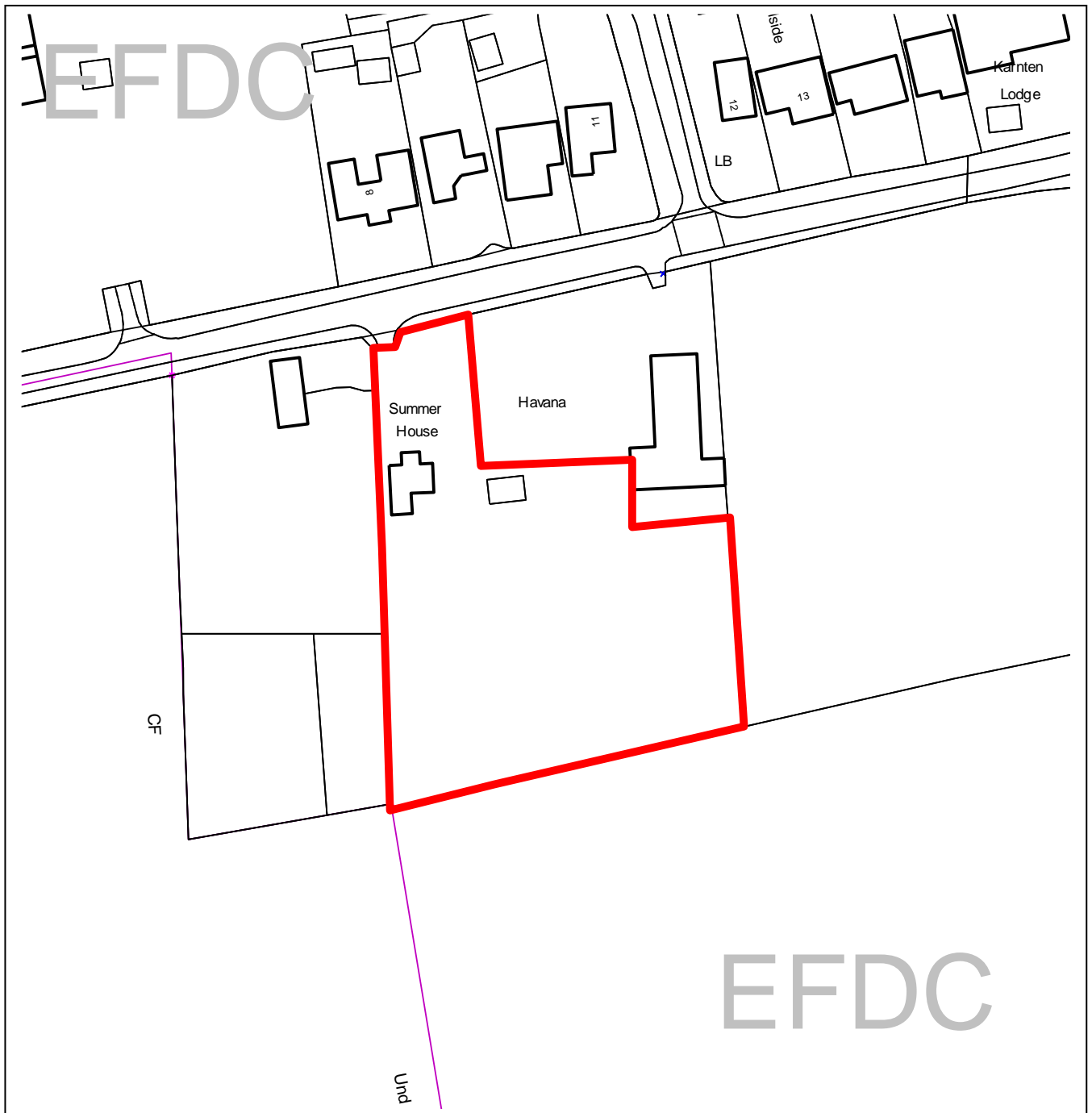




# Epping Forest District Council



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Application Number:	EPF/1524/19
Site Name:	Summer House Hamlet Hill Roydon Essex CM19 5LA
Scale of Plot:	1:1250

<b>APPLICATION No:</b>	EPF/1524/19
<b>SITE ADDRESS:</b>	Summer House Hamlet Hill Roydon Essex CM19 5LA
<b>PARISH:</b>	Roydon
<b>WARD:</b>	Broadley Common, Epping Upland and Nazeing Roydon
<b>APPLICANT:</b>	Mr Mark Wheeler
<b>DESCRIPTION OF PROPOSAL:</b>	Erection of x 2 no. chalet bungalow dwellings with associated parking, amenity spaces and in curtilage refuse and cycle store.
<b>RECOMMENDED DECISION:</b>	Refuse Permission

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=625236](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=625236)

## REASON FOR REFUSAL

- 1 The site is located within the Metropolitan Green Belt and does not constitute limited infilling of a village nor is it 'limited infilling or partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt'. It therefore constitutes inappropriate development. No very special circumstances have been advanced that would outweigh the harm caused by the inappropriateness and the other harm identified, and the development would therefore conflict with Chapter 13 of the National Planning Policy Framework 2019, Policy GB2A of the Epping Forest District Adopted Local Plan and Policy DM4 of the Epping Forest District Local Plan (Submitted Version) 2017.
- 2 The proposed development would have a detrimental impact on the open character of the Green Belt and would be clearly discernible from the surrounding countryside. This would result in an excessive impact on the open character of the Metropolitan Green Belt contrary to policies CP2, GB2A, GB7A, DM9 and DM10, of the adopted Local Plan and Alterations and the National Planning Policy contained in the National Planning Policy Framework 2019.
- 3 The applicant has failed to demonstrate that the development will not have an adverse impact on the Epping Forest Special Area of Conservation in terms of air pollution, or that suitable mitigation for such impacts will be provided. The development is therefore contrary to Policy CP6 of the Epping Forest Local Plan, Policies DM4 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

**This application is before this Committee since it has been ‘called in’ by Councillor Nigel Avey (Pursuant to The Constitution, Part Three: Scheme of Delegation, Appendix 3)**

### **Site and Surroundings:**

The site includes a residential property known as “Summer House” located on the southern side of Hamlet Hill towards the western side of the proposed two dwellings on the site. A detached outbuilding is located in close proximity and to the east of the existing Summer House. The Summer House is located on the western boundary of the application site and was allowed as a replacement dwelling. The house is a chalet style bungalow with the roof area being used for accommodation and served by rooflights. The dwelling has an extensive curtilage and slopes downwards in a westerly direction. The site is within the designated Metropolitan Green Belt.

### **Description of Proposal:**

Permission is sought for the erection of two 4 bedroom chalet bungalows with associated parking, amenity spaces and refuse and cycle stores.

The proposal would generate an overall footprint (including the two carports) of approximately 314sqm, with the overall area of the plot being just below 0.5 hectares.

The proposed dwellings measure 14.2m wide by 9.8m deep, with a total height of around 7.9m with a set down of 1.10m from the ridge, with three dormer windows in the front and rear elevations. The proposed ground floor consists of a hall, W.C, living room, kitchen/dining, utility room and car port and the first floor consists of four bedrooms.

The proposed dwellings would each have private amenity space at the rear of the properties. House 1 will have 1755sq m rear garden, house 2 will have 798 sq m rear garden.

The properties are sited 1.5m apart from each other.

### **Relevant History:**

**EPF/1650/16** - Two storey extension to the east side of the property. Grant Permission with Conditions on 19/09/2016

**EPF/2266/12** - Proposed two storey side extension (first floor within the roof void). Refused Permission on. Refused permission on 28/01/2013 for the following reason: The proposed extension to this dwelling would have a detrimental impact on the open character of the Green Belt which would be clearly discernible from the surrounding countryside. This, when considered in conjunction with the generous original replacement dwelling/garage at the site and the summerhouse development in an extended garden area, would have an excessive impact on the open character of the Metropolitan Green Belt at this location contrary to policies CP2, GB2A and GB7A of the adopted Local Plan and Alterations and national policy contained in the National Planning Policy Framework..

### **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
NC1	SPAs, SACs and SSSIs
H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
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
ST4	Road Safety
ST6	Vehicle Parking

#### National Planning Policy Framework (NPPF) (February 2019)

The NPPF 2019 is a material consideration in determining planning applications. The National Planning Policy Framework (NPPF) 2019 section 2, advocates 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	124
Paragraph	127
Paragraph	130
Paragraph	131

### 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:

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

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 has provided advice to the Council. This advice is given without prejudice to the Inspector's final conclusions.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight afforded by your officers in this particular case indicated:

<u>Policy</u>	<u>Weight afforded</u>
SP1 Presumption in Favour of Sustainable Development	Significant
SP2 Spatial Development Strategy 2011-2033	Some
T1 Sustainable Transport Choices	Significant
DM2 Epping Forest SAC and the Lee Valley SPA	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 Water and Water Supply	Significant
DM19 Sustainable Water Use	Significant
DM21 Local Environmental Impacts, Pollution and Land Contamination.	Significant
DM22 Air Quality	Significant.

### **Planning Considerations:**

The main issues for consideration in this case are:

- a) The principle of development;
- b) Highway safety and parking provision;
- c) The impact on the character and appearance of the locality;
- d) The impact to the living conditions of neighbours;
- e) The impact on the Green Belt;
- f) Housing Supply and Delivery; and
- g) The impact on the Epping Forest Special Area of Conservation.

### **Summary of Representations:**

#### **Consultation Carried out and Representations Received**

ROYDON PARISH COUNCIL: No objection to the proposal providing there is no incursion in Metropolitan Green Belt

8 Neighbours were consulted and no objections were received.

The Highways and Transport were consulted and the Engineer did not comment on the application.

### **Main Issues and Considerations:**

The main issues which are relevant to the determination of this application are:

- i) The impact on the aims and purposes of the Metropolitan Green Belt
- ii) Design
- iii) Impact on the character and appearance the area
- iv) Impact on neighbouring residential amenities
- v) Access and Parking

### **Green Belt**

Government Guidance states that new development within the Green Belt is inappropriate unless it falls within the list of exceptions set out in paragraphs 145 and 146 of the National Planning Policy Framework (NPPF) and provided it does not harm the openness of the Green Belt or conflict with the five purposes of including land within it than the existing development.

The National Planning Policy Framework 2019 states that 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. Local Policy GB2A is broadly in compliance with the aims and objectives of national Green Belt Policy. The NPPF states that one of the exceptions to inappropriate development within the Green Belt is “*limited infill within a village*”.

The applicant argues that this scheme is in accordance with paragraph 145(e) and that it is a ‘*limited infill within a village*’.

The LPSV defines limited infilling as “*The development of a small gap in an otherwise continuous built up frontage, or the small scale redevelopment of existing properties within such a frontage*”. Limited infilling should be appropriate to the scale of the locality and not have an adverse impact on the character of the countryside or the local environment.

#### **Impact on the aims and purposes of the Metropolitan Green Belt:**

Local Plan policy GB2A is broadly in compliance with the aims and objectives of the NPPF. The NPPF paragraph 145 (e) states that one of the exceptions to inappropriate development within the Green Belt is limited infilling in Villages.

The applicant argues that this scheme is limited infilling within a village and therefore does not constitute inappropriate development. The applicant referred to a number of examples as precedent approvals within Epping Forest such examples are :

- *Land adjacent The Brambles (EPF/2483/17)*
- *Raven Brook (EPF/2629)*
- *Rosedale (EPF/0288/13)*
- *Deerhurst (EPF/1893)*
- *Pond House (EPF/2136/12)*

These examples above are at different locations and are not adjacent or adjoining this application site. Each application was considered at its own merits. Therefore the applicant cannot expect this application to be approved based on the approval of these other applications.

It is not considered that the small enclave situated at Hamlet Hill is a 'village'. Furthermore Appendix 1 of the SVLP defined infill development as 'a small gap' in an otherwise continuous built up frontage'. The application site is part of the residential garden of Summer House that dog-legs around the garden of Havana. Beyond Havana is a substantial open area that forms the curtilage of Clouds. Beyond Summer House is a Gypsy and Traveller site known as Ashview and open fields beyond this.

The proposed development would introduce two new dwellings behind the garden of Havana within a substantial gap between the two dwellings. This side of Hamlet Hill is sporadically developed and is not considered to consist of 'continuous built up frontage'. Given the location of the site the new dwellings would not front directly onto Hamlet Hill.

Due to the above it is not considered that the proposal would not be limited infilling, would not constitute an infill, and would not be situated within a village. Therefore the proposal does not meet this exception to inappropriate development and is contrary to SVLP policies SP 6 and DM 4, adopted Local Plan policy GB2A, and the NPPF 2019.

#### Harm to the openness of the Green Belt:

The development as a starting point is inappropriate development. The proposed two storey houses as a result of their solid presence and suburban character in a location where it is currently predominately open grass and vegetation is clearly harmful to the openness of the site.

It is acknowledged that the application site meets the definition of previously developed land, however, the proposed application is not replacing any existing buildings but constitutes new development in the open Green Belt. It is considered that the proposed development would add a significant level of addition massing and bulk of built development to the area since they would be built within an area of open, undeveloped land. It is therefore considered that this development would cause a significant substantial harm to the openness of the Green Belt and cannot meet the exception of 'redevelopment of previously developed land'.

#### Green Belt conclusion:

It the Council's view that the proposal does not constitute limited infilling of a village nor does it meet the exception of 'limited infilling or partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development'. It therefore would constitute inappropriate development in the Green Belt.

Section 143 of the NPPF 2019 states that “*inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances*”.

Section 144 of the NPPF 2019 states that “*when considering any planning application, local planning authorities 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 resulting from the proposal is clearly outweighed by other considerations*”.

No very special circumstances or other considerations have been advanced that would outweigh the harm caused by the inappropriateness and the other harm identified in this report and the development would therefore conflict with Chapter 13 of the National Planning Policy Framework 2019 and Policy GB2A of the Epping Forest District Adopted Local Plan and Policy DM4 of the Epping Forest District Local Plan (Submitted Version) 2017.

### **Design and Impact on the character and appearance of the surrounding area**

Paragraph 127 of the NPPF requires that “*Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting.*”

The proposed development is for two number two-storey 4 bedroom bungalows erected between ‘Havana House’ and ‘Summer House’ which are both of similar style to the existing property, being a bungalow with a similar ridge height (approx. 8m).

Whilst the orientation and position of the dwellings roughly follow the existing built form of the adjacent dwellings, these new properties would have no frontage onto Hamlet Hill and would instead be situated to the rear of the curtilage of Havana. This would therefore fail to accord with the pattern of development within the locality.

The siting of the properties is considered to be too close to each other with only a 1.5m separation gap between the proposed dwellings that would be out of character with the general pattern of development in the immediate locality, which is characterised by detached dwellings with sizeable curtilages and significant spacing between properties.

The design of the bungalows in and of themselves reflects the design of the existing bungalow known as Summer House. Nonetheless, due to the layout of the proposal this would not form any continued row of housing within this site and therefore is considered to have a detrimental impact on the distinctive local character of the area. Chapter 12 of the NPPF 2019, that states that good design is key aspect of sustainable development and contrary to Policies DBE4 and DBE10 of the Local Plan 1998 & 2006 and emerging policy DM9 of the Local Plan Submission Version 2017. The proposed development will therefore result in being out of character in the surrounding area.

### **Impact on neighbouring residential amenity.**

The nearest neighbouring properties are the Summer House, that is 8 metres from bungalow no.2 and Havana, 2 metres away from bungalow no.1



It is considered that due to the sitting of the proposed bungalows in closed proximity of each other there will be some overlooking into the rear gardens – but this would not be significant enough to justify a refusal on loss of amenity to the future occupiers of these bungalows.

The proposed 2 houses will have no windows on the side elevations facing the side of Summer House and will therefore have a limited impact on rear garden of this neighbour.

### **Access and Parking**

The vehicular access/egress is provided off Hamlet Hill via the existing driveway to the 'Summer House'. The new plots will have independent access to and from the 4.8metres wide drive way. It is not considered that the level of traffic produced by the new dwellings will deem the access unsuitable, and visibility splays to the main road will be maintained. Each dwelling will incorporate driveways allowing access to the carports. There is no Highway objection.

### **Refuse and recycling**

The amenities will be provided as per the LPA requirements; typically, this includes the provision of separate refuse and recycling wheelie bins, waste food bins and garden waste bins or bags.

### **Epping Forest Special Area of Conservation**

Biodiversity features within, or associated with, a Special Area of Conservation enjoy a high level of protection under UK and EU 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 Epping Forest SAC 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 SAC must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any development plan or proposal, either alone or in combination, will not harm the integrity of the European Site.

The Council has a legal duty as the 'competent authority' under the Habitats Regulations to protect the Epping Forest SAC from the effects of development (both individually and in combination). 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 Epping Forest SAC. Firstly, the increased levels of visitors using the Forest 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, including trees and potentially the heathland habitats, from air pollution generated by increased motor vehicle usage (referred to as "air quality").

As regards visitor numbers, the adopted Interim Mitigation Strategy identifies that any additional residential development located within 3km of the Epping Forest SAC would be likely to have a significant effect when considered alone or in combination with other plans / projects. The application site is located more than 3km from the Epping Forest SAC.

As regards air quality, all proposals that result in additional residential development and / or employment development within the entire District would be likely to have an impact on the Epping Forest SAC when considered alone or in combination with other plans / projects.

Policy DM 22 of the LPSV provides the policy context for dealing with the effect of development on the integrity of the Epping Forest SAC outlined above.

Policy DM 22 requires:

Larger proposals, or those that have potential to produce air pollution, to undertake an air quality assessment that identifies the potential impact of the development, together with, where appropriate, contributions towards air quality monitoring. Assessments shall identify mitigation that will address any deterioration in air quality as a result of the development, having taken into account other permitted developments, and these measures shall be incorporated into the development proposals. This will include an assessment of emissions (including from traffic generation) and calculation of the cost of the development to the environment. All assessments for air quality shall be undertaken by competent persons.

This policy applies to development of all types and all locations as they all have the potential to result in increased traffic generation which would put pressure on the roads through the Epping Forest.

The Council commissioned a Habitats Regulations Assessment (January 2019) of the LPSV ("the 2019 HRA"), produced by AECOM, which has been published on the Council Local Plan Examination website. The 2019 HRA includes an Appropriate Assessment of the planned development within the LPSV and the effect of that development on the Epping Forest SAC.

The 2019 HRA concluded that, subject to securing the urbanisation/recreational pressure and air quality mitigation measures to which the Council, the adoption of the Local Plan will have no adverse effect on the Epping Forest SAC.

However, following their review of the 2019 HRA, Natural England maintained their objection to the Local Plan, citing a number of specific concerns about the HRA which were considered at the examination hearing held on 21 May 2019. With the assistance of its expert consultants and professional advisors, the Council robustly defended the LPSV and the 2019 HRA at the examination hearings.

Following completion of the examination hearings on 11 June 2019, in a letter dated 2 August 2019, the Local Plan Inspector provided the Council with advice concerning the changes to the Plan required to remedy issues of soundness in the form of Main Modifications ("MMs"). The Inspector's conclusion at this stage is that further MMs are required and that in some cases, additional work will need to be done by the Council to establish their precise form.

In her advice, the Inspector recorded that the 2019 HRA included an AA of the Plan's implications for the SAC, which concluded for both pathways of impact that, with mitigation, the Plan would not have an adverse effect on the integrity of the SAC, either alone or in combination with other plans or projects. At paragraph 13, the Inspector said:

"13. However, in their written representations and at the hearing itself, both Natural England and the Conservators of Epping Forest (the Conservators) strongly challenged the robustness of the HRA in terms of its methodology and conclusions. Given the uniqueness of the Forest, its high-risk status and the professed engagement between these key representors and the Council, the dispute at this stage seems most unfortunate. Nevertheless, I cannot conclude beyond reasonable scientific doubt (as the parties all agree that I must) that the Plan will not adversely affect the integrity of the SAC until steps have been taken towards resolving it."

The Local Plan Inspector has identified a number of actions which she considers necessary for the Council to take to remedy the areas of concern with the 2019 arising from Natural England and the Conservators objections

### Air Quality

As regards air quality, there is currently no such agreed approach; however, the Council and other partner organisations continue to work together to identify an air quality mitigation strategy that is acceptable to Natural England, taking into account the Local Plan Inspector's advice. In the absence of such a strategy, all proposals that result in net additional residential development and / or employment development within the entire District must be considered to be likely to have an impact on the Epping Forest SAC when considered alone or in combination with other plans or projects.

As a consequence, and in light of the Local Plan Inspector's interim advice, the Council, as competent authority, cannot lawfully grant planning permission for any development proposals within the District that are likely to have an air pollution impact on the Epping Forest SAC, save where a site specific AA demonstrates that the granting permission will not have such an effect in respect of air quality.

In this circumstance, paragraph 177 and para 11(d) (i) requires that the tilted balance towards the presumption in favour of sustainable development does not apply and instead this development should be restricted.

### Conclusion:

In conclusion, the site is within the designated Green Belt. Paragraph 144 of the NPPF requires that inappropriate development is by definition harmful to the Green Belt. The proposal does not meet any of the exceptions to inappropriate development and it is for this reason that it would need to be demonstrated that there are very special circumstances which would clearly outweigh the harm to the Green Belt as a result of inappropriateness of the development and all other harms.

The proposal would clearly impact on the openness of the Green Belt and has an unacceptable siting, location and design. There are no very special circumstances which would clearly outweigh the harm to the Green Belt or the other identified harm.

In addition, insufficient information has been provided to show that the grant of planning permission for this proposal would not be likely to have an air pollution impact on the Epping Forest SAC.

As such the proposal is contrary to the guidance contained within the NPPF as well as the policies within both the adopted Local Plan and the Epping Forest District Local Plan (Submitted Version) 2017. For the reasons set out above it is recommended that planning permission be refused.

**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: Francis Saayeng**

**Direct Line Telephone Number: 01992 564161**

**or if no direct contact can be made please email:**  
**[contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)**