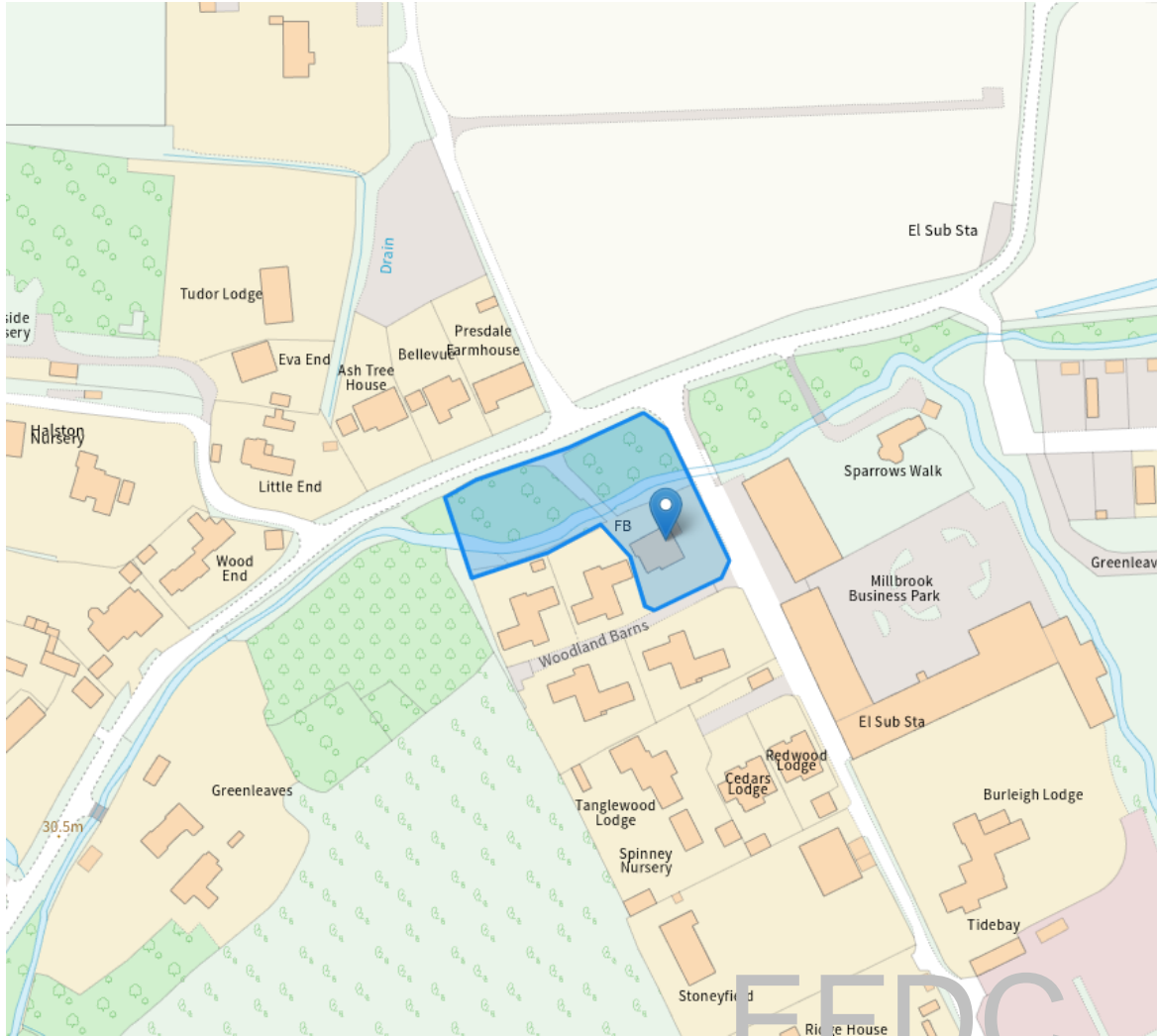




Epping Forest District Council

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Application Number:	EPF/1620/22
Site Name:	Winston Farm, Hoe Lane, Nazeing, Waltham Abbey, EN9 2RJ

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OFFICER REPORT

Application Ref: EPF/1620/22
Application Type: Full planning permission
Applicant: Mr Luigi Forgione
Case Officer: Sukhvinder Dhadwar
Site Address: Winston Farm, Hoe Lane, Nazeing, Waltham Abbey, EN9 2RJ
Proposal: Demolition of the existing building and the erection of a new dwelling
Ward: Lower Nazeing
Parish: Nazeing
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000OGuZ>
Recommendation: Refuse

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)).

Description of Site:

The application site covers an area of 0.25 hectares and contains a bungalow in the southern part of the site. The northern part of the site contains a stream running through a broadleaved wooded area. This section of the site falls within the Nazeing and South Roydon Conservation Area. It is protected by a blanket Tree Preservation Order along with one veteran tree and falls within Flood Zones 2 and 3.

The site is located to the south of Hoe Lane and to the west of the access road off of Hoe Lane. The surrounding area contains a variety of residential and commercial uses.

The site was originally included within the approved application for the demolition of the previous kennels and associated buildings and replacement with four dwellings which have now been built.

The whole application site falls within land designated as Green Belt.

Description of Proposal:

Permission is sought for the demolition of existing building and erection of a new dwelling.

Relevant History:

Reference	Description	Decision
EPF/0734/14	Erection of four dwellings following the demolition of kennels and associated commercial buildings and relinquishment of residential mobile home.	Granted
EPF/1352/21	Permission is sought for the demolition of existing building and erection of a new dwelling	Refused
EPF/0189/22	Application to determine if Prior Approval is required for the enlargement of a dwellinghouse by construction of additional storeys	Approved

DEVELOPMENT PLAN

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

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

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the Quality of the Rural and Built Environment
CP3	New Development
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality
H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
HC6	Character, Appearance and setting of Conservation Area
HC7	Development within Conservation Areas
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
LL11	Landscaping schemes
ST4	Road Safety
ST6	Vehicle Parking
NC1	SPAs, SACs and SSSIs
NC3	Replacement of Lost Habitat
NC4	Protection of established Habitat
RP4	Contaminated land
NC1	SPAs, SACs and SSSIs
NC3	Replacement of Lost Habitat
NC4	Protection of established Habitat

NATIONAL PLANNING POLICY FRAMEWORK (FEBRUARY 2019)

The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either; (a) approving development proposals that accord with an up-to-date development plan without delay; or (b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

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

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 14 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.

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:

Policy	Weight afforded
SP2 - Spatial Development Strategy 2011-2033	Significant
SP3 - Place Shaping	Significant
H1 - Housing Mix and Accommodation Types	Significant
T1 - Sustainable Transport Choices	Significant
DM1 - Habitat Protection and Improving Biodiversity	Significant
DM2 - Epping Forest SAC and the Lee Valley SPA	Significant
DM4- Green Belt	Significant
DM5 - Green and Blue Infrastructure	Significant
DM6 - Designated and Undesignated Open Spaces	Significant
DM7 - Heritage Assets	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
DM20 - Low Carbon and Renewable Energy	Significant
DM21 - Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 - Air Quality	Significant

Consultation Carried Out and Summary of Representations Received

Number of neighbours consulted: 12
 Site notice posted: No, not required
 Responses received as follows:-

2 WOODLAND BARNES COMMENT: Whilst I do not have any grounds to object to this application I feel I must point out the blatant misrepresentation by the architect of the proposed roof height as set out in the Design and Access Statement paragraph 3.6 - "While the ridge height of the proposed dwelling would be 1.5m higher than that of the existing dwelling, it would not be materially different to that of the dwelling as extended under prior approval permission". The proposed roof height is at least twice the height of the existing dwelling, the reference to 1.5m is, I expect a reference to the difference in height to the prior approval not the existing dwelling. Additionally the volume of the proposed roof is very significantly greater than the prior approval as can be seen by the helpfully annotated elevations.

4 WOODLANDS BARNES:SUPPORT: This new application is a welcome improvement to the first and second designs previously submitted to the council for approval. We support this application and hope it is passed as the existing bungalow is unsightly and we would like to see a new, more modern home in its place.

PARISH COUNCIL: No objection and to support the application for the following reasons:

The proposed dwelling

- (i) Will be energy efficient unlike the existing building.
- (ii) Will be in keeping with the neighbouring properties.
- (iii) Is a considerable improvement compared to the current building which was originally constructed for use as offices but was subsequently converted for use as a residence.
- (iv) will enhance and improve the conservation area.

Main Issues and Considerations:

Green Belt

Paragraph 137 of the National Planning Policy Framework (the Framework) requires that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 148 requires that inappropriate development is, by definition, harmful to the Green Belt and should not be

approved except in very special circumstances. This is broadly restated in Policies GB2A of the Local Plan. Paragraph 149(d) of the Framework states that the Council should regard the construction of new buildings as inappropriate in Green Belt with some exceptions. The relevant exceptions in this case include:-

The replacement of a building provided the new building is in the same use and is not materially larger than the one it replaces.

Policy GB15A of the Local Plan requires that the replacement of the existing permanent dwellings in the Green Belt, on a one for one basis, may be permitted where the new dwelling will

- I. Not be materially greater in volume than that which it would replace; and
- II. Not have a greater impact on the openness of the Green than the original dwelling; and
- III. Not result in the size of the private or cultivated garden of the replacement dwelling exceeding that which it replaces.

Or

149 (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development.

The proposal site as permission under prior approval for an extra floor under reference EPF/0189/22. However, the proposal would extend over the garage as well as 1.3m higher than the ridge height of the approved scheme under reference EPF/0189/22. It is therefore materially larger than original bungalow and the fallback position.

However looking at exception (g) the proposed house is the same height as the existing barns within the cul-de-sac within which it is situated and will be enclosed by buildings within Millbrook Business Park, many of the sites within the wider location have also been converted into residential including the former Spinney Nursery and Burleigh Lodge. It is therefore considered that the proposal will not have a significantly greater impact on the openness of the Green Belt than the existing situation and as such is not inappropriate development. It is on this basis that the proposal complies with the requirements of policy GB2A of the Adopted Local Plan and DM 4 of the SVLP.

Place shaping

It is considered that the reduced size of the crown roof is acceptable given examples of others within the vicinity of the site.

Plans have been revised to show reduced sized windows on the south. The garage has been removed the application.

The principle elevation faces the woodland, not the existing cul de sac, it is acknowledged that the access which goes through the wood, and over a stream is an existing access, however given the increase in intensity of the use and the existing cul- de sac road along the southern boundary of the site, it is considered a missed opportunity to have the principle elevation face the southern boundary so that the proposal can better protect the woodland and provide an active frontage.

Plans indicate that window to window distance between the application property and number 4 Woodland Barns would be 14.5m. This is below the Essex Design Guide requirement for 25m distance. However, the first-floor windows are now obscure glazed, and no objections have been received from 4 Woodland Barns, the property directly opposite this application site.

There are existing windows on the eastern flank of the house at 1 Woodland Barns which would be 10.2m away from the proposed western flank wall of the proposed house, given these windows are on the side of this neighbouring property and overlook the application site, this distance is considered acceptable. The new house proposes no habitable room windows within the flank elevation facing this neighbouring house.

The proposal is therefore on balance considered acceptable in design terms.

Trees

The Trees Officer raised no objections subject to conditions in regard to the impact of the proposal on the health and stability of the existing trees on the site. The proposal therefore complies with the requirements of LL10 of the Local Plan and DM5 of the SVLP.

Ecology

The woodland and stream provide a suitable foraging and commuting habitat and are likely to be used regularly by larger numbers of bats.

The trees and shrubs on the site provide suitable nesting and foraging habitat for birds.

There is also the likelihood that there was the presence of Invertebrates and fish living within the site along with moderate likelihood that Otters, Water Voles, hedgehogs, Amphibians, and reptiles were living on the site.

The proposal was reviewed by ECC Place Services – Ecology team, they advised insufficient information has been submitted and therefore the application cannot be approved. The justification for this was that:-

The proposals include the demolition of the existing building, which the plans show is set back from a line of mature trees. The building to be demolished and the nearby trees have not been assessed for their bat roost potential and so the likely impacts upon this European Protected Species have not been considered sufficiently. We recommend that a Preliminary Ecological Appraisal including a Preliminary Roost Assessment of the building and any trees to be affected is provided so that the LPA can fully assess the impacts of the proposals and any mitigation considered necessary. The Preliminary Ecological Appraisal should provide details of any survey results, mitigation & enhancement measures. These details are required prior to determination as any evidence of bat presence will trigger further surveys next season.

Officers then sought advice on the legal impact of requiring the undertaking of survey work, together with details of any mitigation that may be required in respect of protected species, be submitted for approval before the buildings are demolished as a pre-commencement condition.

Place Services advised that:-

We cannot recommend that this application should be approved without the provision of a Preliminary Roost Assessment to confirm the likelihood of bats being present and likely absent. A Preliminary Roost Assessment can be conducted at any time of year and is not restricted to the summer months.

The proposed demolition of the building has the possibility to damage or destroy a bat breeding or resting place, as well as intentionally or recklessly disturb a bat while it's in a structure or place of shelter or protection. As a result, the Preliminary Roost Assessment must be secured prior to determination to ensure that the LPA can manage any likely risk and ensure that they are not liable

under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife Countryside Act 1981 (as amended) if bats are identified to be present and permission was granted.

The protected species surveys are also required prior to determination because the Local Planning Authority must consider the guidance under paragraph 99 of the ODPM Circular 06/2005. This advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of protected species being present and affected by the development, the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted.

Therefore, it is highlighted that Protected species surveys should only be secured via a condition of any consent in exceptional circumstances, as outlined in the BS42021. This states:

The presence or absence of protected species, and the extent to which they could be affected by the proposed development, should be established before planning permission is granted; otherwise all material considerations might not have been considered in making the decision. The use of planning conditions to secure ecological surveys after planning permission has been granted should therefore only be applied in exceptional circumstances, such as the following:

a) Where original survey work will need to be repeated because the survey data might be out of date before commencement of development.

b) To inform the detailed ecological requirements for later phases of developments that might occur over a long period and/or multiple phases.

c) Where adequate information is already available and further surveys would not make any material difference to the information provided to the decision-maker to determine the planning permission, but where further survey is required to satisfy other consent regimes, e.g. an EPS licence

d) To confirm the continued absence of a protected species or to establish the status of a mobile protected species that might have moved, increased, or decreased within the site.

e) To provide detailed baseline survey information to inform detailed post-development monitoring.

Therefore, we cannot recommend a bespoke condition to secure the bat surveys

It for these reasons that the proposal is contrary to the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife Countryside Act 1981 (as amended) guidance contained within ODPM Circular 06/2005, policies NC3 and NC4 of the Local Plan and policy DM1 of the SVLP. Approval of this application would therefore be a departure from policies contained within the adopted Local Plan.

Highways and Parking

The scheme utilises an existing access and incorporates adequate parking space and garaging within the site to avoid the need for any on street parking. The proposal therefore complies with the requirements of policies ST4 and ST6 of the Local Plan and T1 of the LPSV.

Other Issues.

The site due to its previous uses is likely to be contaminated and therefore full contaminated land conditions would be required to prevent harm.

The area to be developed is within Flood Zone 1 although the access and woodland area to the site runs through a Flood zone 3. A flood risk assessment was submitted with the application. The Environment Agency has raised no objection but have suggested that the Council should consider whether the proposal passes the Sequential Test. Since this is a replacement dwelling rather than a new dwelling, it is therefore considered that this requirement is not relevant to this application.

Conclusion:

Since the proposal fails to demonstrate that legally protected species would not be harmed as a result of the implementation of this proposal, and this issue cannot be resolved through pre-commencement conditions, it is contrary to the requirements of policies CP1, CP2, NC3 and NC4 of the Local Plan along with SP7 and DM1 of the Submission Version Local Plan.

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: Sukhi Dhadwar
Direct Line Telephone Number: 01992 564597***

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

Refusal Reason(s): (1)

- 1 The application site includes a woodland and stream, and the proposal requires the demolition of an existing building. Insufficient ecological information has been submitted as part of the application to provide the Council with certainty of impacts on legally protected species and Habitats and enable it to demonstrate compliance with its statutory duties, including those laid out in the Conservation of Habitats and Species Regulations 2017 (as amended). The Council is therefore unable to fully and properly assess development in terms of its impact on ecological matters. The development is therefore contrary to the requirements of chapter 15 of the NPPF, policies CP1, CP2, NC3 and NC4 of the Adopted Local Plan along with SP7 and DM1 of the Submission Version Local Plan.

Informatives: (2)

- 2 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 has a formal post-application advice service. Please see the Council's website for guidance and fees for this service - <https://www.eppingforestdc.gov.uk/planning-and-building/apply-for-pre-application-advice/>. If appropriate, the Local Planning Authority is willing to provide post-application advice in respect of any future application for a revised development through this service.
- 3 This decision is made with reference to the following plan numbers:
1512_300 Site location plan, 1512_303_C Proposed site plan, 1512_310 Existing plans and elevations, 1512_320_B Proposed floor plans, front elevation and sections
1512_326 Proposed flank and rear elevations, Design and Access Statement, Sustainability Checklist, Draft Flood Risk Assessment by STM Environmental 2021 reference FRA-2021-000049, Contaminated Land Risk Assessment Phase 1 Desk Study Report by STM Environmental April 2021 reference PH1-2021-000046 Tree Survey November 2021 reference P1935-TS01 V1 and Arboricultural Method Statement November 2021 reference P1935-AMS01 V1 by Ligna Consultancy.