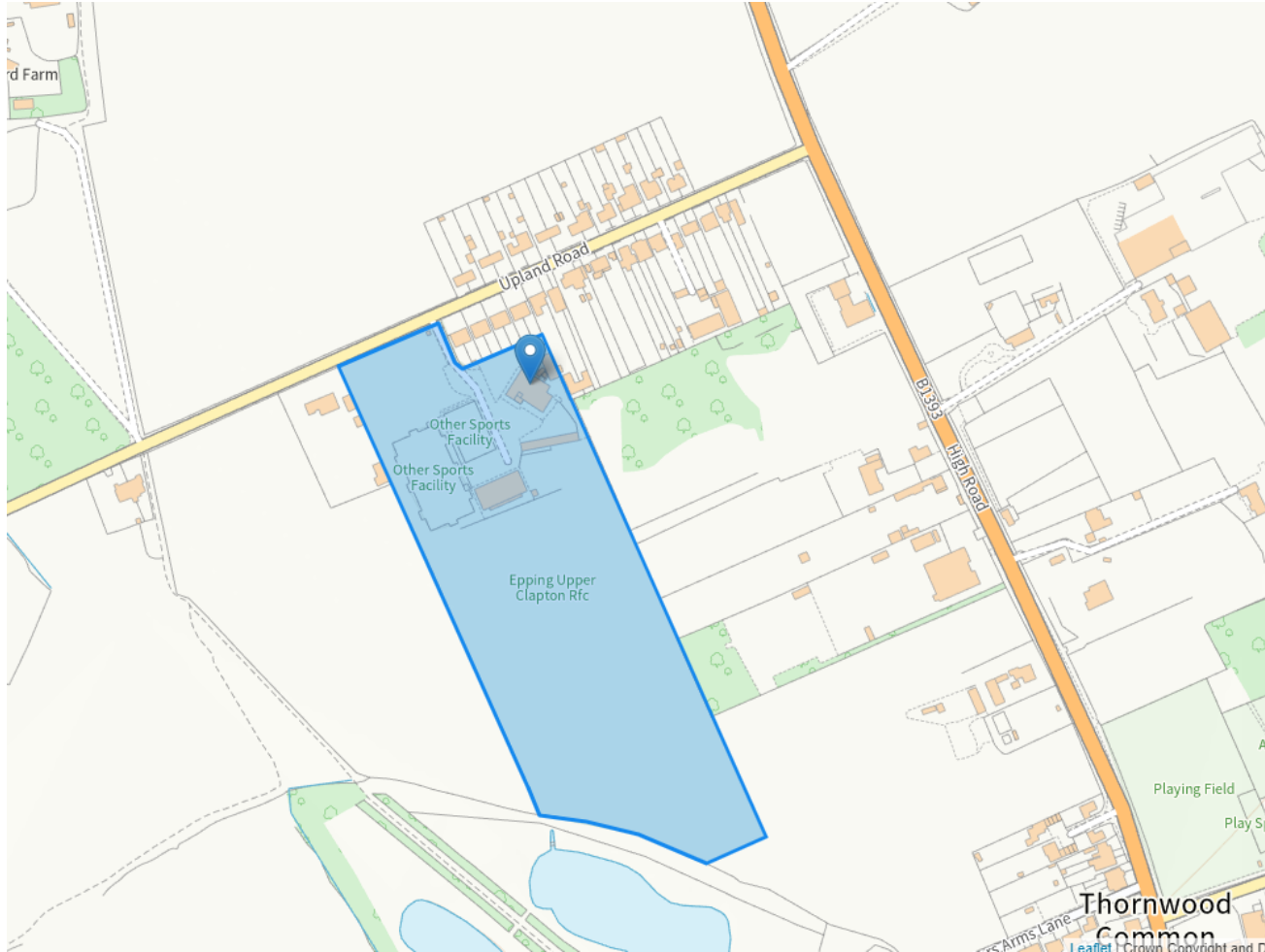




# EFDC



# EFDC

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Application Number:	EPF/1400/20
Site Name:	Upper Clapton Rugby Football Club ,61 Upland Road Epping Upland CM16 6NL

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# OFFICER REPORT

**Application Ref:** EPF/1400/20  
**Application Type:** Full planning permission  
**Applicant:** Epping Upper Clapton Rugby Football Club (on behalf of Trustees)  
**Case Officer:** James Rogers  
**Site Address:** Upper Clapton Rugby Football Club  
61 Upland Road  
Epping Upland  
Epping  
CM16 6NL

**Proposal:** Improvements to existing club infrastructure comprising a new all-weather pitch and relocation of existing floodlights, improvements to the club's function hall, golf range and current car parking including the addition of further car parking spaces and associated development, and enabling development in the form of the construction of 9 no. new dwellings and associated development

**Ward:** Epping Lindsey and Thornwood Common  
**Parish:** North Weald Bassett  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000NypV>  
**Recommendation:** Refuse

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

## Site and Surroundings

Upper Clapton Rugby Club is located on the southern side of Upland Road which is located within the settlement of Thornwood. To the east of the site there are a number of detached and semi detached dwellings in a linear formation fronting onto the road. The sports facilities on the site are set away from the front of the road and there is an open field adjacent to the main road. The site is located within the boundaries of the Metropolitan Green Belt and it is not in a Conservation Area.

## Proposal

The proposed development is for Improvements to existing club infrastructure comprising a new all-weather pitch (already constructed) and relocation of existing floodlights, improvements to the club's function hall, demolition of the existing golf range, the addition of further car parking spaces and associated development, and construction of 9 new dwellings.

## Relevant Planning History

EPF/0817/12 - Replacement club house and associated development and outline planning for enabling residential development. – Approved

EPF/0917/18 - Construction of 10 dwellings with associated access road and landscaping - Refused

## Development Plan Context

*Local Plan (1998) and Alterations (2006)*

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

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

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the Quality of the Rural and Built Environment
CP3	New Development
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality
H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
GB2A	Development in The Green Belt
GB7	Conspicuous Development
DBE1	Design of New Buildings
DBE2	Effect on Neighbouring Properties
DBE3	Design in Urban Areas
DBE6	Car Parking in New Development
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 (NPPF) (February 2019)*

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

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

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

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

Paragraph	108 - 110
Paragraph	117
Paragraph	124
Paragraph	127

Paragraph	130
Paragraph	131
Paragraph	133
Paragraph	143 - 145

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

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.

The following table lists the LPSV policies relevant to the determination of this application and officers' recommendation regarding the weight to be accorded to each policy.

Policy	Weight afforded
SP1 Presumption in Favour of Sustainable Development	Significant
SP2 Spatial Development Strategy 2011-2033	Some
H1 Housing Mix and Accommodation Types	Some
T1 Sustainable Transport Choices	Significant
DM2 Epping Forest SAC and the Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM4 Green Belt	Significant
DM5 Green and Blue Infrastructure	Significant
DM9 High Quality Design	Significant
DM10 Housing Design and Quality	Significant
DM11 Waste Recycling Facilities on New Development	Significant
DM15 Managing and Reducing Flood Risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM17 Protecting and Enhancing Watercourses and Flood Defences	Significant
DM18 On Site Management of Waste and Water Supply	Significant
DM19 Sustainable Water Use	Significant
DM21 Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 Air Quality	Significant

## Summary of Representations

Number of neighbours Consulted: 24

86 Letters of support received including:

- The rugby club is a valued community facility and facilitates good physical, mental and social wellbeing for the community
- The development is critical to the continued use of the site for sport and recreation
- The upgrades to the club will prevent matches being postponed and allow expansion of existing operations
- The club upgrades will allow for more visiting teams to use the facilities
- The new facilities will allow a wider range of sports to be played
- The proposal will ensure the long term financial viability of the club
- The increased parking will be a benefit to the local area

8 letters of objection received including:

- The proposal is inappropriate development in the Green Belt
- Loss of local wildlife
- inadequate drainage facilities
- increased traffic
- Loss of existing trees and hedging

North Weald Parish Council – No objection

## Planning Considerations

The report will now consider the application against the requirements of the Development Plan and the emerging Local Plan.

### *Principle*

This application site has not been proposed for allocation in the emerging Local Plan to deliver new housing in the District. A small number of windfall sites have been assumed in the Local Plan, but they are not required for the Council to meet its objectively assessed housing need. However since the Local Plan assumes a certain number of windfall sites will be delivered during the Plan Period, it follows that such sites can be acceptable, providing an application for such development complies with the requirements of the Development Plan and emerging Local Plan when considered as a whole. This issue is considered further in the final planning balance section of this report.

Turning to the potential improvements to the rugby club, such improvements to an existing sports facility can be acceptable in principle however they will need to be considered against the requirements of the Development Plan and emerging Local Plan as a whole.

### *Green Belt*

The National Planning Policy Framework (NPPF) 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.

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.

Firstly considering the proposed improvements to the Rugby Club, it is proposed to provide a new all weather pitch, including the relocation of existing flood lights, proposed improvements to the existing club house, the existing golf driving range and the provision of new parking.

The NPPF sets out that the construction of new buildings should be regarded as inappropriate development unless they are for one of a set of purposes. One of these exceptions is:

*Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it*

For clarity, the laying of an artificial grass pitch is an engineering operation since it changes the physical nature of the land. A 'building' includes any structure or erection and consequently, the associated fencing is a building for planning purposes.

The proposed all-weather pitch would be used for a variety of different outdoor sports such as football, hockey and rugby and comfortably fulfils the first part of this exception.

Following on from the judgement from Fordent Holdings Ltd Vs SSCLG and Cheshire West and Chester Council, it is clear that paragraph 89 relates solely to buildings, therefore this exception relates to 'facilities' that are buildings. Paragraph 90 of the NPPF sets out other forms of development that are also not inappropriate, providing that they preserve openness and do not conflict with the purpose of including land within it. This includes, amongst other things, engineering operations.

In terms of appropriateness, the proposed new pitch can be considered as an engineering operation and its very nature of being open will ensure it will not cause material harm to the characteristics of the Green Belt.

Turning to the proposed fencing, standing at 5m high around the entirety of the new pitch it will clearly have a significant impact on openness since currently the land is free from development. The fencing thereby fails to preserve the openness of the Green Belt and is therefore inappropriate development.

The proposed function room and flood lighting are clearly inappropriate forms of development since it goes beyond what could reasonably be considered necessary to facilitate outdoor sport and recreation. Since it does not fulfil this exception, nor any other as given by the NPPF it is concluded that it is inappropriate development, which is, by definition, harmful to the Green Belt.

However the planning application granted in 2013 gave consent for the function room in the exact position as the one proposed in this application as well as for floodlighting. Whilst these elements have not yet been erected; since the permission has been implemented they could still be built. In any event the proposed function room in this application is a little smaller than the already approved building and thus would have a lesser impact on openness. In addition the Council could impose a legal mechanism whereby the already approved flood lighting could not be carried out were this proposal to be granted.

Turning to the parking, it is proposed to increase the number of spaces by 22 to bring it to a total of 216 spaces. The new spaces would be contained within the existing site, where there is already existing hardstanding. Consequently the increased provision will not cause material harm to the Green Belt.

Finally and most substantially, the proposed erection of 9 new dwellings on the site is clearly inappropriate development. In addition it would cause significant additional harm to the openness of the

Green Belt both spatially and visually, resulting in a conspicuous form of development on open Green Belt land. It would also directly conflict with the fundamental purposes of the Green Belt and would cause significant additional residential paraphernalia and domestic activity to the area thereby cause an additional significant adverse impact on the character of the Green Belt.

#### Impact on the surrounding area

Regarding the proposed new dwellings, the site currently consists of an open field which is currently used as an informal parking area from time to time by the rugby club. Set directly behind the site to the south is an existing 3G pitch also used by the club, with associated fencing and flood lighting. The site is however located within a predominately rural setting, which has open land directly opposite and, save from the single bungalow to the west, open land to the south west. To the immediate east is a cluster of houses which form a continuous frontage on both sides of Upland Road. The new dwellings will front onto Upland Road and would effectively follow this continuous pattern of linear development on this side of the road and although it would extend beyond the existing extent of development on the opposite side of the road, (which emphasises its impact in Green Belt terms) it would be respectful to the prevailing pattern of residential development.

In terms of detailed design, each of the proposed new dwellings would effectively mirror the design of the existing dwellings to the east of the site and whilst the lack of variation in their architectural style is uninspiring, they are conventional and of a scale and size not dissimilar to the character or appearance of the street scene.

Turning to the proposed improvements to the rugby club, they will all be contained within the context of the existing club and in general terms would be well integrated within the existing site. Whilst the fencing around the pitch would be somewhat prominent and visible from public viewpoints, it is not uncommon to see such facilities in these settings.

The proposal is therefore compliant with the design policies of the ALP, the EFDLP and the NPPF.

#### Living conditions of neighbours and standard of accommodation proposed

The existing dwellings which are located adjacent to the site are a significant distance from the edge of the closest of the proposed new dwellings. Therefore there will not be any significant harm caused to their living conditions either through overlooking or any other harm. The new dwellings would each offer a good standard of living accommodation for new residents.

Whilst the improvements to the rugby club could increase general activity in and around the site, this will not cause significant harm to the existing or new residents through general disturbance. Regarding the proposed new floodlighting, a condition could be attached to ensure that they are not used at unsociable times.

#### Highway and parking

The Essex County Council highway engineer has commented that the proposed access will have good visibility splays and will not cause harm to the safety or efficiency of the public

#### Land Drainage

The Land Drainage Team consider that the proposal is acceptable subject to planning conditions to ensure that there is a sustainable drainage strategy in place in accordance with the submitted Flood Risk Assessment.

## Land Contamination

1940-1970 historic photographs show small buildings, disturbed ground & imported soils present along the Northern & North eastern boundary, 1990 photograph shows the onsite disposal of additional soils during construction of the offsite car park to the East, 2001-2004 photographs show a track created across the top of the site and down the Western side of the site between these dates, and more recent photography shows that made ground has been spread across the site following construction of the 4 dwellings on the former car park to the East.

It is reported that ground gas mitigation measures suitable for Characteristic Situation 2 are to be installed in lieu of additional ground gas monitoring (only a single round of gas monitoring reported to have been previously undertaken) in order to remove the accumulation and inhalation risks to occupiers pathway, which is acceptable provided that a verified proprietary gas membrane with a Gas Protection Score of 2 is used in addition to a very well ventilated beam & block floor void (the use of 1200g or 2000g polythene membranes is no longer acceptable).

Apart from ground gases, the submitted report has not mentioned any specific contaminants associated with former potentially contaminating uses (e.g. Made Ground: *asbestos, PAH, metals & inorganics* or the Electric Substation: *Petroleum Hydrocarbons & PCBs*) and the Qualitative Risk Assessment presented in Table C5 has not been carried out in accordance with the Classification of Severity criteria presented in Table C3 which classifies short term acute potential exposure risks as Severe (e.g. inhalation of asbestos fibres and explosive/asphyxiant accumulation/inhalation ground gas risks) and chronic exposure risks as Moderate (e.g. Lead and Benzo(a)pyrene) which if there is considered to be a Low Likelihood of an event occurring, would result in a Moderate risk for exposure to asbestos and a Low/Moderate risk with respect to other made ground potential contaminants (PAH, Metals & Inorganics) and organic contaminants (PCBs & petroleum hydrocarbons) which would require further investigation.

Provided that a detailed list of potential pollutant linkages is submitted with the required Phase 2 investigation protocol, it should not be necessary for a Phase 1 condition to be added to any approval granted.

## The Epping Forest Special Area of Conservation

Biodiversity features within, or associated with, a Special Area of Conservation are given the highest level of protection under UK law, and national planning policy in England. The provisions of the EU Habitats Directive are given effect in UK law by the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations").

Under the Habitats Regulations, the EFSAC is classified as a 'European Site' and, as such, any plans and projects (including applications for planning permission) that are likely, either alone or in combination with other plans or projects, to have a significant effect on the EFSAC must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any plan or proposal, either alone or in combination, will have an adverse effect the integrity of the European Site.

The Council has a legal duty as the 'competent authority' under the Habitats Regulations (2017) to protect the EFSAC from the effects of development (both individually and in combination) having regard to the representations of Natural England ("NE").

Two specific issues relating to new development within the District have been identified as being likely to have a significant effect on the integrity of the EFSAC. Firstly, as a result of increased levels of visitors using the EFSAC for recreation arising from new development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Forest from atmospheric pollution generated by motor vehicles (referred to as "air quality"). Policies DM 2 and DM 22 of the EFDLP provide the policy context for dealing with the effect of development on the integrity of the EFSAC outlined above.

The LPSV was supported by a Habitats Regulations Assessment dated June 2021 ("the HRA 2021"). Two specific 'pathways of impact' relating to new development within the District were identified as



being likely to have a significant effect on the integrity of the EFSAC. Firstly, an 'urbanisation' pathway of impact primarily as a result of increased levels of visitors using the EFSAC for recreation arising from new residential development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the EFSAC from an atmospheric pollution 'pathway of impact' (referred to as "air quality") caused primarily by motor vehicles using roads within 200m of it. The HRA 2021 undertook an Appropriate Assessment of the planned development proposed within the LPSV, including the effect of that development on the EFSAC. The HRA 2021 concluded that, subject to securing urbanisation/recreational pressure and air quality mitigation measures the adoption of the Local Plan will have no adverse effect on the EFSAC. Subject to the suitable delivery of such measures, NE have agreed that an adverse effect on the EFSAC can be ruled out.

#### Recreational pressure

With regards to recreational pressure, the site is located within the 6.2km zone of influence to the EFSAC and as such new occupants of the development have the potential to use it for recreational purposes, which as noted above has the potential to cause it irreversible harm. However the Council does have a recreation strategy to mitigate against such potential adverse effects. The strategy includes various mitigation measures, including a Strategic Access Management and Monitoring Strategy ("SAMM strategy"). The measures identified require financial contributions from new residential development in the order of £343.02 per dwelling. This is of course dependent on an appropriate method to deliver such financial contributions, which can only be through either a S106 legal agreement or a unilateral undertaking on behalf of the applicant and both are dependent on planning permission being granted.

#### Air Quality

The HRA 2021 advises that without appropriate mitigation measures, new development proposed in the District would cause harm to the integrity of the EFSAC as a result of atmospheric pollution. A key contributor to atmospheric pollution arises from vehicles using roads in close proximity (i.e. within 200m of the EFSAC).

The Council undertook further technical work in relation to the atmospheric pollution 'pathway of impact' to provide the evidence base to support the development of the Air Pollution Mitigation Strategy (APMS), which has now been endorsed by the Council as a material consideration of significant weight. The APMS identifies a number of mitigation measures, a number of which are required to be delivered as part of individual planning applications alongside strategic initiatives and monitoring requirements, the implementation of which will require a financial contribution to be secured from individual developments.

The evidence base that has been developed to inform the APMS has taken into account Annual Average Daily Traffic (AADT) that would arise from proposed allocations in the EFDLP. The use of AADT is the appropriate method for understanding the effects of atmospheric pollution on both human and ecological health. The APMS therefore provides the mechanism by which the Council can arrive at a conclusion of no adverse effect on the EFSAC as a result of planned development.

The applicant has submitted that the proposal involves the demolition of an existing driving range which is not proposed to be replaced. However the application includes an additional 18 car parking spaces which increases the capacity of the site at peak times for use by the ruby club. The golf driving range is evidently a high traffic generating use and includes a relatively high turnover of vehicles throughout the day. Therefore, whilst the overall level of parking provision is marginally higher with the provision of 18 new spaces, the turnover of comings and goings will be lower with the spaces being utilised by members of the rugby club.

Overall the applicant has demonstrated that there will be a net reduction of 114 AADT movements compared to the existing use. As such the proposal can be screened out beyond reasonable scientific doubt as not having an adverse effect on the EFSAC providing that the golf driving range is demolished and entirely removed from site prior to the first operation of the proposed development and this can be secured through condition.

#### Very special circumstances advanced

Since the proposal constitutes inappropriate development in the Green Belt, which causes additional harm to its openness and conflicts with its fundamental purposes the applicant must advance very special circumstances to clearly outweigh these harms.

The applicant contends that the erection of the 9 new dwellings would serve as an enabling development, to finance further development on the rugby club. The notion of an enabling development is addressed in paragraph 140 of the NPPF which states:

*Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.*

The Government therefore considers that such development can be acceptable, contrary to a development plan where there would be a heritage asset which would otherwise be at risk. There is no provision for the same principle to be applied for the improvement of sporting or community facilities. However there have been High Court judgements which have suggested that other forms of development can also be considered against this principle, such as in (Thakeham Village Action Ltd) v Horsham DC [2014] EWHC 67 (Admin) where the judge concluded that:

*I do not believe that the principles of enabling development are limited to ventures that would protect a heritage asset or a facility that serves or is accessible to the public. And I also reject the submission that those principles do not extend to a financial contribution that would support development undertaken by another company on another site. The jurisprudence does not support either of those concepts.*

*The scope for enabling development is wide. There are many ways in which it may serve a proper planning purpose. It may fund works of repair or improvement to a listed building. It may fund the protection of a particular habitat. It may fund the provision of a swimming pool for public use, or some other public facility. But that is far from being an exhaustive list of the benefits it may help to provide*

Clearly, the notion of an enabling development to fund a community facility can be acceptable depending on the specific circumstances of the case. The enabling development must however be demonstrably in the public interest for such a proposal to clearly outweigh significant policy objections. It must therefore be demonstrated that without the proposed works to the rugby club, that its long term future will be compromised.

The starting point for this assessment is that the Council has previously accepted the notion of allowing an inappropriate enabling development on the land to the east of the application site to fund what the Council considered to be much needed improvements to the rugby club, an important community facility (EPF/0817/12). Under normal circumstances however, if any facility is to develop, expand or otherwise improve their services they would be expected to meet their own costs without requiring inappropriate forms of development.

Whilst the Council accepted the previous application on the grounds that very special circumstances existed, sufficient to outweigh the harm to the Green Belt, this proposal is to be assessed on its own merits. The bar for allowing inappropriate development in the Green Belt is rightly, very high. The question before members is whether the proposed upgrades to the rugby club are absolutely essential for its long term future and are they so fundamental that it justifies the significant harm that would be caused to the Green Belt.

Firstly it is important for Members to understand where the money from the previous application was spent and for an explanation as to why further inappropriate development is now proposed. so far the costs are as follows:

- Clubhouse - £868,971.14

- Enabling works – 131,492
- All weather pitch - £237,511.15
- Other costs (hot water cylinders, cabling, earthmoving, geogrid car park, all weather pitch equipment) - £145,000
- Professional fees - £145,309
- **Total - £1,528,283.29**

In this new proposal, the applicant contends that the enabling development which was previously approved did not allow all the necessary works to be undertaken to the club, this was in part due to alleged rising construction costs and lack of anticipated grant funding, the issue of grant funding is considered later in this report.

At the request of officers, the applicant has provided a financial breakdown of the estimated cost of the proposed works to the club as follows:

- Demolition of old clubhouse - £25,000
- Car parking provision - £261,090
- Netball court alterations - £10,000
- Car park lighting - £19,992
- Function hall - £547,794
- Upgrades to clubhouse (air conditioning, first floor toilets, boot clean extension) - £122,790
- Stormwater attenuation and drainage - £30,000
- Flood lighting - £691,198
- Cycle stands - £6,405
- Pitch improvements - £55,723
- Sinking fund - £240,000
- **Total - £2,009,992**

Officers also requested a commentary from the applicant on why these works are essential for the long term future of the club. The applicant summarised that:

*The Club is the largest community facility in Epping and during the peak rugby season it has circa 1000 people through the door over a weekend and the current facilities simply cannot cater for this. The overriding factor is that the club wants to future proof itself and become self-sustaining rather than relying on land disposals. We would also refer to the very successful example of Chigwell Grange. This is home to Colebrook Royals football club and was provided by enabling development. The facilities here are amazing and the club has 32 teams, clubhouse, nature reserve and is self-sustaining now.*

Further justification was provided by the applicant that without the removal of the old clubhouse the increased parking cannot be provided; that the increased parking is essential to the ongoing success of the rugby club, that the function hall is required for improving financial viability of the club and that the new all-weather pitch will prevent events being cancelled in wet weather.

It is not disputed that the works noted above are desirable for the club, but their nature and the justification offered by the applicant for them are thoroughly unconvincing. Not a single element of the works noted above have been demonstrated to be essential for the continued use of the site as a sporting facility, which continues to operate despite them not currently being on site at present. On the contrary to the assertions of the applicant, the vast majority of the improvements are considered to be non-essential for its long term viability and should be funded through means other than inappropriate development.

Members attention should be drawn to the previously approved application (EPF/0817/12) where it was concluded that very special circumstances existed. In this previous application the main thrust of the justification was the need for a new clubhouse, which was in a poor state of repair and did not offer

suitable changing facilities for the club as well as the delivery of the new all weather pitch. The need for the new clubhouse was fully supported by Sport England and the RFU as they concluded that:

*The clubhouse is no longer fit for purpose, beyond economic repair, is not energy efficient and there are problems with maintaining energy services. From a user perspective, the facilities are considered to significantly fall short of meeting the clubs current needs in terms of scale and quality...The quality of these facilities is considered to be poor due to the age and condition of the building and the design/layout of the clubhouse would not accord with Sport England or Rugby Football Union (RFU) guidance*

In addition a structural report was undertaken which demonstrated that the previous clubhouse had structural issues which were considerably more than cosmetic and a new building was required. This formed a key material consideration in the previous application when the Council considered that very special circumstances existed which clearly outweighed the substantial harm caused by the enabling development.

The replacement clubhouse was designed to meet the clubs current and future needs and would address all of the deficiencies of the existing facilities. The clubhouse has now been substantially completed other than the installation of air conditioning and first floor toilets. There is no evidence to suggest that any of these elements are essential for the continued use of the site as a sports club. It appears that rather being essential, they are non-essential albeit desirable elements for the applicant. Similarly the delivery of a function hall (which does not directly facilitate the use of the site for sport), increased parking and a sinking fund cannot be considered to be essential.

Again, it is acknowledged that these works would be desirable for the club and would provide it with increased revenue streams, which in itself contributes to its long term future. However there is little evidence that the club is struggling financially, or with its member base and there is very little justification that without these works that the future of the club would be at risk. This position is taken in the context where the Council has already accepted that this is a valued community facility through the original consent and its long term survival is a strong material consideration. However, in light of the above, it does not follow that a refusal of planning permission would necessarily compromise the long-term viability of this facility and thus the works cannot reasonably be considered to be essential, resulting in a tangible public benefit.

Inappropriate enabling development in the Green Belt should be the last resort to bridging a funding gap and other means of funding should be thoroughly and extensively explored before this option can be favourably considered. So turning to the proposed quantum of inappropriate development, the applicant has provided financial information which shows that the level of housing proposed would deliver the majority of the desired works to the rugby club, however officers are unconvinced that other potential sources of funding have been appropriately sought, in particular through grant funding or low interest loans.

The rugby club has previously sought and received grant funding from the following sources:

- £115,000 from the RFU in 2013
- £50,000 from Sport England in 2013
- £10,000 from ECC in 2013
- £5,000 from Grange Farm in 2013
- £5,000 from EFDC in 2014

These grants were made to contribute towards the delivery of the new all-weather pitch and new clubhouse, which as previously identified were accepted in the previous application as being essential infrastructure for the long term future of the rugby club. Again, to reiterate both of these elements have now been delivered on site.

It is noted that some grant requests made by the club have been refused, however the last of these requests was made in 2015. No grant requests have been sought since this time and as a result it cannot be concluded with conviction that there are no other potential sources of funding for the desired works.

Finally the applicant points to the Council's lack of a 5 year housing supply. Paragraph 74 of the Framework identifies that strategic policies should include a trajectory of expected housing delivery over the plan period. Local Planning Authorities should ensure that there is a supply of deliverable sites sufficient to provide for a minimum of five years worth of housing against their objectively assessed housing requirement.

The Council has a history of not meeting this target and that under existing Development Plan, cannot currently demonstrate a five year supply of sites against the housing requirement. However, as previously noted the EFDLP is now at a very advanced stage in its production.

The Inspectorate has confirmed in correspondence their acceptance of the Council's intention to deliver new housing through a "stepped" trajectory, where delivery of new housing will come forward relatively slowly in the first years after adoption and then significant delivery thereafter. Whilst under the existing Development Plan the Council concedes that it cannot provide for a five year supply of deliverable sites, upon adoption of the EFDLP the Council will have a clear strategy for delivering the necessary new homes through a plan led approach and through an adopted "stepped" trajectory.

In any event, the delivery of 9 new dwellings through this application will not significantly add to the existing housing stock within the District.

### **Overall planning balance and conclusion**

As previously identified in this report, the proposal constitutes inappropriate development in the Green Belt, which causes additional harm to its openness, conflicts with its fundamental purpose and introduces an increased amount of residential paraphernalia and domestic activity to the site causing harm to its character. In accordance with paragraph 148 of the NPPF, the decision maker must attach substantial weight to these harms and the applicant must advance very special circumstances to clearly outweigh them. (Officer emphasis)

The stringent test articulated by Sullivan, J in *R (Chelmsford) v First Secretary of State and Draper* [2003] EWHC 2978, which concerned national Green Belt policy in Planning Policy Guidance Note 2 (which has been replaced by the Framework however, for present purposes, current national Green Belt planning policy has not changed), states within paragraph 58:

*"58. The combined effect of paragraphs 3.1 and 3.2 [of PPG2] is that, in order to justify inappropriate development in the Green Belt, (a) there must be circumstances which can reasonably be described not merely as special but as very special, and (b) the harm to the Green Belt by reason of inappropriateness and any other harm must be clearly outweighed by other considerations. Those other considerations must be capable of being reasonably described as very special circumstances. If they are capable of being so described, whether they are very special in the context of the particular case will be a matter for the decision maker's judgment."*

In *R (Basildon District Council) v First Secretary of State and Temple* [2004] EWHC 2759 (Admin), Sullivan, J clarified the test for demonstrating very special circumstances by confirming that it was not necessary for each factor, of itself, to be 'very special' and that factors which individually were otherwise quite ordinary could cumulatively become very special circumstances.

Clearly therefore, In order to amount to very special circumstances the applicant has to demonstrate that the material considerations they rely upon clearly outweigh the harm by way of inappropriateness and any other harm.

In this instance the sheer quantum of development proposed (9 new houses) and its impact on the openness of the Green Belt is clearly disproportionate to the benefits that will be accrued from the development proposed. It has been demonstrated in this report that the benefits of granting planning permission are very limited, non essential to the long term survival of the rugby club and are not overtly within the public interest to justify inappropriate development and the other harms to the Green Belt.

In previously accepting development of 8 semi detached houses on the adjacent site as enabling development to secure improvements to the club, Members of this committee considered that the quantum was acceptable, given the very poor state of the facilities then existing and the very clear argument put forward at the time that the 8 houses would secure the long term future of the club. In addition, the previously approved application was sited on previously developed land, albeit a car park, and further somewhat mitigated by the fact that development did not extend much further west than the established residential development opposite the site, and essentially therefore completed the ribbon development fronting the road. Neither of these factors apply to the current proposal.

The applicant has set out a number of considerations which they believe clearly outweighs the identified harm and these have been carefully considered, however when considered individually or in combination it is clear that they do not outweigh, never mind clearly outweigh the very significant harm caused by way of a substantial amount of inappropriate development, additional harm to openness, a significant conflict with the fundamental purposes of the Green Belt and further harm caused by increased residential paraphernalia and domestic activity. As such very special circumstances do not exist and the proposal therefore conflicts with policies GB2A and GB7A of the ALP, with policy DM4 of the EFDLP and with the Green Belt requirements of the NPPF. As such planning permission should be refused.

### **Recommended reasons for refusal**

1. The proposal constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition harmful to the Green Belt. In addition, the proposal would cause significant additional harm to its openness and would conflict with its fundamental purpose of keeping land permanently open. The nature of the proposal would cause a significant increase in the residential paraphernalia in and around the site which would cause additional significant harm to the character of the Green Belt. The very special circumstances advanced by the applicant do not clearly outweigh these identified harms to the Green Belt. The proposal is therefore contrary to policy DM 4 of the Epping Forest District Local Plan Submission Version (2017), with policies GB2A and GB7A of the Adopted Local Plan and Alterations (2006) and with the requirements of chapter 13 of the National Planning Policy Framework (2021).

2. Since there is no appropriate mechanism to secure the necessary financial contribution towards managing the effects of recreational pressure on the Epping Forest Special Area of Conservation, the proposal fails to demonstrate its compliance with policies DM 2 and DM 22 of the Epping Forest District Local Plan, policy NC1 of the Adopted Local Plan and Alterations (2006), with paragraphs 181 and 182 of the National Planning Policy Framework (2021) and with the requirements of the Habitat Regulations (2017)

**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: James Rogers**

**Direct Line Telephone Number: 01992 564371 or if no direct contact can be made, please email:**

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

**Refusal Reason(s): (2)**

- 1 The proposal constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition harmful to the Green Belt. In addition, the proposal would cause significant additional harm to its openness and would conflict with its fundamental purpose of keeping land permanently open. The nature of the proposal would cause a significant increase in the residential paraphernalia in and around the site which would cause additional significant harm to the character of the Green Belt. The very special circumstances advanced by the applicant do not clearly outweigh these identified harms to the Green Belt. The proposal is therefore contrary to policy DM 4 of the Epping Forest District Local Plan Submission Version (2017), with policies GB2A and GB7A of the Adopted Local Plan and Alterations (2006) and with the requirements of chapter 13 of the National Planning Policy Framework (2021).
  
- 2 Since there is no appropriate mechanism to secure the necessary financial contribution towards managing the effects of recreational pressure on the Epping Forest Special Area of Conservation, the proposal fails to demonstrate its compliance with policies DM 2 and DM 22 of the Epping Forest District Local Plan, policy NC1 of the Adopted Local Plan and Alterations (2006), with paragraphs 181 and 182 of the National Planning Policy Framework (2021) and with the requirements of the Habitat Regulations (2017)