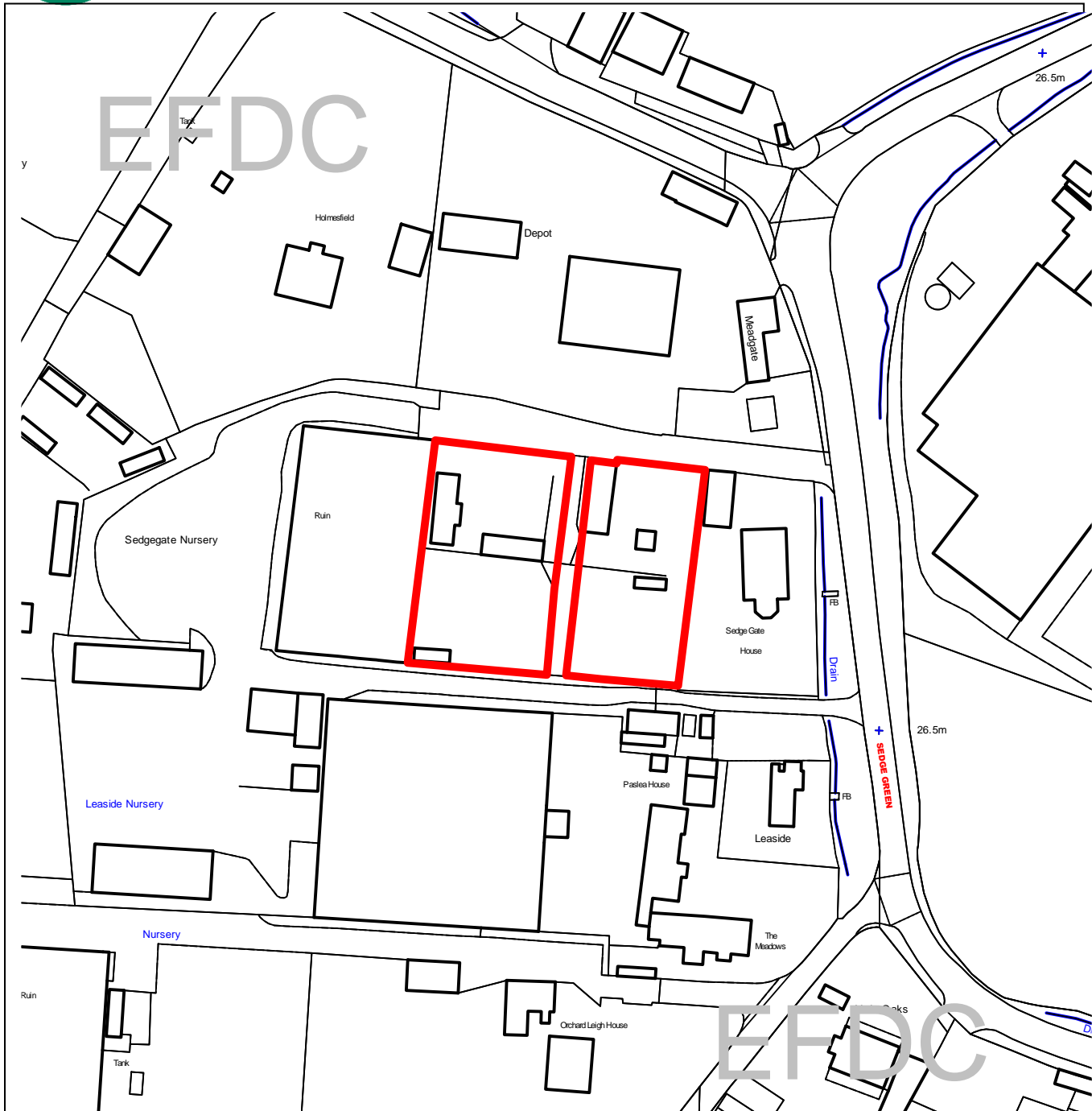




Epping Forest District Council



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Application Number:	EPF/2425/21
Site Name:	Sedge Gate Nursery Sedge Green, Nazeing Waltham Abbey, EN9 2PA
Scale of Plot:	1:1250

Report Item No: 9

APPLICATION No:	EPF/2425/21
SITE ADDRESS:	Sedge Gate Nursery Sedge Green Nazeing Waltham Abbey EN9 2PA
PARISH:	Nazeing
WARD:	Lower Nazeing
APPLICANT:	Mr Pasquale Milazzo
DESCRIPTION OF PROPOSAL:	Change of use from horticultural use to 14 warehouse units.
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=657256

REASON FOR REFUSAL

- 1 The National Planning Policy Framework establishes that substantial weight should be given to any harm to the Green Belt. The proposal is considered to constitute inappropriate development in the Green Belt that would be harmful to its open character and visual amenity. In addition, the scale height, bulk and activities associated with such a development would result in a visually more conspicuous, prominent and intrusive impact on the rural character of the Green Belt. Whilst there are considered benefits to the proposed development they cannot be justified in terms of 'very special circumstances' that would outweigh the harm identified and is contrary to policy DBE1, GB7A and GB2A of the adopted Local Plan and Alterations (2006-2008), and with policy DM4 of the Epping Forest Local Plan (Submission Version), 2017 and with the Green Belt objectives of the NPPF, 2021.
- 2 The development by reason of its design, scale, height, activities and siting would cause significant demonstrable harm to neighbour's amenity in the form of noise and disturbance and also a loss of light, intrusive and overbearing impact, to Sedge Gate House. Such substantial harm to the living conditions of the adjoining properties is contrary to policy DBE9 of the adopted Local Plan and Alterations (1998-2006), policy DM9 of the Submission Version, 2017 and with the core objective of the National Planning Policy Framework that seeks to secure a good standard of amenity for all existing occupiers

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

Description of Site:

The application site is located to the west of Sedge Green in the Settlement of Nazeing, sited to the rear of Sedge Gate House and accessed by a narrow track between Sedge Gate and Meadgate.

The site is a former glasshouse use located within the Metropolitan Green Belt, Flood Zone 2 as defined by the Environment Agency and within the Lea Valley Regional Park. The lawful use of the site continues to be horticulture (agricultural).

The previous nursery site was divided into two, with the front (eastern) parcel constituting the application site and the rear (western) parcel being incorporated into the established adjacent Leaside Nursery.

To the rear of the nursery is a permanent gypsy site and there are residential dwellings sited to the front, and southeast. The site is not sited in a conservation area

Description of Proposal:

The proposal (as amended) is for the construction of 14 units for B1(a), B2 and B8 use arranged in two aligned blocks, each unit measuring a width of 6.7m and a depth of 15m deep with a roller shutter door and pedestrian side door to the front elevation and covered over with a gable end roof at a ridge height of 7.6m and an eaves height of 5.5m.

Units 1-6 are sited to the south boundary of the site with Units 7-14 located to the north boundary with the west flank bordering the shared boundary with Sedge Gate House.

The vehicle access, 14.7m in width is sited to the southwest of the site with the provision of 38 parking spaces located to the central aspect of the site.

Materials: Concrete and profile steel cladding

Relevant History:

EPF/0013/20 - Retrospective development for the change of use of the land from former glasshouses for the stationing of caravans for residential occupation by Gypsy and Travellers with associated hardstanding, fence/gates, lighting and utility buildings and the parking of 2 vehicles on plots 2-3 and 4 - Refused - 01/05/20 on inappropriateness in the Green Belt

EPF/2406/19 - Retrospective application for change of use of land for stationing of caravans for occupation by Gypsy Traveller family - Refused - 22/09/20 on inappropriateness in the Green Belt, no flood risk assessment - currently at appeal

EPF/1060/13 - Retrospective Consent for the change of use of the land for the stationing of caravans for occupation by Gypsy - Traveller families with ancillary works including (including the demolition of two rows of glasshouses and erection of fencing and amenity blocks and the installation of hardstanding and a septic tank).
Refused - 27/05/2013

'The proposal constitutes inappropriate development within the Metropolitan Green Belt that is, by definition, harmful to the openness of the Green Belt, and would also constitute unacceptable development within the Lee Valley Regional Park, the Environment Agency Flood zone 2 and a designated E13 area. No very special circumstances exist that clearly outweigh this identified harm and, as such, the development is contrary to the guidance

contained within the National Planning Policy Framework and policies GB2A, GB5, H10A, E13B, RST24 and U2A of the adopted Local Plan and Alterations’.

‘No Sequential Test has been submitted and agreed regarding the use of this site for a highly vulnerable development within Environment Agency Flood zone 2. As such, there is no justification as to why the proposed development cannot be located on any other site in areas with a lower probability of flooding and therefore the proposal is contrary to the guidance contained within the National Planning Policy Framework and policy U2A of the adopted Local Plan and Alterations’.

Appeal (Ref: APP/J13/A/13/2206298) - Temporary permission Allowed June 2016 for 3 years

EPF/2282/12 - Retrospective change of use of premises for the restoration and renovation of motor vehicles for hobby purposes - Refused 12/02/13

EPF/1283/11 - Demolition of existing glasshouses, erection of replacement glasshouses and erection of packing shed (revision to application EPF/0374/11) – Approved/conditions 16/08/11

EPF/0374/11 - Demolition of existing glasshouses, erection of replacement glasshouses, erection of packing shed and storage building - Refused 28/04/11

CLD/EPF/1391/10 - Certificate of lawful development for an existing use for vehicle repairs - not lawful 28/11/11

EPF/0036/05 - Car park spaces and storage of agricultural vehicles in conjunction with growing use of greenhouses - Refused 01/07/05

EPF/0943/95 - Continued use for storage and distribution of plant containers and production, maintenance and storage of interior plant displays - Refused 30/01/96 (dismissed on appeal 23/10/96)

EPF/1338/16 Storage building replaced by three dwellings - Approved - 29/07/2016

Applied Policies

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).

CP1 Achieving sustainable development objectives

CP2 Protecting the quality of the rural and built environment

CP3 New development

GB2A Development in the Green Belt

GB7A Conspicuous Development

DBE1 Design of new buildings

DBE9 Loss of amenity

DBE2 Effect on Neighbouring Properties

DBE4 Design in the Green Belt

RP5A - Adverse environmental impacts

ST1: Location of development

ST2: Accessibility of Development

ST4 Road Safety

ST6 Vehicle Parking
NC1 SPA's, SAC's and SSS1's
RP4 Contaminated Land
U2A Development in flood risk areas
RST24 - Design and location of development in the LVRP

NPPF, 2021

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

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

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

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

Paragraph 81 & 84
Paragraph 137- 138 and 147-149

Local Plan Submission Version (LPSV) (2017)

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.

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 (ends 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:

Policy	Weight Afforded
SP1 - Presumption in Favour of Sustainable Development	Significant
SP6 - Green Belt and District Open Land	Significant
DM4 - Green Belt	Significant
DM2 - Epping Forest SAC and the Lee Valley SPA	Significant
DM9 - High Quality Design	Significant
DM15 - Managing and reducing flood risk	Significant
DM21 - Local environmental impacts, pollution and land Contamination	Significant
DM22 - Change in air quality management	Significant
T1 - Sustainable transport choices	Significant

Consultation Carried Out and Summary of Representations Received

Councillor Bassett has 'Called in' the application if officers are minded to refuse as he considers it to be a useful employment zone on a previous employment location and as such there is special consideration

NAZEING PARISH COUNCIL – NO OBJECTION

- Supports the application as it will provide employment and if permission granted conditions can be imposed to control hours of working and use of access road.

Site Notice Displayed 29/10/21 and Advertised 07/11/21

42 neighbours notified and 4 objections have been received that raise the following concerns:

- massive development if allowed then the immediate area will be just an industrial estate with no residents who can reside there.
- object to this application due to the extreme closeness to our home, our garden depth is only 8 metres depth would tower our home block all-natural light and invade our privacy. the applicant has already built the same building to the far end of us and we have had constant traffic lorries causing traffic as not possible to turn in. There is 7.5 tonne restriction

on the road which would be the entrance but is completely ignored by the site owner/warehouse residents and have had our walls to our property knocked down on several occasions. with 18 tonne and 44 tonne articulated vehicles use the entry roads

- Concern on the noise, pollution and furthermore congestion this application should not be approved on the grounds of the detrimental effect to us and Nazeing village.
- the site is also greenbelt. The site is not a suitable location to erect industrial units. 14 units will promote a 100 or more vehicles per day alongside with delivery companies whom tend to use vehicle of over 7.5 tons and Arctic container lorries.
- Years of turmoil with it being a traveller site, now plans to change use into to warehouses is even more concerning as the traffic increase noise will hugely increase. we constantly have vehicles obstructing our access into our home to deliver to the warehouses behind, we are in constant danger of accidents where our drive is used as access into site especially lorries.
- Leaside Ind Estate is already causing noise pollution and aggravation for neighbours. The industrial area is supposed to be restricted to set working times, yet many businesses already seriously abuse this and work 24 hours a day 7 days a week. When asked about out of hours working the resident businesses say take it up with the owner. When the owner is to stop business out of hours working, he says he cannot control the businesses.

Main issues and Considerations:

- Historical Background Information of the site
- Impact on the spatial and visual appearance of the Green Belt
- Impact on neighbour's amenity
- Highway and Parking
- Environment Protection and Land Drainage
- Contamination
- Special Area of Conservation

Historical Background Information of the site

A retrospective planning application in 2013 Ref: EPF/1060/13 to change the use of the site for the stationing of caravans for the occupation by Gypsy - Traveller families with ancillary works was refused planning permission in 2013 due to its inappropriateness and its impact on the Green Belt. An appeal in 2016 ref: APP/J13/A/13/2206298 allowed a temporary period of 3 years which has now expired and further similar planning applications to use the land as a gypsy site have been refused.

The Inspector in her statement noted that the planning history of the appeal site involved no horticultural use of the glasshouses since around 2008, that the site had been used for a number of other unauthorised uses and that on other parts of the wider nursery site been granted temporary permission for non-glasshouse uses.

The Inspector considered that there was no evidence to show that a glasshouse-based industry would be likely to be re-established. The site is not contingent with other nurseries and, on its own, was not suited to modern glasshouse production which favours larger scale glasshouses. As such, the Inspector did not consider that there would be overall harm to the vitality and viability of the glasshouse industry in this area.

The Inspector made reference to the National Planning Framework, where the essential characteristics of Green Belt is its openness and permanence and noted the enclosed nature of the

site by residential buildings and a haulage business to the north with the glasshouses to the south and that the wider area was mixed in character with a variety of commercial and residential uses. She also noted that the site formerly comprised of hardstanding, a derelict glasshouse and some small buildings and was surrounded by fencing.

The Inspector concluded that there was harm to the Green Belt by inappropriate development which should not be approved except in very special circumstances and which carries significant weight. The harm to the Green Belt by way of inappropriate development is not clearly outweighed by other considerations so as to justify inappropriate development but that a temporary permission would be acceptable taking into account the current lack of available sites together with the personal circumstances. The temporary approval of 2016 has now expired

Appropriateness of the development on the Green Belt

The National Planning Policy Framework (NPPF, 2021) indicates that the Government attaches great importance to Green Belts. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should be refused planning permission unless very special circumstances can be demonstrated which clearly outweigh this harm.

The NPPF also emphasises that when considering an application, a Local Planning Authority should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

Paragraph 149 of the Framework states that the Council should regard the construction of new buildings as inappropriate in Green Belt

The application site is lawfully a horticultural nursery and therefore falls under the category of 'agricultural land'. As such this site does not constitute previously developed (brownfield) land and the development of this site would not meet any relevant exceptions to inappropriate development as set out in paragraph 149.

Furthermore, the proposed industrial units would result in a far greater floor area amounting to some 1,470m² and a cumulative volume of 9,555m³ resulting in significantly greater harm to the Green Belt.

The assessment in terms of the Green Belt is not determined solely by spatial impact to assess proportionality but also the visual impact of the proposal on the surrounding area.

The proposal development would replace previous glasshouses which are considered appropriate in the context of its surroundings whereas the solid brick-built form, height and scale would radically change the site from a horticultural use to an small industrial park resulting in a much more imposing and intrusive impact, intensifying urban activity, vehicular and pedestrian traffic movements, and a larger vehicle access which would result in a greater material impact and the site being of different character to what presently exists contrary to national and local policy.

The amount, scale and form of the units within such a constrained space surround, is unsympathetic within the rural landscape failing to preserve the open rural character of the visual amenity of the countryside and local environment.

The proposal, for these reasons would have a significantly greater impact on the openness and visual amenity of the site and surrounding area. The potential employment contribution that the scheme brings is given significant weight, but the density, height and mass of the buildings would on balance, not outweigh the identifiable harm to the openness and visual amenity of the Green Belt.

The Council is not aware of any very special circumstances which clearly outweigh this harm and any other harm resulting from the proposal. The proposal therefore conflicts with Green Belt policy within the NPPF, policy GB2A and GB2A of the Local Plan and policy DM4 of the Submission Local Plan.

Impact on Neighbouring Amenity

The site is bounded by a mix of uses and residential with Sedge Gate House sited to the immediate west of the site and residential properties sited opposite the single track leading to the vehicle access of the site.

The magnitude and height of the proposed units at 7.6m and a depth of 15m built on the shared west boundary of the site would result in a loss of amenity in the form of a loss of light, overbearing, and an intrusive impact to the adjoining residential property of Sedge Gate House.

Having regard to the nature of the proposed use and its surroundings, appropriate conditions could be imposed to limit the hours of use but it is considered that the siting and scale of the activities associated with such a use would be of a level that would give rise to significant demonstrable harm to neighbour's amenity in the form of noise, disturbance and intensity of use which is contrary to the requirements of policies DBE9 and DM9 of the adopted Local Plan and emerging Local Plan.

Highway and Parking

From a highway and transportation perspective the Highway Authority has no objections to 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 adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021.

Whilst the proposal will slightly increase vehicle movements to and from the site, it will not result in a significant increase. Consequently, it is considered that the development would not be detrimental to highway safety or efficiency at this location or on the wider highway network.

Environment Protection & Drainage

The applicant has provided a flood risk assessment and the drainage team agree with the findings in principal.

Considered within the flood risk assessment is a surface water drainage strategy and whilst we agree with the general principles of the design, including the use of permeable paving where possible, there are, however concerns of the practicality of using permeable paving for all hardstanding areas in relation to loading. As the development is defined as having multiple HGV movement on a weekly basis, further information is therefore required on the type of permeable paving system proposed including the construction make up. Any changes to the design must be supplied alongside a supporting statement, calculations and detailed drainage plan. Further details are required to be submitted to the Local Planning Authority of the disposal of surface water and drainage prior to preliminary groundworks commencing in accordance with the appropriate policies which are considered reasonable and necessary.

Contamination

The site has acknowledged potentially contaminated land due to use as a horticultural nursery on a former landfill site. As this proposal is for redevelopment of the site, it is necessary to investigate all potential land contaminative issues.

No contaminated land assessment has been submitted for this application to date. In line with Essex Contaminated Land Consortium Land Affected by Contamination Guidance and National Planning Guidance, the applicant is advised to submit a Phase 1 and as necessary a Phase 2 and a Detailed Remediation Scheme produced by a National Planning Policy Framework to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the guidance contained within the National Planning Policy Framework, policy RP4 of the adopted Local Plan and Alterations, and policy DM 21 of the Epping Forest District Council Local Plan Submission Version 2017.

Impact on the Special Area of Conservation

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 concludes 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 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 parts of the methodology underpinning the appropriate assessment HRA 2019, 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 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.

As this application is for non-residential development it has been screened in relation to the atmospheric pollution Pathway of Impact only and concludes as follows:

- 1) The development would not result in a net increase in traffic using roads through the EFSAC.

The Council is therefore satisfied that the application proposal would not result in a likely significant effect on the integrity of the EFSAC. Having undertaken this first stage screening assessment and reached this conclusion there is no requirement to undertake an 'Appropriate

Assessment' of the application proposal or seek financial contributions toward mitigation and monitoring measures.

Conclusion

The National Planning Policy Framework establishes that substantial weight should be given to any harm to the Green Belt. The proposal is considered to constitute inappropriate development in the Green Belt that would be harmful to its open character and visual amenity. In addition, the scale height, bulk and activities associated with such a development would be visually more prominent and have a greater physical impact on the openness of the Green Belt. Whilst there are benefits to the scheme the proposed development cannot be justified in terms of 'very special circumstances' which would outweigh the harm identified and is contrary to policy GB7A and GB2A of the adopted Local Plan and Alterations (2006-2008), and with policy DM4 of the Epping Forest Local Plan (Submission Version), 2017 and with the Green Belt objectives of the NPPF, 2021.

The development by reason of its design, scale, height, activities and siting would cause significant demonstrable harm to neighbour's amenity in the form of noise and disturbance and also a loss of light, intrusive and overbearing impact, to Sedge Gate House. Such substantial harm to the living conditions of the adjoining properties is contrary to policy DBE9 of the adopted Local Plan and Alterations (1998-2006), policy DM9 of the Submission Version, 2017 and with the core objective of the National Planning Policy Framework that seeks to secure a good standard of amenity for all existing occupiers. In light of the above considerations the application is 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: Caroline Brown Direct Line Telephone Number: 01992 564182

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