



# Epping Forest District Council



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Application Number:	EPF/0483/22
Site Name:	8 Stanmore Way Loughton Essex IG10 2SA

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# OFFICER REPORT

**Application Ref:** EPF/0483/22  
**Application Type:** Full planning permission  
**Applicant:** Mr T Brough  
**Case Officer:** Muhammad Rahman  
**Site Address:** 8 Stanmore Way  
Loughton  
Essex  
IG10 2SA  
**Proposal:** The replacement of an existing house.  
**Ward:** Loughton St. John's  
**Parish:** Loughton  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000NyTP>  
**Recommendation:** Approve with Conditions

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

## Site and Surroundings

The site comprises of a detached bungalow located within a built-up area of Loughton. It is not listed nor in a conservation area.

## Proposal

The proposal is for a replacement dwelling.

## Relevant Planning History

EPF/2674/19 - Proposed accommodation with a new roof form – Approved

EPF/0490/20 - Proposed replacement of an existing house – Dismissed on Appeal on Loss of Bungalow.

EPF/0550/21 - Demolition of an existing bungalow and replacement with two chalet bungalows – Dismissed on Appeal on EFSAC

EPF/2649/21 - Application for Prior Approval of a proposed enlargement of a dwellinghouse by construction of additional storeys – Prior Approval Required and Refused

EPF/3114/21 - Application for Prior Approval for a proposed enlargement of a dwelling by construction of additional storeys (Revised app to EPF/2649/21) – Prior Approval Required and Granted

EPF/0411/22 - Application for Approval of Details reserved by condition 3"Construction management report" for EPF/3114/21 – Details Approved

## Development Plan Context

### *Local Plan and Alterations 1998 & 2006 (LP)*

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

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

CP2	Protecting the Quality of the Rural and Built Environment
CP7	Urban Form and Quality
H2A	Previously Developed Land
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE8	Private Amenity Space
DBE9	Loss of Amenity
LL10	Adequacy of Provision for Landscape Retention
LL11	Landscaping Schemes
ST4	Road Safety
ST6	Vehicle Parking

### *National Planning Policy Framework 2021 (Framework)*

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

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

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

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

Paragraphs 126 & 130  
Paragraph 180

### *Epping Forest District Local Plan Submission Version 2017 (LPSV)*

Although the LPSV does not currently form part of the statutory development plan for the district, on 14<sup>th</sup> 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 2<sup>nd</sup> August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

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

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional Main Modifications, the **highest weight** should be afforded to LPSV policies in accordance with paragraph 48 of Framework. The following policies below are relevant to the determination of this application;

SP2	Spatial Development Strategy 2011-2033
H1	Housing Mix and Accommodation Types
T1	Sustainable Transport Choices
DM2	Epping Forest SAC and the Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM5	Green and Blue Infrastructure
DM9	High Quality Design
DM10	Housing Design and Quality
DM15	Managing and Reducing Flood Risk
DM16	Sustainable Drainage Systems
DM19	Sustainable Water Use
DM21	Local Environmental Impacts, Pollution and Land Contamination
DM22	Air Quality

### Summary of Representations

Number of neighbours Consulted: 8. 2 response(s) received  
Site notice posted: Yes

36 BROADSTROOD – Support - The existing property site is in a state of dis-repair and doesn't contribute positively to the appearance of the street. This proposal will bring the site back to life providing a nice family home, and the design would make a positive addition to the street scene.

1 LITTLE GOLDINGS – Objection – Summarised as: Overlooking.

LOUGHTON TOWN COUNCIL – The Committee OBJECTED to this application on the grounds that it was yet another attempt to change the existing dwelling from a bungalow into a multiple level dwelling. Members supported the retention of bungalows in the district, under Policy H1 of the local plan, which

proposes to seek mixed and balanced communities, as upheld by the Planning Inspectorate in its decision of 22 December 2020, for planning application EPF/0490/20.

Further, the increase in the number of bedrooms is contrary to the SAC and would result in more car pollution and a subsequent impact on the air quality to the SAC.

Natural England and Loughton Town Council have both advised in their main modifications responses to the Inspector (autumn 2021) that the LPSV cannot yet be considered justified, effective or consistent with national policy in relation to detriment to the SAC. Therefore, we object to this application because of the urbanisation effect, burden on recreational pressure, and damage to air quality in the SAC that the application, alone or with other projects, will engender.

## **Planning Considerations**

The main issue for consideration in this case is the supply of housing for older residents.

Policy H1 (f) of the LPSV specifically seeks to resist the loss of bungalows (due to their potential ease of adaption) 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. Policy H1 also requires new homes to be accessible and adaptable as defined by Building Regulations.

Whilst the proposal would result in a two-storey house, thereby resulting in a loss of a bungalow, however, Members attention is drawn to the fallback position under EPF/3114/21 where an additional storey under Class AA of the General Permitted Development Order (GPPDO) 2015 was granted, all pre-commencement conditions were discharged, and the consent implemented. Thus, the existing bungalow is no longer a bungalow. This position was also accepted by the Inspector of the recent appeal decision related to EPF/0550/21 (Please refer to Appendix 1).

Therefore, there would be insufficient grounds to refuse this application on the loss of a bungalow, particularly one that can be defended at appeal.

### *Other Considerations*

#### *Character and Appearance*

The current bungalow is at odds with the rest of the properties in the wider area, which consist of large detached dwellings of various architectural styles and built form. The proposal would be in keeping with neighbouring properties, have sufficient spacing around the building and be of a high-quality design. Therefore, the proposed development would complement the appearance of the street scene and that of the wider area and would not amount to harmful overdevelopment of the site.

#### *Living Conditions*

The proposed dwelling is sited a significant distance away from No. 1 Little Goldings (Approx. 8.5m to the common boundary & 13m to the flank elevation of No. 1) to cause any material impact to their amenities, in terms of harmful overlooking that would justify a reason for refusal. The rear facing window serving the master bedroom is angled at 30 degrees and the proposed green roof would not be used as a balcony or similar amenity area. This element will also be secured via a condition. The other rear facing window serves the dressing room and will be obscure glazed.

Furthermore, there will be no material impact to the living conditions of No. 6 due the extensive extensions carried out to their property, and no material impact to No. 10 due to the siting, form and separation distance of the building to the common boundary.

### *Highway Safety*

No change is proposed to the existing vehicle accessway and there is sufficient space to park multiple cars on the site, and no objection has been received from the highways officer, so it is considered that there would be no detrimental impact to the safety operation of the highway network.

Accordingly, the proposal complies with policies ST4 and ST6 of the LP, policy T1 of the LPSV and Paragraphs 108 and 109 of the Framework.

### *Trees and Landscaping*

The Council's tree officer has raised no objection subject to the imposition of conditions as part of the consent.

### *Epping Forest Special Area of Conservation (EFSAC)*

The proposal will not result in increased recreational pressure or vehicle movements or greater urbanisation from the site than the existing dwelling. It is simply a replacement building. As such there would be no impacts in this regard. The claims by the Parish are unfounded.

### **Conclusion**

For the reasons set out above, having regard to the matters raised, it is recommended that conditional planning permission be granted.

**If you wish to discuss the contents of this report then please contact the case officer by 2pm on the day of the meeting at the latest. If no contact can be made, then please email**

**[contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)**

**Case Officer | Muhammad Rahman | [mrahman@eppingforestdc.gov.uk](mailto:mrahman@eppingforestdc.gov.uk)**

**Appendix 1 - Appeal Decision for EPF/0550/21**



## Appeal Decision

Site visit made on 11 April 2022

by **Mark Philpott BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

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**Appeal Ref: APP/J1535/W/21/3283846**

**8 Stanmore Way, Loughton IG10 2SA**

- 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 Ms T Brough against the decision of Epping Forest District Council.
  - The application Ref EPF/0550/21, dated 26 February 2021, was refused by notice dated 14 July 2021.
  - The development proposed is demolition of an existing bungalow and replacement with two chalet bungalows.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The National Planning Policy Framework (Framework) was revised in July 2021. It replaces the version from 2019, which was effective when the planning application was determined. The appellant and the Council have been able to comment on the current version of the Framework during the appeal process.
3. In January 2022 the latest Housing Delivery Test results were published. These indicate that the presumption in favour of sustainable development, as set out at paragraph 11(d) of the Framework, is relevant to decision making in the district. The latest results are not referred to in the appeal submissions, but the results from the previous year have been referenced and the presumption was relevant then too. As such, it has not been necessary to seek the views of the main parties regarding the latest results.
4. A unilateral undertaking (UU) dated 22 September 2021 was submitted with the appeal. It intends to secure mitigation of potential adverse effects of the proposal on the integrity of the Epping Forest Special Area of Conservation (habitats site), which is designated under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations).
5. One of the Council's refusal reasons sets out that the proposal would have a 'detrimental impact on the amenities of the immediate neighbouring residents through its visual impact'. I have taken this to be a concern regarding outlook, which is reflected in the wording of one of the main issues identified below.

### Main Issues

6. The main issues are the effects of the proposal on:
  - the integrity of the habitats site;

- the character and appearance of the area, with particular regard to landscaping;
- the mix of housing in the district; and
- the living conditions of the occupiers of neighbouring properties, with particular regard to outlook.

## Reasons

### *Habitats site*

7. The appeal site comprises a residential property adjacent to a highway junction between Stanmore Way and The Beacons. It is around 140 metres from the habitats site. The qualifying features for which the habitats site has been designated are Atlantic acidophilous beech forests, Northern Atlantic wet heaths, European dry heaths and the stag beetle.
8. The habitats site's conservation objectives are to ensure that its integrity is maintained or restored and achieve the favourable conservation status of its qualifying features by maintaining or restoring the extent, distribution, structure and function of its 3 qualifying habitats and the habitats of the stag beetle; the population and distribution of the stag beetle; and the supporting processes on which the qualifying features rely.
9. Natural England was consulted on the proposal during the appeal, but no response was received. However, I also requested that information was submitted to facilitate an appropriate assessment. Amongst other things, the Council provided advice from Natural England prepared principally to support the advancement of the emerging Local Plan<sup>1</sup> (eLP). The most recent advice<sup>2</sup> identifies that the habitats site's qualifying features are sensitive to changes in air quality and that pollutants adversely affecting them currently exceed critical level and load thresholds. Petrol and diesel motor vehicles emit those pollutants. Natural England also identifies that the qualifying features are vulnerable to impacts associated with recreational activities within the habitats site, including trampling, dog fouling and soil erosion and compaction.
10. The proposal would result in a net increase in housing in the immediate vicinity of the habitats site. There is nothing before me which indicates that petrol and diesel vehicles would not be used in connection with the residential use. Trips to and from the site, and through and near the habitats site, would therefore likely be made using petrol and diesel vehicles. Those vehicle movements would contribute to the levels and loads of the pollutants adversely affecting the habitats site. Additionally, the future occupiers of the development would likely use the habitats site for recreational purposes given their proximity to it.
11. The appellant has prepared a Habitats Regulations Assessment (HRA). It does not comment on the significance of the recreational impacts but concludes that the air quality impacts would be insignificant. While a limited number of petrol and diesel vehicle movements would be generated by 2 dwellings, the HRA reports that more trips would arise from the development than if the existing dwelling was occupied. Any additional petrol and diesel vehicle trips would contribute to the critical levels and loads of pollutants being further exceeded.

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<sup>1</sup> Epping Forest District Local Plan Submission Version 2017

<sup>2</sup> Overarching Standard Advice for Development Applications within Epping Forest District, 10 August 2021



12. Furthermore, the effects must be considered in combination with other plans and projects and, following the People Over Wind judgement<sup>3</sup>, mitigation measures cannot be considered in determining whether effects would be significant. This includes mitigation identified in the eLP and for other development proposals. In the absence of mitigation and adopting a precautionary approach, the proposal would have likely significant effects on the habitats site. Moreover, there would be adverse impacts on its integrity from pollutants and recreational activities in the ways set out above, unless mitigation is secured.
13. The Council has created interim strategic approaches<sup>4</sup> for mitigating the air quality and recreational impacts of development that would adversely affect the habitats site. The UU seeks to provide financial contributions towards mitigating the development's air pollution and recreational impacts in line with those interim approaches.
14. Natural England's latest advice sets out that air quality should not be considered an impediment to determining applications if development comes forward in accordance with a modelled scenario relied upon by the HRA from August 2020 to support the eLP, and the mitigation relied upon in that scenario and the Council's interim air quality strategy is secured and certain to proceed. In respect of recreational impacts, Natural England supports the Council's interim approach, but it raises concerns regarding the lack of a strategy for green infrastructure and suitable alternative natural greenspace.
15. Evidence relating to the eLP examination has been provided, including a schedule of proposed main modifications to the eLP. Amongst other things, modifications are proposed to eLP Policies DM2 and DM22 and their supporting text, which relates to development effecting the habitats site and air quality. The schedule also refers to an updated HRA that has not been submitted. On the basis of the evidence before me, I cannot be sure that the proposed changes and the updated HRA accord with Natural England's latest advice such as in respect of the modelling assumptions, and thus that there would be no adverse effects on the habitats site's integrity.
16. Additionally, it is logical that mitigation should be delivered to address the adverse impacts of this proposal specifically in time to prevent harm being caused, to maintain the integrity of the habitats site. Although the interim strategies set out various potential mitigation measures, evidence which indicates that mitigation for this specific proposal would be delivered in a timely manner has not been provided.
17. Therefore, based on the evidence before me and taking a precautionary approach, I cannot be certain that the mitigation necessary to conclude that the proposal would not adversely affect the habitats site would be secured.
18. Further, even if I was to conclude that the necessary mitigation could be secured, the UU is deficient insofar as Clause 1.3 indicates that a Building Society has an interest in the land. As it is not party to the UU, the obligations would be unenforceable against its successors in title. The UU also refers to the incorrect planning application reference and therefore it would not take effect if

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<sup>3</sup> People Over Wind & Peter Sweetman v Coillte Teoranta C-323/17

<sup>4</sup> Epping Forest Interim Air Pollution Mitigation Strategy (2020); Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation (2018)

the appeal was allowed. Accordingly, I cannot be certain that the financial contributions would be made or that mitigation would be provided.

19. Planning conditions have been agreed between the main parties in the event the appeal succeeds. Amongst them are ones to require the provision of electrical vehicle charging points and a strategy to facilitate super-fast broadband for the occupiers. These would likely result in the number of petrol and diesel vehicle movements and harmful emissions generated from the development being lower than would otherwise be the case. However, the conditions would not prevent the use of such vehicles or address the proposal's impacts from recreational activities.
20. Whilst the appellant's HRA was reviewed by a specialist consultant appointed by the Council and housing may have been approved in locations that are similarly close to the habitats site, as competent authority I must be satisfied that the development would not adversely affect the habitats site's integrity. For the reasons identified, I cannot conclude that this would be the case.
21. Therefore, the proposal conflicts with Policy NC1 of the Epping Forest District Local Plan and Alterations (LP), which resists adverse effects on special areas of conservation. It also fails to comply with eLP Policies DM2 and DM22, which seek to avoid adverse effects on the habitats site. Additionally, it conflicts with Chapter 15 of the Framework and the Habitats Regulations, which seek to protect designated habitats and species.

#### *Character and appearance*

22. The site includes a bungalow and associated outbuildings. A tall hedge extends across the majority of the site's front boundary. Trees and other vegetation are located within and near the boundaries of the site.
23. The area is predominantly characterised by large, detached houses fronting the highway in fairly consistent lines; however, their ages and designs vary considerably and a few bungalows are also evident nearby. A high number of street trees are present in the vicinity. Additionally, many properties feature soft landscaping that is visible from the highway, including boundary hedges.
24. The bungalow has a tired appearance, is somewhat awkwardly juxtaposed between the comparatively large houses at 6 and 10a Stanmore Way and makes a limited contribution to the prevailing character of the area. Furthermore, the site's front boundary hedge is unusually large relative to the size and extent of boundary hedges at other properties.
25. The proposed building would feature asymmetrical pitched and gabled roofs which would appear to be separated by a chimney stack. Most of the accommodation, including a bathroom and bedroom or study, would be located on the ground floor of each dwelling. However, there would also be ensuite bedrooms above ground floor level, which would be served by windows in gable ends to the front and rear of the building.
26. Taking the proposed dwellings together, the overall building would be comparable with the height of the adjacent houses at Nos 6 and 10a, and similar in scale and width to many properties in the vicinity of the site. The building would also conform to the building line along Stanmore Way. Although the main entrances would be to the sides and not the front of the building, the site would nevertheless appear to feature semi-detached dwellings due to the

proposed roof design and as there would be front gardens for each property. However, the Council has not objected on the basis that the properties would be semi-detached. Having regard to the extent of variation in the appearance of the housing in the area, the development would not appear incongruous.

27. The proposal would involve the removal of part of the front boundary hedge to create an additional site access. The hedge is also proposed to be reduced in height. The resulting hedge would be typical of the size and extent of front boundary hedges apparent elsewhere in the locality. Although a few trees are proposed for removal, the appellant's arboricultural report identifies that they are of limited quality, none are protected by way of tree preservation orders, and their visibility from the public realm is limited. Subject to a condition to secure the implementation of new landscaping, the verdant character of the area would endure.
28. The proposal would not harm the character and appearance of the area. It accords with LP Policies LL10 and LL11, which resist the inadequate provision and retention of trees and other vegetation. It also complies with eLP Policies DM9 and DM10, which seek the integration of landscaping into schemes and enhancements to the quantity and quality of landscaping. Additionally, it accords with Chapter 12 of the Framework, which sets out that schemes should be visually attractive as a result of effective landscaping.

#### *Housing mix*

29. LP Policy H4A states that the provision of a range of dwellings, including an appropriate proportion of smaller dwellings, is required to meet identified needs. Similarly, eLP Policy H1 aims to address housing needs; however, Part F of the policy specifically resists the loss of bungalows and specialist accommodation. Its supporting text explains that there has been a gradual erosion of the existing stock of bungalows and that these play an important role because of their potential ease of adaptation such that they can provide choice for people with accessibility needs, including older people. In addition, paragraph 62 of the Framework sets out that the housing needs of different groups, including older people and people with disabilities, should be reflected in policies.
30. The appellant contends that the proposed dwellings would constitute 'chalet bungalows', whereas the Council argues that they would be 2 storey dwellings. I have not been referred to any definitions for bungalows or chalet bungalows for the purposes of assessing the proposal's conformity with LP Policy H4A or eLP Policy H1. However, details and drawings of several schemes have been provided which suggest that the Council has previously found chalet bungalows to be bungalows for the purposes of eLP Policy H1<sup>5</sup>. The buildings that the Council identifies as bungalows for policy purposes have similarities with the proposed dwellings, with some comparable in internal configuration and height, and others featuring first floor windows in gable ends. The Council has not provided reasons for concluding that the proposed dwellings do not constitute chalet bungalows or explained what sets them apart from the buildings that were found to constitute bungalows in compliance with eLP Policy H1. The Council's previous decisions therefore support the appellant's arguments.

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<sup>5</sup> Council references: EPF/1952/20; EPF/2680/20; EPF/2715/20; EPF/0028/21; EPF/0179/21

31. The appellant has undertaken an appraisal of the accessibility and adaptability credentials of the existing bungalow and the proposed dwellings. The bungalow is limited in these regards for several reasons, including stepped entrances, narrow accesses, small rooms and limited circulation space. The proposed dwellings would not have such constraints. Moreover, all the rooms typically required to meet day-to-day needs, such as cooking and bathing facilities, would be located at ground floor level. The proposed dwellings would satisfy the requirements of people with accessibility needs, including older people, even though the accommodation would be located over 2 floors.
32. Furthermore, a prior approval application has been granted<sup>6</sup> that would have the effect of turning the bungalow into a 2 storey house. Having regard to the bungalow's condition, there is a reasonable prospect that the prior approval scheme would be implemented if this appeal was dismissed. This fallback position attracts considerable weight. Therefore, even if I were to find that the proposed dwellings were neither bungalows nor chalet bungalows, the loss of the existing bungalow would not lead me to conclude that the proposal should be rejected due to housing mix concerns.
33. I have been provided with 3 appeal decisions<sup>7</sup> wherein the loss of bungalows was found to conflict with LP Policy H4A and eLP Policy H1. Full details and drawings of those proposals have not been provided. However, one decision refers to the creation of a 'two storey house with roof above', another refers to a proposed 'standard two storey dwelling', and the other scheme sought outline permission with all matters reserved. Chalet bungalows are not referred to within the decisions and thus the precise circumstances of and arguments put forward for those appeals appear to differ to this one. Furthermore, in this case, there is evidence that dwellings with similarities to the proposal have been found to comply with LP Policy H4A and eLP Policy H1. Accordingly, those appeal decisions have little bearing on this appeal.
34. Based on the evidence before me and taking account of the fallback position, the proposal would have a satisfactory effect on housing mix. On that basis, it does not conflict with LP Policy H4A, eLP Policy H1 or paragraph 62 of the Framework, the purposes of which are set out above.

#### *Living conditions*

35. The proposed building would be located almost centrally within the site. The gaps between it and the adjacent dwellings at Nos 6 and 10a would be similar to those between buildings elsewhere in the street. It would extend modestly beyond the front elevation of No 6 and the rear elevation of 10a. Furthermore, its pitched roof design is such that much of its upper parts would be set back significantly from the site's boundaries. Adequate outward views from the neighbouring dwellings and gardens would therefore be retained and any sense of enclosure would be limited.
36. The proposal would not result in excessive harm to the living conditions of the occupiers of adjacent properties. It accords with LP Policy DBE9, which requires that new development does not result in excessive loss of amenity for neighbouring properties. It also complies with eLP Policy DM9 and Chapter 12

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<sup>6</sup> Council reference: EPF/3114/21

<sup>7</sup> Appeal references: APP/J1535/D/20/3252852; APP/J1535/W/21/3268775; APP/J1535/D/21/3284249

of the Framework, which seek to achieve high amenity standards and prevent overlooking, overbearing and over enclosure.

### **Other Matters**

37. Paragraph 182 of the Framework makes clear that the presumption in favour of sustainable development does not apply where a plan or project is likely to have a significant effect on a habitats site, unless an appropriate assessment has concluded that the project would not adversely affect the integrity of a habitats site. It has not been possible to conclude that the proposal would not adversely affect the habitats site's integrity. Therefore, the presumption is not applicable in this case.
38. Nevertheless, it is undisputed that the Council cannot demonstrate 5 years supply of deliverable housing sites, with the appellant indicating that only 1.35 years supply exists. The proposal would make a small but notable contribution to housing supply and delivery having regard to the housing provision issues in the district. Additionally, the housing would be within walking distance of the centre of Loughton and the site would be used efficiently to increase the amount of accessible and adaptable accommodation in the district. Energy efficiency measures are also proposed. Further, the Framework supports the use of small sites, windfall schemes in existing settlements, the development of under-utilised land and the subdivision of sites. However, these benefits do not outweigh my concerns in respect of the habitats site.
39. The proposal is supported by an ecological assessment. Amongst other things, it recommends that a bat emergence survey of the existing bungalow is undertaken. The main parties have agreed to a condition that would require the recommendations in the assessment to be carried out.
40. Circular 06/2005<sup>8</sup> states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On that basis, it would be inappropriate to require the undertaking of surveys by means of a condition. The use of conditions to require mitigation in the absence of surveying would also be inappropriate as there would be no certainty that such measures would satisfactorily address any harm to bats that might occur. However, as I am dismissing the appeal in relation to one of the main issues in dispute, I have not sought further views from the parties regarding this matter.

### **Conclusion**

41. The proposal is contrary to the development plan. Material considerations do not outweigh the conflict with the development plan. Accordingly, the appeal is dismissed.

*Mark Philpott*

INSPECTOR

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<sup>8</sup> Office of the Deputy Prime Minister Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations and their Impacts within the Planning System

**Conditions: (18)**

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 378-EX-01 Rev B, 378-EX-02 Rev B, 378-EX-03 Rev B, 378-PL-10 Rev A, 378-PL-11 Rev A, 378-PL-12 Rev A, 378-PL-13 Rev A, 378-PL-14 Rev A, and 378-PL-15 Rev A.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

- 3 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.

Reason: To ensure satisfactory provision and disposal of surface water in the interests of Land Drainage, in accordance with policy RP3 of the adopted Local Plan and Alterations 1998 & 2006, policies DM16 and DM18 of the Local Plan Submission Version 2017, and the NPPF.

- 4 Tree protection shall be installed as shown on Moore Partners Ltd 'Tree Constraints and Protection Plan', drawing number 'CA\STAN\01' (dated 12th February 2020) prior to the commencement of development activities (including any demolition). The methodology for development (including Arboricultural supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees / hedges, so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policy LL10 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF.

- 5 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.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with policies CP2 and LL11 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF.

- 6 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.

Reason: To ensure the development contributes to supporting improved digital connectivity throughout the District and supports the wider aims and objectives for reducing car-led air pollution, improving the health and wellbeing of residents and visitors including the EFSAC, in accordance with policy CP1 of the adopted Local Plan 1998 & 2006, Policies D5, DM2, DM9, DM10 & DM22 of the Local Plan Submission Version 2017, and the NPPF.

- 7 Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point shall be installed and retained thereafter for use by the occupants of the site.

Reason: To help support improvements to air quality in accordance with policies T1 and DM22 of the Local Plan Submission Version 2017, and the NPPF.

- 8 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.

Reason: The District is classed as being in an area of severe water stress and the reduction of water use is therefore required in the interests of sustainability and in accordance with policy CP2 of the adopted Local Plan and Alterations 1998 & 2006, policy DM19 of the Local Plan Submission Version 2017, and the NPPF.

- 9 Prior to first occupation of the building/extension hereby permitted the window(s) in the flank elevation(s) at first floor level and above & the window on the rear elevation serving the master bedroom dressing area, shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of that/those window[s] that is less than 1.7 metres above the internal

floor level of the room in which it is installed shall be capable of being opened. Once installed the obscure glass shall be retained thereafter.

Reason: To prevent overlooking and loss of privacy to the occupants of neighbouring properties, in accordance with policy DBE9 of the adopted Local Plan and Alterations 1998 & 2006, policy DM 9 of the Local Plan Submission Version 2017, and the NPPF.

- 10 The development shall be carried out in accordance with the Recommendations & Enhancements as set out in the Preliminary Ecological Appraisal by agb Environmental Ltd (dated 2 March 2020) and completed prior to first occupation of the development and so retained.

Reason: To maintain and improve the biodiversity of the site and to mitigate any impact from the development hereby approved, in accordance with policy DM1 of the Local Plan Submission Version 2017, and the NPPF.

- 11 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified in the submitted application form & design & access Statement.

Reason: To ensure a satisfactory appearance in the interests of visual amenity of the area, in accordance with policy DBE1 of the adopted Local Plan 1998 & 2006, and Policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

- 12 Access to the flat (green) roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a seating area, roof garden, terrace, patio or similar amenity area.

Reason: To safeguard the privacy of adjacent properties, in accordance with policy DBE9 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

- 13 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.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 as well as to safeguard the amenity of the existing trees, shrubs or hedges and to ensure a satisfactory appearance to the development, in accordance with policies LL10 and LL11 of the adopted Local Plan and Alterations 1998 & 2006, and policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF.



- 14 The proposed dwelling hereby permitted shall be built in accordance with Part M4 (2) of the Building Regulations.

Reason To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households in accordance with Policy H1 of the Local Plan Submission Version 2017, and the NPPF.

- 15 No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

Reason: To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours and in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, and policies DM9 and DM 21 of the Local Plan Submission Version 2017, and the NPPF.

- 16 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 and an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced) shall be undertaken. If any contamination is found then the site shall be remediated. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.

Reason: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is 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 policy RP4 of the adopted Local Plan and Alterations, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF.

- 17 Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.

Reason: To avoid the deposit of material on the public highway in the interests of highway safety, in accordance with policy ST4 of the adopted Local Plan and Alterations 1998 & 2006, policy T1 of the Local Plan Submission Version 2017, and the NPPF.

- 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 Classes A, AA & B of Part 1 to schedule 2 shall be undertaken, without the prior written agreement of the Local Planning Authority.

Reason: To ensure further consideration is given with regards to the effect on the character and appearance of the area and living conditions on adjoining properties, in accordance with policies CP2, CP7, DBE9 & DBE10 of the adopted Local Plan 1998 & 2006, Policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

**Informatives: (1)**

- 19 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.