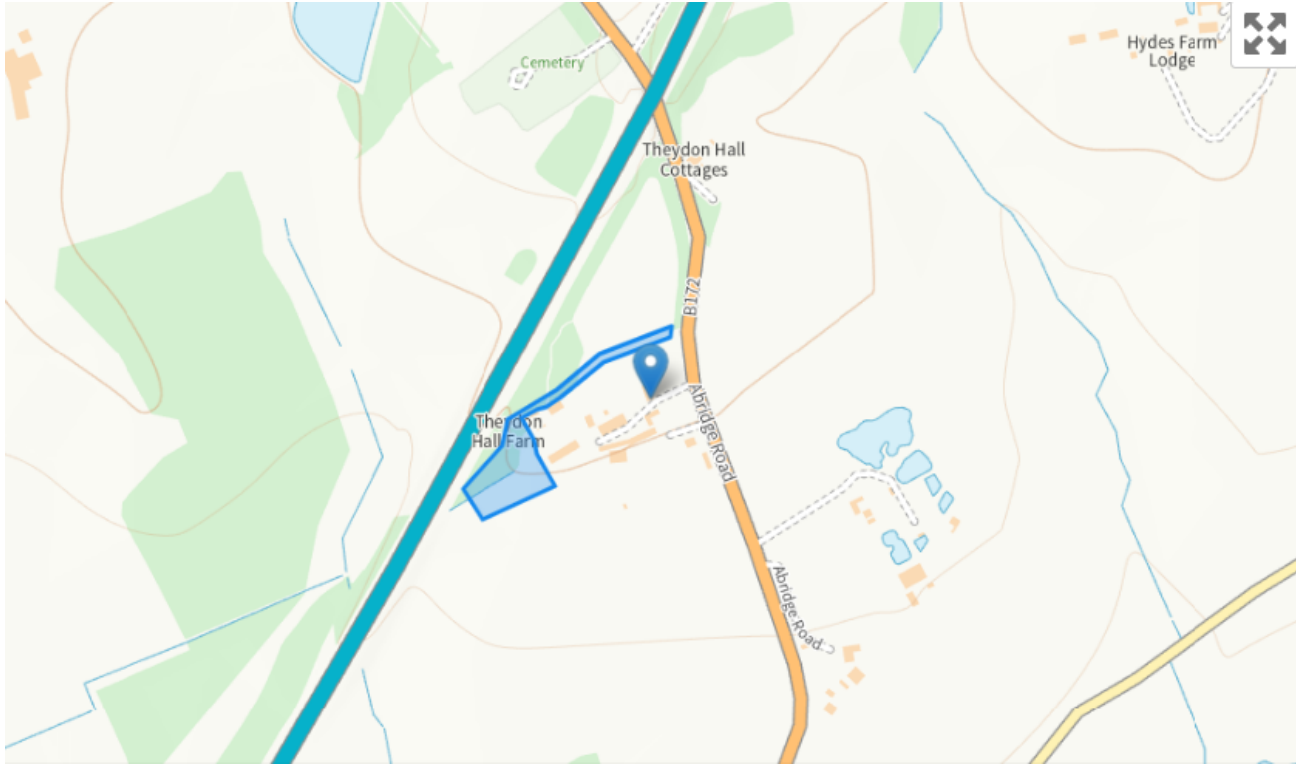




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Application Number:	EPF/0726/22
Site Name:	Magnolia House Abridge Road Theydon Bois CM16 7NR

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OFFICER REPORT

Application Ref: EPF/0726/22
Application Type: Full planning permission
Applicant: Mr & Mrs E & M Maxwell
Case Officer: Ian Ansell
Site Address: Magnolia House
Abridge Road
Theydon Bois
Epping
Essex
CM16 7NR
Proposal: Construction of Pond and Associated Landscaping and Drainage Works.
Ward: Theydon Bois
Parish: Theydon Bois
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000NyyH>
Recommendation: Approve with Conditions

This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council which is material to the planning merits of the proposal, and the Local Council confirms it intends to attend and speak at the meeting where the application will be considered (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).

Description of Site:

Site lies on the west side of Abridge Road, originally part of Theydon Hall Farm complex. The residential property is detached and is accessed directly off the road. The wider site includes land to the north and west of the historic farm within which lie buildings with lawful use for commercial storage, accessed via a separate road and entrance on the open land to the north.

The site lies to the north of converted residential buildings with separate access. The M11 passes within 30m of the western side of the site.

All land the subject of the application lies within the Green Belt.

Description of Proposal:

The application site is defined as the access road and land at the western end of the site, comprising around 0.65ha. The works proposed are the construction of a pond with associated landscaping and drainage works.

Supporting information explains the pond will provide sustainable drainage system for the access road with a gravel access road. It is submitted that ground conditions elsewhere are 'unfavourable' to allow other drainage direct from the access. The pond is indicated as having graded banks with a maximum depth of 3m and anticipated permanent water depth of around half of this.

Relevant History:

Other than domestic extensions to and within the curtilage of the house:

EPF/1005/16 – Certificate of Lawful Development for existing use of site for B8 storage purposes.
Lawful

EPF/2882/16 – Construction of access way to serve existing storage buildings – refused, allowed on appeal May 2017

EPF/3002/19 – Redevelopment of storage buildings as 6 dwellings – withdrawn

EPF/0524/20 – Approval of details in relation to access road

EPF/0892/21 – LDC change of use of storage buildings to offices - lawful

Policies Applied:

Adopted Local Plan:

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

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

CP2	Protecting the quality of the rural and built environment
GB2A	Development in the Green Belt
GB7A	Conspicuous development
NC5	Promotion of nature conservation schemes
U3B	Sustainable Drainage Systems
DBE2	Effect on neighbouring properties
DBE9	Loss of Amenity
LL1	Rural landscape
LL10	Adequacy of provision for landscape retention
LL11	Landscaping schemes

NPPF (July 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:

- 2 Achieving sustainable development – paragraphs 7, 8, 10, 11, 12

- 8 Promoting healthy and safe communities – paragraphs 92, 97
- 11 Making effective use of land – paragraphs 119, 122, 123, 124
- 13 Protecting Green Belt land – paragraphs 137, 138, 141, 143, 147, 148, 149
- 14 Meeting the challenge of climate change, flooding and coastal change – paragraphs 154, 159 – 169
- 15 Conserving and enhancing the natural environment – paragraphs 174, 175, 179 - 182, 183, 185, 186

Epping Forest District Local Plan (Submission Version) 2017:

On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.

Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "may give weight to relevant policies in emerging plans according to:

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

Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.

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 MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the advanced stage of the LPSV, all policies should be afforded significant weight:

No.	POLICY
SP1	Presumption in favour of sustainable development
SP6	Green Belt and District Open Land
SP7	The Natural Environment, landscape character and green infrastructure
T1	Sustainable transport choices
DM1	Habitat protection and improving biodiversity
DM2	Epping Forest SAC and Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM4	Green Belt
DM5	Green and Blue Infrastructure
DM9	High Quality Design
DM10	Housing design and quality
DM15	Managing and reducing flood risk
DM16	Sustainable Drainage Systems
DM18	On site management of waste water and water supply
DM19	Sustainable water use
DM21	Local environmental impacts, pollution and land contamination
DM22	Air quality

Consultation Carried Out and Summary of Representations Received

Date of site visit: 13 September 2021 (for pre-app)
Number of neighbours consulted: 12
Site notice posted: No, not required
Responses received: No response received from neighbours.

Other comments:

Theydon Bois Action Group – Object – question the justification for the development and the location – why are ground conditions elsewhere unfavourable, access across the field previously was not impacted by poor drainage – consider works unnecessary, inappropriate given archaeological and historic interest of wider site and query whether this is intended to facilitate redevelopment of the commercial buildings.

Theydon Bois & District RPS – Object – roadway not built, light access across fields suggest no drainage issues, unnecessary for level of activity, insufficient evidence pond will be accessed as a run off from access, inappropriate in Green Belt.

Theydon Bois Parish Council: Objection – no very special circumstances to support, insufficient information on ground conditions to support given existing run off, pond excessively large, use as offices likely to generate less activity

Response – applicant has responded to Parish comments arguing that a pond and associated landscaping meet NPPF requirements on retaining openness and should be regarded as an engineering operation. The site is predominantly clay and levels either side are almost flat, preventing natural run off, and pond lies at lowest point of the land. Work on the road is said to have commenced, and the scheme allows surface water run off to a single point rather than ad hoc as at present. The applicants further confirm the change of use to offices has not taken place. The comment concludes by highlighting SUDS, landscape and ecology benefits.

Main Issues and Considerations:

In broad terms, the provision of a pond on open land would not seem to raise any significant issues around appearance and openness in the Green Belt. The broad works can be seen to have general visual interest, and ecological enhancements from the new habitat.

The applicants argue that the works should be treated as an engineering operation under para 150 of NPPF. The policy is not specific, nor does it require any weight to be given to need for the works, or whether an alternative may be available. The application is weak on this – while it is accepted the levels across the field are very flat, and the surrounding ground is clay, of itself this would not seem to preclude some other method of surface water drainage elsewhere, or along the flanks of the access.

It is not difficult to recognise the concerns raised by the objectors, that ultimately the pond is intended to serve a redevelopment of the commercial buildings to provide residential accommodation (see withdrawn 2019 application), but no such scheme is before us and would be dealt with on its own merits. Thus, the works are an engineering operation, and thereby not inappropriate in the Green Belt, nor do the works unduly impact openness and character.

The pond is some distance from the made surface of the approved road and the drainage plan indicates water being piped from this point. Once constructed, there is nothing to suggest additional hard surfacing will be required to access the pond as maintenance will be minimal (The agent has confirmed this). A condition can be used to ensure any such change is considered by an application. Similarly, no above ground plant is indicated and this can also be dealt with by condition.

Otherwise, there are no neighbouring amenity issues that arise.

Conclusion:

While the case for an attenuation pond to serve the access road is not particularly convincing, however on the broad planning merits the provision of a pond in this location does not adversely affect the openness and character of the Green Belt, and can be considered to have broad ecological benefits.

Thus, subject to conditions, the application should be approved.

Conditions: (8)

- 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: 1962 SK07 Rev B, SK09 and SK10, 3331/42, and TCTC-18277-L-01 Rev A

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

- 3 i. No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of

investigation which has been submitted by the applicant, and approved in writing by the local planning authority.

- ii. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in 1 above.
- iii. The applicant shall submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Reason: In order that such features of importance can be recorded for the benefit of posterity, in accordance with policy HC1 of the adopted Local Plan 1998 & 2006, Policy DM7 of the Local Plan Submission Version 2017, and the NPPF.

- 4 All works in constructing the pond hereby approved and associated drainage shall be carried out strictly in accordance with the SuDS Strategy Letter produced by EAS Ltd dated 10th November 2021 submitted with the application, unless otherwise agreed by the Local Planning Authority through an appropriate application.

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.

- 5 Hard and soft landscaping shall be implemented as shown on Tracy Clarke Tree Consultancy 'Landscape masterplan – proposed balancing pond' drawing number 'TCTC-18277-L-01 Rev A' (dated January 2022); and the accompanying planting schedule. The works shall be carried out prior to the occupation of the building or completion of the development. 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, 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 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.

- 6 All material excavated from the below ground works hereby approved shall be removed from the site.

Reason: In order to ensure that levels are not altered across the site as a result of deposited materials, in the interests of amenity, in accordance with Policies CP2, DBE1 and DBE9 of the adopted Local Plan 1998 & 2006, Policies DM9 & DM21 of the Local Plan Submission Version 2017, and the NPPF.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), other than as shown on drawing number 1962 SK07 Rev B, no additional hard surface areas shall be laid between the access road shown on the plan and the pond hereby approved, unless otherwise agreed by the Local Planning Authority through an appropriate application.

Reason: To ensure further consideration is given with regards to the effect on the character and appearance of the area and the Green Belt], in accordance with policies GB2A and GB7A of the adopted Local Plan 1998 & 2006, Policy DM4 of the Local Plan Submission Version 2017, and the NPPF.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no above ground plant machinery or other similar equipment relating to the works hereby permitted shall be installed without the prior agreement of the Local Planning Authority through an appropriate application.

Reason: To ensure further consideration is given with regards to the effect on the character and appearance of the area and the Green Belt], in accordance with policies GB2A and GB7A of the adopted Local Plan 1998 & 2006, Policy DM4 of the Local Plan Submission Version 2017, and the NPPF.

Informatives: (2)

- 9 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.
- 10 Note: Under the Land Drainage Byelaws of this Council, Land Drainage Consent is also required before any work commences. Please contact the Land Drainage team on 01992 564000 for application forms. The grant of planning permission does not imply the automatic grant of Land Drainage Consent.

Further information is available at <https://www.eppingforestdc.gov.uk/environment/land-drainage-consent/>