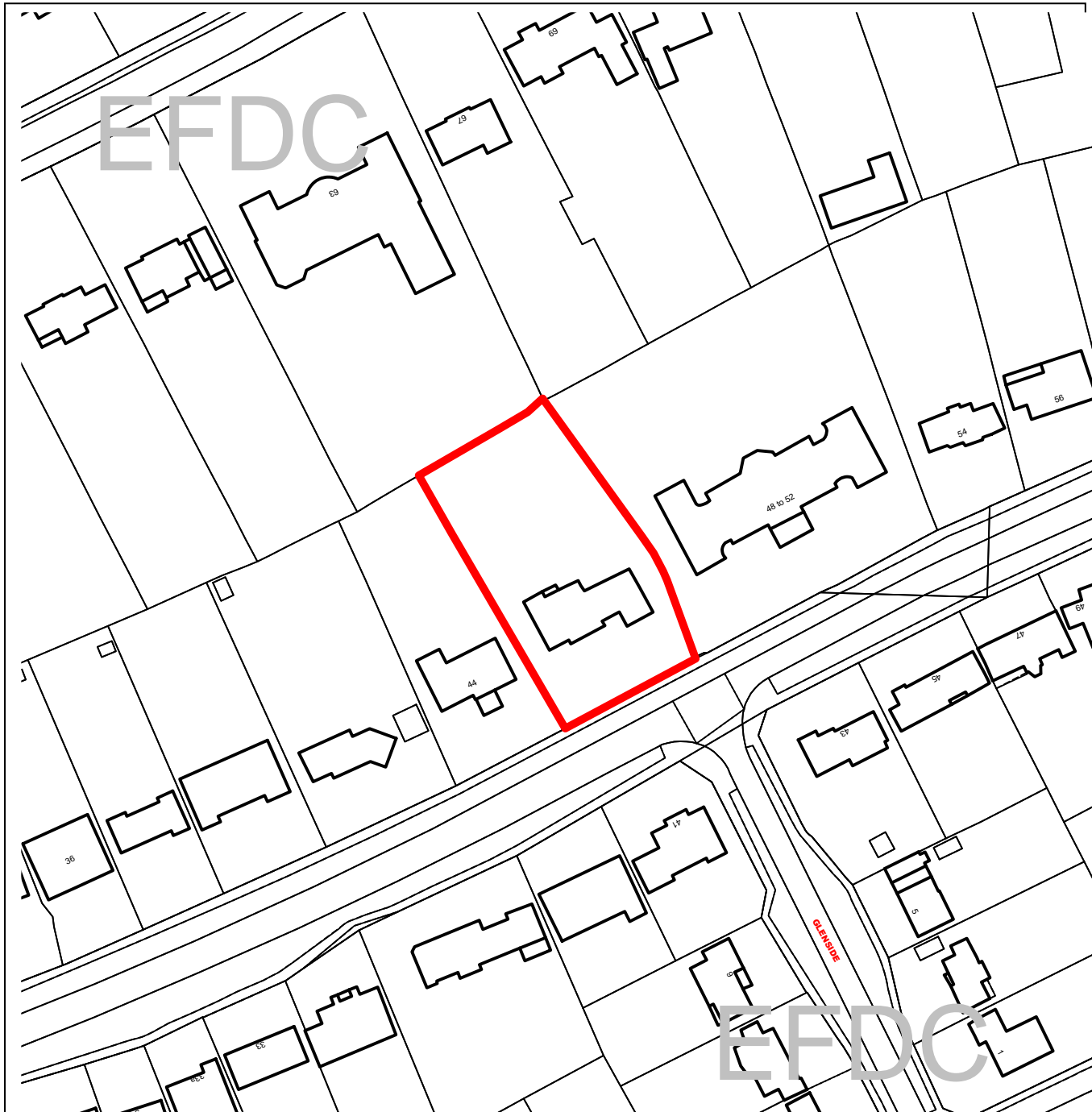




Epping Forest District Council



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Application Number:	EPF/0403/21
Site Name:	46 Stradbroke Drive Chigwell IG7 5QZ
Scale of Plot:	1:1250

Report Item No: 9

APPLICATION No:	EPF/0403/21
SITE ADDRESS:	46 Stradbroke Drive Chigwell IG7 5QZ
PARISH:	Chigwell
WARD:	Grange Hill
APPLICANT:	Mr Robert Davis
DESCRIPTION OF PROPOSAL:	Proposed sub-division of the second floor flat to 2 flats, revised layout of basement and revised parking layout. (Amendment to decision reference EPF/0973/17. Number of flats would be increased from 5 to 6.
RECOMMENDED 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=648374

CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 17-120-01, 17-120-05 Rev A and 17-120-SK16 Rev E.
- 3 No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays without the prior written permission of the Local Planning Authority.
- 4 Prior to commencement of any works to implement the permission hereby granted, details and location of the parking spaces equipped with active and/or passive Electric Vehicle Charging Points to serve the flats hereby approved shall have been submitted to and approved in writing with the Local Planning Authority (LPA), unless otherwise agreed in writing with the LPA. The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation. The details shall include:
 - Location of active and passive charging infrastructure;
 - Specification of charging equipment; and
 - Operation/management strategy. The council will expect that a management plan for the charging points is set out clearly. This will address:
 - a) Which parking bays will have active and/or passive charging provision, including disabled parking bays;
 - b) How charging point usage will be charged amongst users;

- c) The process and the triggers for identifying when additional passive charging points will become activated; and
- d) Electricity supply availability. The electricity supply should be already confirmed by the Network Provider so that the supply does not need to be upgraded at a later date.

5 The parking area shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents (staff) and visitors vehicles.

And subject to the applicant first entering into a legal agreement within three months of this decision under Section 106 to provide appropriate contributions towards management and monitoring measures on any adverse impact on the Epping Forest Special Area of Conservation with regard to recreational use and air quality.

This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than five objections are received (or in cases where less than 5 were consulted, a majority of those consulted object) on grounds material to the planning merits of the proposal (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Description of Site:

The application site lies on the north west side of Stradbroke Drive opposite its junction with Glenside and comprises around 0.19ha. The original detached dwelling has been demolished and work is progressing with construction of the replacement three storey flatted block with basement parking and storage.

The site lies within the built up area of Chigwell. Tree Preservation Orders cover a number of adjoining properties, but no such designation affects the application site.

Description of Proposal:

The application proposes the conversion of the second floor from the approved single unit comprising a 3 / 4 bedroom unit into 2 x 2 bedroom units. The layout, previously considered under application EPF/1025/19, follows the broad layout of the approved scheme and of the lower floors providing bedrooms to the front and living areas to the rear. No alterations are proposed to the external appearance of the building as a result.

At ground floor level, the frontage layout has been amended to include three parking spaces designed to current standards, replacing four narrower spaces previously indicated – this issue is discussed further below.

The applicants have confirmed that they are willing to complete a suitable legal agreement to provide contributions in accordance with the Interim Air Quality Mitigation Strategy and recreational impact on the EFSAC (respectively £335 and £352, plus 5% monitoring and legal costs).

Relevant History:

EPF/1893/15 – Demolition of house at 46 Stradbroke Drive and the erection of a new building with five flats. – Dismissed on appeal.

EPF/2987/15 – Demolition of existing house and erection of new building comprising five flats. The application was refused and subsequently allowed on appeal.

EPF/0973/17 – Demolition of existing and erection of new building comprising five flats approved – this was in effect a revised design only
EPF/1025/19 – Proposed sub-division of the second floor flat to 2 flats, revised layout of basement and revised parking layout refused and appeal dismissed – this appeal decision forms the main consideration in this case and is discussed below.

A number of minor applications for non-material amendments and approval of details relating to the conditions on the original approvals have also been considered.

Policies Applied:

Adopted Local Plan:

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

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

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the quality of the rural and built environment
CP7	Urban form and quality
DBE1	Design of New Buildings
DBE2	Effect of Neighbouring Properties
DBE3	Design in Urban Areas
DBE6	Car Parking
DBE8	Private Amenity Space
DBE9	Loss of Amenity
LL10	Adequacy of Provision for Landscape Retention
LL11	Landscape Schemes
ST4	Road Safety
ST6	Vehicle Parking

NPPF (February 2109):

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

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

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

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

- 5 Delivering sufficient supply of homes
- 11 Making effective use of land
- 12 Achieving well designed places
- 14 Meeting the challenge of climate change, flooding and coastal change

Epping Forest District Local Plan (Submission Version) 2017:

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

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

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

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

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

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

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework.

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

POLICY	WEIGHT AFFORDED
SP1 Presumption in favour of sustainable development	Significant
SP7 The Natural Environment, landscape character and green infrastructure	Significant
T1 Sustainable transport choices	Significant
DM2 Epping Forest SAC and Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM9 High Quality Design	Significant
DM10 Housing design and quality	Significant
DM15 Managing and reducing flood risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM19 Sustainable water use	Significant
DM21 Local environmental impacts, pollution and land contamination	Significant
DM22 Air quality	Significant

Consultation Carried Out and Summary of Representations Received

Date of site visit: 26 March 2021
 Number of neighbours consulted: 36
 Site notice posted: No, not required

Responses received: Objections have been received from 27 properties as under:
 STRADBROKE DRIVE – 3, 4, 6, 8, 9, 12, 13, 14, 24, 28, 29, 31, 33a, 34, 35, 38, 39, 40, 44, 45, 49, 51, 54, 56 and 58
 BRACKEN DRIVE – 60
 COURTLAND AVENUE – 32

Objections cover a range of issues as below:

- Impact on traffic and highway safety – issues include increased vehicular movements and potential on street parking. A number of objectors comment that parking spaces are below locally prescribed minimum widths.
- Noise and disturbance arising from the additional unit and the increased intensity of the development proposed
- Impact on local character – the area is predominantly larger family houses and the development is of a significantly materially different character
- Precedent for similar developments
- Impact on air quality – some objectors argue the offer of a contribution in line with the Interim Air Quality Mitigation Strategy is inadequate
- Authority to determine – some objectors are querying the Council’s ability to determine the application, suggesting it must be returned to the Inspectorate for determination.

Parish Council: Chigwell Parish Council raised no objection, on the condition that the proposed vehicle parking arrangements achieve the requisite standards required by Essex County Council Highways.

Main Issues and Considerations:

As set out above, the application amounts to a resubmission of the scheme refused under EPF/1025/19. The appeal against refusal was dismissed, and the appellants claim for costs refused. There have been no substantial changes in local conditions since then that would specifically affect the consideration of the application. In broad policy terms, there have been limited changes to the NPPF and the LPSV has reached a more advanced stage giving greater weight. Thus, the previous reasons for refusal and the Inspectors decision must form the starting point of this assessment.

The previous application was refused for two reasons as under:

1. The proposal, by increasing the number of units from an approved 5 to 6, would, by reason of increased activity in the form of pedestrian comings and goings and vehicle usage, have a detrimental impact on the character and appearance of the area and living conditions and amenities to nearby properties through noise and disturbance. The proposal would therefore be contrary to policies DEB2 of the Adopted Local Plan 1998/2006, and Policy DM9 of the Local Plan Submission version 2017.
2. The proposed parking bays falls below the minimum standards for Vehicle Parking Bay sized contained within the Essex County Council Parking Standards (Design and Good Practice) 2009. The proposal is therefore contrary to the aforementioned document, and Policy T14 of the Adopted Local Plan 1998/2006.

At the appeal, the Council introduced a further ground relating to the impact of the development on the Epping Forest SAC in terms of both recreational pressure and air quality impact.

The appeal was accompanied by an application for costs which was refused.

A copy of the appeal decision is attached. The Inspector identifies three main issues at paragraph 9 – the effect on living conditions of neighbouring occupiers, whether adequate provision was being made for parking, and the effect of development on the integrity of the EFSAC.

On the first issue, the Inspector concludes at paragraph 14 *'I am satisfied that the proposed development would not cause unacceptable harm to the living conditions of neighbouring occupiers through noise or disturbance. I am similarly not persuaded that activity likely to be associated with 6 flats on the site rather than 5 would be fundamentally different so as to cause harm to the character or appearance of the area.'*

Further in terms of overlooking – *'I accept that the development would provide for one additional dwelling at second floor level and there would be changes to the rooms served by the windows at this level. However, given the relationship of the site with nearby buildings I am satisfied that this would not cause harmful overlooking or a loss of privacy for occupiers of neighbouring dwellings'*.

The Inspector concluded the development would not cause unacceptable harm to living conditions

On the second issue, the Inspector noted the adopted parking standards would generate a requirement for 14 spaces to serve the 6 units, and that 15 spaces were proposed. The 11 spaces in the basement were acknowledged as being 2.5m wide, below the preferred width in the parking standards but meeting the minimum bay size. The four external spaces comprised three closest to 44 Stradbroke Drive and one located centrally, again measuring 2.5m wide. The Inspector noted at paragraph 21 *'There would be no obstruction to the outer edges of the bank of spaces or to their front, although I acknowledge that the central space would be more constrained and overall I consider it is unlikely that it would be possible to comfortably accommodate parking for 3 larger vehicles within this area. Nevertheless, I am satisfied that there would be capacity for at least 2 vehicles here'*.

The Inspector therefore accepted that there were 14 usable spaces which met the requirements. As to concerns around overspill parking, the Inspector commented '*While I note that there are no parking restrictions on Stradbroke Drive, Glenside or Bracken Drive, I therefore have no cause to find that the development would result in displacement parking within the surrounding area. Furthermore, although I note the width of Stradbroke Drive and the location of the appeal site close to the junction with Glenside, there is little evidence as to how parking on the street could have a harmful effect on the character or appearance of the area, the living conditions of neighbouring occupiers, highway safety or the flow of traffic and at my visit I did not see high levels of on-street parking or other indications of a clear parking problem.*'

On the issue relating to the EFSAC, the Inspector was satisfied with the Council's arguments that it would be premature to determine the appeal in the appellants favour until it could be established that the development would not lead to significant harm to the EFSAC.

Finally, the Inspector commented on the issue of local character raised by objectors stating '*I have had regard to matters raised by third parties including the effect of the proposal on the character of the street, the capacity of local services and impacts during the construction period. However, none of the matters raised either individually or collectively alter my conclusions on the main issues.*'

In response to the Inspectors comments, the frontage layout has been amended to show three parking spaces instead of 4 and these now meet the 2.9m preferred width. This reflects the Inspectors view that 14 spaces meets the required standard.

As referenced above, the application is now accompanied by a commitment to meet the obligations now identified by the Interim Air Quality Strategy and it is possible to complete an appropriate assessment for the purposes of determining the application.

Assessment under the Conservation of Habitats and Species Regulations 2017 (as amended)

A significant proportion of the Epping Forest Special Area of Conservation (the EFSAC) lies within the Epping Forest District Council administrative area. The Council has a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to assess whether the development would have an adverse effect on the integrity of the EFSAC. In doing so the assessment is required to be undertaken having considered the development proposal both alone and in combination with other Plans and Projects, including with development proposed within the Epping Forest Local Plan Submission Version (LPSV).

The Council published a Habitats Regulations Assessment in January 2019 (the HRA 2019) to support the examination of the LPSV. The screening stage of the HRA 2019 concluded that there are two Pathways of Impact whereby development within Epping Forest District is likely to result in significant effects on the EFSAC. The Pathways of Impact are effects of urbanisation with a particular focus on disturbance from recreational activities arising from new residents (residential development only) and atmospheric pollution as a result of increased traffic using roads through the EFSAC (all development). Whilst it is noted that the independent Inspector appointed to examine the LPSV, in her letter dated 2 August 2019, raised some concerns regarding the robustness of elements of the methodology underpinning the appropriate assessment of the LPSV, no issues were identified in relating to the screening of the LPSV or the Pathways of Impact identified. Consequently the Council, as Competent Authority under the Habitats Regulations, is satisfied that the Pathways of Impact to be assessed in relation to this application pertinent to the likely significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

1. Recreation activities arising from new residents (recreational pressures); and
2. Atmospheric pollution as a result of increased traffic using roads through the EFSAC.

Stage 1: Screening Assessment

This application has been screened in relation to both the recreational pressures and atmospheric pollution Pathways of Impact and concludes as follows:

1. The site lies within the Zone of Influence as identified in the Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation' (the Interim Approach) adopted by the Council on 18 October 2018 as a material consideration in the determination of planning applications. Consequently the development would result in a likely significant effect on the integrity of the EFSAC as a result of recreational pressures.
2. The development has the potential to result in a net increase in traffic using roads through the EFSAC.

Consequently, the application proposal would result in a likely significant effect on the integrity of the EFSAC in relation to both the recreational pressures and atmospheric pollution Pathways of Impact.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to both the recreational pressures and atmospheric pollution Pathways of Impact.

Stage 2: 'Appropriate Assessment'

Recreational Pressures

The application proposal has the potential to increase recreational pressures on the EFSAC. However, the Council, through the development of the Interim Approach, has provided a strategic, district wide approach to mitigating recreational pressures on the EFSAC through the securing of financial contributions for access management schemes and monitoring proposals. Consequently, this application can be assessed within the context of the Interim Approach. In doing so the Council has sought to take a proportionate approach to the securing of such financial contributions, and currently only seeks these from proposals for new homes within 3km of the EFSAC, as is the case with this planning application. The applicant has agreed to make a financial contribution in accordance with the Interim Approach. Consequently, the Council is satisfied that the application proposal would not have an adverse impact on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation.

Atmospheric Pollution

The application proposal has the potential to result in a net increase in traffic using roads through the EFSAC. However, the Council, through the development of an Interim Air Pollution Mitigation Strategy (IAPMS), has provided a strategic, district wide approach to mitigating air quality impacts on the EFSAC through the imposition of planning conditions and securing of financial contributions for the implementation of strategic mitigation measures and monitoring activities. Consequently, this application can be assessed within the context of the IAPMS. The applicant has agreed to make a financial contribution in accordance with the IAPMS. In addition the application will be subject to planning conditions to secure measures as identified in the IAPMS. Consequently, the Council is satisfied that the application proposal would not have an adverse impact on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions.

Conclusions:

The Council is satisfied that, subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions as set out above, the application proposal would not have an adverse effect on the integrity of the EFSAC.

Objectors comments do not raise any new issues not previously considered in relation to the planning merits of the case. On the question of this Committee's authority to determine the application, it is evident that this arises from a misunderstanding of the planning process and it is entirely for the Council to determine this application

Conclusion:

The appeal decision is the key consideration in the determination of this application. The Inspector, having regard to all material considerations (including the LPSV) that on the site specific planning merits, the proposal does not affect the amenities of surrounding residents, and provides adequate parking to meet relevant adopted standards. Other than minor changes to the site frontage, this is essentially the same proposal.

The applicants have confirmed their willingness to enter a suitable legal agreement to address contributions towards mitigating impacts on the EFSAC in terms of recreational pressure and air quality and those contributions are fully in line with current requirements.

Thus, officers consider there to be little choice but to approve the application subject to appropriate conditions as set out on completion of a suitably worded legal agreement.

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