Housing Supply

The Council is currently in the process of preparing a new Local Plan where sites are being identified for residential development, however the latest figures reveal that the Council can currently only demonstrate a 1.58 year supply of land for housing purposes. Due to this it has been shown in several recent appeal decisions, both within and outside of the district, that a lack of a demonstrable five year supply of housing weighs in favour of granting planning permission. Whilst the local plan is currently at a draft stage, this matter is becoming increasingly a concern and in this case, the site is also shown as part of an allocated site for housing (reference SR-0873) in the draft. Whilst 10 houses have been indicated to possibly go onto this site, the 8 proposed, as well as 5 virtually built out on the adjacent site, represents a density that can be accommodated here of a size and design that offers a good mix of housing and spatial design.

Affordable Housing

National planning changes since the adoption of the existing Local Plan means that affordable housing can only be required where the development is for 10 or more houses and the total floor space exceeds 1000 square metres in gross internal floor area. The proposal does not come up to this threshold and therefore affordable housing cannot be required as part of this proposed development.

Other Matters Raised

The site was until recently the rear gardens of two residential properties and the ecology importance of the site is low. The removal of the trees may affect birds and therefore it is

appropriate to control when the felling takes place by condition to prevent during nesting season. Also, some compensatory measures can be taken, again through the use of appropriate conditions, for nesting provision adaption to the design of the proposed end houses.

Conclusion:

It is considered that represents limited infill development in the Green Belt and within a small village, as defined in the Local Plan. It is not inappropriate development in the Green Belt, by definition. The visual impact of the proposal on the surrounding countryside and the openness of this edge of settlement Green Belt is limited by the existing built development that surrounds it on all sides. The Council cannot demonstrate a five year housing supply and the site is allocated for housing in its current draft of the emerging new Local Plan, part of which has been built out for housing.

The site is large enough to accommodate eight houses, despite a small shortfall in amenity space for the proposed terrace houses. The design is a traditional form which will be in keeping with the relatively eclectic mix of housing in the locality. Parking and vehicle access is acceptable and is not objected to by Essex County Council Officers. A thick belt of high trees will be removed to allow the development to take place, but these are non-native types and not of preservation quality.

There will be an amenity impact on the neighbours to the immediate rear in Kensington Park, but the relative position and separation of the existing and proposed houses are such that no significant harm will be caused to the living conditions at these properties. Removal of permitted development rights and obscure glazing 2nd floor windows will help to preserve against undue harm and have further planning control.

Along with the other factors discussed above, as such, the proposal complies with the guidance contained within the National Planning Policy Framework and the relevant Local Plan policies and is therefore recommended for approval.

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: Jonathan Doe
Direct Line Telephone Number: 01992 564103***

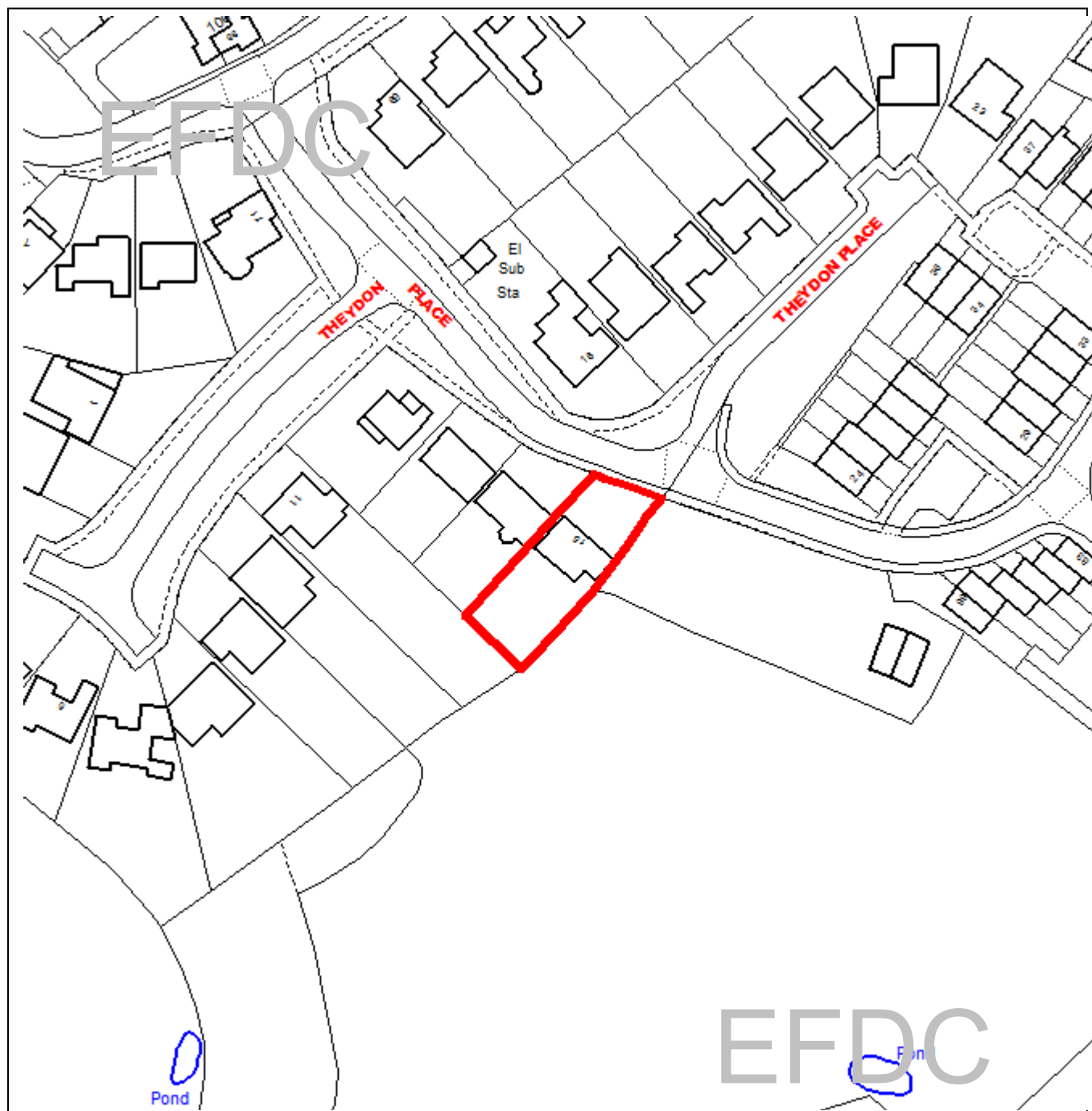
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Epping Forest District Council

Agenda Item Number 3



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Application Number:	EPF/1926/17
Site Name:	15 Theydon Place, Epping, CM16 4NH
Scale of Plot:	1/1250

Report Item No: 3

APPLICATION No:	EPF/1926/17
SITE ADDRESS:	15 Theydon Place Epping Essex CM16 4NH
PARISH:	Epping
WARD:	Epping Hemnall
APPLICANT:	Mr Martin
DESCRIPTION OF PROPOSAL:	Single storey rear extension.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597237

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development shall match those of the proposed plans, unless otherwise agreed in writing by the Local Planning Authority.

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

Description of Site:

The site is a two storey detached dwelling house located on the South Western side of Theydon Place. There are no listed buildings attributed to the site and it is not within a Conservation Area, or within the Metropolitan Green Belt.

Description of Proposal:

Single Storey Rear Extension

Relevant Site History:

EPF/1240/15 - Proposed two storey front extension including first floor extension over garage and front elevation alterations (22/07/2015) – Grant Permission (With Conditions)

EPF/0697/00 – Single storey side extension (19/05/2000) – Grant Permission (With Conditions)

EPF/1064/98 – Two storey side extension (02/09/1998) – Grant Permission (With Conditions)

Policies Applied:

Adopted Local Plan:

CP2 – Protecting the Quality of the Rural and Built Environment

DBE9 – Impact on Amenity

DBE10 – Design of Residential Extensions

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 215 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.

At the current time, only limited weight can be applied to the Draft Local Plan, however the Draft Plan and Evidence base should be considered as a material consideration in planning decisions. The relevant policies in this case are as follows:

DM9 – Quality of Design

Summary of Representation:

No. of Neighbours Consulted: 2, no comments received.

Epping Town Council: Objection – The proposed materials are not in keeping with the traditional character of these properties. Committee would have no objection to a single storey extension if the materials were appropriate to the building and area.

Main Issues and Considerations:

The main issues to consider for the assessment of this application are as follows:

Design

Impact on the Living Conditions of Neighbours

Design

The proposed extension would have a flat roof with a lantern rooflight atop the extension roof. The proposed materials would be zinc and stone tile walls, with aluminium doors and windows. Whilst the materials would be a departure from the more traditional brick and roof tiles generally found in this area, it is considered that this modern solution, which clearly reads as a new addition to the property and does not try to mimic the original design, but complements it is an acceptable way of extending in this location at the rear of the property where it has no impact on the strong character

and visual amenity of the area as a whole. The extension would not be visible from the street and therefore would not detract from the traditional street scene.

Impact on Living Conditions of Neighbours

The proposed extension would measure 4.3 metres in depth, 3.59 metres in height (including the lantern rooflight) and 7.2 metres in width. It would be 1 metre from the boundary with 14 Theydon Place. The extension would be completely screened from neighbouring properties by a thick hedge that is located along the boundary. Therefore, it is considered that there would be no visual harm, overlooking or loss of light caused as a result of this proposal.

Conclusion:

Whilst not of matching materials the extension is of a design which does not detract from the quality of the original dwelling and will not impact on the character and visual amenity of the area. The extension will not harm to the living conditions of surrounding neighbours and it is recommended that planning permission is granted subject to conditions.

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

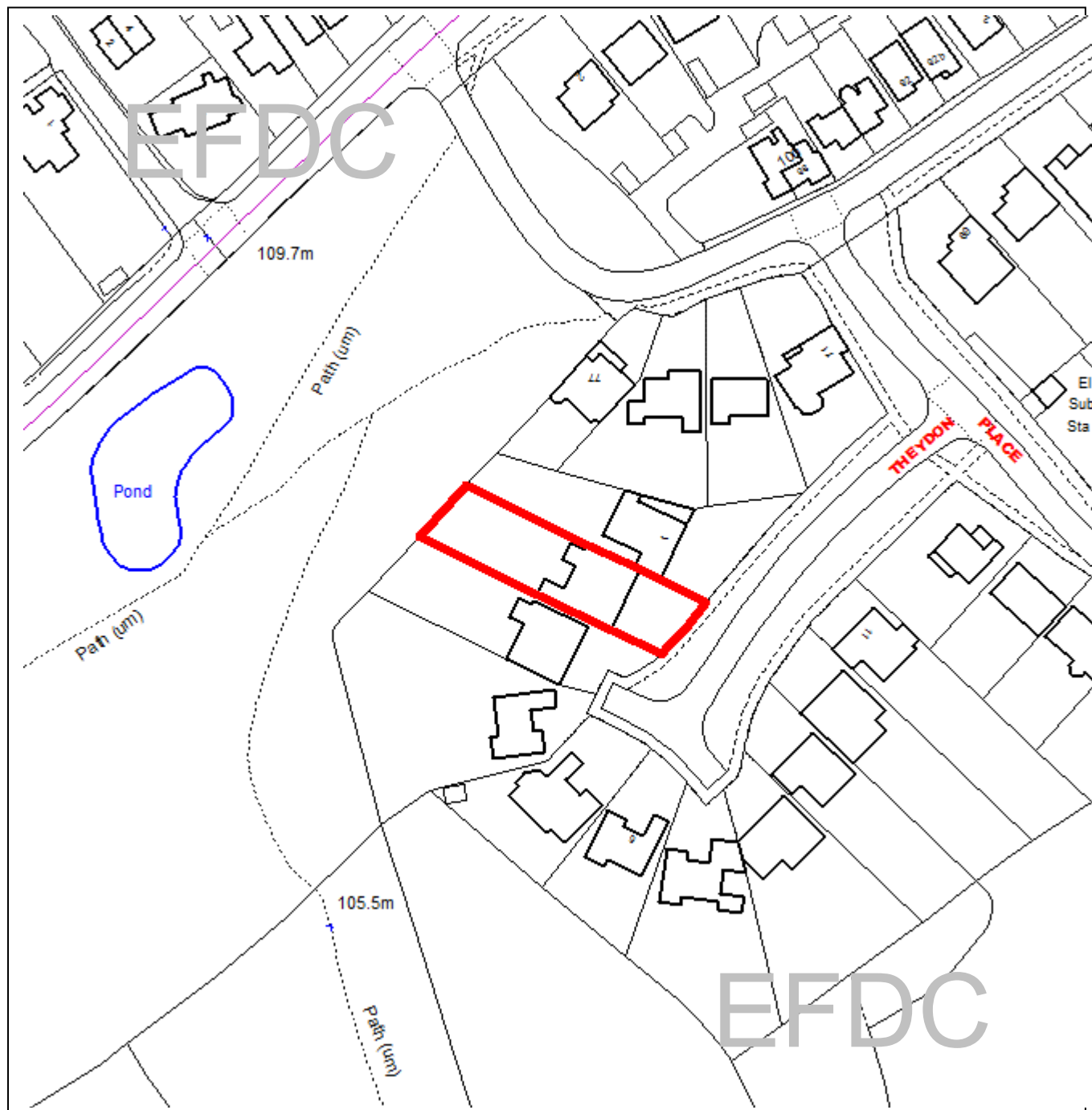
***Planning Application Case Officer: Alastair Prince
Direct Line Telephone Number: 01992 564462***

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk



Epping Forest District Council

Agenda Item Number 4



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Application Number:	EPF/1990/17
Site Name:	2 Theydon Place, Epping, CM16 4NH
Scale of Plot:	1/1250

Report Item No: 4

APPLICATION No:	EPF/1990/17
SITE ADDRESS:	2 Theydon Place Epping Essex CM16 4NH
PARISH:	Epping
WARD:	Epping Hemnall
APPLICANT:	Mrs Davina Jacoby
DESCRIPTION OF PROPOSAL:	Loft conversion including raising the height of the dwelling and erection of new roof with two side dormer windows and first floor front and rear windows
RECOMMENDED DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=597520

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development shall match those of the existing building and/or those detailed in section 11 of the submitted application form, unless otherwise agreed in writing by the Local Planning Authority.
- 3 Prior to first occupation of the development hereby approved, the proposed window openings in the northern and southern roof slopes facing Nos 1 and 3 Theydon Place shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.

This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A. (g))

Description of Site:

The application site is located on the northwestern side of Theydon Place which is a cul-de-sac of 11 properties. Dwellings are single storey with a mix of front and side facing gabled roofs. As the houses are arranged in a cul de sac there is no constant building line. There is a large mature tree located to the front of the site which partially screens the front of the building when viewed from in front of it. To the rear of the site lies Bell Common Conservation Area.

Description of Proposal:

Planning permission is sought for a loft conversion including raising the height of the dwelling and erection of new roof with two side dormer windows and first floor front and rear windows.

The proposal would include an increase in the height of the bungalow by approximately 900mm. The roof would extend over the existing flat roof side extension adjacent to the boundary with 3 Theydon Place. Two dormer windows are proposed in each flank roof slope. Windows to the northern flank would serve en-suite bathrooms. Windows to the southern flank would serve the two proposed bedrooms however these would be secondary as main windows would be inserted in the gables, front and back.

The proposed materials would match the existing apart from the tiles which would be slate instead of the existing concrete pantiles.

NB: The originally submitted proposed loft and roof plans have been amended to correspond correctly with the dimensions of the proposed elevations along with a revised streetscene elevation where the separation distance between the application site and neighbouring property at No. 3 Theydon Place were originally incorrectly plotted. The proposed scheme however remains the same as originally submitted so it was not considered prejudicial to neighbouring occupiers not to re-consult on these corrections.

Planning History:

EPF/0063/78 - Proposed erection of single storey rear extension – Approved

EPF/0952/07 - Rear extension, front porch and loft conversion including reconstruction of part of existing roof.

Policies Applied:

National Planning Policy Framework 2012
Epping Forest Local Plan (1998) and Alterations (2006)

- CP2 – Protecting the rural and built environment

- DBE9 – Loss of Amenity
- DBE10 – Residential Extensions
- HC6 – Character, Appearance and Setting of Conservation Areas

Epping Forest Draft Local Plan consultation document (2016)

The Epping Forest District Draft Local Plan is the emerging Local Plan and contains a number of relevant policies. At the current time only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies within the Draft Local Plan are:

H1 – Housing Mix and Accommodation Types

DM7 – Heritage Assets

DM9 – High Quality Design

Summary of Representations

EPHING TOWN COUNCIL – Objection – The proposal would be an overdevelopment of the building, which would have a detrimental effect on the character of the street scene and the surrounding area. This part of Theydon Place is all bungalows and altering the style of this building will set an undesirable precedent, which will ultimately result in the complete erosion of the character of this urban area. National Policy recognises the importance of taking into consideration the character of different areas, which is crucial in this location.

The constant development of bungalows into housing is eroding the stock of bungalows where there is an identified need for people wishing to downsize and this is adversely affecting the mix of dwelling types available. The importance of bungalow accommodation has been recognised in the emerging draft Local Plan. There will be no bungalows left for the Plan to protect if they are continually converted now, contravening evidence.

CONSERVATORS OF EPPING FOREST – No observations

Neighbours:

4 neighbours consulted – 2 responses received from neighbours and 1 from The Epping Society

1 THEYDON PLACE – Objection - Although we have no objection to the increase in bulk & volume of 2 Theydon Place, we are most concerned that the proposed dormer window facing our property, 1 Theydon Place, could have a detrimental effect on the daylight enjoyed from our living room which has two side facing windows. Additionally, the increase in ridge height & bulk of roof will also affect us as it will result in a loss of outlook from our living room.

Finally we would query the use of façade materials and consider that black stained cladding along with grey slate on the roof could make the building very dark in appearance and is totally out of context with the street scene and would look out of place in this location.

We would reiterate that we do not have any issue whatsoever with the principle of increasing the size of this bungalow but do have objections as set out above

3 THEYDON PLACE – Objection – The planned roof height and dormers would really affect my light coming into the rooms in my bungalow on that side. I'm not used to understanding plans but it looks as though the distance from my sideways to next door's garage is wider than it actually is.

EPPING SOCIETY – Objection - The proposed increase in height of 0.90m (2'11") to accommodate extra rooms in the roof space will increase the bulk. The new windows will overlook the neighbouring property at number 1, albeit with obscured glass. Number 3 will be overlooked by the dormers of the new bedrooms. This is overdevelopment of the site. Being within a well-designed bungalow estate, it will not sit well in the street scene. We are concerned that that this type of application creates an unwelcome precedent and will further reduce the availability of this type of housing in our town.

Issues and Considerations:

The main issues to be addressed are:

- Effect on character and appearance
- Effect on neighbours living conditions
- Loss of bungalow

Effect on character and appearance

Policies CP2 and DBE10 seek to ensure that a new development is satisfactory located and is of a high standard of design and layout. Furthermore, the appearance of new developments should be compatible with the character of the surrounding area, and not prejudice the environment of occupiers of adjoining properties.

The proposal would increase the height of the dwelling by 900mm and extend over the existing garage. The ridge would move over slightly towards 3 Theydon Place. Two dormers would be inserted on both side roofslopes with the main bulk of the dormer set back from the front elevation by approximately 3m.

It is accepted that the properties either side and on the southeastern side of the road still appear as original bungalows and that this would be the first property to extend into the roofspace.

However Officers consider that the ridge increase of 900mm would not appear wholly at odds with the heights of the adjacent dwellings due to combination of the staggered building lines; that 1 Theydon Place is on slightly higher ground and the view of the front of the property from within the streetscene is partially screened.

Although the dormer windows would introduce features not apparent on the other dwellings, they are close to being set centrally within the side roofslopes and set well back from the front elevation.

The occupier at 3 Theydon Place pointed out that the gap between the dwellings appears closer in reality to that shown on the streetscene elevation. This was indeed the case and the streetscene elevation has been amended (Drawing no. 17/008/PL05C) and dimensions added to the proposed elevation drawing to show height of building and distance to boundary (Drawing no. 17/008/PL04A). The gap is in fact just shy of 2m side wall to side wall as opposed to 2.6m as initially shown. However, given that the extension would be single storey with the roof sloping away and that the dormer window is set a further 800mm away it is not considered that the street scene would be unduly affected by this alteration.

Given the above, it is considered that the proposal would not materially harm the character and appearance of this part of Theydon Place. Concern has been raised about the proposed timber cladding and slating of the roof. The existing dwelling already differs to its neighbour due to replacement windows with darker frames and with the fascia board and vertical weatherboarding being stained in a dark brown. Furthermore, the owner of the property could replace the roof tiles without permission and as there is already weatherboarding provided the materials are of a similar appearance to those used in the construction of the house, adding more would not require consent.

The rear boundary of the site abuts the Bell Common Conservation Area; however views of the dwellings from within it are limited due to the abundance of tree screening along the boundaries of the properties along this side of Theydon Place. Given the screening and distance of approximately 30m from the rear roofslope of the dwelling to the boundary it is not considered that the character, appearance or setting of the Conservation Area would be unduly compromised by the proposal.

Whilst the dwelling would appear in contrast to the main character of the road the property is not within a conservation area where special control is warranted. In addition there is partial screening to front gardens which would soften the changes. Therefore, it is not considered it will appear significantly out of place or detrimental to the character of the road and in this instance the design of the extension complies with policies CP2, DBE10 and HC6 of the Local Plan (1998) and Alterations (2006).

Effect on neighbours living conditions

Policy DBE9 seeks to ensure that an extension would not result in an excessive loss of amenity for neighbouring properties.

In terms of impact on the occupiers of 1 Theydon Place, Officers consider that the proposed dormer window is of a size and location that would not excessively prejudice the living conditions of that neighbouring occupier. The two windows would be obscure glazed as they would serve ensuite bathrooms.

The increase in pitch and height of the roof and introduction of side dormer is considered to be a sufficient distance from the neighbouring side windows serving their living room as not to excessively harm this occupier's amenity including outlook. The size of the dormer is not considered so dominant as to cause a material level of overshadowing of the side windows nor result in an excessive loss of outlook. Normally, less importance is given to the protection of such side facing windows, which gain their light and outlook across neighbouring properties, and it is considered would continue to receive a reasonable amount of daylight given the distances involved.

With regards to the impact on 3 Theydon Place, the alterations to the dwelling would bring the side roofslope closer to this dwelling however the dormer would still be set approximately 2.8m away from this property. However similarly with regards to No.1, it is not considered that the changes would excessively harm the living conditions of that neighbour over and above the existing situation as the dwelling has already been extended up to close to the shared boundary already.

In terms of loss of privacy, the side dormer windows may result in a potential to overlook the neighbours side windows and rear gardens. Given that the northern facing windows would serve bathrooms and the southern facing dormers would be secondary a condition can be attached to any permission that ensures that these windows are obscured.

Therefore the proposal is considered to comply with policy DBE9 of the Local Plan (1998) and Alterations (2006).

Loss of Bungalow

There is no policy within the current adopted Local Plan and Alterations that precludes the loss of bungalows however Draft Local Plan policy H1 criterion E states that the loss of bungalows will be resisted as they provide a supply of accessible accommodation.

Whilst the intention for bungalows to be retained is accepted by Officers, given that the policy has not been formally adopted as yet, it is not considered that it holds sufficient weight in order to refuse an application on these grounds. Whilst there may be evidence that bungalows are being lost there is also evidence that family housing is required and while there is no adopted policy restricting the loss of bungalows at present, the proposal is considered acceptable until there comes a time when the new policy is adopted.

Response to Third party Representations

These have been addressed in the main body of the report above.

Conclusion:

The proposed development is appropriate in terms of design and appearance and would not result in excessive harm to the amenities of adjoining property occupiers. The loss of bungalow is accepted but with no adopted policy it is difficult to justify a refusal on this ground. The proposal is considered to comply with all relevant national and local plan policies and is recommended for approval.

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:

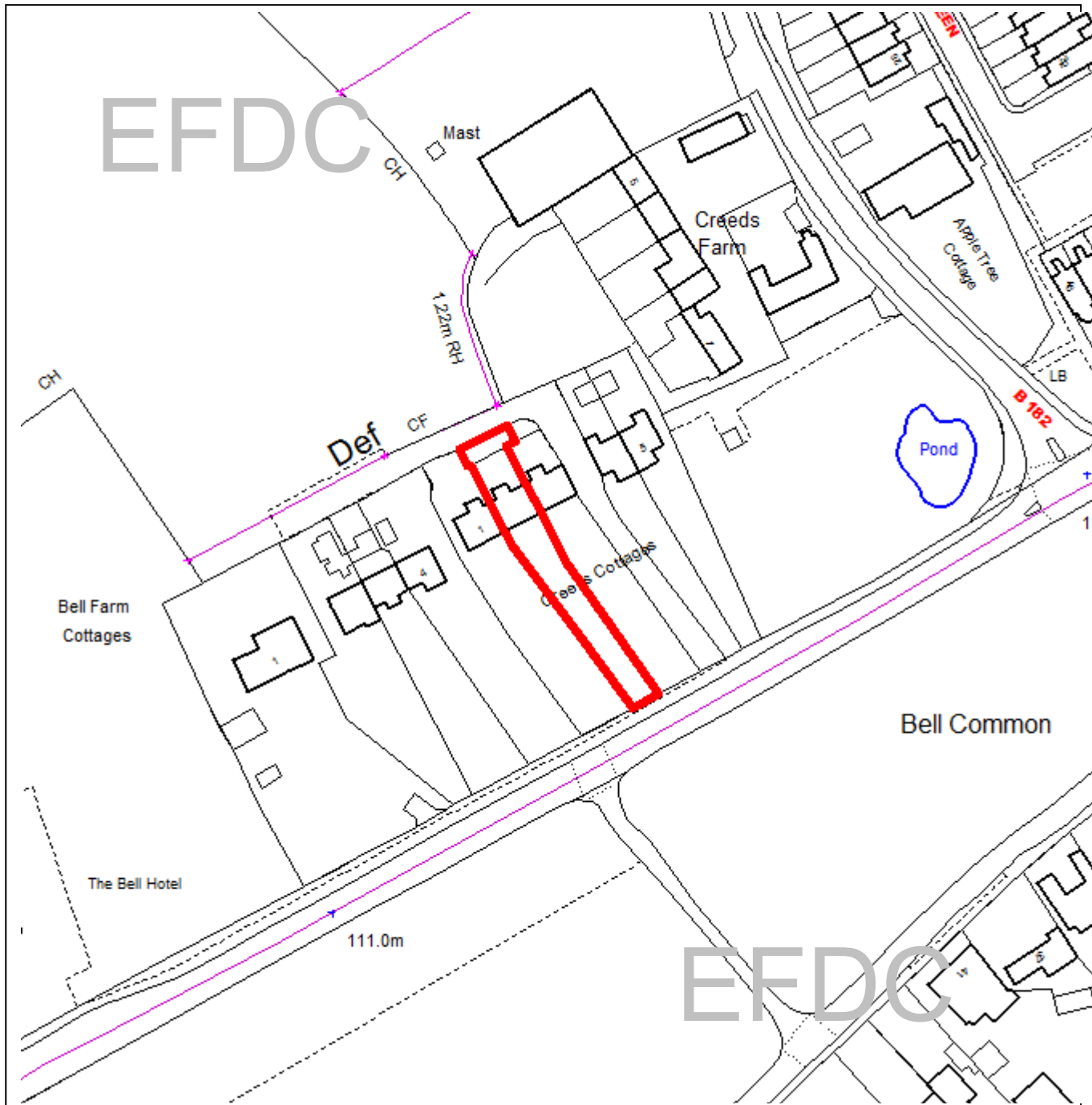
***Planning Application Case Officer: Steve Andrews
Direct Line Telephone Number: 01992 564 337***

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk



Epping Forest District Council

Agenda Item Number 5



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Application Number:	EPF/2265/17
Site Name:	2 Creeds Cottages, High Road, Epping, CM16 4DE
Scale of Plot:	1/1250

Report Item No: 5

APPLICATION No:	EPF/2265/17
SITE ADDRESS:	2 Creeds Cottages High Road Epping Essex CM16 4DE
PARISH:	Epping
WARD:	Epping Lindsey and Thornwood Common
APPLICANT:	Mr & Mrs Barker
DESCRIPTION OF PROPOSAL:	Proposed new vehicular access, entrance gates and hardstanding
RECOMMENDED DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=598678

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.
- 3 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, 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, unless the Local Planning Authority gives its written consent to any variation.

- 4 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 5 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A. (g))

Description of Site:

The subject site consists of a 2 storey terraced property which has a small hard surfaced yard to the rear with a large front garden of some 45m in length. Open views of the front garden can be had from the road as, unlike other adjacent properties, there is no front boundary hedgerow.

To the northeast there is an access road leading to the rear of the dwelling serving Nos 1-4 Creeds Cottages and Nos 1-4 Bell Farm Cottages.

An ancillary outbuilding is located behind the dwelling. The hard standing to the rear is large enough to accommodate a vehicle however access is via the rear garden area of No. 3.

The site is located within a small enclave of residential properties within this side of the High Road. Opposite the site to the south is a public open space whilst open fields used for agriculture are located to the rear of the site. The site and the surrounding area are located within the green belt and the Bell Common conservation area.

Description of Proposal:

Planning permission was originally sought for a new vehicular access, entrance gates and hardstanding.

However, the Highways Engineer recommended that the gates be moved in order to accommodate a better turning area within the site. The applicant has removed them from the proposal. Therefore the amended proposal is for a vehicular access and area of hardstanding only.

Currently the vehicular access to the dwelling is via a shared access road leading to the rear of the property between Nos 3 and 4 Creeds Cottages.

The new access would entail a dropped kerb across the full width of the site with hardsurfacing for the first 6m of the front garden. The revised plans do not indicate the type of hardsurfacing proposed.

The proposed new vehicular access & on-site parking are required to facilitate the delivery of essential medical supplies & equipment to the property as a result of the applicants son's medical condition. The application site does not currently have vehicle parking within the site boundary.

Essex County Council (Children & Young People With Disabilities Rehab Team) have carried out an assessment of the site and have recommended that a vehicular access should be provided in view of the applicant's son's ongoing need for medical requirements and equipment.

Although not included in the drawings submitted with the application a letter from Essex County Council's Occupational Therapist outlines the need for an additional path to lead from the hard surface to the front door.

Relevant History:

EPF/0259/06 - Single storey rear extension and first floor extension over existing flat roofed extensions - Refused

EPF/0846/06 - Vehicle crossover – Withdrawn

EPF/0390/07 - Single storey rear extension and first floor extension over existing flat roofed extensions. (Revised application) – Approved

EPF/0272/17 - New vehicular access, gates & carport - Refused

Policies Applied:

National Planning Policy Framework 2012

Epping Forest District Local Plan (1998) and Alterations (2016)

CP2 Protecting the quality of the rural and built environment.

GB2A Development within the green belt

GB7A – Conspicuous Development

DBE1 - Design

DBE4 – Design in the Green Belt

DBE2/9 Loss of amenity

HC6 Character, appearance and setting of conservation areas

HC7 Development within conservation areas

LL10 Adequacy of provision for landscape retention

ST4 Road safety

ST6 Vehicle parking

At the current time, only limited material weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies in this case are as follows:-

Draft Local Plan Policies 2016

SP5 – Green Belt and District Open Land

T1 – Sustainable Transport Choices

DM2 – Landscape Character and Ancient Landscapes

DM7 – Heritage Assets

DM9 – High Quality Design

SUMMARY OF REPRESENTATIONS:

EPHING TOWN COUNCIL: OBJECTION – This would result in a loss of greenery, hedges and or/trees in a conservation area and would have a detrimental effect on the street scene, changing the current character. It would also set an undesirable precedent, which would be irrevocably harmful to the greenery and character of the conservation area.

Committee note that this property has access to the rear, which is closer than that proposed by the application.

Committee are also concerned about highway safety as another entrance will exit onto an already busy and congested road. This will have a negative and potentially dangerous effect on the flow of traffic. There is also concern about poor visibility, which could only be mitigated by removing further greenery, which is not acceptable.

5 adjoining neighbours consulted and a site notice erected – At the time of writing the report no responses had been received.

Conservators Epping Forest – OBJECTION – The site lies within the Metropolitan Green Belt and the Bell Common Conservation Area, and opposite Bell Common. Creeds Cottages have been identified in the Bell Common Conservation Area Character Appraisal as being key historic buildings of townscape merit. The area also includes a number of trees and hedges which add to its character. The removal of hedgerow and introduction of hardstanding and gates will detract from the special character of the area partially eroding the green character of the Conservation area. The proposal if granted would set an unwelcome precedent at this location. The High Road is a main distributor highway and additional accesses would have an impact on highway safety.

Issues and Considerations:

Green Belt

Policy GB2A states that planning permission will not be granted for the use of land or the construction of new buildings in the Green Belt unless it is for the purposes of agriculture, horticulture, outdoor participatory sport and other uses that will preserve the openness of the Green Belt or conflict with the purposes of including land within the Green Belt.

The car port which formed part of the previously refused scheme has been removed from this application. A hardstanding to the front of the garden is proposed which replaces grass. In this location adjacent to the hard surfacing of the pavement and highway it is not considered that this would materially detract from the openness of the area in this location. A permeable hardstanding could be formed without the need for planning permission.

Whilst the proposal would result in vehicles being parked off street, given the size and scale of the development, its location adjacent to a busy road and the existing greenery around the site it is not considered that views of motor vehicles being parked on an area of off street hardstanding would materially impact on the openness of the green belt in this location.

Highway safety & parking

Policy ST4 of the Adopted Local Plan states that planning permission should not be granted if the development would be detrimental to highway safety. The National Planning Policy Framework states that development should be designed to create safe and secure layouts which minimises conflict between traffic, cyclists and pedestrians.

The application was referred to County Council's Highways Officer who now has no objections to the proposal in light of additional information that the applicant provided prior to submitting this application.

The information in the form of a letter from Knight Frank acting on behalf of their clients of the Copped Hall Estate confirms that the applicant does not have any legal right to park on the private access track. Consequently, as far as can be determined from the submitted information, the dwelling does not have any dedicated parking available. The extent of the highway boundary has been investigated and it has been confirmed that the required visibility can be achieved within the highway at this location. For the above reasons the Highway Authority is satisfied that the access will not be detrimental to highway safety and is not contrary to policy.

In light of the above, the previous Highway objection has now been withdrawn and the proposal would now comply with policies ST4 and ST6 of the Adopted Local Plan and Alterations and the National Planning Policy Framework.

Design and appearance

The Council's Conservation team have been consulted on the application and an objection has been raised. The comments are summarised as follows:

The property stands within the Bell Common Conservation Area with a character appraisal produced in 2010. The historic layout of the area, predominantly consisting of houses arranged around the open green space of Bell Common, but also including the set-back position and long front gardens of houses along the north side of the High Road, is an element of the area's special interest. The long front gardens here contribute to the green appearance of the area as the buildings decrease in density, in comparison to the town centre, as they move towards the forest. The creation of an area of hardstanding adjacent to the road will therefore undermine this element of the area's character and cause harm to its significance.

The trees and hedges contribute to this rural character with the stretch of hedgerow to the front of Creeds Cottages being identified in the 2010 character appraisal as a 'prominent hedge', albeit with the hedge directly in front of no.2 Creeds Cottages now removed. Despite the existing gap in the hedgerow, the addition of gates and hardstanding would be harmful in creating a permanent and definite break in the hedgerow and interrupting the green frontage with a solid feature.

It should be noted that the existing vehicular access points along this stretch of the High Road are historic; dating from at least the mid-19th century (they are evident on historic OS maps of the area).

Furthermore, Creeds Cottages have been identified as being buildings of 'townscape merit' due to the contribution they make to the character and appearance of the area. It is recognised that because of the green screening from the High Road, their contribution to the appearance of the area is confined to views of their clay tile roofs and prominent red brick chimneys which add interest to the roofscape of this part of the conservation area. The glimpsed views of the cottages contribute to their character, and their long gardens and, in most cases, prominent hedgerow complement their Arts and Crafts style. The proposal would also undermine the setting of these buildings which are an important aspect of the area's character.

The proposed permanent removal of part the hedgerow, its replacement with a gate, and the creation of an area of hardstanding will detract from the special interest of the conservation area by undermining its rural character and partially eroding the green appearance of this part of the area.

In response to the comments made, it is accepted that the proposal would change the character of the area to some degree however the gates have now been removed from the proposal which would lessen its impact when viewed from the road.

The impact therefore would be mainly from the area of hardstanding and parking of vehicles. As stated previously, the hardstanding could be laid without the need for planning permission, so even if the application was refused a loss of the existing grass could occur. Given there are no objections from Highways a similar result to the proposal could occur if permission was granted for the crossover. It is also arguable whether the parking of vehicles would then materially detract from the area given its location, scale and existing greenery around the site.

At least as part of this application, the Council can condition materials to be used, as opposed to a permitted development scheme where there is no control as long as the materials are permeable.

Although an application for a crossover was refused at 3 Bell Cottages in 2014 (EPF/1416/14) the difference here is that there is no loss of trees or removal of thick hedgerow at this site so the site's frontage would remain similar to what currently exists. In addition no gates are now being proposed along with the fact that Highways have withdrawn their objection due to the fact that the applicant has demonstrated that there is no dedicated off street parking currently available.

Landscaping

This site is within the Conservation Area for Bell Common, as such all trees are legally protected in the same way as if they were TPO'd. An objection has been raised by the Council's Tree and Landscape Officer in relation to the loss of natural vegetation within the Conservation Area. In relation to the potential impact on the existing trees on the site the application has not been supported with the required tree reports and therefore it has not been demonstrated that the proposal could be implemented without a detrimental impact on trees on or adjacent to the site which are afforded legal protection by virtue of being within the Bell Common Conservation Area.

Whilst normally Officers would seek tree surveys to accompany an application it appears that the main impact would be on trees to the side boundaries of the application site and given that the proposed development is now solely for an area of hardstanding which could be laid without the need for planning permission, it is considered that in this instance a condition can be added that requests a Tree Survey prior to the commencement of works on site. At least this way the Council's Landscape officer would be able to consider the potential impact on the trees to the side boundaries. If the hardstanding was constructed under permitted development no survey would be required and the Council would not be able to consider the construction of it in terms of impact on the trees.

The trees that could be impacted upon have not been shown on either of the existing or proposed plans as they are outside of the application site. The applicant has confirmed via email that these trees are not under his ownership and therefore has no right to fell the trees; however the potential impact on them can be measured through the submission of a tree survey secured by way of condition.

Neighbouring amenities

The relative position and separation of the proposal in relation to adjoining properties are such that no excessive harm to the living conditions to adjoining occupiers would occur particularly in relation to noise and disturbance and visual blight.

Personal Circumstances of the Applicant

Within a supporting planning statement, the applicant explains that the reason behind the application is to allow direct vehicle access to the property in order to necessitate regular deliveries of medical supplies and electrical equipment for the applicant's son who suffers from a particular medical condition.

The relevant department at Essex County Council have carried out an assessment of the site and have recommended that an access should be provided in view of the need for medical requirements and equipment. A copy of the letter has been submitted with the application.

Whilst personal circumstances of applicants can be material considerations in the assessment of the application, they must be such that they would outweigh the other planning considerations in this case.

As can be seen from the above assessment, the Council's Conservation and Landscape Offices object to the proposal which they consider to detract from the character of the conservation area in this location and has not adequately addressed the impact on the existing adjacent trees.

Officers however are sympathetic towards the applicant's situation and personal circumstances in this case have been given considered however these alone are not considered to outweigh the planning considerations.

Fall back position

In saying this, there is a material fall back position that is open to the applicant that carries weight. As mentioned above there is no front hedgerow at this site. Open views into the front garden can already be had from within the streetscene. Therefore no established hedgerow will be lost. Although the site is located within a conservation area, permitted development rights exist and hardstanding, potentially of the whole of the front garden, could be laid without the need for planning permission. Therefore, it is feasible that this could be done at anytime.

In conjunction with the fact that a vehicle crossover is now not objected to on highway grounds, if the hardsurfacing were already in place we would only be able to resist an application for the crossover on the visual harm to the conservation area of the actual dropped kerb itself and the parking of vehicles.

In addition gates up to height of 1m could be erected anywhere along the front of the site, which could result in a highway safety issue if erected closer than 6m back from back edge of the pavement.

Furthermore, although an objection is raised by the Council Landscape Officer in effect a hardstanding could be constructed without permission and no surveys would be required to be submitted to protect the neighbours trees.

Finally by conditioning the materials to be used for the hardstanding, the Local Planning Authority can control what is laid whereas under permitted development there would be no control.

It is accepted that this is a balanced case and Officers are aware of the argument that a precedent is being set. However and whilst it is accepted that the proposal would introduce an area of hardstanding here, given the above and taking into consideration the personal circumstances of the applicant, on balance, a recommendation for approval is submitted to Members in this instance.

Conclusion

Highways Engineers are satisfied that the vehicle crossover is acceptable in this location and would not lead to a detrimental impact to highway safety. The main issue is that the introduction of a parking area would alter the character of the area to some degree however in this instance there is no loss of existing hedgerow as would be the case at other sites along this section of the High Road if an application similar to this is submitted. The gates have been removed from the proposal and the trees to the front of the site are outside of the applicant's ownership and are therefore to be retained.

The applicants have argued the need for the access and a letter from Essex County Councils Occupational Therapist supports this. Although the personal circumstances alone do not outweigh planning policy, it is considered that this need, combined with the particular nature of this site which limits the visual impact of parked vehicles, together with the ability to hard surface the site under permitted development rights, is sufficient on balance, to enable a recommendation for approval is put forward in this instance.

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: Steve Andrews
Direct Line Telephone Number: 01992 564 337***

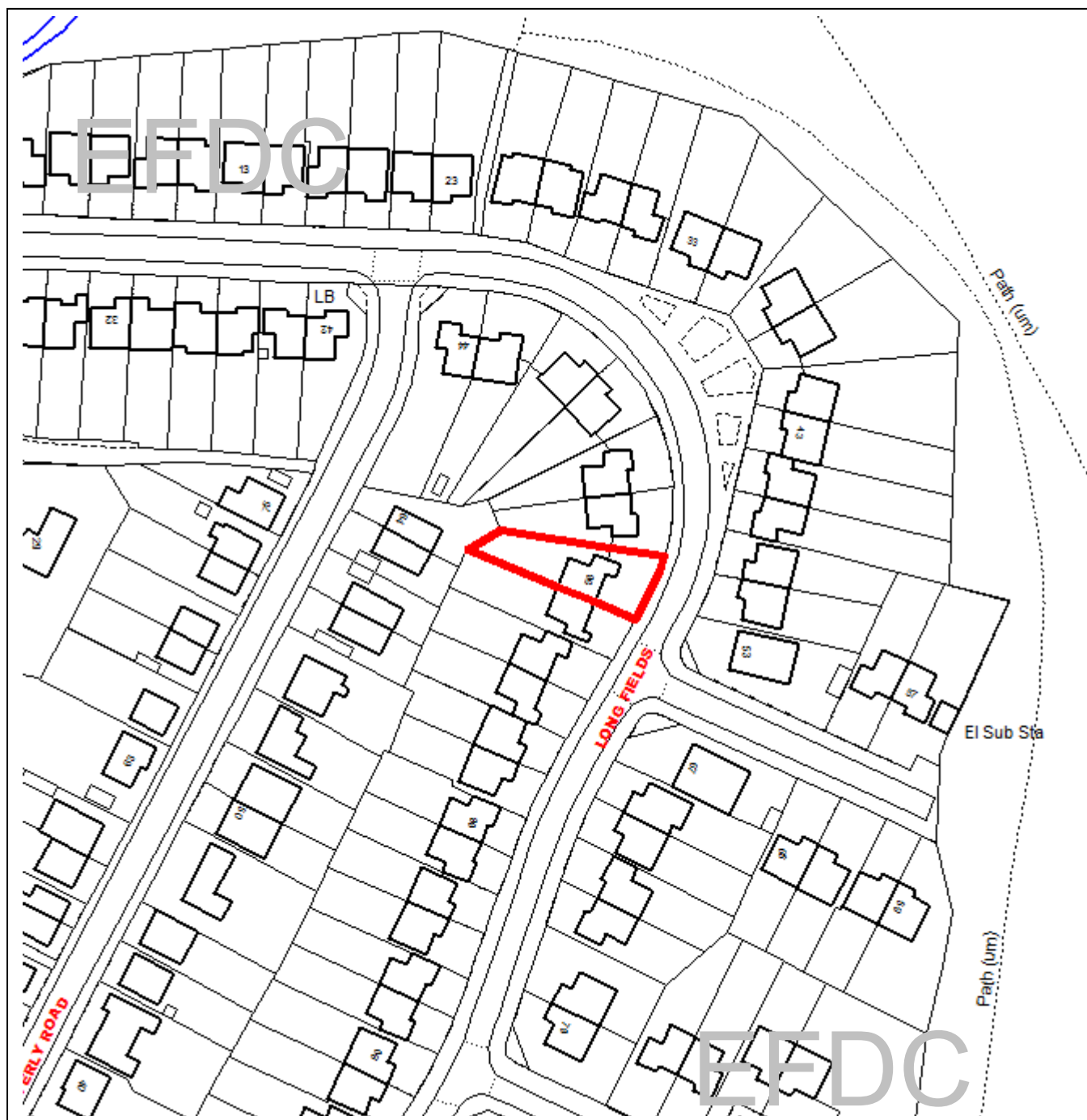
or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

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Epping Forest District Council

Agenda Item Number 6



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Application Number:	EPF/2272/17
Site Name:	56 Longfields, Ongar, CM5 9BZ
Scale of Plot:	1/1250

Report Item No: 6

APPLICATION No:	EPF/2272/17
SITE ADDRESS:	56 Longfields Ongar Essex CM5 9BZ
PARISH:	Ongar
WARD:	Chipping Ongar, Greensted and Marden Ash
APPLICANT:	Mr Ron Knight
DESCRIPTION OF PROPOSAL:	Proposed concrete panelled store to the side of existing garage
RECOMMENDED DECISION:	Grant Permission

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=598734

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.

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

Description of Site:

The application site is a two storey semi-detached dwelling within a generous plot. The site is located within the built up area of Ongar. The site is not within the Metropolitan Green Belt or within a conservation area.

Description of Proposal:

Erection of a storage shed attached to the existing garage measuring some 2.5 metres wide, narrowing to 1.5 metres in width at the rear, 5.5 metres deep and 2.9 metres in height. The proposed development will be of concrete panelling which is to be finished in pebbledash.

Relevant History:

None

Policies Applied:

CP2 – Protecting the quality of the rural and built environment
DBE9 – Loss of amenity
DBE10 – Residential extensions
ST6 – Vehicle parking

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Draft Local Plan

At the current time, only limited weight can be applied to the Draft Local Plan, however the Draft Plan and evidence base should be considered as a material consideration in planning decisions. The relevant policies in this case are as follows:

DM9 - High Quality Design
DM10 – Housing Design and Quality
T1 – Sustainable Transport Choices

Consultation Carried Out and Summary of Representations Received:

6 NEIGHBOURS CONSULTED – NO COMMENTS RECEIVED

ONGAR TOWN COUNCIL – OBJECT – as not in keeping with street scene due to materials proposed

Main Issues and Considerations:

The main issues to be considered relate to the impact on the character and appearance of development and neighbour's amenities.

Design:

The proposed outbuilding is appropriate in scale and is similar to a number of additions to neighbouring properties. The adjacent property at no. 54 has a similar addition to its garage, clad in UPVC with some matching brickwork. Whilst a pebbledash finish will not 'match' the existing property the proposed doors will be finished in a similar material to the existing garage doors and will maintain a similar appearance within the street scene. Only the top of the side wall of the proposal will be visible in the street scene as it is adjacent to neighbours garage/store which extends forward of the proposed shed by several metres. The development will not therefore be prominent or out of keeping with the area or the street scene.

Amenities:

The proposed extension due to its position adjacent to the neighbours garage will cause no harm to neighbouring amenity.

Other Matters:

The existing property has a generous driveway and the proposal will not remove any existing parking from the property.

Conclusion:

The proposed development will not be unduly detrimental to the character and appearance of the area or the amenities of the neighbouring residents and is very similar to neighbouring developments. As such it complies with the guidance contained within the National Planning Policy Framework and the relevant Local Plan policies. Therefore the application is recommended for approval.

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:

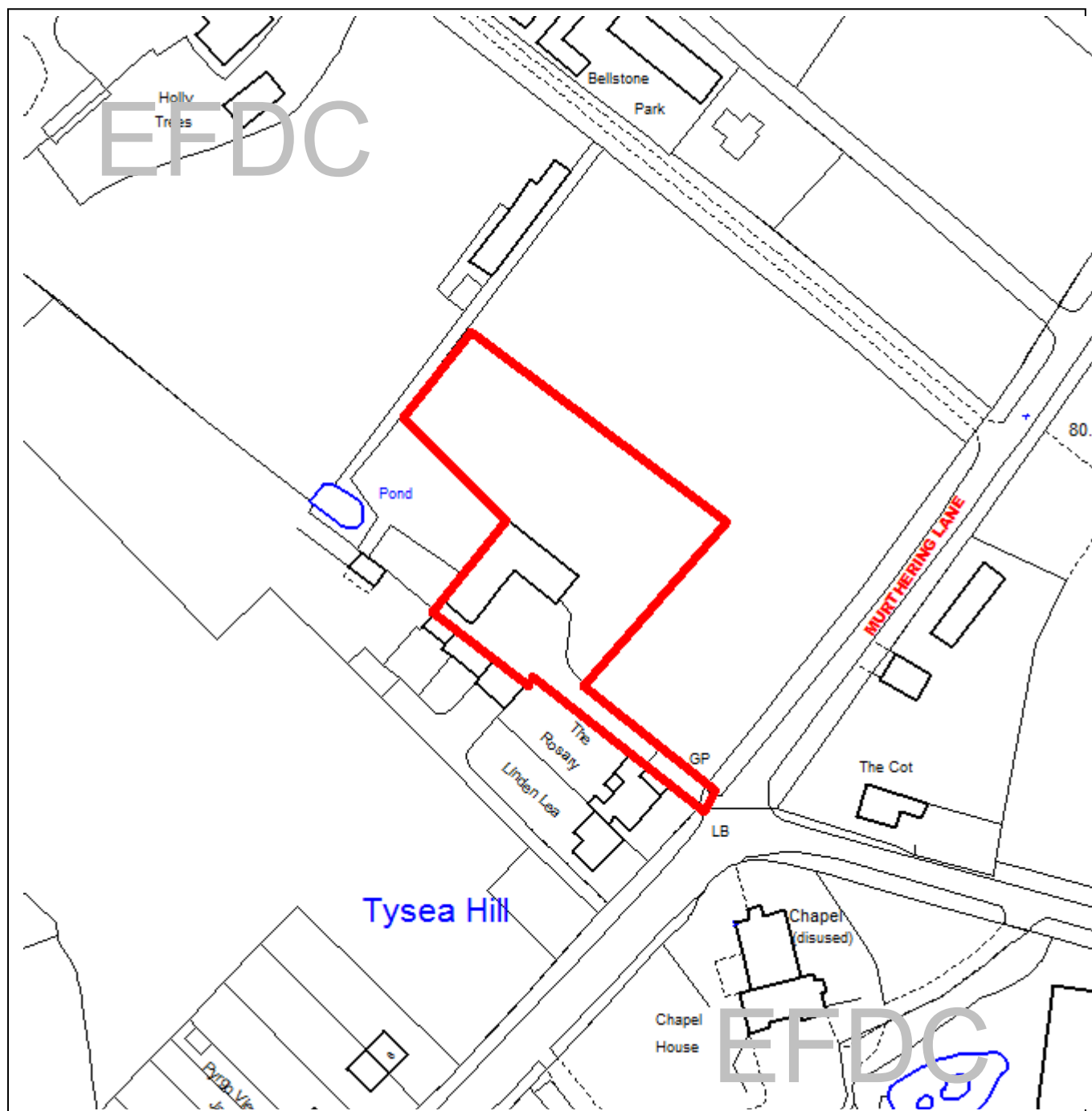
***Planning Application Case Officer: Corey Isolda
Direct Line Telephone Number: 01992 564380***

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk



Epping Forest District Council

Agenda Item Number 7



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Application Number:	EPF/2378/17
Site Name:	Newford Barn, Tysea Hill, Stapleford Abbotts, RM4 1JS
Scale of Plot:	1/1250

Report Item No: 7

APPLICATION No:	EPF/2378/17
SITE ADDRESS:	Newford Barn Tysea Hill Stapleford Abbotts Essex RM4 1JS
PARISH:	Stapleford Abbotts
WARD:	Passingford
APPLICANT:	Mr Ford
DESCRIPTION OF PROPOSAL:	Construction of new agricultural building to house tractors, grass cutting equipment and use as a haystore.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=599213

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1912/02, 1912/01C

The application is before this Committee since the recommendation differs from the views of the local council (Pursuant to Section CL56, Schedule A (g) of the Council's Delegated Functions).

Description of Site

The application site is a large parcel of land which is used for farming and agricultural purposes. It comprises of an existing house which was previously an agricultural barn. This was granted consent under permitted development under Schedule 2, Part 3, Class Q of the General Permitted Development Order (England) 2015. It is within the Metropolitan Green Belt.

Description of Proposal

Construction of new agricultural building to house tractors, grass cutting equipment and use as a haystore.

Relevant History

EPF/0563/15 - Prior Approval - C of U Agriculture to Residential – Prior Approval and Granted (with Conditions)

Policies Applied

CP2 – Protecting the quality of the rural and built environment

CP7 – Quality of development

DBE10 – Design

DBE9 – Residential amenity

DBE2 – Effect on neighbouring properties

GB2A – Development in the Green Belt

The above policies for part of the Councils 1998 Local Plan. Following publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Consultation Carried Out and Summary of Representations Received

SITE NOTICE – A site notice was posted on 06.10.2017

4 NEIGHBOURS CONSULTED– NO OBJECTIONS RECEIVED.

STAPLEFORD ABBOTS PARISH COUNCIL – OBJECT to the proposal on the basis that the proposal is considered to be overdevelopment within the Green Belt.

Issues and considerations

The main issues to consider when assessing this application are the potential impacts of the Green Belt, the appearance of the wider area and the living conditions of the neighbours.

Green Belt

The National Planning Policy Framework (NPPF, CLG, 2012) 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.

However paragraphs 87 and 89 allow for exceptions to inappropriate development, one of which is:

Buildings for agriculture and forestry

The proposal clearly fulfils this exception for development within the Green Belt. It would preserve the openness of the Green Belt due to its use, size in relation to the application site and the recently converted barn. It is therefore not considered inappropriate development within the Green Belt.

Potential impacts on the character of the area

The proposed development is substantially set back from the highway and would not be readily visible from viewed from the street. It would not result in harm to the character of the area and would be of a typical design of an agricultural building and is therefore considered acceptable.

Living conditions of neighbours

The conversion of the building is considerably set away from any neighbours but in any event would not cause any harm to any living conditions.

Conclusion

Overall, it is considered that the proposal will not harm the Green Belt due to its proposed use for agricultural purposes; it will preserve the living conditions of neighbours due to its siting and location and will not harm the character and appearance of the locality due to its design, positioning and single storey nature. Therefore it is recommended that Planning Permission is granted subject to conditions.

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

***Planning Application Case Officer: Sukhdeep Jhooti
Direct Line Telephone Number: 01992 564298***

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

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**Epping Forest
District Council**

Report to Area Plans Sub-Committee

Date of meeting: East – 8 November 2017

Subject: Probity in Planning – Appeal Decisions, 1 April 2017 to 30 September 2017

**Officer contact for further information:
Democratic Services Officer:**

**Nigel Richardson (01992 564110).
Rebecca Perrin (01992 564243)**

Recommendation:

That the Planning Appeal Decisions be noted.

Report Detail:

Background

1. (Director of Governance) In compliance with the recommendation of the District Auditor, this report advises the decision-making committees of the results of all successful allowed appeals (i.e. particularly those refused by committee contrary to officer recommendation).
2. The purpose is to inform the committee of the consequences of their decisions in this respect and, in cases where the refusal is found to be unsupportable on planning grounds, an award of costs may be made against the Council.
3. There have been two local indicators, one of which measures all planning application type appeals as a result of committee reversals of officer recommendations (GOV008) and the other which measures the performance of officer recommendations and delegated decisions (GOV007).

Performance

4. Over the six-month period between 1 April 2017 and 30 September 2017, the Council received 56 decisions on appeals (48 of which were planning related appeals, the other 8 were enforcement related).
5. GOV07 and 08 measure planning application related appeal decisions and out of a combined total of 48, 15 were allowed (31.3%). Broken down further, GOV007 performance was 4 out of 32 allowed (12.5%) and GOV008 performance was 11 out of 16 (68.8%).

Planning Appeals

6. Out of the planning appeals that arose from decisions of the committees to refuse contrary to the recommendation put to them by officers during the 6-month period, the Council was not successful in sustaining the committee's objection in the following cases:

COMMITTEE - APPEALS ALLOWED:

Area Committee South

Buckhurst Hill

- | | | | |
|---|-------------|---|-------------------------------------|
| 1 | EPF/2894/16 | Erection of single storey three-bedroom dwelling with green roof to rear of 83 Queen's Road | Land to the rear of 83 Queen's Road |
|---|-------------|---|-------------------------------------|

Chigwell

- | | | | |
|---|-------------|--|----------------------------|
| 2 | EPF/3398/16 | Revised Application to Application Numbers EPF/0410/16 and EPF/2446/15 for Amended Vehicle Access and Erection of 9 Apartments. Five apartments in building to replace existing house, four apartments in building at position of former tennis courts. | Woodlands
152 High Road |
| 3 | EPF/2931/16 | Change of use from use for purposes within Use Class A2 (Financial and Professional Services) to use for purposes within Use Class A5 (Hot Food Takeaway). Replacement of compressors. Erection of extraction duct and new shop entrance, and new fresh air intake grille. | 1 Brook Parade |
| 4 | EPF/2549/16 | Retrospective application for a single storey rear outbuilding of 2.65 metres in height at rear and 2.95 metres in height at front elevations with flat roof form. | 24 Whitehall Close |
| 5 | EPF/2598/16 | Demolition of 2 x no. existing dwelling houses and associated outbuildings at Nos. 140 & 142 Manor Road to be replaced with 14 x no. residential units with associated parking, cycle storage, refuse and amenity space.
(Revised application to EPF/1142/16). | 140 - 142 Manor Road |

Loughton

- | | | | |
|---|-------------|--|--------------------------|
| 6 | EPF/0187/17 | Part retrospective application for two storey side extension, loft conversion, including rear dormer, porch and single storey rear extension, revised application to include alterations to dormer following refusal EPF/0181/16). | 7 Colebrook Lane |
| 7 | EPF/1741/16 | Outline application for residential development of 10 no. apartments with details of access. | 113 Church Hill |
| 8 | EPF/2445/16 | Provision of studio flat in roof space, formation of car park to rear and landscaping of front garden area. | Flat C
66 Valley Hill |

Area Committee East

Epping

- | | | | |
|---|-------------|--|-----------------|
| 9 | EPF/0632/16 | Consent for the conversion of part of existing A1 shop at ground floor and C3 first and second floor unit into 3 self contained flats including two storey rear extension. | 263 High Street |
|---|-------------|--|-----------------|

Theydon Bois

- | | | | |
|----|-------------|--|---|
| 10 | EPF/2882/16 | Construction of access way to serve existing storage buildings | Land adjacent to Magnolia House
Abridge Road |
|----|-------------|--|---|

Area Committee West

None

District Development Management Committee

11	EPF/2550/16	Replacement of the existing bungalow with a new three storey block of five apartments. This would consist of 2 no. one-bed flats and 3 no. two-bed flats. The development would be served by three off-street parking spaces to the front and communal amenity space to the rear.	17 Hemnall Street
----	-------------	---	-------------------

7. The appeal performance for GOV008, committee reversals, was successful in 5 out of 16 planning applications that went to appeal. It is of course understood that these are the more contentious planning applications but the committees are urged to continue to heed the advice that if they are considering setting aside the officer's recommendation, it should only be in cases where members are certain they are acting in the wider public interest and where the committee officer can give a good indication of some success at defending the decision. The 5 cases where the committees were successful are as follows:

COMMITTEE - APPEALS DISMISSED:

Area Committee South

Chigwell

1	EPF/2390/16	Demolition of existing dwelling and garage and construction of eight residential units, with associated parking and landscaping	Cornerways Turpins Lane
---	-------------	---	----------------------------

Loughton

2	EPF/1990/16	Demolition of existing building and erection of a part 2 and part 3 storey building containing six 2 bedroom flats, with provision of 6 ground level car spaces. (The application is for approval of the building shape (bulk, mass, volume), and door and window openings – with materials to elevational treatment to be conditioned as part of any planning approval.)	2 Connaught Avenue
3	EPF/2042/16	Partial demolition and extension of the former Royal Oak public house and change of use to provide 5 flats, demolition of 171 Smarts Lane and redevelopment for 9 flats, and associated parking and landscaping.	Royal Oak PH, Forest Rd

Area Committee East

Theydon Bois

4	EPF/1548/16	Replacement dwelling and detached garage; pitched roof to existing garage; and front wall/ railings and gates with altered access point/ crossover. (Revised application to EPF/2687/15)	26 Piercing Hill
5	EPF/2037/16	Renovation of existing former coach house with extension and basement to form a single family dwelling.	33 Piercing Hill

Area Committee West

None

8. Out of 8 **ENFORCEMENT NOTICE APPEALS** decided, 3 were **allowed**, 4 **dismissed** and 1 invalid (notice quashed). These are as follows:

Allowed

- | | | | |
|---|-------------|--|---|
| 1 | ENF/0029/14 | Breach of condition of EPF/0050/96 is solely for the benefit of Mr William Lowe (Senior) and his dependents during his lifetime only and for the stationing of one mobile home which is restricted/controlled by condition 2 | Greenacres
Silver Lane
Willingale |
| 2 | ENF/0524/15 | Without planning permission the material change of use of the land from domestic horse keeping to a residential use | Steers (Land adj)
Pigstye Green Road
Willingale |
| 3 | ENF/0164/15 | Without planning permission the erection of a dwelling house | Highwood
Pudding Lane
Chigwell |

Dismissed

- | | | | |
|---|-------------|---|--|
| 4 | ENF/0043/16 | Erection of walls, pillars and gates over 1m high adjacent to a highway. | Woodside Place
Woodside
North Weald Bassett |
| 5 | ENF/0145/16 | Without planning permission the erection of fencing over 1m high adjacent to a highway between points a, b and c. | Woodside Place
Woodside
North Weald Bassett |
| 6 | ENF/0296/15 | Without Listed Building Consent the installation of UPVC windows and doors | Middle Cottage
Hill Hall 21 Mount Road
Theydon Mount |
| 7 | ENF/0318/16 | Change of use of the land for car parking and bus & coach storage | The Conifers
Glen Faba |

Invalid, Notice Quashed

- | | | | |
|---|-------------|--|---|
| 8 | ENF/0145/16 | Without planning permission importation of materials to raise land levels. | Woodside Place
Woodside
North Weald Bassett |
|---|-------------|--|---|

COSTS

9. There was one award of costs against the Council for unreasonable behaviour in refusing planning permission in this 6 month period, which was 1 Brook Parade, High Road, Chigwell. The cost sum has not been received yet from the appellant and the final figure will be reported next time.

10. National Planning Practice Guidance on Award of Costs advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party in the following two circumstances:

- a party has behaved unreasonably; and
- the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Conclusions

11. Whilst overall performance in defending appeals at 31.3% appears high, there is no national comparison of authority performance. With 11 out of 16 appeals resulting from Members refusing through reversing the officer recommendation to grant planning permission were allowed on appeal, Members are reminded that in refusing planning permission there needs to be justified reasons that in each case must be not only relevant and necessary, but also sound and defensible so as to avoid paying costs. Whilst there is clearly pressure on Members to refuse in cases where there are objections from local residents, these views (and only when they are related to the planning issues of the case) are one of a number of relevant issues to balance out in order to understand the merits of the particular development being applied for.

12. Finally, appended to this report are the appeal decision letters relevant to each Plans sub-committee area, which are the result of Members decision at planning committees.

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

TOTAL PLANNING APPLICATION APPEAL DECISIONS 1ST APRIL 2017 TO 30TH SEPTEMBER 2017

Allowed **(Nos. 1-14)**

Buckhurst Hill

1	EPF/2894/16	Erection of single storey three-bedroom dwelling with green roof to rear of 83 Queen's Road	Land to the rear of 83 Queen's Road
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Chigwell

2	EPF/3398/16	Revised Application to Application Numbers EPF/0410/16 and EPF/2446/15 for Amended Vehicle Access and Erection of 9 Apartments. Five apartments in building to replace existing house, four apartments in building at position of former tennis courts.	Woodlands 152 High Road
3	EPF/2931/16	Change of use from use for purposes within Use Class A2 (Financial and Professional Services) to use for purposes within Use Class A5 (Hot Food Takeaway). Replacement of compressors. Erection of extraction duct and new shop entrance, and new fresh air intake grille.	1 Brook Parade
4	EPF/2549/16	Retrospective application for a single storey rear outbuilding of 2.65 metres in height at rear and 2.95 metres in height at front elevations with flat roof form.	24 Whitehall Close
5	EPF/2598/16	Demolition of 2 x no. existing dwelling houses and associated outbuildings at Nos. 140 & 142 Manor Road to be replaced with 14 x no. residential units with associated parking, cycle storage, refuse and amenity space. (Revised application to EPF/1142/16).	140 - 142 Manor Road

Epping

- | | | | |
|---|-------------|---|-------------------|
| 6 | EPF/2550/16 | Replacement of the existing bungalow with a new three storey block of five apartments. This would consist of 2 no. one-bed flats and 3 no. two-bed flats. The development would be served by three off-street parking spaces to the front and communal amenity space to the rear. | 17 Hemnall Street |
| 7 | EPF/0632/16 | Consent for the conversion of part of existing A1 shop at ground floor and C3 first and second floor unit into 3 self contained flats including two storey rear extension. | 263 High Street |

Fyfield

- | | | | |
|---|-------------|---|------------------------------------|
| 8 | EPF/3411/16 | Conversion of barn to residential dwelling | The Coach House
Willingale Road |
| 9 | EPF/0002/17 | Listed building consent for proposed conversion of barn to residential dwelling | The Coach House
Willingale Road |

Loughton

- | | | | |
|----|-------------|--|--------------------------|
| 10 | EPF/0187/17 | Part retrospective application for two storey side extension, loft conversion, including rear dormer, porch and single storey rear extension, revised application to include alterations to dormer following refusal EPF/0181/16). | 7 Colebrook Lane |
| 11 | EPF/1741/16 | Outline application for residential development of 10 no. apartments with details of access. | 113 Church Hill |
| 12 | EPF/2445/16 | Provision of studio flat in roof space, formation of car park to rear and landscaping of front garden area. | Flat C
66 Valley Hill |

Theydon Bois

- | | | | |
|----|-------------|--|--|
| 13 | EPF/2882/16 | Construction of access way to serve existing storage buildings | Land adjacent to
Magnolia House
Abridge Road |
|----|-------------|--|--|

Willingale

- | | | | |
|----|-------------|--|--|
| 14 | EPF/0657/14 | Variation of condition number 2 'Personal occupation' of EPF/0050/96 (Stationing of residential mobile home) to allow additional named persons and their resident dependents to occupy the site. | Greenacres
Bassetts Lane
Walls Green |
|----|-------------|--|--|

**Dismissed
(Nos.15-47)****Buckhurst Hill**

- | | | | |
|----|-------------|--|------------------|
| 15 | EPF/2907/16 | Proposed detached house on land adjacent 2 Gladstone Road (Revised application to EPF/1213/16) | 2 Gladstone Road |
|----|-------------|--|------------------|

Chigwell

- | | | | |
|----|-------------|---|------------------------|
| 16 | EPF/1879/16 | Demolition of existing garage and construction of new dwelling with private amenity and off street car parking. | 28 Mount Pleasant Road |
| 17 | EPF/2390/16 | Demolition of existing dwelling and garage and | Cornerways |

	construction of eight residential units, with associated parking and landscaping	Turpins Lane	
Epping			
18	EPF/0054/17	Proposed new build 2 bedroom house	102 Beaconfield Road
19	EPF/2261/16	Retrospective application for a rear patio extension 1300mm above existing ground level, and 1.8m high balustrading to sides, and 1m high glass balustrading to patio.	35 Bell Common
20	EPF/2615/16	Second floor roof extension and rear enclosed staircase to create a single self contained dwelling (C3 Use)	162-164 High Street
21	EPF/2957/16	Installation of security shutter to shopfront	McColls 277 High Street
Epping Upland			
22	EPF/1826/16	Construction of porous hardstanding area	Richmond Farm Parsloe Road
Loughton			
23	EPF/2259/16	Two storey side extension and rear projection. Single storey rear extension. Flank wall addition and alterations along the boundary with no.6 Hill Top.	2 Hill Top
24	EPF/1694/16	Proposed single-storey one bedroom house with associated car parking and amenity space.	Rear of 71 & 71a Stonards Hill
25	EPF/2946/16	Proposed 3 bedroomed end of terrace house built on side garden.	19 Kenilworth Gardens
26	EPF/2793/16	Retrospective application for a 3 bedroom house (102 A) constructed on the land adjacent to 102 Oakwood Hill for the retention of 1no. first floor and 1no. ground floor side windows as installed, including a canopy across the single storey front extension, front and rear boundary treatment, side refuse storage enclosure wall and two storey rear projection as built.	Land adjacent to 102 Oakwood Hill
27	EPF/2042/16	Partial demolition and extension of the former Royal Oak public house and change of use to provide 5 flats, demolition of 171 Smarts Lane and redevelopment for 9 flats, and associated parking and landscaping (14 flats in total).	Royal Oak PH Forest Road
28	EPF/1990/16	Demolition of existing building and erection of a part 2 and part 3 storey building containing six 2 bedroom flats, with provision of 6 ground level car spaces. (The application is for approval of the building shape (bulk, mass, volume), and door and window openings – with materials to elevational treatment to be conditioned as part of any planning approval.)	2 Connaught Avenue
29	EPF/1161/16	Proposed 4 bedroom detached house (Revised application to EPF/2086/15)	Land adjacent to 2 Sparelease Hill
30	EPF/2642/16	Remove existing roof and erection of new mansard roof, parapet and front roof terrace.	43 Smarts Lane

31	EPF/3336/16	Demolition of existing garage and sheds. Creation of new 2 bed dwelling attached to 67 Newmans Lane, with associated parking. Re-submission of refused application: EPF/0690/16.	67 Newmans Lane
32	EPF/1858/16	Outline application for the erection of private dwellinghouse and garage to the rear of Beechlands for the proprietor of Beechlands and his family.	Beechlands 42 - 44 Alderton Hill
Moreton, Bobbingworth and the Lavers			
33	EPF/3000/16	Single storey extension	Rose Cottage Gainsthorpe Road
Nazeing			
34	EPF/0742/17	Extension to side and alteration to roof pitch to raise ridge height of garage to form a new Granny Annexe with two dormer windows.	Westfleet Riverside Avenue
35	EPF/2746/16	New garage and stable block in association with new dwelling approved pursuant to EPF/1287/15	Land at Church Farm Back Lane
Roydon			
36	EPF/0342/17	Loft extension with rear and side dormers and first floor rear extension (Revised application to EPF/3049/16)	The Moorings Harlow Road
37	EPF/2927/16	Demolition of garages and erection of dwelling within curtilage of existing building (Revised application to EPF/1117/16)	Fairlawn Epping Road
38	EPF/0071/17	Proposed first floor side extension	The Mount Epping Road
39	EPF/1485/16	Removal of condition 4 of EPF/0492/09 (as amended by Appeal ref: 2210145) to enable continued stationing of mobile home beyond 31 July 2016.	Disney Alpaca Stud Barn Hill
40	EPF/1630/16	Continued use of part of site for bus and coach storage for 12 months for Galleon Travel.	The Conifers Netherhall Road
Sheering			
41	EPF/2447/16	Two storey side extension.	24 Queens Head Yard The Street
Theydon Bois			
42	EPF/1548/16	Replacement dwelling and detached garage; pitched roof to existing garage; and front wall/ railings and gates with altered access point/ crossover. (Revised application to EPF/2687/15)	26 Piercing Hill
43	EPF/2037/16	Renovation of existing former coach house with extension and basement to form a single family dwelling.	33 Piercing Hill

Waltham Abbey

44	EPF/2596/16	Demolition of existing bungalow and construction of 8 flats, 4 x 1 bed and 4 x 2 bed. Parking to the front of the building and a bike store and a bin store to the front.	69 Farm Hill Road
45	EPF/1692/16	Removal of trees and existing structures on land to accommodate the development of a live/work unit which includes an artist's studio (C3/B1 Cottage and Light Industrial)	Land south of Horseshoe Hill adjacent to 1 Ash Tree and High View
46	EPF/1742/16	Demolition of Victoria Hall and construction of 9 no. one bedroom flats over 2 1/2 storeys.	Victoria Hall Greenyard
Willingale			
47	EPF/2541/16	Erection of a detached three bedroomed dwelling and associated hardstandings adjacent to Keepers Cottage (Resubmission of EPF/1611/16)	Keepers Cottage Wood Lane

Part Allowed and Part Dismissed

North Weald Bassett

48	EPF/0988/16	Permission is sought for one additional Static Caravan, one additional Touring Caravan on an existing Gypsy site, with two associated parking spaces, a security gate at the entrance to the site (with brick pillars and associated walls) together with a perimeter fence running adjacent to the boundary with the highways (on the inside of the existing hedges –	Woodside Place Woodside
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ENFORCEMENT APPEALS

Allowed With Conditions

1	ENF/0029/14	Breach of condition of EPF/0050/96 is solely for the benefit of Mr William Lowe (Senior) and his dependents during his lifetime only and for the stationing of one mobile home which is restricted/ controlled by condition 2	Greenacres Silver Lane Willingale
2	ENF/0524/15	Without planning permission the material change of use of the land from domestic horse keeping to a residential use	Steers (Land adj) Pigstye Green Road Willingale

Allowed Without Conditions

3	ENF/0164/15	Without planning permission the erection of a dwelling house	Highwood Pudding Lane Chigwell
---	-------------	--	--------------------------------

Dismissed

4	ENF/0043/16	Erection of walls, pillars and gates over 1m high adjacent to a highway.	Woodside Place Woodside North Weald Bassett
5	ENF/0145/16	Without planning permission the erection of fencing over 1m high adjacent to a highway between points a, b and c.	Woodside Place Woodside North Weald Bassett
6	ENF/0296/15	Without Listed Building Consent the installation	Middle Cottage

of UPVC windows and doors

Hill Hall 21 Mount Road
Theydon Mount

- 7 ENF/0318/16 Change of use of the land for car parking and
bus & coach storage

The Conifers
Glen Faba

Invalid, Notice Quashed

- 8 ENF/0145/16 Without planning permission importation of
materials to raise land levels.

Woodside Place
Woodside
North Weald Bassett

Appeal Decision

Site visit made on 30 May 2017

by Kenneth Stone BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2017

Appeal Ref: APP/J1535/W/16/3165565

'Lanes', 263 High Street, Epping CM16 4BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Tracey Daniels against the decision of Epping Forest District Council.
 - The application Ref EPF/0632/16, dated 7 March 2016, was refused by notice dated 9 November 2016.
 - The development proposed is conversion of part of existing A1 shop at ground floor and C3 first and second floor unit into 3 self-contained flats, including two storey rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of part of existing A1 shop at ground floor and C3 first and second floor unit into 3 self-contained flats, including two storey rear extension at 'Lanes', 263 High Street, Epping CM16 4BP in accordance with the terms of the application, Ref EPF/0632/16, dated 7 March 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ELA/1A, ELA/1AA, ELA/2A, ELA/4C, ELA/6B, ELA/11A and ELA/13.
 - 3) Notwithstanding condition 2 no development shall take place until details and samples of the types and colours of the external finishes, including doors and windows, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Procedural matter

2. The description of development above is taken from the Council's decision notice as this more accurately describes the development proposed, by adding reference to the two storey rear extension and thereby adding clarity.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the vitality and viability of Epping town centre.

Reasons

Vitality and viability

4. The appeal relates to a property located in Epping town centre, designated as a principal town centre in the Epping Forest District Local Plan (January 1998) Local Plan Alterations (adopted 2006) (Local Plan). The premises are located within the 'Key Retail Frontage' in the centre where the primary function is to maintain a retail offer with 70% of the frontage being in retail use and no more than two non-retail frontages being contiguous.
5. Planning permission has previously been granted for the conversion of the upper floors, presently in use for residential, to be converted into two self-contained flats. The proposals the subject of this application would retain the two self-contained flats on the upper floors and provide for a third flat on the ground floor, at the rear of the premises. A small retail unit would be retained at the front of the premises, of some 60 sqm, and which would retain retail frontage onto the High Street.
6. Policy TC3 of the Local Plan indicates that in the principal town centres the Council will, amongst other matters, (ii) permit residential accommodation in appropriate locations but not at ground floor level, and that the Council will refuse any proposal that could have a detrimental impact upon the vitality and viability of the centre. On the face of it the proposal, which would provide for residential accommodation at ground floor level, would conflict with this aspect of the policy. The policy however also introduces a test related to the effect on the vitality and viability of the centre.
7. Policy TC4 of the Local Plan specifically addresses non-retail frontage, as its heading indicates. It indicates the Council will grant planning permission for non-retail uses at ground floor level within the 'Key Retail Frontage' of town centres provided it would not result in the non-retail frontage exceeding 30% and more than two adjacent non-retail uses, regardless of shop frontage width. Epping town centre already exceeds the 30% limit and there are two non-retail uses adjacent to the appeal premises. However, the proposals would retain a retail unit and frontage and would not therefore add to the non-retail frontage or the percentage of units in non-retail use. The proposal would therefore not conflict with policy TC4.
8. The Council are concerned that the size of the unit, 60 sqm, would reduce its capability to function as a retail use and could undermine its future viability leading to vacancy or the introduction of a non-retail use. They have however provided no evidence on the sustainable size of a unit in the centre. Indeed the appellant has identified a number of units in the centre of a similar size to that proposed and which are operating presently, I saw these on my site visit. The Council would have control of any future changes of use of the property to non-retail uses.
9. The smaller unit size is not proven to be unsustainable and could add to the range of shop sizes in the centre. The proposal retains a retail use at the front of the site with a retail frontage in the Key Retail Frontage. I am satisfied that the proposal would not harm the retail function of the centre or therefore its vitality and viability. On this basis the proposal would not conflict with policy TC4 and whilst there is a conflict with part of policy TC3 the proposal would not conflict with its overall aim which is to protect the vitality and viability of the

district's town centres. On balance therefore I conclude that the proposal would not conflict with the development plan overall.

10. The emerging policy E2 in the Draft Local Plan, at point F, indicates the Council may permit residential development within primary retail frontages where it is above ground floor and would not lead to a loss of main town centre use, floorspace or frontage. As the proposal retains a viable retail unit, does not result in the loss of retail frontage. I am satisfied that there is no conflict with the policy. Whilst reference is made to loss of floor space, the space to be lost in this application is, from what I saw on my site visit, ancillary office and storage space rather than direct retail shop space.
11. For the reasons given above I conclude that the proposed development would not result in material harm to the vitality and viability of Epping Town Centre. Consequently it would not conflict with the Development Plan and in particular policies TC3 and TC4 of the Local Plan which seek to protect the vitality and viability of town centres.

Other matters

12. The appellant raises the issue of the Council being unable to identify a five year housing land supply as providing additional support for the proposal. The Council have not responded to the matter. From the information before me, in the appellant's statement, it would appear the Council cannot demonstrate a five year housing land supply. However, as the appeal relates to retail policies these are not policies for the supply of housing. Moreover, as the proposal would only result in one net additional unit of accommodation over and above the extant permission this would not significantly address the shortfall or the housing land supply position. The proposal is however an application for housing and so should be considered in the context of the presumption in favour of development. I attach minor positive weight to the fact the proposal provides additional housing in the light of a shortfall in the housing land supply.
13. The appeal site is a listed building, grade II, and the site is located within a conservation area. The Council are satisfied that the proposed rear extension and conversion works would not harm the Grade II listed building or any features of special architectural interest that it possesses or the conservation area. Nothing in the evidence before me, or from what I saw on site, leads me to a different conclusion and therefore I am satisfied that, the listed building, and the character and appearance of the conservation area would therefore be preserved.

Overall conclusions and conditions

14. The proposal would not undermine the retail function and character of the town centre by virtue of the retention of a viable shop unit at the front of the site which would maintain the premises' retail frontage in the Key Retail Frontage of the town centre. The proposal would therefore not result in material harm to the vitality and viability of the town centre. There is a minor positive benefit associated with the development resulting from the increase in housing. The proposal does not conflict with the development plan as a whole and therefore the proposal should be approved without delay in line with bullet point one for decision-taking in paragraph 14 of the Framework.

15. I have considered the Council's suggested conditions in the context of the Planning Policy Guidance and have imposed a plans condition to ensure clarity. A condition on external materials is required in the interest of the appearance of the site given the sensitive nature of the building and location.
16. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR



Appeal Decision

Site visit made on 27 June 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th July 2017

Appeal Ref: APP/J1535/W/17/3172481

Land adjacent to Magnolia House, Abridge Road, Theydon Bois, Epping CM16 7NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr E Maxwell against the decision of Epping Forest District Council.
 - The application Ref EPF/2882/16, dated 1 November 2016, was refused by notice dated 18 January 2017.
 - The development proposed is construction of access way to serve existing B8 storage buildings.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of access way to serve existing B8 storage buildings at land adjacent to Magnolia House, Abridge Road, Theydon Bois, Epping CM16 7NR in accordance with the terms of the application, Ref EPF/2882/16, dated 1 November 2016, subject to the following 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 in accordance with the following approved plan: 3331/21.
 - 3) No development shall take place until details of the proposed means of construction and surface materials for the access way have been submitted to and approved in writing by the local planning authority. The agreed surfacing shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface agreed by the local planning authority. The agreed surface treatment shall be completed prior to the access way hereby permitted being first brought into use.
 - 4) No development shall take place until details of tree and hedge planting as indicated on the approved plan and a statement of the methods for its implementation, including a timetable, have been submitted to and approved in writing by the local planning authority. The landscape scheme shall be carried out in accordance with the approved details and the agreed timetable. If any plant dies or becomes diseased within a period of five years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the local planning authority agrees to a variation beforehand in writing.

Main Issues

2. The main issues are:

- (a) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies; and
- (b) the effect of the proposal on the character and appearance of the area.

Reasons

Whether the proposal is inappropriate development in the Green Belt

- 3. Paragraph 90 of the NPPF establishes that engineering operations are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. Policy GB2A of the Epping Forest Local Plan Alterations 2006 (LPA) does not explicitly refer to engineering operations, although supporting paragraph 5.19a does. The policy does allow for other uses of land (beyond those uses specified in the policy) which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in the Green Belt. In this respect, the policy is broadly consistent with the NPPF.
- 4. The Council and the appellant do not dispute that the proposed access way would constitute an engineering operation. It would link a recently installed vehicular crossover at the B172 to the east with a collection of storage buildings to the west that have the benefit of a lawful development certificate. A mown grass strip of land currently runs between the crossover and the storage buildings similar to the length and width of the proposed access way. It was evident on site that this grass strip is used by vehicles accessing the buildings, with rutted and potholed areas.
- 5. Reference is made by the main parties and interested parties to two other access points off the B172 to the north of the new crossover. I could see little evidence of the northernmost access point, although the overgrown route of a track running north-east from the storage buildings parallel to the M11 was apparent at my site visit. It was clear that the central access point has recently been stopped up with new fencing and planting. Notwithstanding the aerial photograph provided by an interested party, the only current route between the B172 and the storage buildings is along the grass strip.
- 6. The proposed access way would follow the same route as the grass strip with a similar width. According to the application form, the surface of the track would be gravel or shingle contained within a plastic honeycomb cellular system. As such, it would have a low key and sympathetic appearance for its countryside location. The existing fencing around Magnolia House and new tree and hedge planting would help to screen the access way. It would evidently be flush to the ground given the form of construction and would contain no kerbs or drainage gulleys. Although the access way would enable the movement of vehicles along it, this would be no different to the existing grass strip. There is no other route between the B172 and the storage buildings that would have less effect. Thus, the openness of the Green Belt would be preserved, while the most relevant Green Belt purpose of safeguarding the countryside from encroachment would be maintained.

7. Concluding on this main issue, the proposal would not be inappropriate development in the Green Belt for the reason expressed above. Therefore, there would be no conflict with LPA Policy GB2A or paragraph 90 of the NPPF.

Character and appearance

8. The appeal site is largely secluded by virtue of the vegetation bordering the B172 and M11 and a tall fence to the south which largely obscures nearby residential properties. The land to the north of the grass strip and proposed access way comprises a large area of wild grassland. A smaller area of grassland exists to the south. These areas of grassland appear undisturbed by vehicles accessing the storage buildings. As such, the area surrounding the appeal site has a clear rural and green character and appearance.
9. It is not uncommon for agricultural or storage buildings in the countryside to be accessed by hard surfaced tracks running across fields to the public highway. The proposed development would introduce hard surfacing, but of a low key and sympathetic nature, and would serve existing storage buildings already access by vehicles along the existing grass strip. The introduction of new trees and hedge planting would reinforce the rural and green qualities of the surrounding area. The formalisation of an access way would reduce the likelihood of the adjoining grassland areas being disturbed by vehicle movements. It would also limit the damage that occurs to the existing grass strip from vehicle movements in poorer weather conditions.
10. Concluding on this main issue, the proposed development would have an acceptable effect on the character and appearance of the area. Therefore, it would accord with LPA Policy LL2 which, amongst other things, requires development in the countryside to respect the character of the landscape.

Other Matters

11. As the proposed access way would travel along the existing mown grass strip, there would be little adverse effect on habitats and hunting grounds on either side. While the B172 appears to be a busy main road with a bend just to the north of the appeal site, there is little evidence that the proposed access way would increase the number of vehicles accessing this road. As such, there would be little adverse effect on highway safety.

Conditions

12. Conditions setting a time limit for the commencement of development and for it to be carried out in accordance with the approved plan are necessary for clarity and compliance. Conditions requesting details of surface materials and landscaping are necessary to ensure that the development has an acceptable visual effect. They are pre-commencement as they form the principal elements of the development that need to be established before works start.

Conclusion

13. For the reason set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

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Appeal Decision

Site visit made on 23 May 2017

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st June 2017

Appeal Ref: APP/J1535/W/17/3170109
17 Hemnall Street, Epping CM16 4LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Pinkus against the decision of Epping Forest District Council.
 - The application Ref EPF/2550/16, dated 28 September 2016, was refused by notice dated 8 February 2017.
 - The development proposed is the replacement of the existing bungalow with a new three storey block of five apartments. This would consist of 2 No. one-bed flats and 3 No. two-bed flats. The development would be served by three off-street parking spaces to the front and communal amenity space to the rear.
-

Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing bungalow with a new three storey block of five apartments. This would consist of 2 No. one-bed flats and 3 No. two-bed flats. The development would be served by three off-street parking spaces to the front and communal amenity space to the rear at 17 Hemnall Street, Epping CM16 4LS in accordance with the terms of the application, Ref EPF/2550/16, dated 28 September 2016, subject to the conditions on the attached schedule.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of 15a Hemnall Street with particular reference to outlook, privacy and daylight.

Reasons

3. Hemnall Street is predominantly residential with a variety of house types and flatted development in the vicinity. The appeal site contains a bungalow which sits between a 2 storey block of flats and a bungalow. To the rear there are further 2 storey dwellings. The site lies within the built-up area of Epping which is a sustainable location, close the town centre with its shops, employment and transport links. Therefore, the principle of residential development at the appeal site is acceptable.
4. The bungalow at 15a has a flank elevation facing the appeal site which contains three windows, one of which is obscurely glazed. A parking area for 15a is also provided on this side and a timber fence with interlocking concrete panels of some 2m in height forms the boundary between the sites.

5. The development would be sited some 4m from the flank elevation of 15a. The development has been designed with a hipped roof and part of the second floor would have a flat roof where its height is reduced to lessen the impact on the adjoining property. The appellant submitted details of the 45 degree line from the side and rear windows of 15a, which indicates that the flank windows would be only slightly breached. In addition, no windows are proposed in the side elevation facing 15a. Taking all the above factors in to account, I do not consider that there would be an overbearing impact or a material loss of privacy, sun or daylight such as to unacceptably diminish the amenity that the occupiers of 15a currently enjoy.
6. I conclude that the proposed development would not harm the living conditions of adjoining occupiers. The development is in compliance with Policy DBE9 of the Epping Forest District Local Plan (1998) which seeks to ensure, among other things, that development proposals do not harm the living conditions of adjoining occupiers.

Other Matters

7. The proposed building would contain 5 flats. The Officer's committee report confirms that there is no objection to the appearance of the building which, although constructed over 3 storeys, would be marginally higher than the block of flats adjacent to the site. The design reflects the local vernacular and is acceptable in this regard.
8. The site also lies adjacent to the Epping Conservation Area. The Officer's report concluded that the proposed development would not be harmful to the character and appearance of the locality. From my site visit I also find that as a result of the scale and appearance of the proposed development, it would preserve the character and appearance of the Epping Conservation Area.
9. The site does not provide sufficient parking to meet the Essex County Council Vehicle Parking Standards (ECCVPS). However, the site is a sustainable location, within walking distance of the town centre and its amenities and transport links. In such circumstances, the ECCVPS allow a reduction in parking standards.
10. I also noted the location of the proposed development in relation to properties to the rear of the site at Nicholl Road, in particular No. 12. Given the separation distances of some 15 m at first floor and 19 m at second floor, I am satisfied that the development would not have an overbearing impact and that the privacy of the adjoining occupiers would not be materially affected. There is no right to a view across third party land. Also, as the appeal site is at an oblique angle to No. 8 Nicholl Road, overlooking is unlikely to occur to unacceptable levels.

Conditions

11. The Council has suggested a number of conditions if I am minded to allow the appeal. I have reworded them where necessary in the interests of concision and enforceability. Taking account of the nature of the site and its residential surroundings it is necessary to restrict the hours of construction. To ensure a satisfactory appearance details of materials are required. In the interests of highway safety a condition is needed to ensure that parking areas are retained at the site. To ensure satisfactory provision and disposal of surface water,

details of drainage are also required. The approved plans should be specified to provide certainty.

Conclusion

12. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Graham Wyatt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 16019_001, 16019_002 Rev: A, 16019_003, 16019_004 Rev: A
- 4) Demolition or construction works shall take place only between 0730 to 1830 on Mondays to Fridays, and between 0800 and 1330 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) The dwelling shall not be occupied until the secure cycle storage has been provided and space has been laid out within the site in accordance with drawing no.16019_002 Rev A for 3 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 6) No development shall take place until details of surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.

Appeal Decision

Site visit made on 5 April 2017

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd May 2017

Appeal Ref: APP/J1535/W/16/3160301

26 Piercing Hill, Theydon Bois, Epping CM16 7JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ari Demetriou against the decision of Epping Forest District Council.
 - The application Ref EPF/1548/16, dated 3 June 2016, was refused by notice dated 7 September 2016.
 - The development proposed is described as 'replacement dwelling and detached garage, pitched roof to existing garage and front wall/railings and gates with altered access point/crossover'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the living conditions of the occupiers of No. 25 Piercing Hill, with particular regard to outlook and the effect of the proposal on the character and appearance of the area with particular regard to the front wall/railings and gates.

Reasons

Background

3. The proposal before me follows the refusal of a similar application and the subsequent dismissal of a related appeal in 2016¹. Whilst each case must be determined on its own merits I have had regard to this previous decision in the determination of this appeal.

Living conditions

4. No. 25 Piercing Hill is a substantial two storey detached dwelling set forward of No. 26. It was evident from my visit that the immediate area to the rear of the No. 25 contained a large patio and home office and sat at a much lower level than the appeal site. Having visited No. 25, the appeal property was clearly conspicuous from these areas and the ground floor windows and bedroom windows in the rear elevation.
5. Although having a lesser footprint than the existing dwelling the proposed dwelling would be positioned with its front elevation roughly in line with the

¹ APP/J1535/W/16/3150777.

rear elevation of No. 25. Despite changes to the proposal following the previous appeal, including positioning the dwelling further away from the boundary, setting in of the rear projection and lowering the height of the floor level, the dwelling would be significantly taller than the dwelling it would replace. In particular, the side elevation facing No. 25 would present a large and dominant 2 storey gable end and rear projection.

6. Whilst there would be some visual interest in the form of a chimney, windows and mono pitched roof the perception along this boundary would be of a building of a substantial mass and of a considerable depth, its prominence exacerbated by the lower land level of No. 25 and its siting. In such close proximity to the boundary, the scale, height and overall massing would be overbearing and visually intrusive to the occupiers of No. 25 from their rear elevation, patio area and garden.
7. I share the concerns of the previous Inspector that despite replacement and additional landscaping along the boundary, such landscaping would take a significant amount of time to mature. Furthermore, the necessary size could also have harmful effects on living conditions and I do not consider that securing such landscaping by condition would make the development acceptable in planning terms.
8. For these reasons, the proposal would cause harm to the living conditions of the occupiers of No. 25 Piercing Hill in terms of outlook. It would conflict with saved Policy DBE9 of the Epping Forest District Local Plan and Alterations ('ALP') which seeks to ensure good design and that new development does not harm the amenities of the occupiers of neighbouring properties. The proposal would also conflict with the National Planning Policy Framework ('the Framework') which guides that decision taking should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

9. Although I noted similar boundary treatments enclosing accesses further along Piercing Hill, these properties were set much further back from the road and behind an area of open space containing mature trees and landscaping. Moreover, the appeal site is seen within a context of mature landscaped front boundaries set behind low walls and with open accesses. Consequently, I did not find that the type of development proposed was a prevalent characteristic of front boundary treatments in the immediate context of the appeal site.
10. The introduction of a centrally located set of gates of the scale, height and design proposed would be overly prominent and incongruous in this part of the streetscene. They would appear as a significant and unsympathetic addition that would harm the semi-rural character and appearance of the area. This effect would not be mitigated by additional planting, given its location behind the wall and railings and the amount of time it would take to mature. In any event such landscaping would not mitigate the effect of the gates and piers.
11. For these reasons, insofar as the proposal relates to the front wall/railings and gates, it would harm the character and appearance of the area. It would conflict with Policies CP7 and DBE1 of the ALP which, amongst other things states that development that results in unsympathetic change or loss of amenity to not be permitted and requires new buildings to respect their setting

in terms of scale, siting, massing and that there significance is appropriate to their function.

Other Matters

12. I note that the Council do not object to the principle of development or in terms of its location within the Green Belt and that there are no objections on other grounds such as highway safety and the appearance of the proposal. On the evidence before me, I have no reasons to disagree but nonetheless, such matters and the minimal increase in openness suggested by the appellant do not outweigh the harm that I have identified in relation to the living conditions of adjoining occupiers and the character and appearance of the area.
13. I accept that officers of the Council recommended the proposal for approval, however the Council's administration and determination of the application are not matters for me to address as part of this appeal.

Conclusion

14. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

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Appeal Decision

Site visit made on 5 April 2017

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd May 2017

Appeal Ref: APP/J1535/W/17/3166824

33 Piercing Hill, Theydon Bois, Epping CM16 7JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs C Ballard against the decision of Epping Forest District Council.
 - The application Ref EPF/2037/16, dated 27 July 2016, was refused by notice dated 7 December 2016.
 - The development proposed is renovation of existing former coach house with extension to form single family dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt and the effect on the openness of the Green Belt.
 - The effect of the proposal on the character and appearance of the area.
 - If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Green Belt

3. Policy GB2A of the Epping Forest District Local Plan and Alterations ('ALP') states that, within the Green Belt, permission will not be granted for the use of land, the construction of new buildings or the change of use or extension of existing buildings unless it is appropriate and lists 8 criteria, including development in accordance with another green belt policy¹.
4. The Council also refer to Policy GB8A which also allows for the change of use and adaption of a building within the Green Belt provided 5 criteria are all met. Amongst others, this includes that the use must not have a materially greater impact than the present use and the purpose of including land within the Green

¹ Viii of Policy GB2A.

- Belt and be in keeping with its surroundings in design terms. There is no dispute in relation to the remaining criteria.
5. Policy GB8A is more restrictive than the Framework which only requires a test of whether the extensions and alterations result in disproportionate additions over and above the size of the original building. The wording of the policies do not strictly reflect paragraph 87 of the Framework which advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, I find that they are broadly consistent with the Framework and I attach significant weight to them.
 6. The appellant refers to the proposal being 'infilling' but the building lies to the rear of properties along Piercing Hill. Given the existence of the access road and the pattern of surrounding development, it would not fill a gap between buildings in an otherwise built up frontage, a commonly understood meaning of the term infill.
 7. Nonetheless, the scale of the additional works to create a basement games room and storage area, in combination with the side extension would be considerable extensions to what is a simple and low key rural building. In particular, the extent of new roof slope would not be subservient and would significantly increase the overall mass building. The Council quote a figure of 109% as an increase, including the basement and I note that this figure does not appear to be disputed by the appellant. In my view, the totality of the extensions and alterations, when considered against the original size of the building would result in disproportionate additions over and above the size of the original building.
 8. Turning to openness, this has both spatial and visual aspects and in this case, the appeal site has a sense of spaciousness and openness around the building that positively contributes to the semi-rural and wooded setting of development. The proposed side addition would be close to the boundary with the adjoining access road and it would be clearly evident on the approach up and down in an area of the site that is free from development. It would be an overly prominent and unduly dominant addition that notwithstanding the presence of other dwellings in proximity the siting, scale and mass of the proposal would fail to preserve the openness of this part of the Green Belt. This would conflict with the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open.
 9. Whilst there would be some additional effects on openness from parked vehicles, given the nature of the surroundings and presence of other rear gardens and residential paraphernalia, the effect from such additions on openness would be minimal.
 10. Taking everything together, the proposal would be a disproportionate addition that would fail to preserve openness. It does not fall within any of the exceptions outline in the ALP or the Framework and would be inappropriate development in the Green Belt, which is by definition, harmful. In accordance with paragraph 88 of the Framework, I attach substantial weight to this harm. It would also have a greater impact than the present use and would fail to preserve openness. Accordingly, it would conflict with Policies GB8A and GB2A of the ALP.

Character and appearance

11. The site is in proximity to two residential dwellings, located to the rear of the prevalent linear pattern of residential dwellings set out along Piercing Hill. Although a disproportionate addition that would fail to preserve openness, I did not find that the appearance of the proposal would be out of keeping, in both size and design terms, with the varied architecture and large scale of detached dwellings set within spacious plots, that forms the prevailing character and appearance of the area.
12. Moreover, other hard surfaces and garden areas were visible along with associated residential paraphernalia and the addition of a further hardstanding and domestic paraphernalia for a 1 bedroom dwelling would not have any material effect on the prevailing character and appearance of the area. For these reasons, the proposal would not conflict with Policies CP2 and DBE1 of the ALP, which, amongst other things require new buildings to be appropriately designed, employ acceptable materials and protect the quality of the rural and built environment.

Other Considerations

13. The scheme would provide a 1 bedroom additional dwelling and associated social and economic benefits. However, given it is only a single dwelling such benefits would be small and this consideration only carries minimal weight in favour of the proposal. I also acknowledge that there would be no harm to the living conditions of adjoining or future occupiers but I give no weight, in this particular case, to mere compliance with the normal development management design and amenity objectives of the development plan and the Framework given its Green Belt location.

Other Matters

14. I accept that discussions with officers prior to making the application may have taken place and that the proposal was recommended for approval by officers. However, the Council's administration and determination of the appeal are not matters for me to address as part of this appeal.
15. It has been brought to my attention that planning permission has also subsequently been granted for a similar development² by the Council. However, I have not been provided with the full details and cannot therefore be certain it is directly comparable to the appeal proposal before me. In any event each case must be determined on its own merits and it does not therefore alter my view in relation to the main issues.

Conclusions and planning balance

16. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that 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.

² EPF/3295/16.

17. The other considerations put forward do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist.
18. For the reasons set out above, although I have not found harm to the character and appearance of the area, the proposal would conflict with the development plan, when taken as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

Appeal Decisions

Hearing held on 1 March 2017

Site visit made on 1 March 2017

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 June 2017

Appeal A: APP/J1535/C/16/3159620

Appeal B: APP/J1535/C/16/3159708

Appeal C: APP/J1535/C/16/3159711

Land at Woodside Place, Woodside, Thornwood, Essex.

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Felix Nolan against enforcement notices issued by Epping Forest District Council.
- The enforcement notices, numbered DG/GAO/LEG/127, were issued on 12 August 2016.
- **Appeal A:** The breach of planning control as alleged in the notice is without planning permission the erection of fencing over 1m in height adjacent to the highway between the points marked A, B and C on the attached plan.
- The requirements of the notice are: Either remove the fence or reduce it to 1m or less above ground level between points marked A to B to C on the attached plan and remove all resultant debris from the land.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
- **Appeal B:** The breach of planning control as alleged in the notice is without planning permission the erection of walls, pillars and gates over 1m in height adjacent to a highway and the erection of a pole of approximately 4m in height for use with CCTV cameras.
- The requirements of the notice are: Either remove the walls, pillars and gates or reduce their height to 1 metre or less above ground level. Remove the CCTV pole and cameras, and Remove all resultant debris from the land.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(e), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- **Appeal C:** The breach of planning control as alleged in the notice is without planning permission the importation of materials to raise land levels.
- The requirements of the notice are: Remove from the land all imported material from the area shown hatched on the attached plan.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeal D: APP/J1535/W/16/3159596

Woodside Place, Woodside, Thornwood, Epping, CM16 6LD.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Felix Nolan against the decision of Epping Forest District Council.
 - The application Ref. EPF/0988/16, dated 12 April 2016, was refused by notice dated 13 July 2016.
-

- The development proposed is: One additional static caravan and one additional touring caravan on an existing gypsy site, with two associated parking spaces, a security gate at the entrance to the site (with brick pillars and associated walls) together with a perimeter fence running adjacent to the boundary with the highways (on the inside of the existing hedges).
-

Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

2. The appeal is dismissed and the enforcement notice is upheld.

Appeal C

3. The appeal is allowed and the enforcement notice is quashed.

Appeal D

4. The appeal is dismissed insofar as it relates to: *The erection of a security gate at the entrance to the site (with brick pillars and associated walls) together with a perimeter fence running adjacent to the boundary with the highways (on the inside of the existing hedges).*
5. The appeal is allowed insofar as it relates to the use of the land for two gypsy pitches and planning permission is granted for *The use of land for the stationing of caravans for residential purposes for two gypsy pitches together with the formation of hardstanding and the provision of a utility/day room ancillary to that use* at Woodside Place, Woodside, Thornwood, Epping, CM16 6LD in accordance with the terms of the application, Ref EPF/0988/16, dated 12 April 2016, and the plans submitted with it, so far as relevant to that part of the development hereby permitted, and subject to the conditions set out in the attached Schedule of Conditions.

Background

6. The appeals concern a strip of land at the junction of Epping Road and Woodside Road. The land is in the Metropolitan Green Belt, it adjoins Epping Forest and a number of trees on and around the site are protected by a Tree Preservation Order (TPO). Planning permission was granted on appeal¹ in July 2015 for *The use of land for the stationing of caravans for residential purposes for one gypsy pitch together with the formation of additional hardstanding, the provision of a stable block and a utility/day room ancillary to that use.* At the time the application the subject of this appeal was made the site was not occupied, but there is now a static caravan in residential use on the 2015 application site, which occupies the eastern end of the strip of land, and another static caravan is also stationed there, although it does not appear to be in use.
7. The current layout of the site does not conform to the permitted plans, and pre-commencement conditions attached to the 2015 permission, requiring submission and approval of details of land restoration in the event that the

¹ Appeal Ref. APP/J1535/A/14/2228944

permitted use ceases, landscaping, tree protection, means of enclosure, the closing up of an existing field access and of site drainage have not been discharged, nor has a condition requiring that the access be provided in accordance with the approved drawings prior to occupation been complied with. The 2015 permission also removed permitted development rights to erect fences, gates walls and other means of enclosure.

8. This application is framed as an application to vary the 2015 permission, but it stands to be determined as a new application. Accordingly I shall amend the description of the proposed development to *The use of land for the stationing of caravans for residential purposes for two gypsy pitches together with the formation of hardstanding, the provision of a utility/day room ancillary to that use, and the erection of a security gate at the entrance to the site (with brick pillars and associated walls) together with a perimeter fence running adjacent to the boundary with the highways (on the inside of the existing hedges)*. Although the site is now occupied, in view of the failure to discharge the pre-commencement conditions outlined above, I consider that the 2015 permission has not been implemented, although it remains extant and is a material consideration in this appeal.
9. Since the planning application appeal seeks retrospective planning permission for the matters the subject of appeals A and B, I shall deal with that first.
10. I should also note that it was explained at the hearing that the Appeal B appeals on grounds (b) and (c) were intended to apply to Appeal C instead. I consider that no injustice would arise by my considering those appeals on the revised grounds. It was agreed also that the appeals on ground (e) would not be pursued.

Appeal D

Main issue

11. The main issue in this case is whether the development amounts to inappropriate development in the Green Belt, and if so, whether the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify a grant of planning permission.

Policy

12. The development plan for the district includes the combined policies of the Epping Forest District Local Plan (1998) and Alterations (2006) (LP). LP Policy GB2A provides criteria for appropriate development, none of which includes the development proposed, while LP Policy GB7A is largely concerned with the visual impact of development within the Green Belt. LP Policy DBE1 expects new buildings to respect their setting and use sympathetic materials, while LP Policy DBE4 seeks a good quality of design in the Green Belt. LP Policy CP2 aims, amongst other things, to protect the quality and character of the rural environment, and the aims of LP Policies LL1 and LL10 include, respectively, the conservation and enhancement of the character and appearance of the countryside, and adequate protection of trees.
13. The NPPF is a material consideration and states that LP Policies that predate the NPPF and must be given reduced weight where they are inconsistent within the NPPF policies. The LP Green Belt policies, GB2A and GB7A are somewhat

inconsistent with NPPF policies, as are LP Policies CP2, LL1 and LL10, and I have only given them moderate weight. However, Planning Policy for Traveller Sites (PPTS) makes it clear that gypsy and traveller sites in the Green Belt are inappropriate development, and the NPPF provides, at paragraph 87, that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. 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. Paragraph 88 says that substantial weight is to be given to any harm to the Green Belt.

Inappropriate development

14. Although the appeal site appears to be in use as a gypsy and traveller site, I consider that the 2015 permission for that change of use has not been implemented, hence the appeal development as a whole stands to be considered as inappropriate development in the Green Belt. At the 2015 Inquiry it was agreed that the openness of the Green Belt would be reduced by the scheme and, as it would be an encroachment of built form and development, it would conflict with one of the 5 purposes served by the Green Belt. The Inspector also found however, that since the proposal would not cover a large area and would introduce a relatively small quantum of development, the harm arising from the effect on openness and encroachment would be limited. This proposal includes the siting of two more caravans, but a stable block included in the 2015 proposal is not part of this scheme. However, while the permitted scheme did indicate that entrance gates would be erected further into the site, it did not include the walls, pillars and gates as erected. This overall structure is bell-shaped and starts close to the highway edge. It has 2.2m high brick pillars and a solid steel and timber gate rising to about 2.5m high. I consider that it has caused a substantial loss of openness, both in purely physical terms and also by its discordant urbanising and intrusive appearance in a highly visible location adjacent to a rural road, in part due to its imposing size, but also by the extensive use of red bricks, which do not appear to be part of the local vernacular. I consider that the inclusion of this built development in the appeal scheme amounts to additional harm to Green Belt openness over and above that of the 2015 scheme.

Character and appearance

15. The 2015 Inspector was dealing with an undeveloped site which he found made a positive contribution to the appearance of what he considered to be attractive countryside, and the appellant accepted that the land sat in a valued landscape. That scheme involved extensive boundary planting, but he considered nonetheless that the development would still result in an appreciable change to the site that would harm the appearance of the area and fail to protect the valued landscape. This scheme the subject of this appeal occupies the same area and has a similar quantum of development, but the highway entrance structure and the boundary treatment are different.
16. For the reasons given above, I consider that the entrance structure harms local character. In terms of boundary treatment, the 2m high close boarded fencing runs along the site boundary from the piers by the road frontage, and along Woodside Road it is less than 2m back from the highway edge and sits just behind a thin hedge. It precludes the extensive boundary treatment considered

in the previous scheme and which the Inspector felt would eventually soften and screen the development to a notable degree, limiting the long-term harm. Certainly in the winter months the existing thin hedge does little in the way of screening, and there is very limited scope for additional planting. The presence of a close-boarded fence of this height so close to the roadside is an intrusive and dominant feature that serves to emphasise the urbanising character of the development and significantly diminishes the rural character of this part of Woodside Road. The shorter part of the fence running along the Epping Road frontage has far less visual impact, being set at the back of a wide verge, and this part of Epping Road has in any case a less rural character, with housing on the opposite side. I consider however that the fence as a whole is harmful to the character and appearance of the area. The CCTV pole is also visually prominent, set just inside the gate, and is visually intrusive and discordant in the context of the rural character of this part of Woodside Road.

17. It is also unclear what measures have been, or will be, taken to protect the TPO trees around the site. Small areas or strips of grass/lawn have been retained in the vicinity of the protected trees, but I have not been provided with any information about how these relate to the root protection areas of the trees. In the absence of adequate information I cannot be satisfied that these trees are or will be given the protection necessary to ensure that they continue to make a positive contribution to local amenity and the character of the area.
18. The plans for the 2015 scheme showed far less of the site as being developed, with significant landscaping around the boundary and some 40m of the roadside hedge removed to provide the necessary highway visibility at the site entrance, replacement hedging being planted further back. In fact the roadside pillars appear to obscure the visibility splays that were required by the 2015 permission, and the proximity of the fence to the highway edge leaves little space for meaningful landscaping that might help to soften the impact and help to integrate the residential gypsy and traveller site into its surroundings without undue harm to the character of the area. In terms of appearance the scheme the subject of this appeal is substantially different to that permitted in 2015.
19. Overall I consider that in addition to the Green Belt harm, the development is an example of poor design that harms the character and appearance of the area. It conflicts with LP Policies DBE4, CP2, LL1 and LL10, and with national policy.

Other considerations

20. The application site is the same as that granted permission for a single pitch in 2015. The weight given to the personal circumstances of the appellant in that appeal, also Mr Nolan, was decisive in the Inspector's conclusion that there were material considerations that clearly outweighed the Green Belt and other harm so that the very special circumstances necessary to justify inappropriate development existed. Amongst these was that he was caring for his brother John who has serious medical issues following an accident. The 2015 permission restricts the occupation of the site to Mr Nolan, his then fiancée, and their resident dependents, which the Inspector made clear included John, and it limits the number of caravans to 2, of which no more than one can be a static caravan.

21. The application the subject of this appeal, in addition to seeking retrospective permission for the fencing and walls/gates, seeks consent to station an additional static caravan and a touring caravan for use by John and by their sister Roseanne and her young child. This would help to address overcrowding in the permitted static caravan and Roseanne would help with John's care. All of the proposed occupiers are acknowledged to fall within the definition of gypsies and travellers set out in PPTS.
22. By reference to the 2015 permission, the Council considers the additional caravans and their use to be acceptable, having regard to the acknowledged significant shortfall in gypsy and traveller site provision in the district, the lack of alternative sites, the continuing personal circumstances and the best interests of Roseanne's child, who would benefit from having a settled base. It has no objection to the principle of the greater level of residential use represented by this proposal, and I see no reason to come to a different view.
23. Ultimately however, the Council refused to grant planning permission because it considered that certain aspects of the proposal were unacceptable. Specifically, it considered that the walls, pillars and gates caused unacceptable harm to the Green Belt, that the fence, gates, walls pillars and CCTV pole harmed the character of the area, that inadequate provision was made for the protection of the TPO trees and the existing hedgerows, and that there was inadequate information about drainage. The drainage issue has now been addressed and can be dealt with by condition.
24. The remaining differences in the appeal scheme relate to the altered layout. Regarding the fencing, walls, pillars, gates and CCTV equipment, a security statement was submitted with the application emphasising the need for good security arrangements at gypsy and traveller site. There is nothing that is specific to this site, nor is there any explanation of why the various components of the development need to be sited where they are. The proposed layout for the 2015 scheme showed gates set well back from the highway and there was ample scope for similar security measures to this scheme, but without the considerable harm to the character and appearance of the area caused by the appeal development. Accordingly I give very little weight to the security needs as justification for these retrospective parts of the development.

Whether the harm is clearly outweighed by other considerations

25. Substantial weight must be given to the Green Belt harm identified, and I also give substantial weight to the harm to the character and appearance of the area, which conflicts with development plan policies. In essence, the other considerations considered as material in the 2015 appeal, relating to the policy approach for the supply of gypsy and traveller sites and those concerning personal circumstances are the same, with the needs of the additional family members adding further weight. However, in considering this appeal, that there is an extant permission that could be implemented is a material consideration. Implementation of that permission would directly address most of the matters that have been put forward as material considerations in this appeal, and the additional caravans and residents which the Council considers to be acceptable, could easily be accommodated within that scheme if, as is indicated, the stable block is no longer required. In view of this I consider that the weight that should be accorded to the material considerations that weighed in favour of the 2015 proposal should be given considerably less weight in this appeal when

- considering the development as a whole. On that basis I consider that the weight of those other material considerations does not clearly outweigh the totality of the harm, and hence the very special circumstances necessary to justify planning permission, either permanent or temporary, do not exist.
26. However, I have the power under section 79(1)(b) of the 1990 Act to grant planning permission for part of the development only. The Council indicated at the hearing that had it also had this express power it would have granted permission for the additional caravans and their residential use as proposed and refused permission for the walls, gate, pillars, fence and CCTV pole. The Planning Practice Guidance (PPG) notes that such outcomes can be achieved by the use of conditions, but advises that this approach should only be used in exceptional circumstances.²
27. In this case I consider that the use of the site as a gypsy and traveller site comprising 2 pitches, each with 2 caravans, does not depend on the walls, pillars, gate, fence or CCTV pole. The use is physically and functionally separate from those operational developments. The plans submitted with the 2015 scheme clearly demonstrate, in my view, that the use can be accommodated on the site without the additional harm arising from the unauthorised operational development. When the change of use is considered on its own merits I am satisfied that there are material considerations that clearly outweigh the harm, such that the very special circumstances exist to justify planning permission for that part of the development.
28. I consider therefore that a split decision is appropriate in the circumstances. I shall grant permission for the change of use of the appeal site as proposed, but refuse permission for the walls, pillars, gate, fence and CCTV pole.
29. I consider all of the conditions imposed on the 2015 permission to be reasonable and necessary, with the necessary changes to reflect the additional caravans and residents and the relevant layout, for the same reasons. A personal condition is necessary given the decisive weight of the appellant's personal circumstances, while a condition restricting occupancy to gypsies or travellers is necessary because of the relevant policy considerations. Conditions limiting the number of caravans, requiring details of layout, landscaping, means of enclosure, external lighting, tree protection and future restoration, precluding certain permitted development rights, and limiting the size of vehicles on the site, are necessary in the interests of the character and appearance of the area. Control of site drainage is necessary in the interests of residential amenity and highway safety, and the provision of adequate visibility splays and the closing up of the existing field access is required for highway safety reasons. Conditions requiring special care with tree and hedgerow works are necessary for environmental reasons.

Appeal A

Ground (f)

30. This appeal concerns the erection of the 2m high close boarded fence adjacent to the highway. When the appeal was made the notice was also appealed on ground (a), which is that planning permission should be granted. That would have enabled the planning merits of the development to be considered.

² Paragraph: 013 Reference ID: 21a-013-20140306

However, the appeal on ground (a) lapsed. As a consequence the appeal on ground (f) is confined to the question of whether the requirements of the notice exceed what is necessary to remedy the breach of planning control, as a matter of fact. The arguments put forward on this ground is that the fence could be moved and repositioned on site, or alterations could be made to make the fence more acceptable. No details have been provided of where the repositioning would be to, but if it was not materially different to the location of the fence the subject of the appeal then it would not serve to remedy the breach of planning control. Similarly, no alterations have been proposed, and the acceptability of any alterations proposed would require an assessment of the planning merits, which is outside of the scope of this ground. I conclude therefore that the appeal on this ground must fail.

Ground (g)

31. This ground is that the time for compliance, 1 month, is too short. A period of 2 years is sought. The only argument put forward that is actually relevant to this ground is that a longer period would allow the existing hedgerow to become more established. The hedgerow is already well established, but thin. I consider however that a period longer than 1 month is reasonable in order to allow for the submission of details of landscaping and means of enclosure pursuant to one or other of the planning permissions. I shall extend the period to 6 months.

Appeal B

Ground (f)

32. As with Appeal A, the planning merits of the walls, gate and pillars and the CCTV pole cannot be considered under this ground. Since the arguments put forward involved planning merits the appeal on this ground cannot succeed.

Ground (g)

33. A period of 2 years is also sought here. The only argument put forward that is relevant to this ground is that a longer period is required to design a new scheme, get approval and carry out the works. I consider that a period of 6 months would be sufficient and reasonable.

Appeal C

Ground (b)

34. This ground is that the matters alleged have not occurred. This relates to the allegation of the importation of materials and soil to raise land levels at the western end of the site. This is the remainder of the strip of land that lies to the west of the Appeal D application site. Soil has been deposited onto the land that has raised levels by up to 1m in places. The Council thought that the soil had been brought on to the land, but it now accepts that the soil deposited on the western end of the site resulted from the construction of the hardstanding on the eastern end.
35. It is clear therefore that the breach of planning control alleged in the notice has not occurred. The possibility of correcting the description of the breach to properly describe what has occurred, namely engineering operations comprising the excavation of materials at the eastern end of the site and the

Appeal D: APP/J1535/W/16/3159596: Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings PP-05001390 (Location Plan) and 12_529_004 (Utility/day room).
- 3) The use hereby permitted shall be carried on only by Mr Felix Nolan, Ms Leanne Nolan, Mr Johnny Nolan, Ms Roseanne Nolan, and their resident dependents.
- 4) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of *Planning Policy For Traveller Sites*, or any subsequent revision or replacement.
- 5) Before the commencement of development details shall be submitted to and approved in writing by the local planning authority of a scheme for the restoration of the land in the event that it ceases to be occupied by those named in Condition 3 and defined under Condition 4, together with a timetable for the implementation of the restoration scheme. If and when the land ceases to be occupied by those named in Condition 3 and defined in Condition 4 the land shall then be restored in accordance with the approved restoration scheme and in accordance with the approved timetable.
- 6) There shall be no more than 2 pitches on the site and on each of the 2 pitches hereby approved no more than 2 caravans shall be stationed at any time, of which no more than 1 caravan shall be a static caravan.
- 7) No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site.
- 8) Notwithstanding the layout plan Drawing LO-15-B submitted with the application, no development shall take place until details of the layout of the site have been submitted to and approved in writing by the local planning authority. The development shall then be undertaken in accordance with the approved layout details.
- 9) No development shall take place until details have been submitted to and approved in writing by the local planning authority of hard and soft landscape works (including the surfacing for the access and the hardstanding area), together with a timetable for their implementation. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the approved timetable; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 10) No development shall take place until details have been submitted to and approved in writing by the local planning authority of the means and measures of protecting all trees and hedging around the site that are to be retained. The development shall then be undertaken in accordance with the means and measures approved.

- 11) No development shall take place until details have been submitted to and approved in writing by the local planning authority of the means of enclosure around the site, and the development shall then be undertaken using the approved means of enclosure only.
- 12) No external lighting shall be used unless its location and type have been first approved in writing by the local planning authority.
- 13) There shall be no disturbance of existing trees or hedges around the site between 1 March and 30 September in any year unless a suitably qualified ecologist has confirmed to the Council in writing that no active bird nests would be affected by the works.
- 14) There shall be no clearance of grassland and no removal of hedgerow unless a suitably qualified ecologist is in attendance to check for the presence of reptiles or amphibians.
- 15) Prior to the first occupation of the development hereby permitted, highway access shall be provided with visibility splays of 2.4m by 70m to the west and 2.4m by 58m to the east. Those sight splays shall thereafter be kept clear of any obstruction greater than 600mm in height when measured from the access.
- 16) Any gates across the vehicular access shall be a minimum of 6m from the back edge of the carriageway and shall be inward opening only.
- 17) No development shall take place until details have been submitted to and approved in writing by the local planning authority of the means of permanently closing up the existing field access to the west of the site. The details shall include a timetable for the works and the approved details shall be implemented in accordance with the timetable.
- 18) No development shall take place until details have been submitted to and approved in writing by the local planning authority of the means of draining the site of foul and surface water, together with a timetable for the implementation of the drainage scheme. The approved drainage scheme shall then be installed in accordance with the approved timetable.
- 19) Notwithstanding the provisions of *The Town and County Planning General Permitted Development) (England) Order 2015* (or any order revoking or re-enacting that order with or without modification) no fences, gates, walls or other means of enclosure shall be erected and no areas of hardsurfacing shall be laid other than those approved under the above conditions.

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Appeal Decisions

Inquiry opened on 16 June 2015

Site visit made on 21 November 2016

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 June 2017

Appeal Ref: APP/J1535/C/14/2225843

Land at Greenacres, Silver Lane, Willingale, Essex CM5 0QL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr W Lowe against an enforcement notice issued by Epping Forest District Council.
- The enforcement notice was issued on 8 August 2014.
- The breach of planning control alleged in the notice is failure to comply with condition No 2 of a planning permission Ref EPF/50/96 granted on 18 November 1996.
- The development to which the permission relates is 'stationing of residential mobile home'. The condition in question is No 2 which states that 'This consent shall inure solely for the benefit of the applicant (William Lowe) and the mobile home hereby approved is to be occupied solely by the applicant and his dependants during the applicant's lifetime only'. The notice alleges that the condition has not been complied with because an additional mobile home has been stationed on the Land and the Land and both mobile homes are in occupation by persons not being William Lowe (the Applicant) or his dependants.
- The requirements of the notice are:
 1. Cease the use of the Land for residential purposes by persons not being the Applicant or his dependants during his lifetime.
 2. Remove one of the mobile homes from the land so that only one mobile home remains on the Land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (b), (c), (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice as corrected is quashed and planning permission is granted in the terms set out below in the Decision.

Appeal Ref: APP/J1535/A/14/2225844

Land at Greenacres, Bassetts Lane, Walls Green, Essex CM5 0QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr William Lowe against the decision of Epping Forest District Council.
- The application Ref EPF/0657/14, dated 24 March 2014, was refused by notice dated 18 June 2014.
- The application sought planning permission for stationing of residential mobile home without complying with a condition attached to planning permission Ref EPF/0050/96, dated 18 November 1996.

- The condition in dispute is No 2 which states that: This consent shall inure solely for the benefit of the applicant (William Lowe) and the mobile home hereby approved is to be occupied solely by the applicant and his dependants during the applicant's lifetime only.
- The reason given for the condition is: Permission is granted in view of the personal circumstances of the applicant.
- The application is to vary condition 2 to read: "The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: William Lowe, William and Susan Cathleen Lowe, Jim and Joanne Scamp".

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out below in the Decision.

The Inquiry

1. The inquiry was opened on 16 June 2015 by the appointed inspector Mr Belcher. A statement was read on behalf of Willingale Parish Council and a start was made on the appellant's case. The inquiry was adjourned that afternoon.
2. The inquiry resumed on 10 August 2016 when I was the appointed inspector. With the agreement of the appellant and the Council a fresh start was made on the presentation of the evidence. The inquiry sat for four days on 10 and 11 August and on the 21 and 23 November 2016. Mr Davies, an interested party supported by local residents, was legally represented and gave evidence at the inquiry, although he did not have rule 6 status.
3. The main parties helpfully compiled an agreed bundle of authorities to support their legal submissions.

The Appeal Site

4. Greenacres is an area of some 2.66 hectares, located in the Metropolitan Green Belt. A U shaped stable block, an open fronted barn and two mobile homes with adjacent gardens are grouped near the main site access off Bassetts Lane, to the west. The remainder of the site is grazing land. The site address is described differently in the various documents but there is no doubt that the site and area of land is the same¹. For the sake of consistency I will refer to the highway on the western boundary as Bassetts Lane.
5. The larger mobile home nearest the western boundary is occupied by Mr William Lowe (junior) with his wife Susan Lowe. The second mobile home is occupied by his daughter Joanna Scamp, her husband Jim Scamp and their four children. The families moved onto the land with their mobile homes around February 2014. They provided information on their family background, employment, patterns of travelling and where they have lived or stayed over the years. I am satisfied that for the purposes of applying planning policy Mr and Mrs Lowe and Mr and Mrs Scamp have gypsy status, as defined in Annex 1, Planning policy for traveller sites August 2015 (PPTS). The Council did not seek to challenge their gypsy status.
6. Mr Lowe bought the land from his father Mr Lowe senior, who shortly after moved into a flat about October 2013. There was common ground between the Council and appellant that Mr Lowe senior has not resided at the site since

¹ The statement of common ground gives the site address as Greenacres, Silver Lane, Willingale (as stated on the enforcement notice) and states that access is from Bassetts Lane. The 2014 application site address was given as Greenacres, Bassetts Lane, Walls Green. The address on the original planning application EPF/50/96 is Greenacres, Stays Lane, Walls Green, Willingale.

early 2014. By that time Mr Lowe senior's old mobile home was in a very dilapidated condition and had to be removed.

7. Mr Lowe senior had owned the land for many years, even before living there. He used to live in a mobile home at Rockhills Farm in Willingale Parish and operated a scrap metal yard on a site close by. When he retired from commercial activity he obtained planning permission to site a mobile home at Greenacres in November 1996 (ref. EPF/50/96, the 1996 permission). The permission was granted on completion of a section 106 planning agreement that secured the extinguishment of all residential use rights and rights relating to the mobile home at Rockhills.
8. The planning history thereafter included a proposal for the removal of a mobile home with extension and its replacement with a single storey dwelling, which was dismissed on appeal in 2009. An enforcement notice alleging an unauthorised change of use of the land for the stationing of a mobile home for residential purposes was withdrawn on 27 March 2014.
9. Development plan policies applicable to the site are set out in the Epping Forest District Local Plan Alterations adopted in 2006 (the Local Plan).

The 1996 planning permission

10. All parties made submissions on the interpretation of the 1996 permission as a preliminary matter, with the Council and the appellant in particular making reference to relevant case law².
11. The main considerations are:
 - the nature of the development granted planning permission in 1996,
 - the scope of planning control exercised through the description of the proposed development on the decision notice and through condition 2, and
 - whether or not condition 2 complies with the legal principles in *Newbury*³ and meets the six policy tests.

The development

12. A planning permission is a public document and therefore its meaning should be plain on its face. The 1996 permission is a full planning permission, as opposed to an outline planning permission and reference to the plans is permissible to show the detail of what has been permitted. Moreover, as a matter of fact condition 4 directs the reader to the submitted layout plan for details of the landscaping scheme.
13. A reasonable reader would understand from the description of the development on the decision notice and the plans that the permission was for the stationing of a residential mobile home. The location plan identifies the whole of the area of land ownership as the application site. The site plan more particularly shows where the mobile home was to be sited, namely to the west of a yard and barn,

² Including *R v Ashford Borough Council ex parte Shepway* [1998] JPL 1073, *Barnett v Secretary of State for Communities and Local Government* [2008] EWHC 1601 Admin and [2009] EWCA Civ 476, *Telford and Wrekin Council v Secretary of State for Communities and Local Government v Growing Enterprises Ltd* [2013] EWHC 79 Admin

³ *Newbury v Secretary of State for the Environment & others* [1981] AC 578

close to the site access and the boundary with Bassetts Lane. The mobile home was shown to be a simply designed flat roofed structure. Two parking spaces would be provided to the front. Tree and shrub planting was shown along the boundary with the lane and behind an existing mature hedgerow, with additional planting to the south and north of the existing internal access road. Condition 4 required the planting scheme to be carried out within 12 months of the mobile home being stationed on the land.

14. Use and occupation is described and explained by reference to condition 2. The benefit of the permission is restricted solely to the applicant Mr William Lowe. The mobile home is to be occupied solely by the applicant and his dependants for a period limited to the applicant's lifetime. The reason for the condition is the personal circumstances of the applicant.
15. There is no doubt from the planning permission document about the physical form of the approved development, the restriction on the occupation of the mobile home during the lifetime of Mr William Lowe senior and the basic reason why the mobile home was allowed.
16. In order to gain a better understanding of why the permission was granted related material may be referred to⁴. The brief particulars of the proposed development on the application form clearly stated "placing of mobile home on land for occupation by applicant and his family". The officer's committee report is more helpful on the matter. It detailed the reasons why the applicant was seeking to relocate his mobile home from Rockhills to his land at Greenacres and the very special circumstances that justified allowing the development in the Green Belt.
17. Against the background of the principles established in case law the more contentious issue is the effect of the planning permission. The questions raised include the scope of the development permitted, how long a period is the permission for, does the description of the development have a functional significance and what are the implications of the personal permission.
18. The permission was implemented in accordance with the description of the permission. The mobile home was accepted by the Council and appellant to be within the statutory definition of a caravan. Therefore the authorised development involved a material change in the use of the land, not operational development to erect a dwelling. Land on which a caravan is stationed for the purposes of human habitation and land which is used in conjunction with land on which a caravan is so stationed is a 'caravan site'.⁵ This description is supported by the fact the Council reissued a caravan site licence on 10 December 2014 following a comprehensive review of site licence conditions across the district. The document stated that Mr Lowe had the benefit of the 1996 permission for the use of the land as a caravan site⁶.
19. Referring back to the approved site plan, the caravan site may be taken to be confined to the area of land to the west of the yard where the mobile home was sited, together with the adjacent land in incidental use. However, the mobile home site was positioned within a larger identified application site. In effect the planning permission was granted for a material change of use of land

⁴ *R (Campbell Court Property) v Secretary of State for the Environment Transport and the Regions* [2001] EWHC 102 Admin, *Wood v Secretary of State for Communities and Local Government* [2015] EWHC 2368 Admin

⁵ Caravan Sites and Control of Development Act 1960 s1(4)

⁶ Inquiry Document 9

to a caravan site, which could be part of a mixed agricultural, caravan site use if the wider application site is considered.

20. Only an express condition can be enforced. There is no concept that allows for conditions to be implied from the description of what is permitted. An established principle is that if a limitation is to be imposed on a permission granted pursuant to an application it has to be done by condition⁷. This applies to a limitation that is substantive in nature as well as temporal.⁸
21. The *Winchester* case⁹ confirms the importance of the description of development in defining the character of the use allowed. In that case the use as a travelling showpeoples' site was a distinct use, a more narrowly defined use when compared to a general caravan or mobile home site. By reason of the general description of the use permitted at Greenacres, future control over the use, and / or occupation, would be dependent on a planning condition. The relevant condition is condition 2.

Effect of condition 2: This consent shall inure solely for the benefit of the applicant (William Lowe) and the mobile home hereby approved is to be occupied solely by the applicant and his dependants during the applicant's lifetime only.

22. The power to impose conditions is widely drawn in sections 70 and 72(1) of the 1990 Act. However, a condition must fulfil some planning purpose, fairly and reasonably relate to the development being allowed and not be Wednesbury unreasonable (the *Newbury* principles). A condition which fails to comply with these principles is invalid. In addition, a condition should satisfy the six policy tests in the Framework and be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. A failure to meet some of the tests does not necessarily make a condition invalid.
23. Section 75(1) of the 1990 Act provides that a grant of planning permission runs with the land rather than being for the benefit of an applicant personally. However, the general rule may be expressly excluded under subsection (1) by creating a personal permission.¹⁰ A personal planning condition, while not encouraged by national Planning Practice Guidance, is acceptable if justified by an exceptional occasion¹¹. The wording of condition 2 departs from the exact wording of model condition 35 in Appendix A of Circular 11/95, which is retained as guidance¹². Also, unlike in the model conditions, there is no condition requiring the use to cease and the removal of the mobile home, materials and equipment.
24. The purpose of Condition 2 was, in the language of section 75(1), to 'otherwise provide'. The condition made the permission personal to Mr Lowe senior and no other person. The expectation was that the permission and the use of the land it authorised would continue only during Mr Lowe's lifetime. The first limb

⁷ *I'm Your Man Ltd v Secretary of State for the Environment* [1999] 77 P&CR 411 and *R (on the application of Resul Altunkaynak) v Northampton Magistrates' Court and Kettering Borough Council* [2012] EWHC 174 Admin

⁸ *Roger Wood v Secretary of State for Communities and Local Government* [2015] EWHC 2368 Admin

⁹ *Winchester City Council v Secretary of State for Communities and Local Government* [2013] EWHC 101

¹⁰ Section 75(1): '..... any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested in it.'

¹¹ The Planning Practice Guidance provides that there may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. (ID 21a-015-20140306)

¹² Department of the Environment Circular 11/95: The Use of Conditions in Planning Permissions at paragraph 93.

of condition 2 is distinct from a generally worded condition controlling occupation of a dwelling or mobile home.

25. The operation of section 75 was considered in the *Knott* judgement.¹³ In that case the condition in question was similarly worded to condition 2, in so far as it stated 'permission shall enure solely for the benefit of Mr and Mrs Knott'. Operational development was involved in that outline planning permission was granted for the erection of a detached dwelling. The situation was highly unusual in that a personal condition will scarcely ever be justified in the case of a permission for the erection of a permanent building.
26. Applying the logic of the *Knott* judgement, once the 1996 planning permission was implemented and Mr William Lowe senior had occupied the mobile home, condition 2 was fulfilled for all time and would not necessarily prevent persons other than Mr Lowe senior occupying the mobile home. It would be a question of fact as to whether or not the condition would be breached if persons other than Mr Lowe senior became future occupiers of the mobile home. The answer would depend on whether the second occupation was materially different from the first permitted occupation.
27. The *Knott* interpretation, in the circumstances of the Greenacres case where a change of use is involved, appears to be contrary to section 75(1) of the 1990 Act and also to prevailing national guidance, both at the time when the permission was granted and now. The case law after the *Knott* judgement confirms that planning conditions should be given a common sense meaning. Conditions should not be construed in the abstract but in the context in which they are imposed. I also have in mind that conditions should not be construed narrowly or strictly¹⁴.
28. The clear message from the statute and the guidance is that a planning condition is an appropriate means of making an exception to the normal consequence that permission runs with the land. A permission is able to be made personal to an individual provided that there is a very good justification and the condition meets all the tests. More particularly the reason for condition 2 was because of the personal circumstances of the applicant (Mr Lowe senior). To potentially confine the requirement to the initial residential use of the land and occupation of a mobile home stationed on the land would defeat the whole purpose of the condition. Following the *Knott* line of argument, Mr Lowe senior could have lived in the mobile home for a few months before vacating the home for occupation by another retired person and his dependants. That would not be a common sense interpretation. A preferable explanation is that the first part of the condition means what it says – the benefit of the permission is for the named person only.
29. Personal permissions are time-limited permissions, either because of the eventual death of the named person(s) or because a specific time period is stated in a condition. It is good practice to impose a condition requiring the use permitted to cease and for the land to be restored to its former condition by the removal of all materials and equipment and where relevant, the mobile

¹³ *Knott v Secretary of State for the Environment and Caradon DC* [1997] JPL 713

¹⁴ The Council referred to *Menston Action Group v City of Bradford MBC* [2016] EWCA Civ 796. The Appellant referred to *Carter Commercial Development Ltd v Secretary of State for the Environment and Northampton BC v First Secretary of State* [2005] EWHC 168 Admin

home or caravan (see model condition 36). There is no such condition attached to the 1996 permission.

30. It could be argued that even without such a condition the benefit of the use of the land would cease eventually as a result of the permission being personal to Mr Lowe senior in the context of section 75(1). However, continuation of the use beyond the terms of the personal consent would not involve development of the land. Furthermore, a reasonable conclusion is that model condition 36 must be necessary on the basis of the policy tests and therefore its use in conjunction with model condition 35 must have a purpose. In my view the absence of a condition requiring the use to cease is significant but not necessarily fatal.
31. Condition 2 has more than one element. As explained above, the first limb seeks to confine the benefit of the residential use of the land to Mr William Lowe senior. The second limb seeks to control the occupation of the mobile home by restricting occupation to Mr William Lowe senior and his dependants. The third element defines a time element by allowing for the occupation of the mobile home by Mr William Lowe senior and his dependants during his lifetime only. 'During his lifetime only' could be read one of two ways - the use comes to an end at the end of his lifetime or as allowing for any occupation after his lifetime.
32. A consequence of the wording of condition 2 is that there is a potential conflict between the length of the use and the length of permissible occupation of the mobile home. It has come about that Mr William Lowe Senior put the land up for sale and the appellant agreed to buy the land. His father moved to a flat in Ongar where he still lives. However, Mrs Scamp stated that Mr Lowe Senior says that he wants to return to Greenacres and suggested that he could move back. The appellant indicated more particularly that his father could return to live with them in the mobile home. Such an arrangement cannot reasonably be ruled out, taking into account old age, health and family responsibilities.
33. The Council submitted that persons deriving title of the estate in land from the person named in the personal condition do not acquire the land with the benefit of planning permission. Following that interpretation the benefit of the use of the land ceased when Mr Lowe senior sold the land to his son. Mr Lowe senior would be precluded from occupying the mobile home during the remainder of his lifetime, despite the provisions in the second and third limbs. A similar situation would arise in the event the land was sold but only Mr Lowe senior and his dependants continued to occupy the mobile home.
34. The alternative approach is not to over-analyse the condition. Adopting a straight forward and common sense reading, the use is authorised only during the lifetime of Mr Lowe senior and during this time-limited period the mobile home is to be occupied solely by Mr Lowe and his dependants. This reasonable interpretation accords well with the context, both in terms of protecting the Green Belt and allowing for the very particular events behind the grant of planning permission. It is consistent with a view expressed by a planning officer at the time enforcement action was sought¹⁵. Mr Dagg, on behalf of Mr Davies, also considered that the authorisation to station the mobile home on the land ceases with the death of the named applicant.

¹⁵ The report seeking authorisation for enforcement action stated that the consent is solely for the benefit of Mr Lowe senior and his dependants during his lifetime only.

35. The other matter for consideration is whether only a single mobile home is permissible on the land under the 1996 permission. The description of the permission and the approved plan provides for one mobile home. In addition condition 2 states 'the mobile home hereby approved', which again is consistent with a single mobile home. However, the permission does not include a separate planning condition expressly controlling the number of caravans or mobile homes that may lawfully be stationed on the land or more particularly requiring no more than one mobile home to be stationed on the land. The Council does not dispute this fact.
36. Having considered the relevant case law referred to by the main parties, my conclusion is that in this case the description of the development is not sufficient and that a planning condition should have been imposed if the local planning authority wished to limit the development to a single mobile home¹⁶. The *Cotswold Grange Country Park*¹⁷ judgement is very pertinent to the current appeal. The development described by the 1996 permission is a form of residential use through the stationing and occupation of a mobile home. The description does not have a functional significance and therefore is distinguished from the *Winchester* case¹⁸ and similar judgements. A numerical limitation on the number of mobile homes permitted has to be achieved by a planning condition.
37. In conclusion, on close examination the 1996 permission is poorly drafted. The development is not adequately described in that no reference is made to the making of a material change in the use of the land. The policy advice and the appropriate wording of model conditions were not applied, even though Circular 11/95 was in place at the time of the decision. Consequently condition 2 is not well worded because it does not sufficiently recognise the interplay between use and occupation. The absence of a follow up condition is a serious failing if, as was probably the case, the local planning authority wanted to ensure the residential use ceased at some future point in time. The description of the development permitted and condition 2 do not provide the full amount of control on the use of the land intended or now advanced by the Council. The deficiencies cannot be overcome by implying something that is not there in the first place.

Validity of condition 2

38. Taking account of the background to the planning application and the location of the site within the Green Belt, the condition fulfils a planning purpose in protecting the openness of the Green Belt, whilst responding to the circumstances of Mr Lowe senior. The permanent extinguishment of all residential use and rights to a caravan/mobile home at Rockhills was linked to the placing of a mobile home at Greenacres for occupation by Mr Lowe and his dependants. These provisions were secured by means of a section 106 agreement, which was entered into by Mr Lowe senior. The committee report indicated that Mr Lowe did not enjoy security of tenure at Rockhills. All matters considered in respect of the planning history, condition 2 was fairly and reasonably related to the development permitted. It was not 'Wednesbury'

¹⁶ Including *I'm Your Man v Secretary of State for the Environment* (1970) 21 P&CR 411

¹⁷ *Cotswold Grange Country Park LLP v Secretary of State for Communities and Local Government & Tewkesbury BC* [2014] EWHC 1138

¹⁸ *Winchester City Council v Secretary of State for Communities and Local Government* [2013] EWHC 101 (Admin)

unreasonable in the sense that no reasonable planning authority properly directing itself could have imposed it.

39. Turning to the six policy tests, relevant to planning, relevant to the development to be permitted and reasonable in all other respects broadly relate to the criteria for validity considered above. In 1996 the condition was necessary in order to uphold the very special circumstances that justified allowing inappropriate development in the Green Belt. The precision of the wording has been shown to be wanting and some aspects of enforceability may be questioned. However, the condition is not impossible to enforce and the wording is not so deficient that the condition can be given no sensible meaning.
40. The appellant, whilst questioning the validity of condition 2 and concluding that the 1996 permission was very poorly drafted, stopped short of a firm submission that condition 2 was invalid.
41. My conclusion is that even though condition 2 is poorly drafted it is not so hopeless or fundamentally flawed as to be invalid.
42. This assessment and conclusions on the 1996 permission will inform determination of the two appeals. Similar to the Council's approach I intend to consider the appeal against the enforcement notice first. This will establish whether there has been a breach of planning control or not. In turn this conclusion will inform the approach to the determination of the section 78 appeal. The appellant took the opposite view, relying on the provisions of section 180. However, this approach fails to recognise that even if the section 78 appeal is successful the appeal against the enforcement notice remains to be determined.

Appeal against the enforcement notice

43. I am satisfied that the enforcement notice tells the recipient what he has allegedly done wrong and what he must do to remedy the alleged breach of planning control. All relevant issues on the wording of the notice may be adequately dealt with through the grounds of appeal.
44. It is important to have in mind the two matters which are alleged to constitute the breach of planning control related to non compliance with condition 2 – an additional mobile home was stationed on the Land; both mobile homes were occupied by persons not being William Lowe senior or his dependants.
45. The Land is shown on the plan attached to the enforcement notice to extend over the whole of the 2.66 hectares, which is equivalent to the application site shown on the location plan for the 1996 permission. This demonstrates that the Council considered the 1996 permission applied to not just the small area where the mobile home was to be positioned but to the whole site. Only on this basis could condition 2 and the 1996 permission be the subject of the notice. The appellant did not raise any issue on this point and in fact relies on the larger area being the relevant site to support aspects of his case and his s78 appeal.

Appeal on ground (b): the matters stated in the alleged breach of planning control have not occurred

46. An additional mobile home was stationed on the Land. The occupation of both mobile homes is by people other than Mr Lowe senior (the person stated in

condition 2). The occupants are members of Mr Lowe senior's family but as adults they are not his dependants. The appellant accepted these matters of fact, the position being confirmed by the oral evidence at the inquiry from Mr William Lowe (the appellant) and Mrs Scamp. The accompanied site visit provided further verification.

47. Therefore the matters stated in the allegation have occurred as a matter of fact and the appeal on ground (b) does not succeed.

Appeal on ground (c): the matters do not constitute a breach of planning control

48. The notice is against non compliance with a planning condition, a condition that imposes a continuing requirement. My consideration is restricted to the matters alleged at the time the notice was issued.

Additional mobile home

49. Condition 2 does not expressly control the number of mobile homes that may be placed on the land but refers instead to 'the mobile home hereby approved'. Having regard to relevant case law, this description is not specific or sufficient to exercise control on the number of mobile homes on the land¹⁹. Therefore the additional mobile home does not amount to non-compliance with condition 2 and is not a breach of planning control of the type alleged. On that particular narrow point I agree with the appellant.
50. The issue becomes whether there has been a material change in the definable character of the land. The appellant submitted that placing an extra caravan on the land did not result in such a material change. The planning history records that the Council withdrew an enforcement notice alleging a material change of use and then issued the current notice where the alleged breach is expressed as non-compliance with a condition. The Council's planning witness Mr Courtney accepted in cross examination that a second mobile home did not amount to a material change of use. Mr Davies (the interested party) in his evidence argued that as a matter of fact and degree a material change of use had occurred as a result of the additional mobile home with its attendant ancillary uses and activity.
51. Clearly a material change of use was a topic that was addressed by all parties. However, the notice is not attacking this form of development in view of the Council's stated position on the matter of the additional mobile home and the reliance on s171A(1)(b) and condition 2 in taking enforcement action against it. I have no doubt that it would cause injustice to use my powers to correct the notice so that it becomes a hybrid non-compliance with condition/change of use enforcement notice. That being the case I will not consider the material change of use issue further in this appeal.

Occupation

52. The appellant accepted that the occupation of 1 mobile home by people other than by Mr William Lowe senior is a breach of planning control, but only whilst Mr William Lowe senior remains capable of living on the land, that is, as stated in the opening submissions, whilst he is alive.

¹⁹ See paragraphs 35 and 36 above

53. Relying on the *Knott* judgement, the appellant maintained that once Mr Lowe senior had occupied the land the first element of condition 1 was discharged and fell away and so the second element applied only during his lifetime.
54. Even if the principle arising in the *Knott* judgement is followed regarding the benefit of the permission continuing for all, the fact is that Mr Lowe senior is still capable of living on the land. Therefore, even on the appellant's case, condition 2 was not complied with as a result of occupation of the mobile home by the appellant. A breach of planning control occurred.
55. In conclusion, the appeal on ground (c) partially succeeds in relation to the stationing of the additional mobile home but fails in terms of occupation of the mobile home. The wording of the allegation shall be corrected accordingly.

Appeal on ground (a)

The development

56. Regarding an appeal on ground (a), section 174 (1) provides "that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged".
57. It follows that the deemed planning application in this case is narrowly defined because it relates solely to the matter stated in the notice, which has been found to be a breach of planning control – the occupation of the mobile home by Mr and Mrs Lowe. The additional mobile home, in terms of its presence and occupation, forms no part of the breach in this notice. Furthermore the benefit of the permission given to Mr William Lowe senior (*This consent shall inure solely for*) is not for consideration.
58. A key consideration is a change in the occupation of the mobile home, which is not within the meaning of development as set out in s55(1) of the 1990 Act. Nevertheless the deemed planning application is similar to a retrospective one, to carry out the original development without complying with the particular element of condition 2 being enforced. It is not open to me to review any of the other conditions imposed on the original grant of permission because to do so would widen the scope of the notice. Success on the ground (a) appeal would result in (i) the ability under s177(1)(b) to discharge condition 2 and the substitution of a new condition (in this case retaining the matters not at issue), and (ii) the grant of a new planning permission subject to conditions (sections 177(5), 177(1)(a) and 70(1)(a)). A new permission would be for the same development as granted permission in 1996, the stationing of a residential mobile home, which I have concluded involved a material change of use to a caravan site.

Main issues

59. In view of the provisions set out in section 177 regard must be had to the provisions of the development plan, so far as material to the subject matter of the enforcement notice and to any other material considerations. A material change in the use of the land is inappropriate development in the Green Belt. The main issues centre on the effects on the openness of the Green Belt and the amenity of nearby residents and whether any harm would be clearly outweighed by other considerations to amount to the very special circumstances to justify the development.

Planning merits

60. The site is in the Metropolitan Green Belt where there is strict control on development through national and local planning policies. The essential characteristics of Green Belts are their openness and permanence. Inappropriate development is by definition harmful.
61. The mobile home has been stationed on the site for some 30 years and would continue to be present whatever the outcome of this appeal. The inclusion of Mr and Mrs Lowe as named occupants would not extend the life of the permission as it would still enure solely for the benefit of Mr Lowe senior. Therefore the change in occupation would not lead to any material loss of openness in relation to the physical presence of the structure. Aerial photographs indicate some increase in the degree of domestication and improved tidiness adjacent to the home. As a result the appearance of the mobile home site has changed to a limited extent. Nevertheless the layout has remained very similar to that indicated and allowed for by the approved site layout plan. Mature planting and the roadside hedgerow provide good enclosure and the mobile home is not prominent in views at short or longer distances. In that respect there is no conflict with Policy GB7A of the Local Plan.
62. Mr and Mrs Lowe's occupation may have resulted in some increase in comings and goings and general activity because Mr Lowe is not retired and he makes a living as a landscape gardener. However, an appeal decision issued in 2009 described one of the barns providing garaging for several trailers that belonged to the grandson of Mr Lowe senior, who lived on site and carried out a gardening business²⁰. The second barn was said to be used in part for Mr Lowe senior's logging business, described by others as small scale sale of firewood.
63. I conclude that no harm to openness and no significant encroachment into the countryside have occurred. The evidence suggests no harmful change in character has occurred, resulting in compliance with Policy CP2 of the Local Plan.
64. Nearby residents described events since 2008 and 2010 which included increased traffic movements, use of the yard for business activities, burning of waste, occupation of land by touring caravans and intimidating behaviour. They maintained that the use of land by the younger Lowe family had caused them undue disturbance and loss of amenity. The character of the site had changed in comparison to the time when occupied by Mr Lowe senior, who was a very private and retiring individual and respected the tranquil nature of the immediate environment.
65. Mr Lowe (the appellant) confirmed that he was not responsible for burning waste on the land, although he accepted that a member of his family was responsible. He explained that he travelled to find work, now mainly locally and into Cambridgeshire. A limited amount of equipment was kept on site but his touring caravan was kept in storage near Chelmsford.
66. The view I have formed from the oral evidence is that there has been no burning of waste for over five years and that much of the disturbance was linked to the use of land to the south known as Fox Meadow. In this period the

²⁰ The Inspector also reported that Mr Lowe senior had brought up his grandson since the age of seven. By 2009 the grandson was 21 years old and had his own gardening business.

mobile home was still occupied by Mr Lowe senior, because he moved to Ongar in late 2013. As a matter of fact visits to Greenacres by his family were not precluded by condition 2. Fox Meadow is now owned by Mr Davies, who accepted that activity associated with the appeal site has decreased in recent times. Overall, there is no reason to resist the appellant's occupation of the mobile home on grounds of loss of amenity. It was not a matter pursued by the Council, who would have been familiar with events over the period of disturbance referred to by residents.

67. In conclusion, the harm is confined to the inappropriateness of the original development. In order to satisfy Policy GB2A of the Local Plan, when read with the supporting text, and national policy in the Framework very special circumstances have to be demonstrated. Compliance with Policy CP2, which protects the quality of the rural environment and its countryside character, is achieved. The development is not conspicuous in the Green Belt and hence does not offend Policy GB7A.
68. In terms of the considerations in support of the application the appellant is a Romany Gypsy and travels to seek a livelihood. Mr and Mrs Lowe moved to Greenacres having lived many years in a house in High Ongar whilst their children grew up and went to school. A gypsy family who wishes to move from bricks and mortar to a caravan site counts towards need. There is a significant need for additional gypsy pitches in Epping Forest District and the Council is unable to demonstrate a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against a locally set target. As a result finding suitable pitch accommodation is very difficult.
69. Romany Gypsies are a distinct racial group and because race is a protected characteristic under the Public Sector Equality Duty I must have due regard to advancing equality of opportunity, fostering good relations and eliminating conduct prohibited under the Equality Act 2010. Also, the vulnerable position of gypsies as a minority group means that some special consideration should be given to their needs and different lifestyle in decision making. To this extent there is a positive obligation to facilitate the gypsy way of life under the Article 8 Convention right. As to personal circumstances Mrs Lowe is in poor health and needs regular medical checks. Allowing Mr and Mrs Lowe as named occupiers would increase rather than reduce the probability of Mr Lowe senior returning to live on the site. To require Mr and Mrs Lowe to find alternative accommodation would be disproportionate.
70. The planning history is highly relevant. The development at Greenacres enabled environmental benefit elsewhere in the Green Belt. The personal circumstances of Mr Lowe senior and his associations with both Rockhills and Greenacres very strongly influenced the original wording of condition 2. The occupation by Mr and Mrs Lowe would not affect the length of the permission and by association nor would it affect the period of definitional harm to the Green Belt.
71. The harm by reason of inappropriateness has substantial weight. On the other side of the balance, the planning history has substantial weight in this instance. In the context of this deemed planning application, considerations regarding need for traveller sites and a lack of deliverable sites have significant weight and the personal circumstances of Mr Lowe senior and Mr and Mrs Lowe have moderate weight. The definitional harm is clearly outweighed by other

considerations when taken together. In the context of the very unusual planning history and background, the positive obligation to facilitate the gypsy way of life and the duties under the PSED, very special circumstances exist.

Conclusions

72. In view of the compliance with the development plan as a whole and the support from other considerations, including national planning policy, condition 2 should be reworded to enable Mr and Mrs Lowe to live in the mobile home in addition to Mr Lowe senior. This outcome would protect the rights of Mr Lowe senior and reflect the change in occupation as a result of his and his family's circumstances.
73. For the reasons given above the appeal should succeed on ground (a) and the enforcement notice should be quashed. I propose to discharge the condition which is the subject of the notice, and to grant planning permission, on the application deemed to have been made, for the development previously permitted without complying with the condition enforced against, but to substitute a less onerous condition. In view of the restricted scope of the deemed planning application and to avoid injustice, the wording of the new condition follows the format of the original wording. Grounds (f) and (g) do not fall to be considered.

Section 78 appeal

74. The appellant sought the variation of condition 2 to allow additional named persons and their resident dependants to occupy the site. The proposed wording of the condition was: "The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: William Lowe, William and Susan Cathleen Lowe, Jim and Joanne Scamp". Through the course of the appeal reference was made to the discharge of condition 2 as an alternative but I will determine the appeal on the basis of the proposed variation as set out on the planning application and appeal forms.
75. The appellant made the application under section 73, not section 73A. The reasoning was that the development was implemented and occupied in accordance with the 1996 permission and the imposed conditions. There then was a breach of condition. A remedy was sought under section 73 because the authorised development remained the same and lawful. A fresh planning permission was not required, only a variation of condition 2.
76. The Council, having reviewed the provisions of sections 73 and 73A and the *Lawson Builders* judgement²¹, concluded that whether considered by reference to section 73 or section 73A the current use of the land involves a material change in the lawful use of the Land for agriculture for which a grant of planning permission is required. Nevertheless, as wider planning considerations were taken into account when determining the application the Council did not assert that any prejudice would be caused by determination of the appeal on either basis²².
77. Therefore as a preliminary matter I will consider whether the application was correctly made under section 73 or whether it should have been made under

²¹ *Lawson Builders Ltd and others v Secretary of State for Communities and Local Government and another* [2015] EWCA Civ 122

²² Document 20 Council's closing submissions paragraph 75.

section 73A. The answer affects the scope of the matters under consideration and the powers available to the decision maker. Whether or not there has been a material change of use will inform my conclusion.

78. Variation of a condition per se does not amount to development. Section 73 applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. It applies to development to be carried out and is not itself retrospective to allow validation of completed development. Subsection 2 states that on such an application a local planning authority shall consider only the question of the conditions subject to which planning permission should be granted. However, the provisions of the development plan and other material considerations should be taken into account. A decision under section 73(2) leaves the original planning permission unaltered. If the application is successful and a fresh planning permission is granted under section 73(2)(a) it is an entirely new planning permission for development and may be subject to conditions differing from those originally imposed. The new conditions must be ones which could have been imposed on the original permission, in other words the permission must not be rewritten.
79. Section 73A(1) provides for planning permission to be granted for development carried out before the date of the application. Subsection (1) applies to development carried out (a) without planning permission, (b) in accordance with a planning permission granted for a limited period, or (c) without complying with some condition subject to which planning permission was granted. In making a decision it is necessary to consider the planning merits of allowing the development to continue.
80. An application under s73A is in all respects a conventional planning application, save that the development will have commenced. Where an application has been triggered by the fact that there has been a breach of condition the local planning authority in considering the merits of the application is not required to confine its attention to the appropriateness of the condition.
81. The sequence of events in this case is that the development granted permission in 1996, the stationing of a mobile home for residential use, was carried out in accordance with the permission and condition 2 was complied with over a number of years. On the Council's evidence two mobile homes were moved onto the site in early January 2014. At the inquiry Mrs Scamp confirmed that both mobile homes arrived at the same time and that she was living on the site in February 2014. The planning application to vary condition 2 was dated 24 March 2014. Whilst exact dates are not entirely consistent there is no doubt that the application was made after a breach of condition 2 had occurred.
82. The provisions of section 73A enable planning permission to be granted retrospectively on a planning application made after the act of development or the non compliance with a condition has occurred. That is what has happened in this case, notwithstanding that the stationing of the mobile home was carried out in accordance with the 1996 permission many years ago. The application was for retrospective planning permission to enable the residential use of the land for the stationing of two mobile homes to continue without complying with condition 2.
83. The point taken by the Council on the material change of use does not appear to be consistent with the withdrawal of the first enforcement notice and Mr

Courtney's acceptance in his evidence that a material change of use had not taken place. Furthermore, the benefit of the 1996 permission continues throughout Mr Lowe senior's lifetime, whether or not he resides on site in the mobile home. Therefore the lawful use of the site land has not reverted back to a single primary use for agriculture. However, the matter of a material change of use is appropriately addressed in this appeal and rests primarily on whether the introduction of second caravan has led to a material change of use by intensification.

84. Based on case law, an increase in the number of caravans on the land on its own does not necessarily result in a material change of use, rather the test is whether the intensification of use has changed materially the definable character of the use of the land²³. The planning unit, against which to measure the materiality of change, is the land which comprises the 2.66 hectares owned and occupied by the appellant (the appeal site). The various descriptions of the land and activities over time indicate a physical and functional relationship between the yard area and the adjacent grazing lands and no-one put forward any analysis to support a conclusion that the yard, including the mobile homes, had become physically or functionally separated from the rest of the land. In fact throughout both the Council and the appellant approached their respective cases on the basis of the area of land equivalent to the appeal site.
85. The changes in activities and patterns of movement and traffic described by Mr Davies and local residents pre-dated and were unrelated to the introduction of a second caravan. The 2009 appeal decision suggests that activity was focussed on the yard area, similar to the situation now. The appellant and Mr Scamp may well park their work vehicles in the yard but they travel to sites elsewhere to conduct their landscape gardening businesses. The burning of waste, possibly associated with business activities, took place on occasion in 2010 and 2011 but there is no claim that a new commercial use has become established at the site. A comparison of aerial photographs dated 2006 and 2015 indicates the garden areas near the caravans have extended a little way into the field to the north and that the land is managed to a greater degree than before. However, this limited change in appearance does not significantly contribute to a change in the overall character of the land.
86. Therefore the second caravan and the increase in the number of residents and associated activity has not given rise to such materially different planning circumstances to bring about, as a matter of fact and degree, a change in the definable character of the use of the land comprising the planning unit. A material change of use has not occurred in that sense. Furthermore, if the activity carried on at the site remains the same, a change merely in the identity of the person carrying it on does not amount to a material change in the use.
87. Relating this finding back to the 1996 permission, the area that was shown as the application site in 1996 is equivalent to the current planning unit. That being so the 1996 permission in effect allowed a change of use of the planning unit to a mixed use for the purposes of agriculture and a caravan site, with the permission for the mixed use time-limited. However, that was not the

²³ Including *Reed v Secretary of State for Communities and Local Government and Another* [2014] EWCA Civ 241; *Hertfordshire County Council v Secretary of State for Communities and Local Government and Metal Waste Recycling Limited* [2012] EWCA Civ 1473

description of the development granted permission. This is a further reason why the application should be considered under section 73A.

88. In conclusion, the proposed 'variation of condition 2' is properly considered as an application under section 73A, best categorised as for development carried out without planning permission for the avoidance of any doubt. The development involves a material change of use of the land to a mixed use for purposes of agriculture and a residential caravan site. The planning issues related to this form of development were dealt with by all parties because the development on site now was assessed in the evidence. Therefore it would not cause injustice to proceed on this basis. Even considering the application under section 73 would require the planning merits of the continuation of the use to be assessed, particularly bearing in mind the location of the site within Green Belt, the planning history and the prevailing planning policies including policies on traveller sites.

Main issues

89. The change of use to a mixed use is inappropriate development in the Green Belt, taking account of Policy E in the PPTS and paragraph 90 of the Framework. This type of development is not identified as 'appropriate' by Policy GB2A of the Local Plan. The main issue is whether the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Given that one of the primary uses is a caravan site to be occupied by an extended gypsy family, it is relevant to refer to the PPTS to indicate the range of matters to be considered. These include the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for the applicant, other personal circumstances of the applicant and locally specific criteria used to guide allocation of sites or assessing applications.

Potential harm

90. A starting point is to have in mind the existing authorised development. Mr and Mrs Lowe's mobile home may remain in residential use, at least during the lifetime of Mr Lowe senior. Even after his passing there is no requirement for the mobile home to be removed and the land to be restored to its former condition. The lawfulness of the group of buildings in the yard has not been questioned.

Openness, purposes of Green Belt

91. The second mobile home is sited within the building group, between the open sided barn and the stables block. By reason of this position, and its modest size and low height, it is not particularly visible. More noticeable is the garden area that has encroached into the open grazing land to the north. The contrasting appearance with the agricultural land draws attention to the residential use. A second caravan, occupied by a family with four children, probably would give rise to greater activity on the site, more parked vehicles and comings and goings, which would detract from openness. Even so the development is not conspicuous when assessed against the terms of Policy GB7A of the Local Plan. By allowing the additional named persons and their resident dependants to occupy the site would increase the longevity of the residential use, which in turn would increase the harm by reason of a small loss of openness and the degree of encroachment. Significantly the Council's objection was limited to

harm by reason of inappropriateness and the proposed permanent use of the land as a caravan site.

92. Conditions on the number and type of caravans, the layout of the site and the parking of commercial vehicles would ensure that the actual harm would be contained at its current low level.

Amenity

93. There is good separation distance between the caravans and the nearest dwellings, achieved in part by the agricultural element of the mixed use. The disturbance reported by residents that arose in the period after 2008 and more particularly around 2010/2011 probably was atypical and not wholly attributable to the current occupiers. A business use was not established. A reasonable expectation is that the level of activity associated with a small scale family caravan site as part of a mixed use would be low and compatible with its surroundings. This is not an area within the district where there is a large travelling community and a small family site would not dominate the nearest settled community. As pointed out by the Council, no matter how long a planning condition has been in operation, it cannot give rise to a legitimate expectation on the part of local residents that it will not be discharged.
94. The site would provide a good living environment for the occupiers. In accordance with the PPTS positive weight should be given to the opportunity to promote healthy lifestyles by having space on site for children's play. Also the site is not enclosed with so much hardstanding, high walls or fences to give the impression that the site and its occupants are deliberately isolated from the rest of the community. The reliance on soft landscaping and gates and fencing respectful of the rural character of the area help to blend the site into its surroundings.
95. There has been local concern, with reference to another gypsy site nearby, that once established a gypsy site would expand and create a precedent. The events described by local residents between 2010 and 2014 and the unsuccessful planning application in 2012 for a four pitch gypsy site lend some weight to this concern. However, the development plan, national planning policy and the specific controls exerted by any planning permission would provide for the regulation of and benchmark for assessing the acceptability of future change.

Local infrastructure

96. The increase in traffic using the network of country lanes would be unlikely to be significant and would be absorbed within the day to day variability of traffic. There is no evidence to substantiate a conclusion that the development would place an undue pressure on local infrastructure.

Other locational criteria

97. Referring to Policy H10A and the criteria in the Local Plan (paragraph 9.67a), the site is within a reasonable distance of a settlement for access to schools, shops and other facilities and has convenient and safe access to the main road network. The Council withdrew its objection on accessibility grounds at the inquiry.
98. The mobile homes are sited within an existing group of agricultural buildings where there is good boundary planting to the field edges. These site conditions

have helped to minimise the effect on the appearance of the countryside. The Council did not maintain an objection on loss of visual amenity.

99. The site is in open countryside and away from existing settlements, a location where PPTS states that new traveller sites should be very strictly controlled. However, this has to be balanced against the locational constraints acknowledged in the Local Plan and the site specific circumstances and planning history applicable in this case.

Other considerations

Need for traveller pitches

100. As of June 2016 there were 123 authorised permanent pitches in the District and 16 authorised temporary pitches. Most if not all pitches are in the Green Belt, which covers 92% of the District. Nazeing and Roydon parishes are recognised as having the most number of pitches.
101. In July 2014 a Gypsy and Traveller Accommodation Assessment (GTAA) was published for the County of Essex and the unitary authorities of Thurrock and Southend-on-Sea. The new pitch provision required for the study area amounted to 387 pitches for the period 2013-2018 and a further 121 pitches for 2018-2023²⁴. The findings specific to Epping Forest District were: current need 28 pitches and a future need of 84 pitches over the period of 2013 to 2033, resulting in a total requirement of 112 extra pitches.
102. Since the study was carried out, the information provided by the Council and Green Planning Studio (GPS) for the appellant identify 5 pitches which have been granted planning permission²⁵.
103. GPS considered that the base date figures in the GTAA underestimated the number of concealed households, those in bricks and mortar and the number of family units. In terms of emerging need, a 3% compound growth rate figure was preferred to the 2% annual growth rate used in the GTAA. Consequently it was submitted that the GTAA underestimated need and that 64 additional pitches were needed in the District by 2018, a further 29 from 2018-2023, with an overall total of 166 additional pitches by 2033. The Council accepted that unmet need is significant. No detailed rebuttal was presented regarding the methodology of the GTAA. Reliance was placed on an appeal decision in Chelmsford where the Inspector did not accept the criticisms of the GTAA regarding doubling up and concealed need and found the 2% growth rate a reasonable assumption.
104. The PPTS requires local planning authorities to make their own assessment of need and Policy A requires the use of a robust evidence base to establish accommodation needs. The GTAA methodology incorporated use of local evidence through desk based research, interviews with the traveller community and a wide range of stakeholders. The household formation rate of 2% was supported by research and technical assessment. There is not the detailed contrary locally based evidence to dismiss the findings and to adopt the figures promoted by GPS instead. Furthermore, national guidance on assessment of housing needs in relation to caravans and houseboats is under review. For the

²⁴ GTAA Table 83

²⁵ Hallmead Nursery 4 pitches and Woodside 1 pitch. The permission granted on appeal at Sons Nursery in February 2016 was for a four year period.

purposes of this appeal it is sufficient to recognise that there is a significant unmet need and that the GTAA is probably a minimum figure. Interestingly, the identified pitch need in Epping Forest District is relatively high when compared to a number of the Essex local authorities, a position which is unlikely to have significantly changed.

105. The PPTS reaffirmed that local planning authorities should in producing their Local Plan identify and update annually a supply of specifically deliverable sites sufficient to provide 5 years worth of sites against their locally set targets. The Council accepted that it does not currently have a 5 year supply of deliverable sites and that it had yet to identify what the five year target should be. The framework for the future development of the District for the period up to 2033 will be set out in the Epping Forest District Local Plan, which is expected to be adopted in October 2018. In the interim the Council's approach is the continued use of Policy H10A of the Local Plan. Reference was made to the 49 permanent authorised pitches granted planning permission since January 2008 by this means, to support the Council's view that there has been no failure of policy in the District. In addition, options identified for making additional pitch provision include more intensive use or extensions to existing permanent authorised sites, regularising suitable unauthorised pitches, incorporating new traveller provision on housing and other development sites and specific land allocations.
106. The Council decided when adopting the Local Plan Alterations to pursue a reactive approach to traveller site provision because of the built up nature of the urban areas in the district and the inability to readily identify locations for additional gypsy sites. Even though the Council has been receptive to approving suitable sites, the reactive approach is not up to date and for a number of years has not represented an adequate policy response in light of national policy requirements and the emphasis on a plan led process. Whilst PPTS promotes more private traveller site provision there is recognition that there will always be those travellers who cannot provide their own sites. Despite the private site provision to date, the current pressing need is probably in the order of at least 28 pitches.
107. The probability is that at least some of the future additional pitch provision will be on Green Belt land, bearing in mind the current distribution of sites, the options under consideration, the reasons behind future need and the constraints on the use of urban land. Urban extensions or site allocations taking land out of Green Belt are acknowledged as possibilities.
108. A consequence of the failure to bring forward adequate site provision through the development plan process is that no suitable alternative sites are able to be identified for those in need.
109. In conclusion, there are several need related factors that weigh in favour of the development and which fall into two main categories. The significant unmet need has considerable weight. The absence of an effective up to date strategy, including land allocations, to meet need has very significant weight.

Personal circumstances and rights

110. The following information is based on the witness statements and oral evidence of Mr Lowe and Mrs Scamp.

111. Before moving to the appeal site Mr and Mrs Lowe lived in a house for some 25 years in order that their children could receive an education and they could have an address to get registered at a doctors and such like. Having been brought up in caravans they did not like a conventional home and travelled or visited the pitch of Mr Lowe senior during that time. They wished to go back to their traditional way of life and looked to buy land in the locality before purchasing Greenacres from Mr Lowe senior when it was up for sale. Mrs Lowe is not in good health and needs assistance to be at hand all the time. She requires regular visits to the doctors and is under the care of the hospital in Epping.
112. Mr and Mrs Scamp spent most of their early married life travelling without a settled base. They then tried living in a house but found the experience very difficult and suffered abuse. They also used their parents' house as a base before moving onto their current pitch. Mr Scamp grew up on the Council run gypsy site at Hop Gardens at Toothill. They know that there is no chance of getting a pitch there because it is full and the occupants do not travel.
113. They have four children aged 13, 9, 5 and 3 years old²⁶. Their eldest son attends Ongar Academy and their younger sons attend High Ongar Primary School. Their daughter was due to start nursery last September. The family enjoy good health. Mrs Scamp explained that having a pitch at Greenacres enables her to look after her mother. Also the children are able to have a stable education, whilst they continue travelling as a family at weekends and school holidays.
114. Mr Lowe and Mr Scamp buy and sell horses when they travel to the horse fairs. Although horse dealing was not claimed to be a main source of income it complements the travelling lifestyle. The ability to graze horses on the land at Greenacres is an asset that also supports the agricultural element of the mixed use and may be expected to assist in the management of the land.
115. In conclusion, the move to Greenacres has facilitated the gypsy way of life, enabling the extended family to strengthen their traditional lifestyle, provide mutual support, have equality in opportunity in accessing health and welfare services and ensure that the children have a safe home with stability in education. This consideration, which takes account of personal circumstances, has significant weight.
116. A cultural preference not to live in bricks and mortar accommodation should be respected and as a consequence both Mr and Mrs Lowe and Mr and Mrs Scamp and their family had a need for suitable accommodation. In the short term at least there is no indication of any lawful or suitable available alternative, a consideration which has significant weight. If they are unable to stay at Greenacres there would be serious interference with home and family life. The ability to stay on the site would be in the best interests of the children, which is a primary consideration that inherently has substantial weight.

Green Belt balance

117. The harm to the Green Belt by reason of inappropriateness has substantial weight. The limited harm to openness and by reason of countryside encroachment adds a small degree of additional weight against the

²⁶ Ages as at 10 August 2016

development. No other material harm has been identified. The planning history is a neutral factor in the context of this development, unlike the position in the narrow scope of the deemed application in the enforcement appeal.

118. On the other side of the balance the significant unmet need for traveller sites has considerable weight and the absence of an effective up to date strategy to meet need has very significant weight. The lack of a suitable alternative site has significant weight, as does also facilitating a gypsy way of life. Having regard to the great importance attached to protecting the Green Belt in the public interest and the weight given to other considerations, the best interests of the children has significant weight.
119. I conclude the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
120. Protection of Green Belt land remains of high importance in planning policy. In this case personal circumstances and unmet need are not the only considerations in favour of the mixed use development. There may have been an expectation, especially among local residents that the 1996 permission would come to an end, residential use would cease and the land would revert to the former condition and use. However, as close examination has shown against the background of principles established through case law, the permission and the controls in condition 2 were not well drafted. Circumstances have changed over the intervening 20 years or more particularly as regards the range of issues to be taken into account. All matters considered very special circumstances exist to justify the development, as required by local and national policy.
121. There is compliance with Policies H10A, GB2A, GB7A and CP2. The mixed use is compliant with the development plan when assessed as a whole. There are no material considerations that warrant a decision other than in accordance with the development plan.

Planning conditions

122. A grant of permission involving a material change of use to a mixed use will be a new stage in the planning history of the site. The site at issue is defined on the location plan submitted with the application. The discussion at the inquiry on planning conditions ranged over various matters, including the scope of the application and the relevance of the 1996 permission. In view of my interpretation and conclusions on the way the development should be assessed the following conditions are reasonable and necessary.
123. The use and occupation will be made personal to the people named in the application because their gypsy status, accommodation needs and the best interests of the children have been factors weighing in favour of a grant of planning permission on this Green Belt site. A condition requiring the use to cease and the restoration of the land at the end of their occupation is necessary to reinforce the nature of the personal permission.
124. A restriction on the number of pitches and on the number and type of caravans on the two pitches is to control the harm to openness, the degree of encroachment and local amenity. The parties suggested a limit of two caravans but it would be reasonable to allow for a touring caravan on Mr and Mrs Scamp's pitch. The additional caravan is able to be accommodated in the yard

with no noticeable loss of openness, as was evident on the site visit. In the interests of amenity and maintaining the peaceful and unspoilt character of the area no commercial activities should be permitted over and above the agricultural use and the keeping of horses incidental to the occupation of the caravan site. For similar reasons vehicle size should be controlled through a weight limit.

125. A site plan is required to show and confirm the existing siting of the caravans, together with the pitch sizes and incidental works. An acceptable site layout is necessary to ensure that the caravan site continues to be concentrated on the yard area in order to control the impact of the mixed use on the Green Belt.

Conclusion

126. For the reasons given above I conclude that the appeal should be allowed.

DECISIONS

Appeal Ref: APP/J1535/C/14/2225843

127. It is directed that the enforcement notice is corrected by the deletion of the final sentence in paragraph 3 and the substitution of: "It appears that the condition has not been complied with because the Land and the mobile home are in occupation by persons not being William Lowe (the applicant) or his dependants".
128. Subject to the correction above, the appeal is allowed and the enforcement notice is quashed. In accordance with section 177(1)(b) and section 177(4) of the 1990 Act as amended, condition No 2 attached to the planning permission dated 18 November 1996, Ref EPF/50/96, granted by Epping Forest District Council is discharged and the following new condition is substituted: "This consent shall enure solely for the benefit of the applicant (William Lowe senior) and the mobile home hereby approved is to be occupied solely by Mr William Lowe senior and by Mr William Lowe junior and Mrs Susan Lowe during Mr William Lowe senior's lifetime".
129. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the stationing of a residential mobile home without complying with the said condition No 2 but subject to the other conditions attached to that permission and to the following new condition: "This consent shall enure solely for the benefit of the applicant (William Lowe senior) and the mobile home hereby approved is to be occupied solely by Mr William Lowe senior and by Mr William Lowe junior and Mrs Susan Lowe during Mr William Lowe senior's lifetime".

Appeal Ref: APP/J1535/A/14/2225844

130. The appeal is allowed and planning permission is granted for a material change of use to a mixed use for purposes of agriculture and a residential caravan site at Greenacres, Silver Lane, Willingale, Essex CM5 0QL in accordance with the terms of the application, Ref EPF/0657/14, dated 24 March 2014, and the location plan submitted with it, subject to the following conditions:

- 1) The use hereby permitted and the occupation of the land shall be carried on only by the following and their resident dependants: William Lowe senior, William and Susan Cathleen Lowe, Jim and Joanne Scamp.
- 2) When the land ceases to be occupied by those named in condition 1 above the caravan site element of the mixed use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the caravan use, shall be removed and the land shall be restored to its condition before the development took place, in accordance with the scheme approved under condition 6 below.
- 3) There shall be no more than 2 pitches on the site. No more than a total of three caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, of which no more than two caravans shall be a static caravan, shall be stationed on the land at any time.
- 4) No more than one commercial vehicle per pitch, which shall not exceed 3.5 tonnes in weight, shall be kept on the land for use by the occupiers of the caravans hereby permitted.
- 5) Except for agricultural activities, no commercial activities, including the storage of materials or the burning of materials, shall take place on the land.
- 6) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within three months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within two months of the date of this decision a site development scheme shall have been submitted for the written approval of the local planning authority. The scheme shall provide details of (a) the internal layout of the site, including the siting of caravans, demarcation of pitches, hardstanding, access roads, parking and amenity areas, area of land to be used for agricultural purposes, (b) boundary treatment and planting, and (c) proposals for the restoration of the site to its condition before the development took place (or as otherwise agreed in writing by the local planning authority) at the end of the period the site is occupied by those permitted to do so.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained and the caravans shall only be positioned in the approved locations.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Diane Lewis

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Michael Rudd	Barrister
He called	
Mr William Lowe	The Appellant
Mrs Joanne Scamp	Occupier of site
Mr Matthew Green	Director, Green Planning Studio Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Mark Beard	Barrister, instructed by the Solicitor to the Council
He called	
Mr Graham Courtney	Senior Planning Officer, Epping Forest District Council

FOR INTERESTED PERSONS

Mr John Dagg	Instructed by Mr and Mrs Davies
He called	
Mr Peter Davies	Local resident

INTERESTED PERSONS:

Willingale Parish Council	Statement read at inquiry on 16 June 2015
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DOCUMENTS

- 1 Willingale Parish Council Statement
- 2 Planning permission ref EPF/50/96 dated 18 November 1996, including location, site and elevation plans
- 3 Section 106 agreement dated 18 November 1996
- 4 *Wall v Winchester City Council* [2015] EWCA Civ 563
- 5 List of suggested conditions
- 6 Council response to Inspector's Pre-Inquiry Note 2
- 7 Local Plan update 4 August 2016
- 8 Notifications of the inquiry
- 9 Appeal decisions refs. APP/W1525/A/14/2226970 May Farm, East Hanningfield; APP/W1525/C/14/2227120 East Hanningfield Road
- 10 Signed witness statement of Mrs Scamp
- 11 Signed witness statement of Mr Lowe
- 12 Caravan site licence: Greenacres, Silver Lane, Willingale, dated 10 December 2014
- 13 Committee report ref EPF/50/96 1 April 1996
- 14 Planning application form ref EPF/50/96 + plans
- 15 Signed statement of common ground
- 16 Database on traveller sites 22/06/2016
- 17 Closing submissions for Mr Davies
- 18 Closing submissions on behalf of the Council
- 19 Closing submissions on behalf of the Appellant

20 Bundle of authorities

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