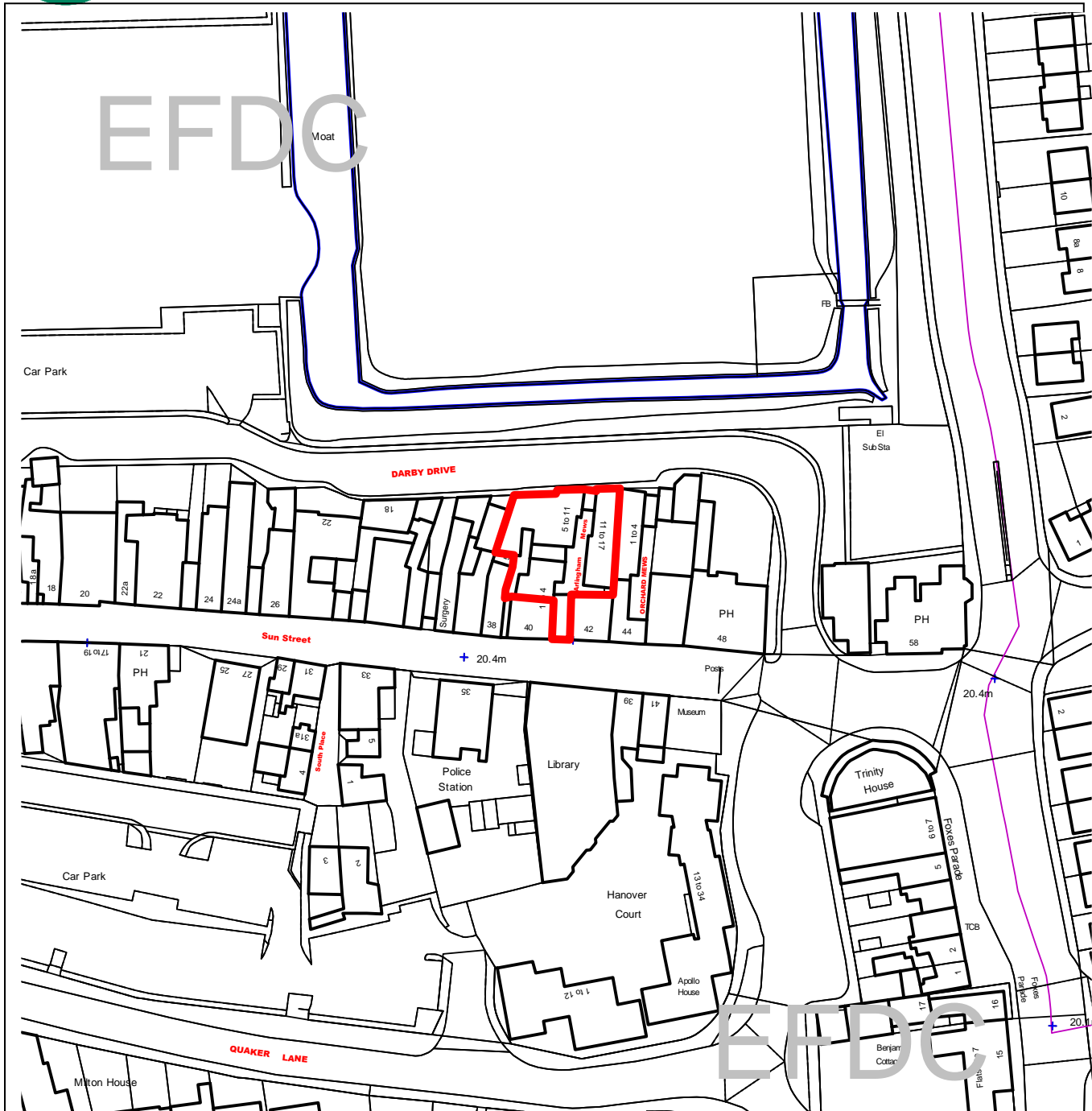




Epping Forest District Council



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Application Number:	EPF/1213/21
Site Name:	Land off Arlingham Mews Sun Street, Waltham Abbey EN9 1ED
Scale of Plot:	1:1250

Report Item No: 10

APPLICATION No:	EPF/1213/21
SITE ADDRESS:	Land off Arlingham Mews Sun Street Waltham Abbey EN9 1ED
PARISH:	Waltham Abbey
WARD:	Waltham Abbey South West
APPLICANT:	c/o agent
DESCRIPTION OF PROPOSAL:	Change of Use of Ground Floor Retail Units (A1) to 1 x Studio and 2 x 1 bed unit (C3)
RECOMMENDED DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=651893

REASON FOR REFUSAL

- 1 The proposed development would result in the loss of ground floor retail units, including some falling within the Primary Retail Frontage / Primary Shopping Area, that could harm the vitality and viability of Waltham Abbey Town Centre. Insufficient evidence has been provided to demonstrate that the units are not capable of being re-let for a main town centre use. As such the proposal is contrary to policies TC1 and TC3 of the of the adopted Local Plan and Alterations (1998 & 2006), policies E2 and P3 of the Local Plan Submission Version (2017) as amended by Main Modifications (July 2021) and the NPPF (2021).
- 2 By reason of its design and proposed use, the proposed development would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE3, DBE10, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7, DM9 and DM10 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).
- 3 By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.
- 4 In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

This application is before this Committee since it has been 'called in' by Councillor Helen Kane (Pursuant to The Constitution Part 3: Part Three: Scheme of Delegation to Officers from Full Council)).

Called in by Councillor Kane on 1st June 2021 in the event of a recommendation for refusal.
Valid from 29.4.21. Registered 25.5.21. Appeared in Weekly list dated 28.05.21.

Address

Land off Arlingham Mews, Sun Street, Waltham Abbey, EN9 1ED.

Description of Site

Arlingham Mews is a 1980s shopping/office arcade on two floors with access via a pedestrian courtyard running between Sun Street and Darby Drive.

The application site is located within Waltham Abbey Town Centre and the Waltham Abbey Conservation Area.

Description of Proposal

Change of Use of Ground Floor Retail Units (A1) to 1 x Studio and 2 x 1 bed unit (C3).

Based on the annotated drawing received on 24.06.21, the existing retail units proposed to be converted to residential units are numbers 1, 2, 3, 8, 9, 14, 15 and part of Unit 11.

The application form states that 139.3 sq. m of existing retail floorspace would be lost.

3 residential units are proposed (2 x 1 bed and 1 x Studio).

An extension is proposed to the rear of existing Unit 3 in order to accommodate the living room of proposed Flat 1.

Existing Unit 11 (Shop 1) would be retained but would be reduced in size to accommodate the living room of proposed Flat 2.

An external toilet would be created at the rear of existing Unit 15 / alongside the bedroom of proposed Flat 2.

An extension is proposed to the rear and side of existing Unit 8 to accommodate the bedspace of proposed Flat 3.

No off street car parking is proposed.

No private amenity space is proposed.

Relevant History (003395)

9 (Ground and First Floor) & 13 (First floor) Arlingham Mews
EPF/0849/05 (duplicate of EPF/1732/04)

Change of use of Unit 9 (A1 retail) and Unit 13 (B1 office) to residential to form 5 x one bedroom flats. (Resubmitted application)

Refused 03.08.2005 (Committee overturn). Dismissed at appeal 31.01.2006.

Reasons for refusal:

1. The proposal would result in the loss of existing retail units that could harm the vitality and viability of Waltham Abbey Town Centre. As such the proposal is contrary to the provisions of Policy TCR3 of the Essex and Southend on Sea Replacement Structure Plan. It has not been demonstrated that the units are not capable of being re-let and therefore the proposed conversion of the units into residential units would be contrary to the provisions of Policy H10 of the Epping Forest District Local Plan.
2. The proposed flats, by reason of their internal arrangement, would lead to excessive overlooking of neighbouring flats within the development and excessive transmission of noise to bedrooms from adjoining flats and communal areas. They would therefore result in poor living conditions for their occupants contrary to policy DBE9 of the Epping Forest Local Plan.

Relevant extract from Appeal Decision (APP/J1535/A/05/1189854) Paragraphs 7-11:

“Vitality and Viability

7. The Appellants have provided no evidence of a specific marketing campaign, but there is persuasive advice from their letting agents as to a lack of demand for accommodation of this type within the shopping centre. There is nothing before me to suggest that a suitable tenant, or tenants, for the first floor accommodation is likely to be found in the foreseeable future and, in such circumstances, I find the principle of a change to residential use to be acceptable and in accordance with both SP and LP policies.

8. However, because of its prominent location, the ground floor of Unit 9 represents a key element in the shopping frontage of the mews, the loss of which would materially harm the vitality and viability of the centre. I therefore conclude, notwithstanding my findings with regard to the first floor accommodation, that the proposal is unacceptable in its present form and in conflict with both SP Policy TCR3 and with Planning Policy Statement 6 – Planning for Town Centres, a key objective of which is to promote vital and viable town centres.

Future Occupiers’ Living Conditions

9. The internal layout proposed for the residential units would result in kitchens within some flats adjoining bedrooms in others. Separating partitions are illustrated on the plans as being of lightweight construction, creating the clear possibility of unacceptable levels of noise transmission between flats. Whilst a planning condition could be imposed to address this problem, there is other legislation in place that would, in any event, require levels of sound insulation between flats sufficient to minimise any harmful noise transmission...

10. Of greater concern in my view, is the relationship between windows in the various flats. The only window in the living room of Flat 4, for example, would be directly overlooked, from just a few metres away, by two windows in the entrance hall of Flat 3. In addition, the living room in Flat 5 would be almost directly overlooked from the kitchen window in Flat 2, again from relatively close quarters, whilst there would be mutual overlooking between projecting oriel windows to the living rooms of Flats 1 and 2. To my mind and notwithstanding the built up town centre location, residential occupiers are entitled to a reasonable level of privacy which I consider the appeal proposal does not achieve.

11. Whilst LP Policy DBE9 seeks to protect the privacy and other amenities of neighbouring occupiers, I consider that its principles are equally applicable to occupiers of the development itself. My conclusion, therefore, on this issue, is that the proposal would fail to provide acceptable

living conditions for future occupiers of the development with particular reference to privacy, in conflict with the objectives of LP Policy DBE9.”

9 & 13 Arlingham Mews (First floor units)

EPF/1732/04

Change of use of unit 9 (A1 retail) and unit 13 (B1 office) to residential to form 5 x one bedroom flats.

Refused 20.12.2004 (Delegated)

1. The proposed loss of an existing retail unit would harm the vitality and viability of Waltham Abbey town centre; as such the proposal is contrary to the provisions of Policy TCR3 of the Replacement Essex and Southend on Sea Structure Plan and Government advice in Planning Policy Guidance 6 (Town Centre and Retail Development). It has not been demonstrated that the units are not capable of being re-let and therefore the proposed conversion of the units into residential units would be contrary to the provisions of Policy H10 of the adopted Local Plan.

9 Arlingham Mews

EPF/1322/03

Change of use from A1(retail) to four self-contained one bedroom flats.

Refused 12.09.2003.

Reasons for refusal:

1. The proposed loss of an existing retail unit would harm the vitality and viability of Waltham Abbey town centre, as such the proposal is contrary to the provisions of Policy TCR3 of the Replacement Essex and Southend on Sea Structure Plan and Government advice in Planning Policy Guidance 6 (Town Centres and Retail Development).
2. The unit is not vacant or under-used and therefore the proposed conversion of a retail unit to four residential units would be contrary the provisions of Policy H10 of the adopted Local Plan.

Unit 17 Arlingham Mews

EPF/878/00

Change of use from office to residential flat.

Approved 06.09.2000.

Policies Applied

The following saved policies within the Council's adopted Local Plan (1998) and Alterations (2006) are relevant:

CP1 – Achieving Sustainable Development Objectives

CP2 – Protecting the Quality of the Rural and Built Environment

DBE3 Design in Urban Areas

DBE9 – Loss of Amenity

DBE10 – Residential Extensions

U3B Sustainable Drainage

DBE8 Private Amenity Space

ST6 Vehicle Parking Standards

ST1 Location of development

ST2 Accessibility of development

H1A Housing Provision.

TC1 Town Centre Hierarchy

TC3 Town Centre Function
HC6 Character, Appearance and setting of Conservation Areas
HC7 Development within Conservation Areas
HC12 Development affecting the setting of Listing Buildings

NPPF (July 2021):

The National Planning Policy Framework (NPPF) states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

Epping Forest District Local Plan Submission Version) 2017 (LPSV):

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

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.

The appointed Inspector issued her initial advice on 2 August 2019 and since then, the Council has undertaken further work to address the actions identified by the Inspector. This has led to the production of a number of proposed changes to the Local Plan Submission Version 2017 (known as the Schedule of Main Modifications) and additional supporting documents associated with the Main Modifications. These are to address issues of soundness and/or legal compliance identified by the Inspector.

The Main Modifications include changes to some of the supporting text and Policies within the Plan, deletion and amendment to some site allocations, updated Housing Supply data to March 2020, along with associated changes to the mapping contained within the Plan.

The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan. Following the close of the consultation (ended 23rd September 2021), the representations will be passed to the Inspector for her consideration before the publication of the Inspector's final report.

The following policies in the LPSV are considered to be of relevance to the determination of this application:

SP1: Presumption in Favour of Sustainable Development
H1: Housing mix and accommodation types
DM7: Heritage Assets
DM9: High Quality Design

DM10 Housing Design and Quality
E2: Centre Hierarchy/Retail Policy.

Consultation carried out and summary of representations received

Waltham Abbey Town Council – No response received.

20 Neighbours consulted. No responses received.

Issues and considerations

The main issues to consider when assessing this application are the potential impacts on the vitality and viability of Waltham Abbey Town Centre, impact on heritage assets, design, character and appearance, quality of accommodation and the living conditions of neighbours.

Loss of Retail

Policy TC1 of the adopted Local Plan defines Waltham Abbey as one of three principal town centres within the district.

Policy TC3 states that residential accommodation will be permitted in appropriate locations in town centres **but not at ground floor level and that any proposal that could have a detrimental impact on the vitality and viability of the centre will be refused.**

Policy E2 of the emerging LPSV defines Waltham Abbey as a 'District Centre'. Map 5.7 shows that the part of the application site / proposed development falls within the Waltham Abbey Primary Shopping Area / Primary Frontage.

Residential development is not a main town centre use as defined by the NPPF glossary.

Part C of Policy E2 states:

Within defined Primary Retail Frontage ground floor units will be maintained in A1 Class Uses in accordance with Policies P 1 to P 5. Proposals that would not result in a reduction in the specified percentage of A1 Class Uses will be permitted for other main town centre uses where this would support the function, vitality or viability of the Town or District Centre and maintain an active daytime frontage.

Part I of Policy P3 (Waltham Abbey) states:

"In accordance with Policy E 2, in Waltham Abbey Small District Centre, at least 45% of the ground floor Primary Retail Frontage and at least 25% of the ground floor Secondary Retail Frontage will be maintained in A1 use."

Part F of Policy E2 (as amended by Minor Modification MM36) states:

"In Town and District Centres, the Council may permit residential development provided that it meets the following criteria:

Where the proposal is within Primary or Secondary Retail Frontages, it must be above the ground floor; and

In all cases, the proposal must be in an appropriate location and must not lead to the loss of main town centre uses, floorspace or active frontage."

The proposed residential units are at ground floor level within a Town Centre and the proposal is therefore contrary to adopted policy TC3 and is unacceptable in this respect.

The proposed residential units are at ground floor level within a District Centre partly within Primary Retail Frontage.

The part of the proposed development that falls outside of Primary Retail Frontage is not considered to be in an appropriate location and would lead to the loss of main town centre uses, floorspace and active frontages.

The proposal is therefore contrary to emerging policy E2 (Main Modifications version) and is unacceptable in this respect.

The submitted Design and Access Statement states that the units are vacant however no coherent evidence has been submitted to demonstrate that the units have been marketed for retail / a main town centre use and that they are not capable of being re-let for this purpose.

Design, Character and Appearance and Impact on Heritage Assets

Conservation Officer comments:

“Arlingham Mews is a relatively modern development with ground floor retail units and residential use to the first floor, accessed through a historic alleyway that leads from Sun Street to Darby Drive. It stands within the Waltham Abbey Conservation Area and adjacent to several listed buildings; Nos. 38, 40, 44 and 44A Sun Street.

This application seeks consent to change the use of the ground floor retail units to residential use; associated with this are extensions to provide more accommodation.

Sun Street is the historic market street that runs through the medieval core of Waltham Abbey. The remains of the narrow burgage plots and lanes leading from Sun Street, to the historic open yards behind, is one of the main factors that contributes to the character of the conservation area. An extract from the OS Map of the late 19th century, shown in Figure 1 below, demonstrates the extent of these yards at that time and should be compared with the current situation shown in Figure 2; a red square is placed on each figure to indicate the proposal site.

As previously mentioned, these open yards are very characteristic of the historic layout of the town, however as shown in Figures 1 and 2, these have been encroached upon over time. The proposed extensions to Arlingham Mews would infill the left yard further (shown in Figure 2), causing the loss of more of this characteristic enclosed area. In addition to this, the proposed scheme would change the historic character and use of these spaces, from functional to residential, for example through the domestication of the windows and the introduction of boundary treatments.

In line with the above it is considered that the proposal will not preserve or enhance the Waltham Abbey Conservation Area; planning permission is therefore recommended to be REFUSED.

This is supported by policy HC6, HC7 and HC12 of our Local Plan and Alterations (1998 and 2006), policy DM7 of our Submission Version Local Plan (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).”

The comments of the Conservation Officer are supported by the case officer and it is considered that the proposed extensions and change of use would have an unacceptable impact on the existing buildings, yard and surrounding Conservation Area.

Quality of Accommodation

3 residential units are proposed and each of these is critically deficient in some way in terms of quality of accommodation to be provided as follows:

Flat 1 – Living room has no clear glazed windows – no outlook. Bedroom overlooked by Flat 2 opposite (5m between facing habitable room windows) and pedestrian passers by using walkway between Sun Street and Darby Drive leading to unacceptable levels of privacy.

Flat 2 – Habitable rooms overlooked by facing habitable rooms of Flats 1 and 3 opposite (5m between facing habitable room windows) and pedestrian passers by using walkway between Sun Street and Darby Drive leading to unacceptable levels of privacy.

Flat 3 – There is a separate bedroom area and therefore this unit is considered to be an undersized 1 bed flat (minimum 50 sq. m required) and not a studio. Furthermore, the bedroom has no clear glazed windows meaning that there is no outlook from this habitable room. Poor outlook from living area onto flank wall of Flat 1, 2.5m away. Kitchen/Living/Dining room overlooked by facing living room of Flat 2 opposite (less than 4m away) and pedestrian passers by using walkway between Sun Street and Darby Drive leading to unacceptable levels of privacy.

By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

Unacceptable in this respect.

Highways and Parking

ECC Highways Engineer comments:

“From a highway and transportation perspective the Highway Authority has no objections to make on this proposal as it is not contrary to the Highway Authority’s Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, policies ST4 & ST6 of the Local Plan and policy T1 of the Local Plan Submission Version 2017.”

No off street car parking is proposed.

EFDC Land Drainage

“The site is not at risk of flooding nor will the proposal impact on the current surface water drainage arrangements / increase flood risk elsewhere, therefore I have no comments to make on behalf of the Environmental Protection and Drainage Team.”

EFDC Contaminated Land

“There are no acknowledged sources of potentially contaminated land at this site on the council’s system. Should the proposal for this site be amended including demolition of existing buildings, consideration should be given as to whether further contaminated land conditions would be required. However, as this proposal retains the current structure of the building, conditions should be attached

SAC

In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

Conclusion

Recommended for refusal.

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: Kie Farrell Direct Line Telephone Number: 01992 564248 or if no direct contact can be made please email: contactplanning@eppingforesstdc.gov.uk