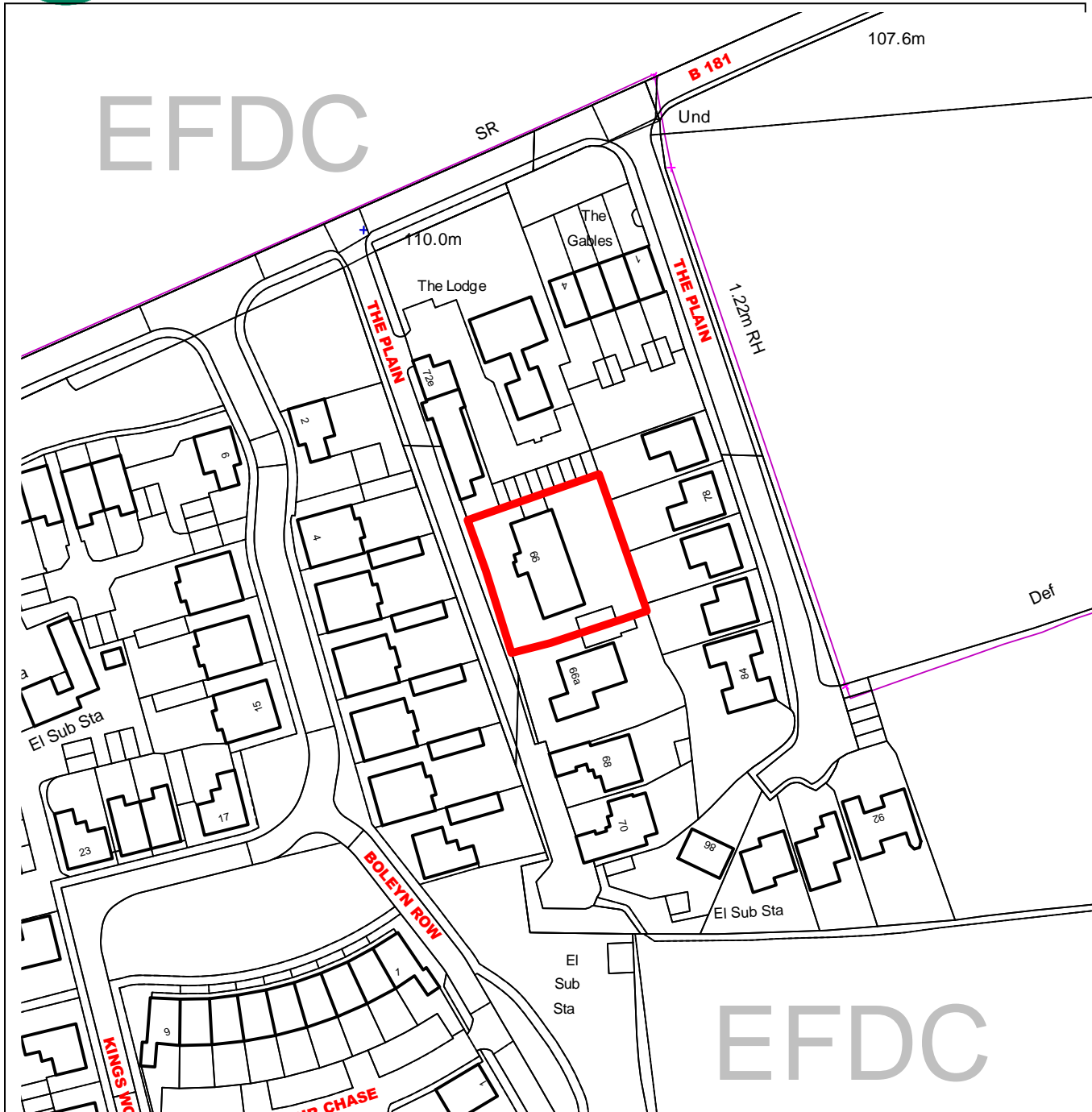




Epping Forest District Council



Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Contains Ordnance Survey Data. © Crown Copyright 2013 EFDC License No: 100018534

Contains Royal Mail Data. © Royal Mail Copyright & Database Right 2013

Application Number:	EPF/0384/21
Site Name:	Wyldingtree, 66 The Plain Epping, CM16 6TW
Scale of Plot:	1:1250

Report Item No: 11

APPLICATION No:	EPF/0384/21
SITE ADDRESS:	Wyldingtree 66 The Plain Epping CM16 6TW
PARISH:	Epping
WARD:	Epping Lindsey and Thornwood Common
APPLICANT:	c/o agent
DESCRIPTION OF PROPOSAL:	Demolition of existing bungalow and construction of 2x pairs of semi-detached houses with associated parking & gardens (Revised application to EPF/1111/19).
RECOMMENDED DECISION:	Grant Permission (With Conditions) 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=648293

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:

L9120 1 of 2, L9120 2 of 2, 2135/03,
2135/10C, 2135/11B & 2135/12, , 2135/17(materials)

Bat Survey report dated June 2019 and Preliminary Ecological Appraisal by T4 Ecology Limited dated March 2019,
Phase 1 Geo-Environmental Desk Study by Brown to Green reference 2263/Rpt 1v1 March 2019, Design and Access Statement
Tree Survey/ Arboricultural Method Statement report and Tree Protection Plan by Moore Partners Ltd ref MP/PLA/01 dated March 2019.
- 3 No preliminary ground works shall take place until 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.

- 4 Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.
- 5 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.
- 6 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, 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. 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 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.
- 8 All windows in the upper floor side flank elevations shall be entirely fitted with obscured glass with a minimum Level 3 obscurity 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.

- 9 Prior to the commencement of any works a bat scoping survey should be undertaken in accordance with guidelines from Natural England (or other relevant body). These should be submitted to the Local Planning Authority for approval. Should the surveys reveal the likely presence of bats or their breeding sites or resting places then dusk /dawn surveys should be undertaken in accordance with guidelines available from Natural England (or other relevant body) and submitted to the Local Planning Authority for approval. Should the survey reveal the presence of bats, or their breeding sites or resting places an appropriate and proportionate detailed mitigation and compensation strategy must be written in accordance with any guidelines available from Natural England and submitted to EFDC for approval. Should a Natural England European Protected Species Licence (EPS) be required then this should also be submitted to EFDC for approval. The licence will get granted if the activity conforms to the Habitats Regulations Regulation 53 Three Stage Test and Local Authority planning consent has been granted. All works shall then proceed in accordance with the approved strategy with any amendments agreed in writing.
- 10 The Proposed Development should be undertaken in accordance with the recommendations within section 5.2 of the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection by T4 Ecology Ltd, dated March 2019.
- 11 Prior to first occupation of the development, a scheme to enhance the ecological value of the site in accordance with Annexe 4 of the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection by T4 Ecology Ltd, dated March 2019. 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.
- 12 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). 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.
- 13 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.

- 14 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.
- 15 The proposed dwelling hereby permitted shall be built in accordance with Part M4 (2) of the Building Regulations.
- 16 Prior to first occupation of the development hereby permitted a plan indicating the position, design, materials and type of boundary treatment to be erected, shall have been submitted to and approved by the Local Planning Authority. The approved boundary treatment shall be implemented prior to the occupation of the development and thereafter permanently retained.
- 17 Tree protection shall be implemented prior to the commencement of development activities (including demolition), and the methodology for development (including supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports and Tree protection shall be installed as shown on Moore Partners Ltd drawing number MP/PLA/01 dated 29th March 2019 unless the Local Planning Authority gives its prior written approval to any alterations.
- 18 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 Class A, B, and E of Part 1 to schedule 2 shall be undertaken, without the prior written agreement of the Local Planning Authority.
- 19 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
1. The parking of vehicles of site operatives and visitors
 2. Loading and unloading of plant and materials
 3. Storage of plant and materials used in constructing the development
 4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 5. Measures to control the emission of dust and dirt during construction, including wheel washing.
 6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
 7. Tree protection measures.

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)).

Description of Site:

The application site contains a detached one-and-a-half storey chalet bungalow situated on the eastern side of the private road section of The Plain that serves a block of flats and five dwellings and runs adjacent to the rear of the New Kingswood Park Estate.

The site is located outside of the designated Green Belt in the very north-eastern part of Epping. To the immediate north of the site is the garage court serving a block of apartments known as The Lodge. There are residential properties on all other sides, including detached bungalows to the south.

The application site is located within the urban settlement of Epping. It is not situated within a conservation area nor is the dwelling listed, locally listed or a non-designated heritage asset.

Description of Proposal:

Permission is sought for the demolition of the existing chalet bungalow and the erection of four new two-and-a-half storey dwellings with a crown roof along with front and rear dormers. These would be laid out as two pairs of semi-detached properties, each measuring 6.3m in width, 11.3m in depth, and 9.15m to the top of the parapet wall. Materials include London stock brick finish with a slate roof. The windows will be white UPVC sash. Each property will have a front canopy over the front door in style of match the house.

Each dwelling would benefit from a single front and single rear dormer window set behind the parapet and be served by two off-street parking spaces and a rear garden area.

Relevant History:

Reference	Description	Decision
EPU/0053/55	Dwelling house	Approved
EPF/0989/79	Re-construction of four dormer windows and alterations to front storm porch	Permitted Development
EPF/1111/19	the demolition of the existing chalet bungalow and the erection of four new two-and-a-half storey dwellings	Refused

Reasons for refusal were:

1. The proposed development would see the loss of the chalet bungalow on the site. This is contrary to Policy H1(F) of the Epping Forest District Local Plan (Submissions Version) 2017
2. The proposed new development would cause an unacceptable adverse impact on the character and appearance of the Plain as the design of two pairs of semidetached houses results in an excessively high, bulky and over dominant form of development which out of character with the existing street scene, contrary to the NPPF and the Local Plan (as amended) policies CP3, DBE1, and DBE2 of the Adopted Local Plan and Alterations and policy DM9 of the Epping Forest District Local Plan (Submissions Version) 2017

Appeal dismissed under reference APP/J1535/W/19/3239786 on grounds of the harm it would create to the integrity of the Epping Forest Special Area of Conservation and for no other reason. (A copy of the decision notice is attached to the bottom of this report.)

EPF/2438/19	Demolition of an existing bungalow construction of x3 no. terrace houses and x1 no. chalet-style bungalow with associated parking & gardens.	Pending SAC
-------------	--	-------------

DEVELOPMENT 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
- CP3 – New development
- CP5 - Sustainable building
- CP6 – Achieving sustainable urban development patterns
- CP7 – Urban Form and Quality
- CP9 – Sustainable transport
- RP4 – Contaminated land
- H3A – Housing density
- DBE1 – Design of new buildings
- DBE3 – Design in urban areas
- DBE8 – Private amenity space
- DBE9 – Loss of amenity
- LL10 – Adequacy of provision for landscape retention
- LL11 – Landscaping schemes
- ST1 – Location of development
- ST4 – Road safety
- ST6 – Vehicle parking
- NC1 - SPAs, SACs and SSSIs
- NC3 - Replacement of Lost Habitat
- NC4 - Protection of established Habitat

NATIONAL PLANNING POLICY FRAMEWORK (FEBRUARY 2019)

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

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

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

EPHING 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 14 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.

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
SP2 - Spatial Development Strategy 2011-2033	Significant
SP3 - Place Shaping	Significant
H1 - Housing Mix and Accommodation Types	Significant
T1 - Sustainable Transport Choices	Significant
DM1 - Habitat Protection and Improving Biodiversity	Significant
DM2 - Epping Forest SAC and the Lee Valley SPA	Significant
DM3 - Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM5 - Green and Blue Infrastructure	Significant

DM6 - Designated and Undesignated Open Spaces	Significant
DM9 - High Quality Design	Significant
DM10 - Housing Design and Quality	Significant
DM11 - Waste Recycling Facilities on New Development	Significant
DM15 - Managing and Reducing Flood Risk	Significant
DM16 - Sustainable Drainage Systems	Significant
DM17 - Protecting and Enhancing Watercourses and Flood Defences	Significant
DM18 - On Site Management of Waste Water and Water Supply	Significant
DM19 - Sustainable Water Use	Significant
DM21 - Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 - Air Quality	Significant
P1 - Epping	Significant

Consultation Carried Out and Summary of Representations Received

Number of neighbours consulted: 31

Site notice posted: Yes

Responses received:

70 THE PLAIN – OBJECT due to overdevelopment, the impact on this unmade road, parking problems, and the impact on infrastructure. **78 THE PLAIN – Object** due to overlooking by the new houses, over development of the plot, loss of light and view to neighbours, increased noise, impact on parking within the surrounding roads, the environmental impact due to the proximity to the SSSI and the removal of trees that has already taken place, disturbance during construction, and due to a reduction in property value.

78 THE PLAIN – OBJECT Invasion of privacy, Over development. Blocking of light, increase in noise and disturbance; and will cause damage to the environmental conditions and biodiversity of the area.

80 THE PLAIN – OBJECT - This proposal of four 4-bedroom properties is out of scale and character in the narrow road it lies in and is excessively large and bulky.

The plans include 16 rear windows facing directly onto our short garden causing loss of privacy and blocking of light/view and increased sense of enclosure.

the scale of the development is extremely overbearing.

Increase in parking congestion and displacement

Parking insufficient

Air pollution mitigation strategy and CAZ have not been finalised or resolved.

Noise and disruption during the construction phase.

64 THE PLAIN – OBJECT loss of privacy in our garden and also in the living room which has a glass roof over part of the room. The windows on the side of the building as well as the third-floor windows are not acceptable as they will be looking directly into our garden/living room. Previously there were established trees along the border of the properties that added privacy that were cut down without consultation by the developer. This is significant over development of the site which will greatly increase traffic in front of our house.

82 THE PLAIN – OBJECT due to loss of privacy to themselves and future occupiers of the new dwellings, these are out of character with the street, loss of light and view, potential increase in noise, inadequate parking provision, and due to the detrimental impact on vegetation and wildlife.

2 KINGSWOOD PARK – OBJECT due to overdevelopment, insufficient car parking provision, height of buildings overlooking neighbours will detract from neighbour's privacy.

8 KINGSWOOD PARK – OBJECT the development was excessively high and dominant as the property will still be higher than the existing development. The appearance and fundamental features of the proposed development continue to be at odds with the character and appearance of "The Plain". Permission parameters for future applications should be limited to the refurbishment of the existing chalet bungalow, rather than its demolition and excessive re-development. This site is not a transition site given where it is located and given the existing built form. The Plain is not a proper road and cannot cope with the increase in traffic and parking which will accompany a doubling of the houses on site.

4 PYE GARDENS – OBJECT due to overlooking and loss of privacy and an increase in road congestion and reduction in road safety.

PARISH COUNCIL: OBJECTION - Committee acknowledged that this is not a revised application to gain planning approval for a development of four houses on the site of a bungalow. This same application has been resubmitted to demolish the property at Wyldingtree, 66 The Plain was opposed by the Town Council, refused permission by Epping Forest District Council and the appeal was then dismissed by the Planning Inspectorate over a year ago.

This proposal which has been resubmitted is an overdevelopment of the site in terms of its height, scale, bulk and density, which would result in a detrimental effect on the street scene. The proposal will result in a loss of amenity for neighbouring properties in terms of invasion of privacy. The Committee acknowledge the two neighbours' objections which have been submitted.

There would not be enough parking provided for four houses. Epping suffers from extreme parking pressures and allowing additional residences with insufficient parking will exacerbate those parking problems and have a detrimental effect on the surrounding area, resulting in unsympathetic change.

This area is in a unique location on a private road. The design of the proposal will have a detrimental effect on the appearance of the properties around it, affecting the character of the street scene and the surrounding area. National policy recognises the importance of taking into consideration the character of different areas, which is crucial in this location, as they all follow a similar style.

The importance of bungalow accommodation has been recognised in the emerging Local Plan. The constant development of bungalows into multiple houses is eroding the stock of bungalows in a town where there is an identified need for people wishing to downsize, adversely affecting the mix of dwelling types available, contravening evidence and the emerging local Plan.

Committee are extremely disappointed to see this application return in the same format but a different planning application number as councillors have made it quite clear they do not wish to see such an overdevelopment of this site.

Relevant policies CP2 (iv), CP3 (v), CP7, DBE1, DBE2, DBE9, H3A, H4A (Adopted Local Plan) Emerging Local Plan H1A(ii) and (iii) DM9F and DM9F DM9J

NPPF Para 9.110 (c) 124, 127 (c).

EPPING SOCIETY OBJECT: We note that this is not actually a “revised application”, it is a resubmission. The Planning Inspectorate decision in January 2020 (APP/Ji535/W/19/3239786) was unequivocal. This development will impact on the forest. The recent discussions on the Epping Forest Special Area of Conservation and the Clean Air Zone have not been decided or confirmed in the Local Plan.

We feel this is still overdevelopment of the site. It is also inappropriate for the narrow cul-de-sac lane.

Main Issues and Considerations:

Principle of the development

Policy SP 2 of the LPSV indicates that additional ‘windfall’ sites will be permissible under Part B of Policy SP 2, within defined settlement boundaries.

The application site is located within the urban town of Epping within flood zone 1 (i.e. least likely to flood). The site also has no heritage designation attached to it. It would therefore meet the requirements of policy SP 2 in regard to where new housing should be located.

Background

This application is a resubmission of the refused scheme under reference EPF/1111/19 for the demolition of the existing chalet bungalow and the erection of four new two-and-a-half storey dwellings. That application was refused by members of the East Area Planning Sub Committee on the grounds that

1. The proposed development would see the loss of the chalet bungalow on the site.
2. The proposed new development would cause an unacceptable adverse impact on the character and appearance of the Plain as the design of two pairs of semidetached houses results in an excessively high, bulky and over dominant form of development which out of character with the existing street scene.

This application was then appealed under reference APP/J1535/W/19/3239786. The only grounds for dismissal related to the lack of an Air Pollution Mitigation Strategy.

The Planning Inspector found that:-

“The dwelling to be demolished is a large dwelling which has accommodation over two floors. Therefore, whilst bedrooms are provided on the ground and first floor, the scale of the accommodation with 7 bedrooms is unlikely to be appropriate to meet the needs of an ageing population.... In conclusion the development would not be detrimental to the supply of housing for older residents”

This issue therefore can no longer be justified as a reason for refusal. The proposal therefore was found not to conflict with policy H 1 of the LPSV.

In regard to the impact of the proposal on the character and appearance of the area. The Inspector opined that

“From the frontage of the appeal site it is possible to see the blocks of flats which are at the entrance to The Plain and are an imposing feature visible from several vantage points along the road. The Plain is characterised by a mix of dwelling types and styles, including both single and two storey. As such, the group of dwellings are not uniform or symmetrical, and this contributes to the overall variety of the street scene.

11. The proposal would result in the replacement of the existing bungalow with two pairs of semi-detached two storey development, with rooms in the roof. Having regard to the mixed character and scale of development within The Plain, I consider the introduction of two storey development on the appeal site would not be out of character with the existing street scene. The introduction of semidetached development with its narrow vertical profile, emphasised by the inclusion of dormer windows in the roof space would not appear overly dominant or bulky and would represent a transition between the scale of the existing three storey flats and the detached two and a half storey dwelling, The Gable which is located at the northern end of The Plain beyond the appeal site.

12. In conclusion, the proposal would not result in harm to the character and appearance of the area. It would therefore comply with Policies DBE1, DBE2 and CP3 of the LP which require that new development respects the character of the locality and setting in terms of scale, proportion and massing and effect upon surrounding properties.”

Epping Forest Special Area of Conservation

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:

Recreation activities arising from new residents (recreational pressures); and

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:

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.

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.

Trees

The application was reviewed by the Trees Officer who found the submitted Tree survey and Arboricultural Method Statement demonstrated that the health and stability of existing trees on the site would not be harmed. It is therefore considered that subject conditions suggested by the Trees Officer this application complies with the requirements of LL10 of the Local Plan.

Quality of residential accommodation proposed

All dwellings meet current internal space standards set out in the Essex Design Guidelines and National Technical Standards. They also provide acceptable levels of outlook and ventilation. All units meet amenity space standards required by Policy DBE8 of the Local Plan. The quality of the proposed accommodation is therefore considered acceptable.

Impact on the living conditions of neighbouring residential occupiers.

The proposed new dwellings would be situated immediately adjacent to a parking area to the north. To the south is a detached bungalow with an attached (former) side garage that forms the shared boundary and extends back to the end of the rear gardens. Whilst upper storey flank windows are proposed in the new dwellings these can be conditioned to be obscure glazed with fixed frames. Due to this there would be no immediate physical impact on the amenities of the immediately adjacent dwellings within this unmade lane.

To the rear of the application site are two storey dwellings situated within the adopted highway section of The Plain. The rear gardens of the new houses would be 10m long and new planting is proposed along the shared boundary. The neighbour's rear gardens are a minimum of 10m in depth, extending to 15m in places. As such the total window-to-window distance between the new and existing houses would be 20m-25m.

Whilst the Essex Design Guide recommends that a minimum window-to-window distance of 25m should be obtained, and a distance of 15m window to shared boundary should be achieved, in densely populated built-up areas such distances are often not achievable. Given that at present the two storey dwellings in the adopted highway section of The Plain are currently situated just 10m at their closest point from the existing rear boundary of the site and other properties within the unmade section of The Plain, assumedly without causing a detrimental loss of amenity through overlooking, it is considered acceptable for the proposed two-and-a-half storey houses to be situated 10m and 1.5 storey bungalow to be situated 8.5m away from the same shared boundary without causing significant loss of privacy to these neighbouring residents. Additional landscaping could be sought by condition to ensure additional screening is achieved for the benefit of both existing and future residents.

The distance between the front windows of the proposed dwellings and the rear boundaries of properties in Kingswood Park is some 14m and again would not be considered unacceptable in this location.

The distance between the new dwellings and all shared boundaries would be sufficient to ensure that there is no undue loss of light or outlook to neighbouring residents. Some objections have been received about the loss of the existing open view as a result of the development, however there is no right to a view and therefore any loss of such views is not material to the planning merits of the case.

Concerns have been raised about potential additional noise nuisance through the provision of four new dwellings in place of the existing chalet bungalow. Whilst it is accepted that there would be some additional vehicle and pedestrian movements and general activity on the site as a result of the redevelopment, given the context of the site (including the 132 dwellings erected on the

adjacent former hospital site), it is not considered that this would cause any significant additional impact.

Concerns have also been raised with regards to disturbance, nuisance and parking problems as a result of construction works, however such matters are not material planning considerations as this harm would only be temporary during the period of construction. Time constraints for construction works can however be secured by way of a condition in order to minimise any detrimental impact on neighbours during construction.

Highways:

Several objections have been raised about insufficient parking provision on the development. The ECC Vehicle Parking Standards requires two off-street parking spaces for any 2+ bed dwelling, which is being provided on the site.

Furthermore, given the location of the site within the urban town of Epping and its proximity to sustainable transport links and various facilities, therefore this provision is considered acceptable.

This section of The Plain is privately owned. Concern has been raised about the detrimental impact that the development would have on capacity and road safety both within The Plain itself and at its junction with Epping Road. Essex County Council Highways have raised no objection to the development. It is not considered that the additional traffic associated with this small development would cause any significant additional harm to traffic or highway safety and, as stated above, sufficient off-street parking provision is provided to ensure that there would not be excessive overspill onto on-street parking within the locality.

Furthermore, the Planning Inspector for the dismissed appeal under reference EPF/1111/19 made a visit to the site prior to the completion of his decision letter and did not raise any objection to this position.

A condition is required to ensure that an electric charging point is provided for each of the new dwellings to encourage and facilitate the use of electric cars, which would assist in improving air quality within the District in accordance with policy T 1 of the LPSV.

Ecology

Policies DM 1 and DM 2 of the LPSV require that new development avoids harm to existing trees, green infrastructure, precious habitat and species; strengthens the biodiversity assets of the District; addresses the impacts of development on landscape character and geodiversity and provides for open spaces for people and other species to thrive.

A bat survey report dated June 2019 and Preliminary Ecological Appraisal dated March 2019 has been carried out by T4 Ecology Limited who found evidence of bats within the existing building; they therefore recommend further dusk dawn surveys to be carried out by licensed bat worker to determine the extent of the bat population, and whether a European Protected Species Licence is required, if bats are discovered a third survey would be required and mitigation designed accordingly.

This report recommends a range of mitigation, compensation and enhancement measures to ensure obligations are met including: -

- Trenches covered over at night to protect radiating mammals;
- A check should be made for nests if construction work is carried between March and September.
- Enhancements should include permeable boundaries such as tree lines and hedgerows in addition to leaving hedgehog gaps in any new fencing.

- Provides a list of planting species which will enhance biodiversity on the site.

These requirements should therefore be attached as conditions to any permission to ensure compliance with NC 3 and NC4 of the Local Plan and DM1 of the LPSV.

Conclusion:

The previous appeal decision under reference EPF/1111/19 for a very similar development was only dismissed on the grounds that at the time there were no agreed mitigation measures to protect the Epping Forest SAC. The Council has now endorsed the Air Pollution Mitigation Strategy and the submitted appropriate assessment accords with its requirements. The Council is therefore 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.

The Inspector also overturned the other reasons for refusal on the grounds that: -

"I have found that the development would not be detrimental to the character and appearance of the area nor would it reduce the supply of housing for older people."

These issues therefore can no longer be justified as reasons for refusal.

The proposal will not cause excessive harm to the amenity of neighbouring dwellings. Sufficient parking has been provided for this sustainable location and no objections have been raised by the Highways Authority in relation to highway safety.

The proposal therefore complies with relevant planning policy and it is recommended that planning permission be granted subject to conditions and the completion of a S106 Legal Agreement to secure appropriate financial contributions for the management and monitoring of visitors to the Epping Forest Special Area of Conservation and a contribution towards measures to mitigate air quality as set out in this report.

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: Sukhi Dhadwar
Direct Line Telephone Number: 01992 564597***

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



Appeal Decision

Site visit made on 7 January 2020

by **G Pannell BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31st January 2020

Appeal Ref: APP/J1535/W/19/3239786

Wyldingtree, 66 The Plain, Epping CM16 6TW

- 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 Manor Properties (Bishop Stortford) Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/1111/19, dated 25 March 2019, was refused by notice dated 4 September 2019.
 - The development proposed is demolition of existing bungalow and construction of 2 x pairs of semi-detached houses with associated parking and gardens.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Although not a reason for refusal, the effect of the proposal on the Epping Forest Special Area of Conservation (SAC) is potentially a determinative issue. Therefore I have elevated this matter as a Main Issue.

Main Issues

3. The main issues are the effect of the development on:
 - the Epping Forest Special Area of Conservation;
 - the character and appearance of the area;
 - the supply of housing for older residents.

Reasons

Epping Forest Special Area of Conservation

1. The appeal site comprises a detached chalet bungalow located on the eastern side of the private road, The Plain, which serves a block of flats and five dwellings. The site is adjacent to New Kingswood Park Estate, with the rear elevation of the properties facing towards the appeal site.
2. The appeal site lies within the 3 km zone identified by Natural England as being likely to result in harm to the Epping Forest Special Area of Conservation (SAC) due to increased leisure use and an increase in traffic impacting on air pollution. The area was designated due to the presence of three qualifying habitats and one species, namely Atlantic beech forest, European dry heaths,

Northern Atlantic wet heaths and the Stag beetle. The conservation objectives are to achieve the favourable conservation status of these qualifying features by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats, the population and distribution of the qualifying species and the supporting processes on which it relies.

3. Given that the proposal is for 3 additional houses, and its proximity to the SAC there is a reasonable likelihood that it would be accessed for recreational purposes by future occupants of this development. This additional activity would have the potential, either alone or in combination with other development in the area, to have a significant effect on the habitats site.
4. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SAC. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
5. The Council has agreed with Natural England that developments should contribute £325 per dwelling to mitigate against the harm the proposal will bring to recreational receptors within the SAC and the parties have agreed a financial sum. Natural England has identified that there is an agreed project that would address the effects associated with the proposed development and relieve pressure on the SAC. Whilst the appellant has indicated that they are willing to pay this contribution I have not been provided with a signed and dated Unilateral Undertaking making provision for the required contribution.
6. In terms of air pollution, Natural England has advised that all new development in the district has the potential to increase air pollution unless appropriate mitigation is provided. The Council is working with Natural England and other neighbouring authorities towards establishing a mechanism for collecting contributions that would be used to offset any potential impact because of air pollution on the SAC, and a Mitigation Strategy which would identify specific measures or projects.
7. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives. However, in the absence of an agreed mitigation strategy to overcome the in-combination effects that have been identified in respect to air quality and the lack of a mechanism to secure the contribution to mitigate the impacts of recreational pressure, I cannot be satisfied that the appeal proposal would not result in significant adverse effect to the integrity of the SAC. Had such mitigation been in place, I would have sought clarification from the main parties on this matter and, if necessary, undertaken an Appropriate Assessment in order to consider the implications of the development on conservation objectives. However, this avenue is not available to me.
8. Based on a precautionary approach and the evidence before me, I conclude that the appeal scheme would be likely to have a significant adverse effect on the integrity of the SAC due to the potential increased disturbance through recreational activity and increase in air pollution. The proposal would therefore fail to comply with the requirements of the Regulations as well as Paragraph 175(a) of the Framework which states that where significant harm to

biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused. Moreover, it would also fail to comply with policy NC1 of the Epping Forest District Local Plan 1998/2006 (LP) and policies DM2 and DM22 of the Epping Forest District Local Plan Submission Version (LPSV) which together seek to ensure that development does not adversely affect Special Areas of Conservation.

9. However, I am not aware of the status of any unresolved objections to the LPSV and therefore having regard to paragraph 48 of National Planning Policy Framework (the Framework), I afford the emerging policy only limited weight in my assessment.

Character and Appearance

10. From the frontage of the appeal site it is possible to see the blocks of flats which are at the entrance to The Plain and are an imposing feature visible from several vantage points along the road. The Plain is characterised by a mix of dwelling types and styles, including both single and two storey. As such, the group of dwellings are not uniform or symmetrical, and this contributes to the overall variety of the street scene.
11. The proposal would result in the replacement of the existing bungalow with two pairs of semi-detached two storey development, with rooms in the roof. Having regard to the mixed character and scale of development within The Plain, I consider the introduction of two storey development on the appeal site would not be out of character with the existing street scene. The introduction of semi-detached development with its narrow vertical profile, emphasised by the inclusion of dormer windows in the roof space would not appear overly dominant or bulky and would represent a transition between the scale of the existing three storey flats and the detached two and a half storey dwelling, The Gable which is located at the northern end of The Plain beyond the appeal site.
12. In conclusion, the proposal would not result in harm to the character and appearance of the area. It would therefore comply with Policies DBE1, DBE2 and CP3 of the LP which require that new development respects the character of the locality and setting in terms of scale, proportion and massing and effect upon surrounding properties.
13. In addition, the Council's decision notice refers to emerging policy DM9 of the LPSV. Amongst other things this seeks to promote high quality design. However, I am not aware of the status of any unresolved objections to the LPSV and therefore having regard to paragraph 48 of National Planning Policy Framework (the Framework), I afford the emerging policy only limited weight in my assessment.

Supply of housing for older residents

14. The evidence before me indicates that the profile of the population within the District is getting older and that there has been an erosion of the Council's stock of bungalows, which play an important role in meeting the housing needs of such residents. This evidence is not disputed by the appellant. Policy H1 of the LPSV specifically seeks to resist the loss of bungalows in order to ensure an appropriate mix of accommodation types is maintained. This is consistent with the Framework's aim of delivering housing of differing sizes and types to meet the needs of different groups of the community, including older people.

15. However, the dwelling to be demolished is a large dwelling which has accommodation over two floors. Therefore, whilst bedrooms are provided on the ground and first floor, the scale of the accommodation with 7 bedrooms is unlikely to be appropriate to meet the needs of an ageing population.
16. The layout of the proposed dwellings includes separate living rooms on the ground floor which could provide bedroom accommodation on the ground floor if required. Policy H1 of the LPSV also requires new homes to be accessible and adaptable as defined by Building Regulations, therefore I consider the proposed dwellings would still provide a level of accommodation which would be appropriate to meet the needs of an aging population.
17. Therefore, whilst there is some conflict with parts of emerging Policy H1, I am not aware of the status of any unresolved objections to the emerging plan and therefore with regard to paragraph 48 of the Framework, I afford the conflict with these emerging policies only limited weight in my assessment.
18. In conclusion, the development would not be detrimental to the supply of housing for older residents and would comply with paragraph 127 of the Framework which requires development to optimise the potential of the site to accommodate and sustain an appropriate mix of development and would function well for the lifetime of the development.

Other matters

19. A further issue is that the Council cannot demonstrate a 5-year housing land supply. This means that in line with paragraph 11 of the Framework, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing planning permission. In this case, with the current absence of agreed mitigation measures to protect the SAC, these Framework policies indicate that planning permission should be refused.

Conclusion

20. In conclusion, whilst I have found that the development would not be detrimental to the character and appearance of the area nor would it reduce the supply of housing for older people, I cannot be satisfied that the appeal proposal would not cause harm to the integrity of the SAC. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

G. Pannell