



Epping Forest District Council

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Application Number:	EPF/1954/22
Site Name:	Building Yard, Keyzers Road, Nazeing, Waltham Abbey, EN10 6RJ

OFFICER REPORT

Application Ref: EPF/1954/22
Application Type: Full planning permission
Applicant: Mr Matt Maskell
Case Officer: Kie Farrell
Site Address: Building Yard, Keyzers Road, Nazeing, Waltham Abbey, EN10 6RJ
Proposal: Change of use: From Builders Yard to a Residential Site Removal of the existing outbuildings
Ward: Lower Nazeing
Parish: Nazeing
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000OfS9>
Recommendation: Approved with Conditions (Subject to s106 Legal Agreement)

Recommendation:

(1) That planning permission is granted subject to conditions, completion of a suitable legal agreement to address matters set out below,

(2) Agree for relevant officers to add and/or amend any planning conditions or S106 planning obligations in respect of securing necessary measures to mitigate air pollution and recreational pressure impacts on the EFSAC.

Proposed conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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:

Drawing ELA/1 Rev A – Existing Layout
Drawing ELA/2 Rev A – Existing Layout & Elevations
Drawing ELA/3 Rev A – Proposed Layout & Elevations
Drawing ELA/6 Rev A – Block Plan & Location Plan
Contaminated Land Report
Preliminary Ecological Appraisal Incorporating Bat Survey Inspection, August 2021.

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

3. Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity, in accordance with policies DBE1 and DBE4 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021.

4. No preliminary ground works shall take place until an assessment of flood risk, focusing on surface water drainage, has been submitted to and approved by the Local Planning Authority. The assessment shall demonstrate compliance with the principles of Sustainable Drainage Systems (SuDS). The development shall be carried out and maintained in accordance with the approved details.

Reason:- The development is located in an area identified as being in an Epping Forest District Council flood risk assessment zone and would be likely to result in increased surface water run-off, in accordance with policy U2B of the adopted Local Plan and Alterations 1998 & 2006, policy DM15 of the Local Plan Submission Version 2017, and the NPPF 2021.

5. 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 2021.

6. Prior to any above ground works, full details of both hard and soft landscape works 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 2021.

7. Details of the biodiversity green roof shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The biodiversity green roof shall be:

- a) biodiversity based with extensive substrate base (depth 80-150mm);
- b) laid out in accordance with the approved drawings;
- c) planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works (the seed mix shall be focused on wildflower planting, and shall contain no more than a maximum of 25% sedum). The biodiversity green roof shall not be used as an amenity or sitting out space of any kind whatsoever and shall only be used in the case of essential maintenance or repair, or escape in case of emergency. The biodiversity green roof shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter. If within a period of five years from the date of the planting or establishment of the green roof it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective it shall be replanted / re-seeded with the same agreed mix of species as that originally planted and shall be planted at the same place.

Reason: To ensure the development provides the maximum possible provision towards creation of habitats and valuable areas for biodiversity.

8. A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that 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 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.

9. A Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority following the recommendations made within the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (T4ecology Ltd, August 2021).

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

10. 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 and Policy DM 19 of the Epping Forest District Council Local Plan Submission Version 2017.

11. 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 the guidance contained within the National Planning Policy Framework, policy ST4 of the adopted Local Plan and Alterations, and Policy T 1 of the Epping Forest District Council Local Plan Submission Version 2017.

12. 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 2021.

13. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

1. The parking of vehicles of site operatives and visitors
2. Loading and unloading of plant and materials
3. Storage of plant and materials used in constructing the development
4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
5. Measures to control the emission of dust and dirt during construction, including wheel washing.
6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
7. Tree protection measures.

Reason:- To limit the impact of the construction work on the living conditions of residents living in close proximity to the site, in accordance with the guidance contained within the National Planning Policy Framework, policies RP5A and DBE9 of the adopted Local Plan and Alterations, and policy DM 21 of the Epping Forest District Council Local Plan Submission Version 2017.

14. 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 08:00 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 2021.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Classes A, B, D, E, F and AA of Part 1, and

Class A and B of Part 2 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.

Reason:- The specific circumstances of this site warrant the Local Planning Authority having control over any further development, in accordance with the guidance contained within the National Planning Policy Framework and policies GB2A and GB15A of the adopted Local Plan and Alterations and policies DM4 and DM9 of the Local Plan Submission Version 2017.

16. 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 2021.

17. Access to the flat roof over the development 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.

S106 obligations

- i. Contribution to air quality impact mitigation comprising contribution of £335 per dwelling.**
- ii. Payment of 5% of total financial contribution monitoring fee.**

Report:

1. This application was reported to Area Planning Sub-Committee West on 7th December 2022 with a recommendation to refuse permission on the following grounds:

1. The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).

2. The proposed development by reason of its design, scale, footprint and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to

policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

3. The proposed development by reason of its design, scale, footprint and siting would have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM2 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

2. Following discussion on the merits of the proposal, Members voted to support the application, subject to conditions and a legal agreement.

3. Since the approval of this development would constitute a departure from Local Plan policy, the application has been referred up to District Development Management Committee for a decision, with a recommendation from Area Planning Sub-Committee West to approve planning consent, subject to conditions and a legal agreement.

ORIGINAL REPORT

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

Called in by Councillor Richard Bassett on 21st October 2022.

Committee Report - EPF/1954/22

Address:

Building Yard, Keyzers Road, Nazeing, Waltham Abbey, EN10 6RJ.

Description of Site:

The application site comprises land between Keyzers Road, Great Meadow and Old Nazeing Road.

The site is currently vacant / not in use but was last in use as a Builder's Yard and back garden land.

The site contains several existing outbuildings all of which are single storey (maximum height 3m).

The site is within Environment Agency Flood Zone 2 (Medium probability of flooding).

Description of Proposal:

Change of use: From Builders Yard to a Residential Site Removal of the existing outbuildings.

This application follows two recent refused applications for a similar schemes, the first of which was also dismissed at appeal in July 2022.

The current scheme comprises:

- Single storey, 2 bedroom (plus 'study') dwelling.
- 254 sq m floor area (Bedroom 1 - 25 sq m, Bedroom 2 – 40 sqm)
- Maximum height approximately 3.3m (maximum height of refused EPF/2959/21 scheme was 6.6m)
- 2 car parking spaces
- Green sedum roof
- Set off neighbouring boundaries by minimum of 1m.
- Garden areas of 237 sq m and 169 sq m.

Relevant Planning History:

Building Yard site (023435):

EPF/1956/22

Enhancement of existing builders yard for use for scaffold yard
Refused 08.11.2022.

Reasons for refusal:

1. The proposal by reason of its commercial nature would result in an incongruous and intrusive development which fails to respect its residential setting contrary to policies CP2, CP7, DBE1 and DBE2 of the adopted Local Plan 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017 and the NPPF 2021.

2. The proposal by reason of its commercial nature would result in an incongruous and intrusive development that would have a harmful impact on the occupiers of neighbouring residential properties by way of noise and disturbance. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

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

EPF/2959/21

Change of use: from builders yard to a residential site. Removal of the existing outbuildings, erection of a new 3-bed chalet style bungalow & replacement of the existing gate to a new gate. (Revised application to EPF/1579/21)
Refused 17.01.2022.

Reasons for refusal:

1. The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).

2. The proposed development by reason of its design, scale, height, bulk and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

3. The proposed development by reason of its design, scale, height, bulk and siting would result in overlooking / a harmful loss of privacy to the rear gardens of neighbouring residential properties and would also have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

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

EPF/1579/21

Change of use from builders' yard to residential. Removal of existing outbuildings, erection of a new 3-bed chalet style bungalow and garage and replacement gate.

Refused 15.10.2021 and Dismissed at appeal 14.07.2022.

Reasons for refusal:

1. The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).

2. The proposed development by reason of its design, scale, height, bulk and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

3. The proposed development by reason of its design, scale, height, bulk and siting would result in overlooking / a harmful loss of privacy to the rear gardens of neighbouring residential properties and would also have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.

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

EPF/2296/12

Change of use from Builders Yard to Tree Surgeons Yard, dismantle single garage and erect log store in new position.

Withdrawn 22/01/2013.

115 Old Nazeing Road (000250):

EPF/0470/13

115B Old Nazeing Road

Reinstatement of 2 windows

Approved 10/05/2013

EPF/1200/91

115 Old Nazeing Road

Change of use of shop to residential flat

Approved 27/01/1992

EPO/631A/73 (Reserved Matters)

Garage Building Details

Approved 16/10/1973

EPO/631/73 (Outline)

Outline application for the use of the land as an extension to the builders yard and the erection of garage for commercial vehicles at builders yard rear of 115 Old Nazeing Road

Approved 04/09/1973

W/EPO/556a/66

Details of Shop and Flat 115 Old Nazeing Road

Approved 28.03.1967

W/EPO/556/66

Outline application for shop and flat 115 Old Nazeing Road

Approved 07.02.1967

EPR/72/52

Rebuilding of store at rear of Nash's shop

Approved 16.5.52.

Policies Applied:

Adopted Local Plan:

CP3 New Development

CP4 Energy Conservation

CP5 Sustainable Building

I1A Planning Obligations

H2A Previously developed land

H3A Housing Density

H4A Housing Mix

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
ST1 Location of Development
ST4 Road Safety
ST6 Vehicle Parking
U1 Infrastructure Adequacy
U2A – Development in Flood Risk Areas
RP4 Contaminated Lane
CP1 Achieving Sustainability Objectives

NPPF (July 2021):

The National Planning Policy Framework (NPPF) states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight. Epping Forest District Local Plan Submission Version) 2017 (LPSV):

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

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019.

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

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

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

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

SP1: Presumption in Favour of Sustainable Development
H1: Housing mix and accommodation types

DM2: Epping Forest SAC and Lee Valley SPA
DM9: High Quality Design
DM10 Housing design and quality
DM11: Waste Recycling facilities in New Development
DM15: Managing and reducing flood risk
DM16: Sustainable Drainage Systems

Consultation Carried Out and Summary of Representations Received

Nazeing Parish Council: Support.

“Resolved: No objection and support the application as it

- i) Complies with current legislation,
 - ii) Is a limited infill site,
 - iii) Is previously developed land at a sustainable location,
 - iv) Is also in a residential area so the current commercial use is out of keeping.
 - v) Addresses the reasons for refusal of the previous application for this change of use.
- It was noted that the Council would expect obscure glass windows to be installed as necessary.”

Number of neighbours Consulted: 22

4 comments in support of the application have been received as follows:

9 Great Meadow:

“We have taken a look at the proposed drawings submitted and are in favour of the new single storey 2 bedroom bungalow, it is in keeping with the current properties and has some environmental benefit i.e sedum roof.”

1 Great Meadow:

“I believe this is the best use of the land rather than an industrial unit. This will finally settle the use of this yard to the benefit of the local residents.”

109 Old Nazeing Road (2):

“I support this application on the condition it is built exactly as shown on the planning application and no further changes to the plan are made whatsoever even minor changes without further consultation with those in neighbouring properties or gardens and our comments being taken into consideration before any changes are agreed.”

“I support this application solely on the condition that no further changes whatsoever are agreed to this planning application even minor changes without consultation with those in neighbouring properties or gardens and their comments being taken into consideration before any agreement to changes are given.”

1 neutral comment has been received as follows:

109A Old Nazeing Road:

“No objection to the proposed bungalow provided the plans remain the same as submitted”.

1 comment objecting to the application have been received as follows:

7 Great Meadow:

"We object to this applications on the grounds that the high wall is fully across the bottom of our garden we will be looking directly onto it from our lounge 30 foot away and 20 foot from a bedroom. We will have no sky line no sun rise. The kitchen will be at the bottom of our garden and the utility room with all the noise that will create you have already allowed Number 9 to move there kitchen which now sides onto me as well, Surely we have the right to some piece in our garden and as its only 30 foot long we are getting crowded out by extension and new property proposals encroaching our space. Why can't they move the property to the centre of this land it might not upset the residents so much Its got a green roof but the wall backing onto us is too high for us to see over it. We have had our property on the market of a year now and because of all the applications made over this time we are now blighted and unable to sell we have had offers but once told about the applications for this land they all back out."

Consultation Responses

Essex CC Highways: No objection

"From a highway and transportation perspective the Highway Authority has no objections to this proposal as it is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021."

EFDC Land Drainage comments dated 27th October 2022:

"Having reviewed the details supplied for the above application the Environmental Protection and Drainage team wish to put on a holding objection on the application on the grounds of flood risk in line with policy DM15 of the Local Plan Submission Version.

The site is located within flood zone 2 and the applicant has failed to provide sufficient information to demonstrate that the increase in vulnerability of the users has been considered and is sufficiently protected by incorporating the necessary mitigation measures and construction techniques. In order to overcome this objection, the applicant must provide a site specific flood risk assessment and meet the requirements set out in policy DM15 of the Local Plan Submission Version."

EFDC Trees and Landscape: No objection subject to landscaping condition.

EFDC Contaminated Land: No objection subject to condition.

"The Phase I Report (ref. 75139R1), dated August 2021, relating to potential contamination issues at the above site has been reviewed and I have the following comments to make regarding its content:

The report satisfactorily addresses the requirements for submission of Phase I contaminative study, in that it is signed, dated, contains relevant information and evidence of a site walkover performed; background information for the site and surrounding area; a detailed conceptual site model (CSM); and a preliminary risk assessment identifying and assessing potential contaminant linkages.

Reviews of historic maps and background checks have identified plausible pollutant pathways. As the CSM has highlighted potentially active pollutant linkages, the report has recommendations for further site investigations to assess the extent of any potential contamination at the site.

Due to the sensitive nature of the proposed residential use, I recommend that the land contamination condition NSCN57 be attached to any approval. Once a contaminated land assessment document has been received and reviewed the attached condition will be considered for discharge.

Reason: To ensure that 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 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.”

Environment Agency comments:

“The sequential test is required if the site is in FZ2 and a sequential test for the same development hasn’t already been carried out at that site (see below) – link here: Flood risk assessment: the sequential test for applicants - GOV.UK (www.gov.uk).”

Essex CC Place Services (Ecology):

No comments received on the current application but in respect to the previous application (EPF/2959/21) there was no objection subject to securing biodiversity mitigation and enhancement measures.

Main Issues and Considerations:

Flood Risk

The application site is located within Environment Agency Flood Zone 2 (Medium probability of flooding) and would introduce 'more vulnerable' development to an area at risk of flooding.

As such a Sequential Test must be undertaken prior to the submission of any application. The aim of the Sequential Test is to steer development to areas with the lowest probability of flooding as development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

No Sequential Test has been submitted and therefore the proposal is contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF.

Notwithstanding the above, it is unlikely that the proposal would pass a Sequential Test given the number of alternative sites allocated within the Local Plan Submission Version, along with other potentially available sites considered as part of the site selection work that formed the evidence base to the new Local Plan.

The Council's Environmental Protection and Drainage Team have confirmed that the site is within Flood Zone 2. The applicant has not submitted a Flood Risk Assessment with this application and in the absence of this information has failed to demonstrate that the increase in vulnerability of the users has been considered and is sufficiently protected by incorporating the necessary mitigation measures and construction techniques. The Environmental Protection and Drainage Team has submitted a holding objection (full comments set out above) to the application.

The proposed residential development is therefore unacceptable on the grounds of Flood Risk.

In the appeal decision for the refused EPF/2959/21 scheme, the Planning Inspector comments as follows on Flooding:

“11. The Council and the Appellant dispute the location of the site as being within the Environment Agency’s Flood Zone 2 and the requirement for a sequential test as to why the development could not be located within another site with a lower probability of flooding. From the information submitted it is clear that the site is within Flood Zone 2 and so according to the National Planning Policy Framework, a sequential test is required. This has not been done.”

Existing Buildings

The existing buildings shown on Drawing ELA/2 Rev A do not accurately reflect the actual buildings on the site which are in various states of disrepair.

Design, Character and Appearance

Drawings submitted with previous applications stated that the combined floor area of the existing outbuildings on the site is 179 sq m.

It is unclear which of the existing buildings on the site are lawful and it is not necessarily the case that the floorspace of these buildings act as a guide as to the acceptable amount of floorspace for any future residential dwelling on the site.

All of the buildings on the application site are single storey with a maximum height of 3 metres, some of brick construction, some timber sheds.

The application site is located between two storey dwellings on Old Nazeing Road and modest single storey bungalows on Great Meadow.

The proposed dwelling is single storey with a maximum height of approximately 3.3m. The building is L shaped, in two parts.

The first part (accommodating living area/kitchen/study/hall) is on the footprint of the main existing building on the site (shown on the Existing Layout drawing as Units 1, 2 and 3) but also extends further forward and rearward than the existing building onto open garden land where sheds and a greenhouse are currently located.

The second part (accommodating two bedrooms and bathrooms) is on the footprint of other existing buildings (shown on the Existing layout drawing as Units 4, 5, 6 and 7) on land to the rear of 115 Old Nazeing Road and between the rear gardens of 111 and 117. The proposed building does not extend as far towards the houses on Old Nazeing Road as the existing buildings but is much wider, filling almost the full width of this part of the site but with 1m setbacks from the boundary on either side.

Any proposed dwelling must respect its setting in terms of scale, proportion, siting, massing, height, orientation, roof-line and detailing.

The proposed dwelling is single storey (with a flat green sedum roof) with a maximum height of approximately 3.3m and in that respect is not out of character with the existing buildings on site or the neighbouring bungalows in Great Meadow.

However, the proposed dwelling has a large footprint extending further forward and rearward of the existing Unit 1,2,3 building and in close proximity to the side boundaries (set back 1m from neighbouring boundaries).

It is considered that the footprint / floor area of the proposed dwelling is excessive resulting in a cramped and over intensive development which fails to respect its setting and therefore is unacceptable in design, character and appearance terms.

The floor area of the proposed dwelling is 254 sq m which significantly exceeds the combined floor area of the existing buildings on the site.

The proposed floor area of 254 sq m (including bedrooms of 25 sqm and 40 sq m) is also significantly larger than the minimum required floor area for a 2 bed, 4 person dwelling over a single storey (70 sq m).

For context, the national space standards state that the minimum floor area for a 6 bed, 8 person dwelling over a single storey is 125 sq m.

This suggests that there is considerable scope for the floor area / footprint to be reduced in order to set the building further back from the site boundaries in order to lessen the cramped and over intensive nature of the proposal.

Impact on the Residential Amenity of Occupiers of Neighbouring Residential Properties

Adopted Policy DBE2 states that Planning permission will not be granted for new buildings which have a detrimental effect upon existing neighbouring or surrounding properties in either amenity or functional terms.

Due to the single storey nature of the proposed dwelling and the absence of windows in flank walls the proposal would not result in harmful loss of privacy / overlooking of any neighbouring properties.

However, due to its proximity to boundaries with 7 Great Meadow and 111 and 117 Old Nazeing Road it is considered that the proposed dwelling would have a harmful overbearing visual impact on occupiers of these neighbouring residential properties which would have a 3.3m high brick flank wall set 1m off the shared boundaries.

The proposed development is therefore considered to be unacceptable in terms of its impact on the residential amenity of the occupiers of neighbouring residential properties.

The floor area of the proposed dwelling is 254 sq m which is significantly larger than the minimum required floor area for a 2 bed, 4 person dwelling over a single storey (70 sq m).

For context, the national space standards state that the minimum floor area for a 6 bed, 8 person dwelling over a single storey is 125 sq m.

This suggests that there is considerable scope for the floor area / footprint to be reduced and for the building to be set back further back from the site boundaries in order to mitigate the harmful visual impact on neighbouring properties.

Quality of Accommodation

The proposed dwelling has a floor area of 254 sq m which very significantly exceeds the minimum national residential space standard for a 2 bedroom, 4 person dwelling over a single storey (minimum 70 sq m).

All habitable rooms appear to benefit from good levels of light and outlook.

Two separate garden areas are proposed of 237 sq m and 169 sq m respectively.

Acceptable in this respect.

Highways

ECC Highways has no objection to the proposal. Vehicular access will be via the existing access from Keyzers Road. Off street car parking for two cars is proposed on the driveway to the front of the proposed dwelling.

SAC:

In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM2 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

Conclusion:

Recommended for refusal.

Refusal Reason(s): (4)

- 1 The proposed development is located in Flood Zone 2, as indicated on maps held by the Environmental Agency, and as such the development may be at direct risk of flooding and may increase the risk of flooding elsewhere. In such instances development should only be permitted if a sequential test indicates that there are no alternative sites appropriate for the proposed development in areas with a lower probability of flooding. No such sequential test has been undertaken / submitted and indeed it is not considered that the proposed development on this site would pass this test. Therefore in the absence of a sequential test the proposed development is considered contrary to Policy U2A of the adopted Local Plan, Policy DM15 of the Local Plan Submission Version, and the guidance contained within the NPPF (July 2021).
- 2 The proposed development by reason of its design, scale, footprint and siting would result in a cramped and over intensive level of development which fails to respect its setting contrary to policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, policies DM9 & DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.
- 3 The proposed development by reason of its design, scale, footprint and siting would have a harmful overbearing visual impact on occupiers of neighbouring residential properties. As such the proposal fails to safeguard the living conditions of the occupiers of neighbouring properties contrary to policies CP7, DBE2 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM9 (H) of the Local Plan Submission Version 2017 and the NPPF 2021.
- 4 In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

Informatives: (2)

- 5 The Local Planning Authority has identified matters of concern within the officer's report and clearly set out the reason(s) for refusal within the decision notice. The Local Planning Authority

is willing to provide post-application advice in respect of any future application for a revised development.

6 This decision is made with reference to the following plan numbers:

Drawing ELA/1 Rev A – Existing Layout

Drawing ELA/2 Rev A – Existing Layout & Elevations

Drawing ELA/3 Rev A – Proposed Layout & Elevations

Drawing ELA/6 Rev A – Block Plan & Location Plan

Contaminated Land Report

Preliminary Ecological Appraisal Incorporating Bat Survey Inspection, August 2021.