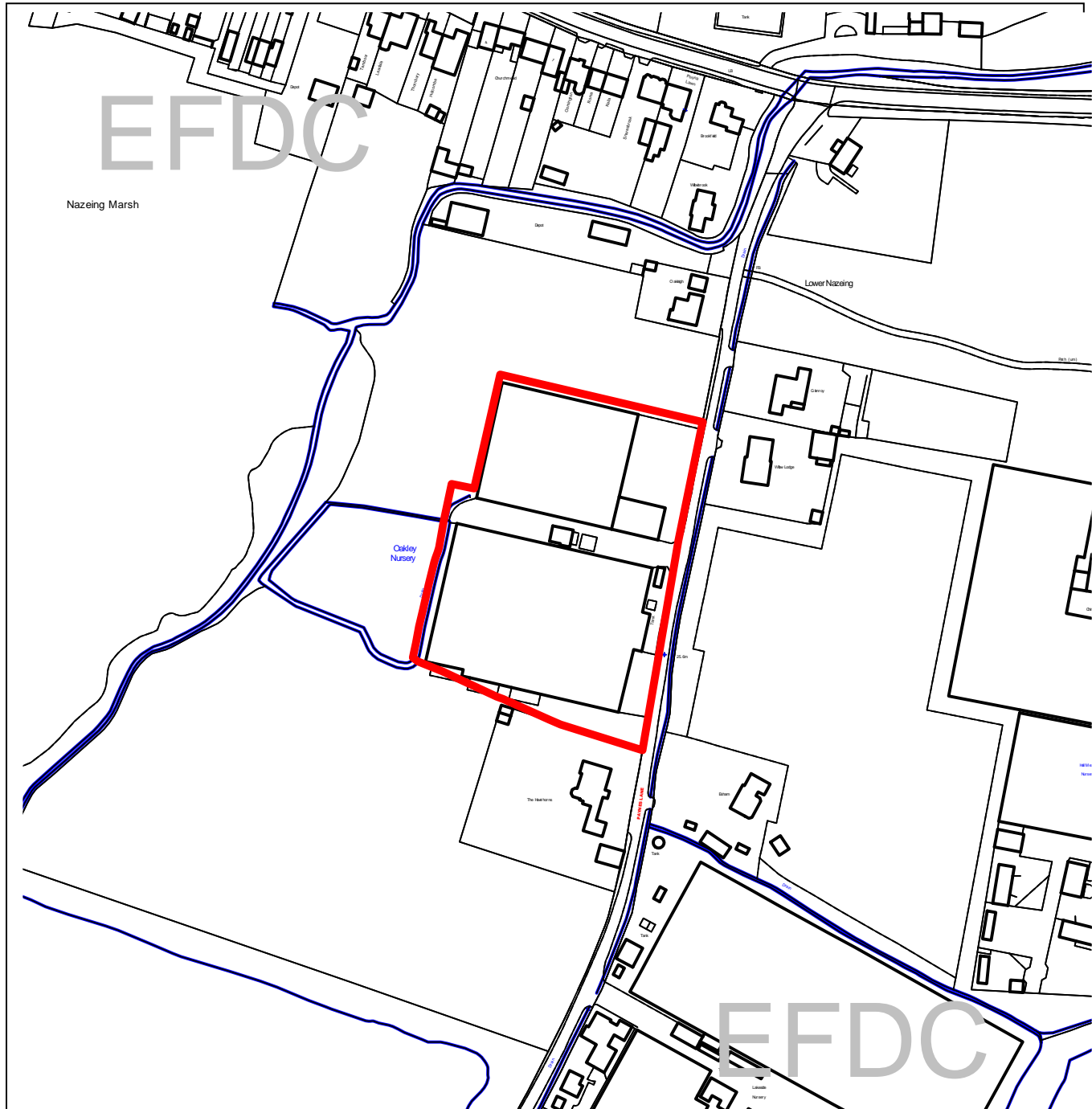




Epping Forest District Council



Unauthorised reproduction infringes
Crown Copyright and may lead to
prosecution or civil proceedings.

Contains Ordnance Survey Data. ©
Crown Copyright 2013 EFDC License No:
100018534

Contains Royal Mail Data. © Royal Mail
Copyright & Database Right 2013

Application Number:	EPF/2563/19
Site Name:	Oakleigh Nursery Paynes Lane Nazeing EN9 2EU
Scale of Plot:	1:2500

Report Item No: 10

APPLICATION No:	EPF/2563/19
SITE ADDRESS:	Oakleigh Nursery Paynes Lane Nazeing EN9 2EU
PARISH:	Nazeing
WARD:	Lower Nazeing
APPLICANT:	Mr Giovanni Orlando
DESCRIPTION OF PROPOSAL:	Proposed permanent retention of 2 existing caravans to accommodate nursery workers.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

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=629687

CONDITIONS

- 1 On or before the expiration of 28 days from the date of this approval, the 2 dilapidated caravans at present located at the site as shown on drawing number 2573-15A4-202A, and any associated base, dwarf wall or associated works shall be removed, and the land shall thereafter cease to be used for the stationing of a caravan.
- 2 The development hereby permitted will be completed and retained strictly in accordance with the approved drawings numbers: 2573-15A4-201A, 2573-15A4-202A and the Flood Risk Assessment by UK Flood Risk Consultants (dated 10/04/2018).
- 3 The occupation of the 2 caravans hereby approved shall be limited to persons solely or mainly working, or last working, in agriculture or in forestry, or a widow or widower of such persons, and to any resident dependants.
- 4 There shall be no external lighting erected or fitted on or by the mobile homes.
- 5 Each mobile home shall not have more than four adult persons residing in it at any time.
- 6 There is to be no residential vehicular access to the mobile homes via the southern gate on the approved fence and gates.
- 7 In the event that the nursery use ceases on site, the caravans hereby approved shall be removed from the site, and any associated base, dwarf wall or associated works shall be removed, and the land shall thereafter cease to be used for the stationing of caravans for residential accommodation.

The proposed use of this site has been identified as being particularly vulnerable if land contamination is present. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and/or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the local planning authority prior to the recommencement of development works. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

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

Site and Surroundings

Oakleigh Nursery is a working nursery with two glasshouses and associated outbuildings, located on the western side of Paynes Lane. The site is within the Metropolitan Green Belt. There are a mix of nurseries and residential properties within the area. The site is within Flood Zone 2.

Proposal

The application seeks permission for the permanent retention of the 2 existing caravans to accommodate the nursery workers. These 2 caravans were considered as essential accommodation for the nursery workers and temporary permission was granted by the West Committee from 21/09/2016 to 21/09/2019. (Ref: EPF/0041/16).

Relevant Planning History

EPF/0041/16 - The replacement of two existing dilapidated caravans with 2 new caravans for residential use by nursery workers (and associated concrete bases) - Approved

EPF/0861/16 - Retention of 1 mobile caravan to provide accommodation for workers – Refused.

EPF/1163/18 - Retention of single mobile caravan – Refused.

EPF/1200/18 - Application for approval of details reserved by condition 4 'drainage details' and 5 'flood risk assessment' on planning application EPF/0041/16 (The replacement of two existing dilapidated caravans with 2 new caravans for residential use by nursery workers (and associated concrete bases) – Details approved

Development Plan Context

Local Plan and Alterations 1998 & 2006 (LP)

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

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

CP2	Protecting the Quality of the Rural and Built Environment
CP8	Sustainable Economic Development
GB2A	Development in the Green Belt
GB11	Agricultural buildings
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE2	Effect on neighbouring properties
DBE4	Design in the Green Belt
DBE9	Loss of amenity
U2A	Development in Flood Risk Areas
RP4	Contaminated land

National Planning Policy Framework 2019 (Framework)

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

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of 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 of relevance to this application:

Paragraph	79
Paragraph	83
Paragraphs	133, 143 - 146
Paragraph	175

Epping Forest District Local Plan Submission Version 2017 (LPSV)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14th 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 2nd 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.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework. The following 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
SP3 Place Shaping	Significant
SP7 The Natural Environment, Landscape Character and Green and Blue Infrastructure	Some
H1 Housing Mix and Accommodation Types	Some
E3 Food Production and Glasshouses	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 Wastewater 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: 2. 1 response(s) received
 Site notice posted: Yes

HAWTHORNS, PAYNES LANE – Strongly Object – Summarised as;

- Impact on Green Belt;
- Noise disturbance;
- Overlooking;
- Inaccurate plans;
- Insufficient justification for caravans;
- Breach of Human rights;
- Land Contamination;
- Contrary to policy E3;
- Flood Risk; and
- Impact on our amenities.

NAZEING PARISH COUNCIL – STRONGLY OBJECTS to the application stating that;

- i. It is an inappropriate development in the Green Belt contrary to EFDC Local Plan (GB2A – Development in the Green Belt)
- ii. It is inappropriate development in the Lee Valley Regional Park (Policy GB10 Lee Valley Regional Park)
- iii. It is not in accordance with E13 requirements
- iv. The accommodation is not fit for purpose
- v. The applicant has not complied with most of the conditions attached to application EPF/0041/16.

If the application is referred to Committee, the Council would wish to attend the meeting and make representations.

If permission is granted, the Council would request that it should be subject to the following Conditions:

- i. Suitable arrangements to be introduced for Sewage disposal
- ii. The Original caravans have not been removed and should be disposed of
- iii. The caravans should not be so close to the boundary, as they overlook the neighbouring property (Policy DBE9 – Loss of Amenity)

EFDC LAND DRAINAGE – No objection

Planning Considerations

The main issues for consideration in this case are:

- a) Whether the granting of permanent permission for the 2 caravans for the workers to continue to live in and work on the nursery is acceptable;
- b) The impact on the Green Belt;
- c) The impact on the living conditions of neighbouring properties and occupiers of the caravans;
- d) The impact on the Epping Forest Special Area of Conservation;
- e) Flood risk;
- f) Human rights; and
- g) Land contamination.

Principle

The fact that the caravans were granted temporary permission with a time limit condition from 21/09/2016 to 21/09/2019 is a material consideration for this application.

No complaints were received by the Planning Enforcement team regarding the use of the two caravans. Also, the Housing team have not received any complaints regarding the living conditions of the caravans. Therefore, it can be concluded that the permanent siting of the caravans for living accommodation for the nursery workers is suitable and is not causing any harm to the occupiers, that there would be no additional harm to the Green Belt nor any significant impact on the neighbouring amenities.

Furthermore, the Parish Council's reasons are unfounded, and they have failed to submit evidence to substantiate their reasons for their objections, as the caravans were granted temporary permission by the West Committee since 21/09/2016. This site and other nursery sites within the District were investigated by Private Sector Housing/Environmental Health Officers, as part of an investigation into the living conditions of nursery Workers within the District. Officers discovered that conditions on this site were well below acceptable standards and the owner of the site was advised to provide improved accommodation for the workers that were then living in overcrowded and squalid conditions, within two caravans located within the centre of the site and within a packing shed (This is set out in appendix C & D of the planning statement).

Members attention is drawn to the fact that the Environmental Health Officer liaised with Planning Enforcement Officers and the applicant was advised that the provision of two replacement mobile homes would be tolerated, and that these should be located away from the front of the site to minimise visual impact. This advice was given on the assumption that the two existing caravans within the site had lawful residential use, will be in an acceptable location that will not be harmful to the openness of the Green Belt and, will not be visible from street, with no impact on the neighbouring amenities and, provide suitable accommodation for the nursery workers.

The applicant, following the advice from officers, fully co-operated with the requests of the Environmental Health team to provide improved facilities for his workers and installed the two caravans, the subject of this application, as well as upgrading the facilities within the caravans as sited within the Glass House. Subsequently however, following a complaint from a neighbour, regarding the stationing of the new caravans, it was found that there was no clear evidence that the caravans within the centre of the site (which are to be removed as shown on the drawings) had been occupied residentially, for in excess of 10 years, and that as such the use of the site for stationing of residential caravans was not lawful. The applicant was therefore advised that planning permission was after all required for the caravans, and the concrete pads on which they are stationed. Following this members accepted the principle of the development and subsequently granted a temporary permission for 3 years. The need for a permanent permission is set out in the Green Belt section.

Green Belt

The Framework attaches great importance to the protection of the Green Belt and inappropriate development in the Green Belt should not be approved unless 'very special circumstances' can be demonstrated which clearly outweighs the harm caused.

The permanent siting of the caravans is not considered inappropriate development in the Green Belt subject to paragraph 79 (which policy GB17A & E3 is in line with) of the Framework. Also, the fact that the caravans are for the nursery workers which was found to be an essential need and was considered acceptable previously albeit the temporary permission is a matter that weighs in favour of this application.

Furthermore, policy GB17A of the LP, and policy E3 of the LPSV sets out the circumstances in which the Council may consider an agricultural workers dwelling as acceptable. This requires the applicant to demonstrate that the dwelling is essential, taking into account the nature of the enterprise, that there is firm evidence that the enterprise has long term viability and that genuine and sustained efforts to find suitable alternative accommodation have been made.

The applicant has provided evidence that there is still a need for the agricultural workers for the viability of the nursery, and that there are no affordable accommodation nearby, along with a business viability statement compiled by Totu Wealth Management Limited (Appendix G of the planning statement) with financial planning and management knowledge which supports this. Also, during officers site visits, it was noted that there were multiple workers working in the nursery.

Given, that the emerging Local Plan (policy E3) has identified that high house prices and rents make off-site accommodation unattainable (given that this is a low wage industry), officers are satisfied that in line with the need to support local business and the long-term viability of the nursery, that the proposal in this instance is justified, more so given the current impact that Covid-19 has had on the UK economy and businesses.

Furthermore, a suitable worded condition would restrict the occupation of these 2 caravans to workers in connection with the nursery, so if the nursery use ceases a further condition requiring the removal of the proposed building would be reasonable.

It is therefore considered that the permanent siting of the 2 caravans is therefore not inappropriate development, and not harmful to the Green Belt. Moreover, whilst the provision of caravans within the rural area can have an adverse impact on the character and amenity of an area, the caravans are set well back from the road and are viewed in the context of the nursery and nursery buildings including large glasshouses. As such it is not considered that they have a particularly harmful impact on the character and visual amenity of the area and has no significant impact on the openness of the Green Belt both in spatial and visual terms. Similarly, the concrete pads, whilst they have resulted in the loss of a previously overgrown area, it has been kept to a minimum size and does not have an adverse impact on the visual amenity of the area and Green Belt.

The development is therefore in line with policies GB2A and GB17A of the LP, policy DM4 of the LPSV and the Green Belt policies of the Framework.

Impact on Adjacent Residential Amenity

The two mobile homes have been sited close to the southern common boundary of the site adjacent to the detached house known as Hawthorns and agricultural land to the rear of that dwelling. Objections have been raised regarding the loss of amenity, overlooking and noise impact amongst others, however following a site visit, officers are of the view that the siting of the two caravans will not have any impact on the amenities of the neighbouring property and that there is no reasonable evidence for the above concerns. This is due to the existing high matured hedges and trees along the common boundary that provides a high level of screening to both sites, so the caravans are not visible to the occupiers of Hawthorns. Furthermore, the mobile homes are of a single storey, located in excess of some 25 metres from the rear elevation of the dwelling and, at a slight angle, so there would be no significant impact that justifies a reason for refusal.

Moreover, as the unit is sited a significant distance from the neighbouring dwelling and bearing in mind that the authorised use of the site is for agricultural use, which would be likely to generate a certain level of noise, the caravans for residential accommodation are not considered harmful in that respect.

The Living Conditions of Occupants of the Caravans

The caravans provide no amenity space for their occupants and, being located within an active nursery, do not provide suitable conditions for general residential use not connected with the nursery. The application is for the use of the caravans as occupation of the nursery workers and, traditionally caravans were used on nursery and agricultural sites to house seasonal workers. Indeed, such temporary seasonal occupation does not require planning permission and is not controlled by any site licencing (which explains why there are now so many caravans being occupied within horticultural sites).

Epping Forest Special Area of Conversation (EFSAC)

The caravans have been in situ for a significant period on site and would not result in any increased vehicle movements from the site. Also, as the consent is for the permanent use of the caravans as residential accommodation for the nursery workers, it is considered that there would be no impact to the EFSAC in terms of air quality. Thus, no contributions will be required from this scheme.

Flood Risk

Whilst concern has been raised by the neighbour at Hawthorns regarding the infilling of a drainage ditch and increased risk of flooding to their dwelling, the Council's Drainage team have raised no objections to the proposal as the accompanied flood risk assessment was found to be acceptable.

Human Rights

If planning permission is refused, and enforcement action is taken to secure the removal of the caravans, the people occupying the caravans will likely be made homeless. This is a material consideration and the Human Rights of the occupants need to be considered.

The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) into UK law and is a relevant consideration. Before deciding to pursue enforcement action it is necessary for the Council to be mindful of the impact it would have on the occupants, of the site. It is recognised that the refusal of planning consent and subsequent enforcement action will be an interference with the Human Rights of the people currently occupying the site, there is a clear obligation upon the Council to ensure that any decision it makes accords with the obligations under Article 8 of the ECHR.

Contaminated Land

The previous comments from the Land Contamination officer identified that as, "the proposed caravans are located on the site of 2 demolished old boiler houses (solid fuel "stokeholes") on a Horticultural Nursery within 250m of 4 x landfill sites, and Peat Beds are present in the underlying geology. There is therefore the potential for contaminants to be present over all or part of the site. However, as the caravans have been in situ for over three years, situated on top of hardstanding, it is not considered that there would be any harm regarding this matter, but a condition dealing with any unexpected contamination would be attached as part of the consent for clarity.

Conclusion

It is considered that the granting of the temporary permission on 21/09/2016 is a material planning consideration and, there are also 'very special circumstances' sufficient to outweigh the harm to the Green Belt from the permanent siting of the 2 caravans.

Approval of the permanent siting of the 2 caravans with year-round occupation would help secure the longer-term viability of the nursery, enabling it to continue providing employment and grow crops in line with paragraph 83 supporting a prosperous rural economy of the Framework.

It is considered that the granting of planning permission for the permanent siting of the 2 caravans for the current agricultural workers dwellings complies with policy GB17A of the LP, policy E3 of the LPSV and the Framework.

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

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: Muhammad Rahman
Direct Line Telephone Number: 01992 564415

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk