



Epping Forest District Council



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Application Number:	EPF/2769/18
Site Name:	93 Manor Road Chigwell IG7 5PN
Scale of Plot:	1:1250

Report Item No: 9

APPLICATION No:	EPF/2769/18
SITE ADDRESS:	93 Manor Road Chigwell Essex IG7 5PN
PARISH:	Chigwell
WARD:	Grange Hill
APPLICANT:	Mr Brian Dalziel
DESCRIPTION OF PROPOSAL:	Outline application with all matters reserved: erection of three detached dwellings (existing dwelling to be removed) - Revised application to EPF/2669/17.
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=615913

CONDITIONS

- 1 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined in condition 2 below, whichever is the later.
- 2 Prior to commencement of the development, details of the layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to the Local Planning Authority for approval before the expiration of three years from the date of this permission, and the development shall be carried out in accordance with the details so approved.
- 3 The development hereby permitted will be completed and retained strictly in accordance with the approved drawings numbers: Location Plan, 1470-02E, and 1470-03C.
- 4 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.
- 5 Prior to preliminary ground works taking place, details of foul and surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.

- 6 The carriageway of the proposed road shall be constructed prior to the commencement of the erection of any dwelling proposed to have access from such a road. The footways commensurate with the frontage of each dwelling shall be completed prior to occupation of the dwellings they are to serve.
- 7 Prior to any above groundworks, details and location of the parking spaces (including garages) equipped with active and/or passive Electric Vehicle Charging Point(s) 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.
- 8 Prior to any above groundworks, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the Local Planning Authority (LPA). The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy unless otherwise agreed in writing by the LPA.
- 9 Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

- 10 Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 11 Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 12 Prior to first occupation of the development, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the Local Planning Authority. The ecological value shall be quantified using the Biodiversity Impact Assessment Calculator (BIAC) where appropriate. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
- 13 Prior to the first occupation of the development the access arrangements and visibility splays, as indicated on drawing no.1470-03C, shall be implemented and retained in perpetuity for their intended purpose.
- 14 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.
- 15 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.
- 16 Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.
- 17 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. In such instances, 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.
- 18 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.
- 19 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

At the properties to occupy plots 2 or 3 on approved plan 1470-02E, Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development permitted by virtue of Classes A, AA, & E of Part 1 to schedule 2 shall be undertaken, without the prior written agreement of the Local Planning Authority.

...and Subject to the Completion of a s106 Legal Agreement.

This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Site and Surroundings

The site is formed from the curtilage of a house on the southern side of Manor Road, Chigwell. The site falls in level to the south. There are trees the subject of Tree Preservation Orders within the site. The application property is not listed and is not in a conservation area.

Proposal

Outline application with all matters reserved: Use of land for the erection of three detached dwellings (Existing dwelling to be removed) - Revised application to EPF/2669/17.

Relevant Planning History

EPF/1339/90 - Outline Application for five detached houses and construction of access road. – Refused (This proposal was for a different configuration of proposed housing with different boundaries and access off Bracken Drive)

EPF/2472/16 - Proposed two detached dwellings set to rear of existing property and accessed by new private drive – Refused

EPF/2669/17 - Outline application for demolition of existing house and garage and erection of proposed three detached dwellings with garages and associated works. (Revised application from EPF/2472/16) – Dismissed at Appeal

Development Plan Context

Local Plan and Alterations 1998 & 2006 (LP)

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

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

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the Quality of the Rural and Built Environment
CP3	New Development
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality

H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE2	Effect on Neighbouring Properties
DBE3	Design in Urban Areas
DBE6	Car Parking in New Development
DBE8	Private Amenity Space
DBE9	Loss of Amenity
LL10	Adequacy of Provision for Landscape Retention
ST4	Road Safety
ST6	Vehicle Parking

National Planning Policy Framework 2021 (Framework)

The Framework 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:

Paragraphs 126 & 130
 Paragraph 180

Epping Forest District Local Plan Submission Version 2017 (LPSV)

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

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

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

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

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

Following the Examination Hearing Sessions for the emerging Local Plan, the Council has prepared a number of changes, known as **Main Modifications**, to the Epping Forest District Local Plan Submission Version (2017) to address issues of soundness and/or legal compliance identified by the Inspector. These are put forward without prejudice to the Inspector's final conclusions on the Plan.

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 Main Modifications, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework. The following table lists the LPSV policies relevant to the determination of this application and officers' recommendation regarding the weight to be accorded to each policy.

Policy	Weight afforded
SP2 Spatial Development Strategy 2011-2033	Significant
H1 Housing Mix and Accommodation Types	Significant
T1 Sustainable Transport Choices	Significant
DM2 Epping Forest SAC and the Lee Valley SPA	Significant
DM9 High Quality Design	Significant
DM10 Housing Design and Quality	Significant
DM11 Waste Recycling Facilities on New Development	Significant
DM16 Sustainable Drainage Systems	Significant
DM19 Sustainable Water Use	Significant
DM21 Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 Air Quality	Significant

Summary of Representations

Number of neighbours Consulted: 34. 2 responses received

Site notice posted: No, not required

97 MANOR ROAD – Objection - will increase traffic problems, increased noise and pollution, overshadowing, loss of privacy, concern at implication for a protected oak tree.

10 THE SHRUBBERIES – Objection - invasion of our privacy, unwelcome precedent, last application was quite rightly rejected.

CHIGWELL PARISH COUNCIL – The Council Objects to this application because it considers the proposal a back-garden development which is thoroughly out of keeping with the area. Further, there is the potential for over-looking into neighbouring properties from the proposed dwellings. This revised proposal does not address the previous concerns; accordingly, the former objections remain pertinent.

Planning Considerations

The main issues for consideration in this case are:

- a) The principle of residential development;
- b) Highway safety and parking provision;
- c) The impact on the character and appearance of the locality;
- d) The impact to the living conditions of neighbours;
- e) Residential amenity for future occupiers; and
- f) The impact on the Epping Forest Special Area of Conservation.

This application is identical to one dismissed at appeal. However, the Inspector only dismissed the appeal on the ground of an impact to the Epping Forest Special Area of Conservation; the SAC issue.

The other main issues are considered to be the principle of development, impact to neighbours, whether the development would provide sufficient residential amenity to future occupiers, landscaping and highway safety. These are considered below in the light of the Inspector's comments in the decision letter, APP/J1535/W/18/3194783.

Principle of development

The proposed residential development would be within a residential area and would make more efficient use of urban land.

Grange Hill London Underground Station and nearby shopping parade are approximately half a mile away.

The site is situated within a sustainable urban location close to local services, facilities and public transport and would make more efficient use of this site. Given that 92.4% of the District is designated Green Belt the principle of further development within existing sustainable settlements outside of the Green Belt is generally considered to be appropriate, provided all other policies are complied with. The Inspector commented, at paragraph 8, that he was satisfied that paragraph 11 of the Framework and its presumption in favour of sustainable development, is engaged.

The site has an area of 0.17 hectares. The three houses on the site would represent a density of 17.6 dwellings per hectare. This would be considerably less than the range of 30-50 dwellings per hectare referred to by policy H3A though more than neighbouring houses along this part of Manor Road. On balance the density of the proposal is considered to accord with policy CP7 (iv).

The proposal is back land development and as such the two houses to the rear were considered by officers to be out of character with the layout of the surrounding area. However, this was addressed by the Inspector at paragraphs 15 and 16 of the decision letter. The comment made was as follows:

“The proposal would see the creation of two new dwellings in a backland location which would not be typical to the character and appearance of the area. Despite this, due to the size of neighbouring houses and gardens and the resultant size of the perimeter block, the appeal site cannot be distinguished from the public realm. Furthermore, given the presence of the surrounding trees in the locality, the site is a somewhat secluded and anonymous parcel of land.

As a result of this context, the addition of two new dwellings would not be perceptible from within the public realm. I am therefore satisfied that subject to a suitable design and layout at the reserved matters stage, the introduction of 2 dwellings within the existing garden would not harm the character and appearance of the area.”

In the light of the Inspector's comments, it is considered that a reason for refusal based on back-land development would not be reasonable.

Living conditions of neighbours

The two houses to be at the rear of the site would be effectively surrounded on four sides by other dwellings.

The application is in outline form, with no details of room layout and window arrangement to the proposed houses. Although the site is well screened by trees and other vegetation, there is a slope down to land levels from north to south. It was previously by officers that the proposed houses would be likely to overlook the rear gardens of neighbouring dwellings, particularly that of 95 Manor Road, to an excessive degree. However, this concern was addressed at paragraph 21 of the Inspector's decision letter. The text of this paragraph is set out below:

"The combination of the shape of the site and the site levels means that development could give rise to opportunities for overlooking, and in this regard the comments from the Chigwell Parish Council are noted. Nevertheless, the proposal seeks outline consent with all matters reserved and the layout submitted is purely indicative at this stage. The size of the appeal site and neighbouring gardens is such that development could achieve suitable window to window distances as well as protecting adjacent garden space. Furthermore, the ability to retain perimeter landscaping as well as the presence of neighbouring trees would help to reduce the sense of neighbouring properties from being overlooked."

In the light of the Inspector's comments, it is considered that a reason for refusal based on overlooking would not be reasonable.

The new house on plot 1 would be set 1.2m from the side boundary with no. 91 and be isolated from the side boundary of no. 95 by the width of the proposed private drive. The position and depth of proposed built form on plot 1 is considered acceptable in terms of any loss of light or outlook to adjoining neighbours.

Amenity space for future occupiers

Parking and private amenity space provisions are considered acceptable. The private amenity areas would all have a south aspect.

Trees and Landscaping

The Trees and Landscaping team have been consulted on the application. Subject to a hard and soft landscaping scheme, no objection is raised.

It is considered reasonable and necessary to remove Permitted Development rights for extensions or outbuildings on the properties to occupy plots 2 and 3, the plots to the rear of the site. An extension or an outbuilding could have an adverse impact to a tree or trees the subject of a TPO. Furthermore, given the sensitivity of this back-land site, a sizeable extension or outbuilding could perhaps have an adverse impact to neighbours sharing the boundary of plots 2 or 3.

Highways

The proposal involves a new vehicular access with improved visibility splays. There is no highway safety concern.

Epping Forest Special Area of Conservation (SAC)

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.

Conclusion

Whilst the proposal was previously considered to represent back land development which would be detrimental to the character of the area and lead to an unacceptable degree of overlooking, in light of comments made by an Inspector appointed by the Secretary of State it is recommended that planning permission be granted subject to conditions and subject to completion of a S106 Legal Agreement to secure appropriate financial contributions for the management and monitoring of visitors and air quality to the Epping Forest Special Area of Conservation including monitoring fees.

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: Muhammad Rahman

Direct Line Telephone Number: 01992 564415

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