

# ***Report to District Development Management Committee***



**Epping Forest  
District Council**

**Report reference:** *EPF/3426/18*  
**Date of Meeting:** *16 September 2020*

**Address:** Garages to the rear of 13-43 Charles Street, Epping, Essex, CM16 7AU

**Subject:** Release of planning permission previously agreed by Committee, following recommendations to GRANT permission subject to conditions and contributions or mitigation measures relating to air quality within the Epping Forest Special Area of Conservation (EFSAC).

**Responsible Officer:** Andrew Marx (01992 564000)

**Democratic Services:** Gary Woodhall (01992 564470)

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## **Recommendation:**

It is recommended that the Committee Members note the content of the report, and:

- Agree to the granting of planning permission for the development on the site as mentioned in the report, without the requirement to enter into a Legal Agreement to secure a financial contribution or other mitigation measures relating to the air quality within the Epping Forest Special Area of Conservation; and
- Agree to the granting of planning permission for the development on the site mentioned in the report, subject to the conditions previously agreed by Committee.

## **Report:**

### Background to Epping Forest Special Area of Conservation and impact on the issuing of planning permissions

The Council has legal obligations under the Conservation of Habitats and Species Regulations 2017 (As Amended) ("the Habitats Regulations"), specifically, its duties as the 'competent authority' under Regulation 63 concerning the assessment of the implications of plans and projects for the Epping Forest Special Area of Conservation ("EFSAC").

As local planning authority, before deciding to grant planning permission for a project involving development likely to have a significant effect on the EFSAC (either alone or in combination with other plans or projects), the Council must make an Appropriate

Assessment of the implications of the development for the EFSAC in view of its conservation objectives as a European site. For the purposes of that Appropriate Assessment, the Council must consult Natural England, as the appropriate nature conservation body, and have regard to any representations made by Natural England about the project within such reasonable time as the Council specifies.

Applying the precautionary principle and taking account of the conclusions of the Appropriate Assessment, the Council may grant planning permission for the proposed development only after having ascertained that it will not adversely affect the integrity of the EFSAC. When considering whether a proposal will adversely affect the integrity of the EFSAC, the Council must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which permission may be granted.

In respect of development management decision-making in the District, Natural England's current advice is that applications proposing new development anywhere within the District which involving an increase in vehicle movements on roads within 200m of the EFSAC are likely, in combination with other plans or projects, to have a significant effect on the EFSAC. As such, before granting planning permission, the Council must undertake an Appropriate Assessment of the project in accordance with its legal obligations under Regulation 63 of the Habitats Regulations.

Natural England has strongly advised that any identified in combination impact on the EFSAC is best dealt with by a plan-led strategic solution, as the level of assessment required is considered overly onerous to be dealt with on a case-by-case basis and the most effective forms of mitigation are unlikely to be deliverable by individual applicants.

Consequently, in the absence of mitigation and/avoidance measures agreed with Natural England, currently, the Council cannot lawfully grant planning permission for new development that would result in a net increase in vehicle movements. which has resulted in planning applications being held in abeyance pending the identification of an acceptable air quality mitigation strategy to manage the adverse effects of atmospheric pollution arising from additional vehicles using roads in the vicinity of the EFSAC.

Taking account of the Inspector's recent advice, the Council has been working hard to identify whether an interim approach can be identified to address the backlog of planning applications pending completion of the additional HRA.

The Council has undertaken a comprehensive review of all the applications held in abeyance and, following a detailed consideration of the development proposed in each application, the Council has concluded that some of the proposals can be screened out as having no likely significant effect on the EFSAC. Decisions relating to a number of developments, subject to decisions under Delegated Authority, were issued during December 2019 and January 2020.

The applications mentioned below were subject to past decisions to grant permission by the District Development Management Committee or one of the Area Planning Sub-Committees, but subject to legal agreements requiring financial contributions and/or mitigation measures relating to the air quality of the EFSAC. These applications are therefore being presented to this Committee to NOTE the result of the further assessment undertaken, resulting in a conclusion that the proposals can be screened out as having no likely significant effect on the EFSAC and AGREE to the removal of the requirement to enter into a legal agreement relating to

contributions or mitigation measures relating to air quality within the EFSAC.

It is pointed out to Members that the planning merits of the applications are not being reconsidered, but Members are in effect being asked to agree to the removal of the previously agreed requirement for air quality mitigation contributions for these projects.

#### Application site and relevant Committee dates

As part of the comprehensive review of planning applications being held in abeyance, the following application with recommendation to GRANT planning permission and agreed by a Committee was identified:

- EPF/3426/18 (Garages to the rear of nos 13-43 Charles Street, Epping, Essex, CM16 7AU): Demolition of the existing garage buildings and the erection of 9 x 2 bedroom mews houses, with associated landscaping, parking, bike and refuse stores (Area Planning Sub-Committee East 12/06/2019) Minutes for item from page 16 [Link to Minutes](#);

#### Results of further Assessment

- (i) EPF/3426/18 (Garages to the rear of nos 13-43 Charles Street, Epping, Essex, CM16 7AU):

Demolition of the existing garage buildings and the erection of 9 x 2 bedroom mews houses, with associated landscaping, parking, bike and refuse stores:

- In this proposal the TRICS data provides information based on people trips rather than vehicle trips. Based on the TRICS information the application scheme would generate 3 people trips per day per dwelling. This means that the application scheme would provide a total of 27 people trips. Of the 3 people trips per day, 2.5 of these people trips would occur between the hours of 7:00 am – 10:00 am and 4:00 pm – 7:00pm. These time periods are reasonable to count as travel to work hours. This results in 22.5 two-way people trips (2.5 people trips x 9 dwellings). The modal share that the applicant uses has been derived from the Census 2011 data. This identifies that 46% of travel to work trips are made by car and that all other travel to work trips are by sustainable transport means (e.g. walking, cycling, public transport). The census information has been checked and this figure is considered acceptable. When the 46% modal share for car trips is applied this would equate to 10.35 vehicle trips (i.e. 46% of the 22.5 two-way people trips would be by car). Recognising that there is not modal split data for the people trips outside of the hours set out above then, taking a precautionary approach to assessing the remaining trips, those trips have been assessed as being by vehicles only (i.e. not walking, cycling or public transport). Taking this approach the scheme would generate 4.5 non-travel to work vehicle trips (i.e. 0.5 trips x 9). This would therefore give a total of 14.85 two-way vehicle trips per day for the proposed development, compared to the 16 two-way vehicle movements that occur within the comparable time period for the existing use. Conclusion is, based on the above the proposal would not result in a net increase in AADT and therefore can be screened out as having no Likely Significant Effect on the EFSAC in relation to the air pollution impact pathway.

## Conclusion

Members are asked to note the content of the report, and to agree to the release of the planning permission mentioned, subject to planning conditions as agreed, but NOT subject to legal agreements relating to air quality mitigation only.