

AREA PLANS SUB-COMMITTEE 'WEST'

16 September 2015

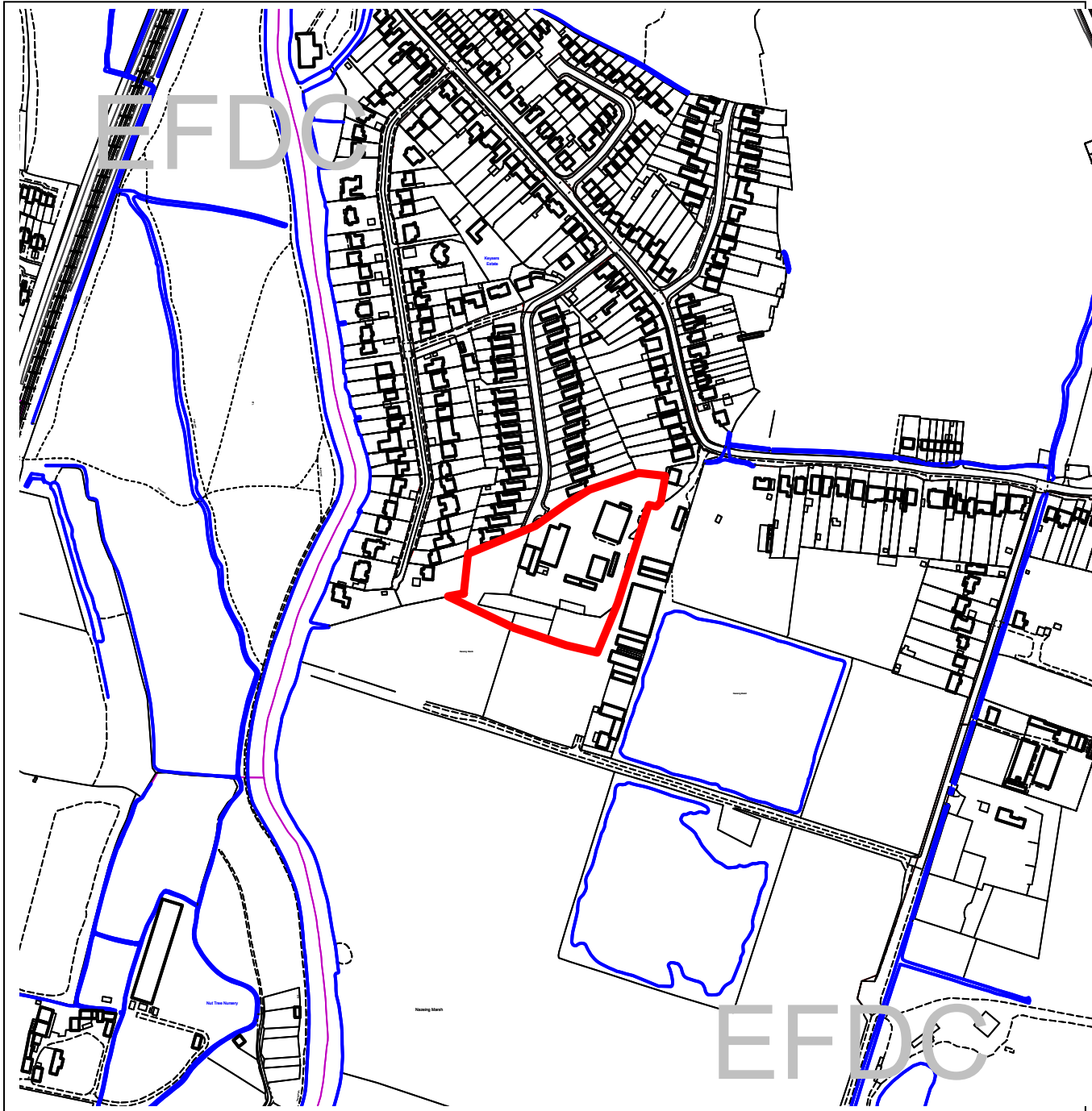
INDEX OF PLANNING APPLICATIONS

ITEM	REFERENCE	SITE LOCATION	OFFICER RECOMMENDATION	PAGE
1.	EPF/0570/15	Chimes Garden Centre Old Nazeing Road Nazeing Waltham Abbey Essex EN10 6RJ	Grant Permission (Subject to a Legal Agreement)	20
2.	EPF/1345/15	Rose Farm Hamlet Hill Roydon Essex CM19 5JU	Grant Permission (with conditions)	42
3.	EPF/1640/15	The White House Epping Green Essex CM16 6PU	Grant Permission (Subject to a Legal Agreement)	52
4.	EPF/1652/15	Unit 61 Hillgrove Business Park Nazeing Road Nazeing Essex EN9 2HB	Refuse Permission	62



Epping Forest District Council

Agenda Item Number 1



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Application Number:	EPF/0570/15
Site Name:	Chimes Garden Centre, Old Nazeing Road, Waltham Abbey, EN10 6RJ
Scale of Plot:	1/5000

Report Item No:1

APPLICATION No:	EPF/0570/15
SITE ADDRESS:	Chimes Garden Centre Old Nazeing Road Nazeing Waltham Abbey Essex EN10 6RJ
PARISH:	Nazeing
WARD:	Lower Nazeing
APPLICANT:	Mr Kevin Ellerbeck
DESCRIPTION OF PROPOSAL:	Demolition of existing Garden Centre/Commercial Buildings and erection of 26 dwellings with associated parking and landscaping
RECOMMENDED DECISION:	Grant Permission (Subject to Legal Agreement)

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=574313

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: PL/101 A, 102, 103, 104, 105, 106, 107,108, 109, 110, 111, 112, 113
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
- 4 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 5 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to an approved in writing by the Local Planning Authority. These works shall be carried out as approved. 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, unless the Local Planning Authority gives its written consent to any variation.

- 6 No development shall commence until a survey by a competent person has been carried out to establish the presence or otherwise of Japanese Knotweed and submitted to the Local Planning Authority. The survey should also note any knotweed adjoining the site. If Japanese Knotweed is confirmed, full details of a scheme for its eradication and/or control programme suitable for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the substantial completion of the development hereby approved.

- 7 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.

- 8 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

- 9 No development shall take place until details of levels have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.

- 10 No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 11 Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 (or of any equivalent provision in any Statutory Instrument revoking or re-enacting that Order), the garage(s) hereby approved shall be retained so that it is capable of allowing the parking of cars together with any ancillary storage in connection with the residential use of the site, and shall at no time be converted into a room or used for any other purpose.
- 12 No development shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
- 13 Before any preparatory demolition or construction works commence on site, full ecological surveys and a mitigation strategy for the site shall be submitted to the Local Planning Authority for agreement in writing with a working methodology for site clearance and construction work to minimise impact on any protected species and nesting birds. Development shall be undertaken only in accordance with the agreed strategy and methodology.
- 14 No development shall take place until details of the proposed surface materials for the [X] have been submitted to and approved in writing by the Local Planning Authority. The agreed surfacing shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property. The agreed surface treatment shall be completed prior to the first occupation of the development or within 1 year of the substantial completion of the development hereby approved, whichever occurs first.
- 15 No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]

- 16 Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]
- 17 Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]
- 18 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 19 In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.

20 No development shall take place until details of a satisfactory ground gas investigation and risk assessment has been carried out and submitted to the Local Planning Authority for approval in order to determine what if any ground gas remediation measures may be required or shall specify appropriate ground gas mitigation measures to be installed in the building(s) in lieu of any ground gas investigation.

The investigations, risk assessment and remediation methods, including remedial mitigation measures to be installed in lieu of investigation, shall be carried out or assessed in accordance with the guidance contained in BS 9485:2007 "Code of practice for the Characterisation and Remediation from Ground Gas in Affected Developments." Should the ground gas mitigation measures be installed, it is the responsibility of the developer to ensure that any mitigation measures are suitably maintained or to pass on this responsibility should ownership or responsibility for the buildings be transferred.

21 Prior to any excavation or dewatering works taking place on site and prior to details of land contamination remediation being submitted, a report by suitably qualified and experienced groundwater and land stability engineers providing a full survey and assessment of risks both on and off site from the proposed contamination remediation works shall be submitted to and agreed in writing by the Local Planning Authority.

22 Prior to first occupation of the development the vehicular turning facilities, as shown in principle on drawing no.PL101 Rev A, shall be constructed, surfaced and maintained free from obstruction within the site at all times and shall be retained as such in perpetuity.

23 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

24 Prior to any works on site the existing gated access to the site from Great Meadow, shall be closed by the erection of wall, details of which are to be submitted to and agreed in writing by the Local planning Authority. The approved wall shall thereafter be retained and no access or egress into the site from/to Great Meadow shall take place at any time.

25 No development shall take place until a detailed surface water drainage scheme for the site has been submitted. It shall be based on sustainable drainage principles as outlined in the approved Flood Risk Assessment (FRA) 1333 - FRA 26 Dwellings - March 2015 and additional documentation 1333-let-15-04-2015-T-Simpson and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1 in 100 year + 30% climate Change critical storm so that it will not exceed the 1 in 1 year greenfield run off rate to be 4.1 litres per second from the proposed impermeable area of 6630m² and not increase the risk of flooding off-site.
2. Provide a storage volume of 365 m³ to contain the 1 in 100 year event

inclusive of climate change.

3. Ensured that the appropriate level of treatment, in line with table 3.3 of the CIRIA SuDS guide, is applied to all runoff leaving the site.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

- 26 Prior to commencement of development a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime, shall be submitted to and agreed in writing by the Local planning Authority. The agreed management and maintenance plan shall then be implemented in accordance with the agreed details thereafter unless alternate arrangements are agreed in writing.

And Subject to the applicant first entering into a legal agreement under section 106 (within 3 months of the date of the decision) to provide £500,000 towards the provision of affordable housing elsewhere within the district and to provide £98,593 (index linked) towards provision of secondary education and £22,640 index linked towards school transport costs.

This application is before this Committee since it is an application for residential development of 5 dwellings or more and is recommended for approval (Pursuant to Section CL56, Schedule A (d) of the Council's Delegated Functions) and as it is for a form of development that can not be approved at Officer level if there are more than two expressions of objection to the proposal. (Pursuant to Section CL56, Schedule A(f) of the Council's Delegated functions).

Description of Site:

The application site is an irregularly shaped area of land roughly triangular. It is predominantly hard surfaced and contains a number of buildings including a glasshouse. The site is located to the south of the residential area comprising Riverside Avenue and Great Meadow. The northern boundary of the site is bounded by flank garden boundaries of residential properties. To the east and south is open land. The site is accessed from Old Nazeing Road. In addition there is currently a gated access from the end of Great Meadow.

The site lies wholly within the Metropolitan Green Belt and is within the Lea Valley Regional Park (LVRP) It is not within a conservation area.

Description of Proposal:

The proposal is to remove all the existing buildings and hard standing from the site and to redevelop the whole of the site with 26 two and two and a half storey detached houses (8 x 4 bed and 18 x 5 bed) in a simple layout around a central estate road accessed via the existing access from Old Nazeing Road. 8 different house types are proposed. All are fairly standard pitched roofed design of traditional materials and proportions and all include garaging and on plot parking.

The scheme will result in the removal of the existing access from Great Meadow which will be closed off.

Relevant History:

The site has a long and complex planning History.

The grant of planning permission in 1971 for a Garden Centre (Sui Generis use) under EPO/0565/71 commenced the current chapter in the planning history of the site. Condition 2 laid out what goods could be sold from the site as an ancillary use of the Garden Centre. Condition 3 stated that the premises should only be used as a Garden Centre and for no other use. The plans show the area of the permission as the area encompassed by the current buildings and an area of land to the west.

Chimes then was subject of the following applications (these are relevant, not an exhaustive list):

1975 - EPF/0668/75 - Rebuilding of nursery as Garden Centre - granted

1975 - EPF/1014/75 - Extraction of sand and gravel - granted (area to west of site)

1982 - EPF/0003/82 - LDC for storage and sale of building materials - refused

1984 - EPF/0689/84 - Extension of garden centre and addition parking - granted

1989 - Section 52 agreement on use of land to south of Chimes site for car parking and no other uses

The Garden Centre changed its name in 1995 to The Potting Shed. Some time before this the site had encompassed an area to the south of the original planning permission which was to become after 2006, 'used without consent by a pallet firm, gas suppliers, flower sales and shed manufactures', later destroyed by fire in 2012.

The garden centre closed in about 1999.

It was then allowed to become derelict and was unused until late 2006 when a number of businesses moved on to the site from the adjacent Nazebourne Poultry Farm which was cleared of development as part of a section 106 agreement.

The following applications were received in this time:

2003 - EPF/2211/03 5 dwellings - refused

2004 - EPF/1860/04 5 dwellings - withdrawn

2006 - EPF/0040/06 5 dwellings - refused

In 2002 Essex Country Council served an enforcement notice on the west of the site regarding the tipping of waste.

In December 2006 enforcement investigations commenced into building works in two of the garden centre buildings and the new uses of the site which were A1, B1, B2 and B8, and some Sui Generis uses. In 2007 a number of small buildings were erected on the site, large scale fencing erected and an area of hardstanding re-laid with a glasshouse being erected. The enforcement investigation concluded that there had been a change of use and operational development which required planning permission.

Enforcement Notices were served in 2011 (These were withdrawn after protracted negotiations over the submission of a planning application with Kelsworth).

After some considerable delay a planning application for the change of uses was submitted:

2012 - EPF/0969/12 Change of use of Garden centre to horticulture and B1 (Business uses) – withdrawn

In 2012 a fire swept the site and burnt down the majority of the uses to the south of the site. Some uses continued to the north and a new use of car repairs started in building 1.

In 2013 – EPF/0524/13- Replacement buildings damaged in a fire and the erection of further amenity buildings for waste disposal and cycle storage facilities in connection with retention of a mixed use of retail garden centre and commercial centre with business uses A1 (retail), B1 (light industrial and office), B2 (general industry) and B8 (storage use) - Withdrawn

Currently the site is covered by two extant enforcement notices and a S215 (Untidy Land Notice). The enforcement notices cover the site for use for car repairs, B2 general industrial uses, stationing of buildings and container and various unauthorised B1 & B8 uses. There are ongoing breaches of the notices in that the external wall of the southerly garden centre structure have not been removed nor has the fencing around the site (although the enforcement section is prepared for this to remain temporarily to provide security for the site) and the storage and processing of artificial grass within the glasshouse building.. The S215 notice requires the site to be cleared of rubbish, cars, building materials and external storage of rolls of artificial grass. The Dog Grooming Company (K9) is lawfully occupying part of the northern garden centre structure.

In February this year an application for redevelopment of this site together with a significant area of open land to the south extending down to the river for the erection of 43 houses was refused at District Development Control Committee for the following reasons:

1. The proposed development includes "more vulnerable" development located within Flood Zone 3. The development does not provide wider sustainability benefits that outweigh the flood risk and does not therefore pass the Exceptions Test. As such the proposal is contrary to the NPPF. Para 102.
2. The development, due to the amount of built form that will intrude in to the southern half of the site which is currently free of buildings, will have a significantly greater impact on the openness of the Green Belt than the existing development and as such is inappropriate and by definition harmful. The development is therefore contrary to policy GB2A of the adopted Local Plan and Alterations and to the NPPF.
3. The proposal fails to provide on site affordable housing despite such provision being financially viable and the site being suitable for such development, as such the development is contrary to policies H5A, H6A, and H7A of the adopted Local Plan and Alterations and Para 50 of the NPPF.
4. By reason of the site's location beyond the statutory walking distance to a secondary school the proposal will generate an additional cost to the Local Education Authority, Essex County Council, for transporting children to secondary school. However, the proposal does not include any mechanism to meet those additional costs. Since the proposal fails to properly address this matter it is not a sustainable form of development and is consequently contrary to policies CP9 (iii) and IIA of the Adopted Local Plan and Alterations, which are consistent with the National Planning Policy Framework.

Members of the District Development Control committee however considered that there was a way forward and these are minuted as:

1. That the redevelopment of the northern part of the site could be acceptable, as this would avoid the Flood Risk Zone 3, most of the former landfill site and would likely to be acceptable in Green Belt terms;

2. That any proposed scheme should include an appropriate element of affordable housing. Although it was acknowledged that this location was not acceptable for high density housing, a suitable development which respected the character of the area could be achieved.

SUMMARY OF REPRESENTATIONS

160 addresses were written to including neighbours and all those who commented on the previous application and site notices were erected

The following consultation responses were received:

PARISH COUNCIL- No objection- It was noted that the Nazeing Parish Council had considered any possible impact on Great Meadow.

132 signed copies of a standard letter have been received from local addresses in and around Nazeing the letter reads:

Re: Chimes garden centre & business park- EPF/057/15 and EPF/0666/15 Old Nazeing Road, Nazeing, EN10 6JR

With respect to the above property, this letter is to confirm that:-

1. I have seen the residential proposals for the site submitted by the current owners, BDG Partners Ltd, for a total of 27 houses on the 6 acre site
2. In principle, I agree to a low density, high quality residential development of the Chimes site.
3. I would like to see a Country Park being made available for Local residents as part of the redevelopment of the site.
4. I would prefer that should residential development be permitted that no social or affordable housing is built on the site.
5. I do not want the Chimes site to continue as a commercial complex, garden centre or industrial premises.
6. That the site entrance into Great Meadow be permanently shut.

In addition the following comments were received:

FROGSCROAK, RIVERSIDE AVENUE. – Not against 26 houses, concerned about flood risk and contamination and need reassurance on this. Concerned that development does extend into open area and therefore may set a precedent.

135 OLD NAZEING ROAD – I am opposed to any housing, would like garden centre to continue. The letter sent to residents contained veiled threats.

104A OLD NAZEING ROAD – Object increased traffic on a very dangerous corner. Old Nazeing Road is very narrow and not designed to accommodate further traffic. We suggest light

commercial use be considered, as probably fewer vehicles would be using the site and out of usual business hours local residents would be less affected.

WESTFLEET, RIVERSIDE AVENUE – object to residential development, as the road would not take any more traffic.

PEN Y DRE, RIVERSIDE AVENUE – Concerned about flooding, high water table, contamination, gases etc development likely to increase flooding risk to the surrounding properties. Concerned about working hours.

21 NORTH BARN - agree principal of low density high quality development but would prefer the site to be reinstated as a garden centre. Would like to see Country Park to be part of LVRP

36 BUTTONDENE CRESCENT –Concerned about traffic congestion and safety issues. Gate to Great meadow needs to be closed. Would prefer a mix of housing for local people. Local roads need to be improved to deal with extra traffic.

ROSEHILL- RIVERSIDE AVE – The proposals have not overcome the previous reasons for refusal. Concerned about these issues and also ulterior motives of the developer.

57 OLD NAZEING ROAD – Agree with standard letter except I not object to affordable housing on site.

LINDEN LEA, RIVERSIDE AVENUE – Concerns about potential increased flood risk and congestion on Old Nazeing Road.

32 GREAT MEADOW – Would like the vehicle access into Great meadow replaced by a brick wall prior to start of development to stop use during construction as promised. Do not object if all the issues, flooding, contamination, highways, school etc are addressed.

GLENCROFT, RIVERSIDE AVE – Concern about flood risk infrastructure of drainage and additional traffic danger.

WOODACRE, RIVERSIDE AVE – Not against the development but concerned about the landfill and contamination issues. Flood zone and very high water table. There is still some incursion into open land.

31 GREAT MEADOW – Object. Several of the houses will directly overlook my property and be a gross invasion of privacy and cause loss of sunlight. Adjacent properties should be bungalows to prevent this. Concerned about contamination. Need the right type of development. Threats of commercial development in letter sent to neighbours need to be challenged.

MAGNOLIA HOUSE, RIVERSIDE AVENUE – Object strongly. Overlaps onto undeveloped land, concerned about asbestos and other contamination, lack of adequate investigation. Impact on amenity, increased traffic, harm to ecology, inadequate infrastructure, Significant flood risk in area with very high water table, existing houses already flood. Harm to human rights including peaceful enjoyment of our home. Development will harm our way of life and community.

34 GREAT MEADOW – Applicant has promised that a wall will be built to prevent access from Great Meadow, if this is granted. This needs to be clarified and enforced.

95 OLD NAZEING ROAD – Pleased to see reduction in numbers (is it 26 or 27?) but still have concerns that the flooding and contamination issues need to be comprehensively addressed, given the potential harm that could arise not only on site but to adjacent properties. Nearby site was

found to be unworkable by the Olympic Delivery Authority, due to the industrial contamination and that there was potential risk of spreading contamination across the park. This site could likely have similar issues.

26 WOODMAN LANE – How will the area be serviced by road. It is always a nightmare already.

TRELAWNY, RIVERSIDE AVE.- Concerned about building in flood zone and insufficient infrastructure to take the traffic increase.

MEADOWBANK, RIVERSIDE AVE – Object, the site is in floodplain and there are existing sewage problems.

GLENONE, RIVERSIDE AVE- Strongly object. Building on the floodplain. significant existing sewage problems and traffic problems will worsen. Hope it is rejected.

COURTSIDE, RIVERSIDE AVE – Concerned about additional traffic in an area where there are already major problems. Flooding issues, Already have to use sandbags when there is heavy rain. There are daily sewage problems. Threats of opening Great Meadow gate to HGV traffic are blackmail.

In addition 2 anonymous letters raise concern about the nature of the letter sent to residents by the applicant and suggesting that it amounts to a form of blackmail.

LEE VALLEY REGIONAL PARK AUTHORITY - that Epping Forest District Council be informed that the Authority objects to this planning application on the following grounds:

- (1) It results in a loss of land designated as green belt
- (2) Insufficient ecological surveys submitted with the application
- (3) It fails to adequately address the requirements of the Park Plan (2000) and the draft proposals of the Park Development Framework.

Informative. The Authority would consider withdrawing its objection if the application was restricted to the existing footprint of the garden centre and the single dwelling in the south west corner of the application site was omitted.

Policies Applied:

Local Plan Policies

CP1, Sustainable development objectives
CP2 Protecting the Quality of the Rural and built environment
CP3 New Development
CP6 Achieving sustainable development patterns
CP7 Urban Form and Quality
GB2a Development in the Green Belt
BB10 Development in the Lee Valley Regional Park (LVRP)
RP3 Water quality
RP4 Contaminated Land
H1A Housing provision
H2A Previously Developed Land
H3A housing density
H4A Dwelling Mix
H5A Provision of affordable housing
H6A Site thresholds for affordable housing
H7A levels of affordable housing

H8A Availability of affordable housing in perpetuity
H9A Lifetime Homes
RST24 Design and location of development in the LVRP
U1 Infrastructure adequacy
U2A Development in Flood Risk Areas
U2B Flood Risk assessment Zone
U3A catchment effects
U3B Sustainable Drainage Systems
DBE1 design of new buildings
DBE2 Effect on neighbouring properties
DBE3 Design in the Green Belt
DBE5 Design and layout in new development
DBE6 Car Parking in new development
DBE7 Public open space
DBE8 Private Amenity space
DBE9 Loss of amenity
LL1 Rural Landscape
LL2 Inappropriate Rural Development
LL3 Edge of settlement
LL7 Planting protection and care of trees
LL10 Adequacy of provision for landscape retention
LL12 Landscaping schemes
ST1 Location of development
ST2 Accessibility of development
ST4 Road Safety
ST6 Vehicle Parking
I1A Planning Obligations
I4 Enforcement procedures

The above policies are in accordance with the National Planning Policy Framework (NPPF) and are therefore to be afforded due weight

Issues and Considerations:

Green Belt.

The site lies wholly within the Metropolitan Green Belt and the first assessment must be whether the proposed development is in accordance with Green Belt policy as set out within the NPPF and the adopted Local Plan.

The NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green belt Policy is to prevent urban sprawl by keeping land permanently open. Construction of new buildings is inappropriate in the Green Belt but the NPPF sets out some exceptions to this, these include

- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.

The site is largely previously developed or brownfield land, although the south western corner (approximately 100sq metres is currently undeveloped and much of the land has no permanent structures. The main consideration therefore is whether the development proposed would have a greater impact on the openness of the Green Belt and the purposes of including land within it than

the existing development and whether the relatively small incursion now proposed into undeveloped land is acceptable.

At present some of the uses within the site are not lawful and are the subject of a current enforcement notice, in addition there is an untidy land notice on the site in an effort to secure an improvement to the visual amenity of the area. The applicant has reached an agreement to rectify the current situation in accordance with the notice, within the next few weeks. Should this not happen the Council is likely to continue to prosecution for non compliance. In assessing the impact of the proposed development we should discount those aspects of the current development that are not lawful and that can be rectified by enforcement action. That said unlike with the previous application, the Council accepts that the majority of the area now proposed for development is previously developed land. It is largely hard surfaced and contains a number of buildings of significant size, which can be used for commercial purposes. (Garden Centre and dog grooming parlour). Redevelopment of the site for housing is therefore not inappropriate provided it would not have a greater impact on openness than the existing built development.

The assessment of the impact on openness is normally based on the volume and spread of built development. In this instance the development will have a greater volume than the existing, but this is tempered by the significant removal of a very large area of hardstanding and the introduction of a large amount of garden space but given the increase in height and volume there still need to be very special circumstances sufficient to outweigh the harm to the green belt in order to justify the increase in built development within the site.

The factors put forward by the applicant as Very Special Circumstances are:

- 1. The removal of an adverse commercial facility in a predominantly residential area*
- 2. the openness of the green belt will be enhanced by the reduction in hard surfacing and the introduction of landscaping,*
- 3. There will be an overall reduction in traffic using the site and surrounding roads and fewer HGV's improving highway safety and residential amenity.*
- 5. The consultations with local residents and with over 170 letters of support, clearly indicate that the amenity advantages to the local residents adjoining the application site and the wider community on the Keyzers Estate, want the residential scheme to be approved to replace the adverse commercial usage for the site that has been a consistent social problem in the local area for many years.*
- 6. The failure of the LPA to provide a 5 year housing supply –. Whilst this is not a VSC in its own right, the knock-on effect is. If planning consent on the application site for dwellings is granted, this will reduce by a corresponding figure the net figure required to be achieved in the Council's Objectively Assessed Housing Need (OAHN) target. This will alleviate pressure on other, more Vulnerable Greenfield sites in the Green Belt, amounting to Very Special Circumstances.*

In addition the applicant is offering a substantial sum of money towards the provision of affordable housing off site.

Taken together, it is considered that the advantages of developing the site which has been a problem site in the locality for many years are sufficient to amount to very special circumstances that outweigh the relatively limited harm to the Green Belt that would result from the increased built form and now that most of the open and undeveloped area of land to the south of the site has been removed from the scheme it is considered that the development is acceptable in Green Belt terms, and that the application overcomes the Green Belt reason for refusal of the previous application

Housing Issues

The recently adopted National Planning Practice Guidance (NPPG) has reaffirmed a view previously espoused by Planning Ministers that the single issue of unmet housing need is unlikely to outweigh harm to the Green Belt and any other harm to constitute a very special circumstances argument. It is not therefore considered that in the event of a shortfall of deliverable sites for housing that such a scenario would justify the proposed development. Clarification has therefore been provided that unmet need should not necessarily justify Green Belt development to meet the need and that if Green Belt sites are released for housing this is best achieved through the plan making process. Furthermore the proposed scheme would fail the test of the presumption in favour of sustainable development in meeting this need. What is proposed is large detached and semi detached houses set on relatively generous plots and this is not a sustainable way to meet housing need on Green Belt sites.

Affordable Housing

Despite the way forward suggested by the District Development Control Committee, no affordable housing is proposed on site. The applicant has explained that this is in accordance with the wishes of the local people following consultation:

Local Plan Policy seeks the provision of affordable housing on “all suitable development sites” The District Development Committee suggested in their way forward, that affordable units should be provided on site, but the applicant continues to resist this on the basis that there is no local support for this.

Advice from the Director of Communities (Alan Hall) was sought and the following comments were received:

“As you are aware, under Policy H6A of the Council’s Local Plan, in settlements with a population of more than 3,000, the Council seeks on-site affordable housing on developments comprising 15 or more dwellings, or at least 0.5 hectares. On such sites, under Policy H7 of the Local Plan, 40% of the total number of dwellings will be sought as affordable housing, unless it can be demonstrated that such provision would make the development unviable.

It is a requirement of the National Planning Policy Framework (NPPF) and the associated Planning Practice Guidance on Viability that, if it would be unviable to provide affordable housing on a site when it would otherwise be required, the applicant must submit a detailed Viability Assessment – in an acceptable form and accompanied with supporting documentary evidence – demonstrating that a lower number of affordable homes than usually required (or none) would have to be provided to enable the scheme to be viable.

The applicant submitted a Viability Appraisal for his previous planning application for the site (which proposed a development comprising more residential accommodation than included within the current application, and was subsequently refused planning permission), which was properly validated by the Council’s Affordable Housing Consultant.

Prior to this latest planning application being submitted, the applicant and Council Officers had negotiated the proposed approach set out at Paragraph D7 of the applicant’s Planning Statement (i.e. the payment of £500,000 for off-site affordable housing provision and the provision of 6 affordable rented houses on the site of the former Total garage) and, on this

basis, officers agreed that a Viability Appraisal would not be necessary, since the proposal within Paragraph D7 was one that officers were willing to support.

However, since it is no longer the applicant's intention to provide affordable housing on the former Total garage site (since the Parish Council has stated that it is not prepared to sell the site to the applicant if the applicant intends to provide affordable housing on the site), those negotiations broke down - and the basis of those negotiations therefore no longer apply.

The applicant did subsequently provide a Viability Assessment for the current application which suggests that, in order to provide the developer with a profit of £3.35million (20%) from the development, the development would result in a deficit of £445,000 - and that it would therefore be unviable for any affordable housing contribution to be provided on site. However, despite this, the applicant has continued to offer a financial contribution of £500,000 to the Council to fund the provision of affordable housing elsewhere in the District – which, based on the applicant's figures, would reduce the developer's profit to £2.85million (around 17%).

It should be noted, however, that the applicant did not provide any supporting information or evidence with the Viability Assessment, as required by the NPPF's Planning Practice Guidance on Viability, and the Viability Assessment has not been independently validated by the Council's Affordable Housing Consultants.

I hope that this information is of assistance to you when considering your recommendations to the Area Plans Sub Committee."

After more than 2 years of negotiation with the applicant, and despite the way forward suggested by the District Development Committee, the applicant has stuck to his original promise to local people that there would not be affordable housing on this site. Whilst officers consider this to be a misguided and somewhat perverse stance, as every location, including Nazeing has a need for affordable housing, it is also accepted that there is a more general need for all types of housing and that the development of 26, 4 and 5 bedroom houses on this site may in turn free up smaller dwellings elsewhere which are more "affordable" in the traditional sense. As such it is considered that to further delay the possible redevelopment of this site, in the hope of at some point achieving a complete redesign to achieve affordable housing on site would not, in the current housing shortage be beneficial. Given that we had previously considered accepting a sum towards off site provision acceptable as part of a package (including affordable housing on the Total Garage site) it is felt that the current proposal may also be accepted especially as the removal of the garage site from the 106 agreement is due to the stance of the parish Council which is outside the control of the applicant..

Flood Risk.

The site lies within the Environment Agency's (EA) Flood Zone 2.

The NPPF seeks to ensure that new development is directed towards those sites that are at least risk of flooding. Within Flood Zone 2 the Government Guidance and the EA standing advice requires that proposals of this kind need to pass a "Sequential Test" that is, the Local Planning Authority needs to be satisfied that the development could not be provided somewhere else that has a lesser risk of flooding. Once the Council, as part of the Local Plan process, has a Strategic Flood Risk Assessment (SFRA) in place it will be a simpler matter for planning officers to assess this. The SFRA will identify those flood risk areas which have passed the sequential test and within which development may be accepted.

At the moment however we do not have an SFRA in place. Therefore each application received for development within Flood Zones 2 needs to be accompanied by a sequential test. This needs to demonstrate to the satisfaction of the LPA, that there is nowhere else (within an area to be defined by the District) which is at lesser risk of flooding and which is available and deliverable (suitable in planning terms) for a development of the type proposed. A sequential test document was submitted, which does indicate that no such sites are readily available and deliverable and on balance therefore it is considered as with the previous application that the area of the site within Flood Zone 2 meets the sequential test.

The proposal, as it now avoids development within flood zone 3, overcomes the Flood risk reason for refusal of the previous application.

The Council's land drainage team raise no objection subject to conditions.

At the time that the application was submitted the statutory consultee on this application with regard to Flood Risk, was the Environment Agency. The Environment Agency were consulted and raised no objection subject to conditions

However, during the course of this application responsibility for flood risk consultation responses has moved to the County Council as Lead Local Flood Authority, and they, following the submission of additional information, have also confirmed that they have no objection to the proposal, which subject to conditions will not result in any increased risk of flooding elsewhere nor will it be at direct risk of flooding itself.

It is considered that the reduction of hard surfacing within the site and the achievement of sustainable drainage within the site can be seen as a positive improvement over the existing situation with regard to flooding.

Contamination.

Part of the application site is a former landfill site and therefore there are significant dangers of landfill gases, risk of settlement and soil contamination. The applicant has provided a survey of the site which fails to adequately quantify the risks. The advice of the Contaminated Land officer is that such sites should not normally be developed for housing.

Policy RP4 of the adopted Local Plan states:

The Council will not grant planning permission for the development or reuse of land which it considers likely to be contaminated unless:

- (1) prior tests are carried out to establish the existence, type and degree of contamination and*
- (2) if contamination is found, appropriate methods of treatment and monitoring are agreed with the council, pollution authorities and water companies; and*
- (3) the agreed methods of treatment include measures to protect or recreate habitats of nature conservation interest.*

In the absence of detailed information the Council would need to be satisfied that the site could be safely developed before planning permission can be granted. In the worst case scenario this would mean that all the waste would need to be dried out and then removed to a significant depth, exported to an alternative landfill site and replaced with clean/screened material soil. This is a major piece of remediation and would need to be carried out by an appropriate "Competent Person", to ensure that there are no adverse environmental impacts from such works. The removal of water from the site has the potential to result in subsidence on adjacent sites as the area contains peat beds and all this needs to be factored into the cost of the development.

The applicant is certain that the remediation can be carried out and that the development will still be viable even if the unlikely worst case scenario were to arise. This argument was accepted by officers when the previous application was considered, and as officers have no expertise in this area and the only way to check these figures would be to employ a consultant to verify the method statement and costings, which would further significantly, delay any decision and result in additional cost to the developer.

The applicant is now working with CALA homes, who, no doubt have experience of developing difficult and contaminated sites and they too have raised no concerns over the prospect of having very strict conditions to ensure that any decontamination works that may be required are carried out in a way that will not result in harm to the surrounding area.

After due consideration therefore it is considered that the development if approved should be subject not just to the standard contaminated land conditions but also to a condition requiring submission by suitably qualified and experienced ground water and land stability engineers of a survey and assessment of risks both on and off site and method statement of means to remediate such risks.

The applicant has assured us that the cost of such mitigation work has been factored in to the overall costings and viability and that no matter what, despite officer misgivings this will not jeopardise the offered £500,000 contribution towards off site affordable housing.

Subject therefore to full compliance with the conditions set out it is considered that the contamination issues can be overcome and that the site can be developed without risk to either future occupants or neighbouring residents.

Overall the houses are well designed and detailed and the development will create an attractive residential environment.

Layout and Design

The proposed development of detached houses has a logical and attractive layout with 3 small cul de sacs off a central spine road, the design of the dwellings is varied creating an interesting street scene and although the development is not entirely in accord with the Essex Design guide principles it is considered reasonably appropriate to this area, adjacent to relatively low density developments.

The development has been designed to minimise inter overlooking between properties and to ensure that adequate parking and amenity space is available for the dwellings.

The density proposed is relatively low and there is scope for a higher density, to make better use of the site to help meet future housing need, but it is accepted that a *significantly* higher density may not be appropriate for this edge of settlement site and would have a greater impact on openness of the Green Belt

The new development will no doubt appear relatively prominent in comparison to the adjacent low level bungalows in Great Meadow, but this is not an unusual juxtaposition and is not considered

grounds to refuse, given that it is not the continuation of an existing street but the creation of a new street.

Impact on Neighbouring Amenity

The proposed dwellings are all located sufficient distance from existing properties not to result in excessive loss of light or any significant loss of outlook. Whilst the rear elevations of some of the new dwellings do face towards the sides of properties in Great Meadow and Riverside Avenue the siting is such that there is no direct overlooking into windows. There will be some overlooking of the rear garden areas of properties but the distances to the private amenity areas are considered to be sufficient that there will not be a significantly harmful loss of privacy, in addition boundary planting is proposed that will reduce the perception of overlooking. The proposal is considered to be acceptable in this respect. Distances between properties are sufficient to avoid excessive overshadowing.

The impact is similar to that of the previous application which was not refused on amenity grounds. The proposal includes the blocking up of the existing access gate from Great Meadow, which is seen by many residents as a great improvement. This can be required by condition.

Whilst concern has been raised that the development will increase traffic movements in the already congested area of Old Nazeing Road, where traffic is often stationary at peak times, given that the authorised use of the site is as a garden centre it is not considered that there will be an increase. In addition the scale of the vehicles utilising the site will be more domestic and less likely to cause harm to residential amenities of surrounding residents

Archaeology

The Archaeology section of Essex County Council were consulted and have suggested conditions to ensure that any archaeological deposits can be properly investigated and recorded. They state:

The Essex Historic Environment (HER) Record shows that the proposed development lies within area with archaeological potential. The underlying gravels date to the Middle-Early Upper Palaeolithic period, in addition the contamination survey has identified the presence of Arctic peat beds. There is therefore the potential for the presence of palaeoenvironmental evidence relating to the earliest phases of human occupation in the area. However the impact of the proposed development on the archaeology is as yet an unknown quantity, as is the degree of disturbance associated with gravel extraction and land-fill on the site. Archaeological deposits and features are both fragile and finite, and this recommendation is made in line with National Planning Policy Framework.

Ecology

A preliminary ecological appraisal was submitted with the original application which identified a need for a follow up reptile and newt survey, and a bat emergence survey. The reptile and Newt survey indicates that the area to the south of the site provides a suitable habitat for reptiles. Grass snakes were found but it would be expected also that slow worms and common lizards may be present. As such mitigation measures would be required should permission be granted, to ensure that any reptiles that may be within the development area are removed to the adjacent area to the south which is not to be developed, to avoid any reptiles being killed or injured. Conditions can be imposed to secure this and in addition it is an offence to harm protected species. No great Crested Newts or amphibians were found at the site.

A bat emergence survey was also carried out and this indicates that there are no bat roosts within the site but that the site and surroundings are used for foraging.

The surveys submitted date from 2013 and are now out of date, but it is considered that subject to conditions the development is unlikely to cause harm to the ecology of the area and mitigation can be required by condition.

Unlike the previous application there is no significant loss of habitat as a result of the proposal.

Highways and Parking

The proposed development takes its access from Old Nazeing Road, via a private access track that runs past the property known as Nazebourne. This is a narrow access. The initial application drawing included proposals for works, at the junction of the site, to improve it, but this is outside the application site and outside the ownership of the applicant and these works were subsequently removed from the revised application drawings. Despite this, given the previous use of the site and the potential traffic movements that the authorised use could generate the access is considered to be suitable and appropriate for the development now proposed. The submitted transport statement indicates a reduction in traffic movement and HGV movements in particular.

The Highways officer from Essex County Council provided the following comments:

The proposed development will generate less traffic than the existing use and will reduce movement of HGV's and service vehicles to the site to the benefit of all users of the highway. The access onto Old Nazeing Road has adequate visibility and there have been no recorded accidents at this location in the last 5 years.

Consequently the Highway Authority has concluded that the proposed development will not be detrimental to highway safety, capacity or efficiency at this location or on the wider highway network.

Adequate space is provided on site for the parking of both residents and visitors in accordance with the adopted car parking standards.

The previous application had a larger number of properties and a similar configuration and was not refused on traffic or highway grounds.

Education Contribution

As the proposed dwellings are family houses the Education Authority were consulted with regard to the provision of education spaces and provided the following comments:

This development falls in the priority admissions area of Nazeing Primary School. According to Commissioning School Places in Essex (2014-19), the school has a permanent capacity of 240 places which was also the number on roll at the start of the plan period. The school also has two temporary class bases that, if required for future demand, will need to be replaced. It is, thereby, requested that this development makes a contribution towards such replacement to meet the demand that it generates. The cost of 8.1 places at April 2015 costs equates to a contribution of £98,593 (index linked). At secondary level the proposed development is located within the priority admissions area for Stewards Academy, which is under pressure to meet increased demand. Prior to the implementation of the revised Community Infrastructure Levy Regulations on the 6th April 2015 the County Council would have sought a developer contribution from this proposed development for additional secondary school places. However, the implementation of the revised Regulations will restrict the pooling of contributions for a specific item of infrastructure to contributions from five separate planning obligations. Under these changed circumstances the County Council has decided not to request a contribution for the provision of additional secondary school places from this proposed development. The proposed development does, however, lie over three miles from Stewards. It is thereby in an unsustainable location in school transport terms and will

result in an ongoing cost to Essex County Council. In the event the application is approved, I thereby request a contribution towards school transport of £4.30 per pupil per day based on five academic years (195 days per year) i.e. £22,640 index linked to April 2015 costs.

Turning to Early Years and Childcare, Lower Nazeing ward currently has six providers with only one operating at over 80% capacity. When looking at funded places (15 hour requirement), there are currently 19 vacancies for 2 year olds and 34 for 3-4 year olds. Local provision would thereby be sufficient to meet the needs of this proposed development.

If your council were minded to turn down the application, I would be grateful if the lack of schools provision in the area can be noted as an additional reason for refusal and that we are automatically consulted on any appeal or further application relating to the site.

The applicant has agreed to enter into a legal agreement to pay the required amount towards transportation costs and this overcomes the previous education reason for refusal.

Impact on the Lee Valley Park

The LVRPA has objected to the proposal for the reasons set out above. The Green Belt consideration has already been addressed. The ecological issues have been addressed above and given the current authorised use of the site and that there is relatively small incursion into undeveloped land it is not considered that there will be significant harm to the amenity, function or character of the park. Plot 27 seems to have been the most controversial aspect of the development and this was the subject of a separate application which has been withdrawn. The proposed development will be more visible from the adjacent Park land than the existing buildings, but it is considered that there will generally be an improvement to the character and amenity of the area and no significant harm to the function of the Park. In the LVRP Plan the area is designated as a Landscape Enhancement Area and it is intended that the wider area should be available for informal recreation and nature conservation. It is not considered that either of these two functions are undermined by the change from the lawful use for retail and business to residential.

Sustainability

The site is not particularly well served by local facilities and public transport, the shops in Nazeing are about 1.5km away and there is no secondary school within walking distance, The nearest schools are in Broxbourne, but children at this site would be expected to go to schools in Harlow, hence the need to provide a contribution towards the cost of bussing children to school. However it is accepted that this is not an isolated location. Ideally sites of this kind should be identified through the Local Plan process to ensure that adequate infrastructure can be factored in and the most sustainable locations developed first, however we are still some way from having a new Local Plan and it is considered more sustainable to develop existing previously developed sites such as this than more isolated green field sites..

Other Issues

Concern has been raised with regard to the impact on existing infrastructure
Water and sewerage – Thames water was consulted on the application and has raised no objection.

Essex Fire Service was consulted and has indicated that there will be a need for an additional fire hydrant within the site. Its position will be subject to any mains scheme the water authority may wish to implement. This information has been passed to the applicant.

The highways issues have been considered above.

Conclusion

In conclusion it is considered that the development will provide good quality attractive housing close to the existing residential area of Nazeing. It will remove an existing “problem” site which has had ongoing enforcement issues for many years and it is understood why many letters have been received giving support to the principle of residential development of the site. The applicant is offering to provide a significant contribution toward the provision of affordable housing elsewhere, which is something that the Council has in the past accepted elsewhere in lieu of on site provision. The design and layout of the scheme is acceptable and there will not be excessive harm to adjacent residential amenity. Whilst no improvements are proposed to the narrow access to the site, there will be a reduction in traffic over that which could be generated by lawful garden centre use. Issues of flood risk and contamination can be effectively controlled by condition.

The proposal clearly overcomes 3 of the 4 previous reasons for refusal, leaving only the issue of on site affordable housing.

On balance, as discussed in the affordable housing section above, it is considered in this instance that accepting £500,000 for the provision of housing elsewhere, will enable the bringing forward of this site for housing, when it had otherwise stalled. Given the current housing need and lack of suitable non Green Belt sites for housing the redevelopment of this previously developed and problematic site for housing in the relatively short term, is preferable to further delay in the potentially forlorn hope of achieving an element of on site affordable provision in the longer term.

The application is therefore, recommended for approval subject to the agreement under section 106 to provide £500 000 towards affordable housing elsewhere and to pay the necessary education contributions and subject to conditions.

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:

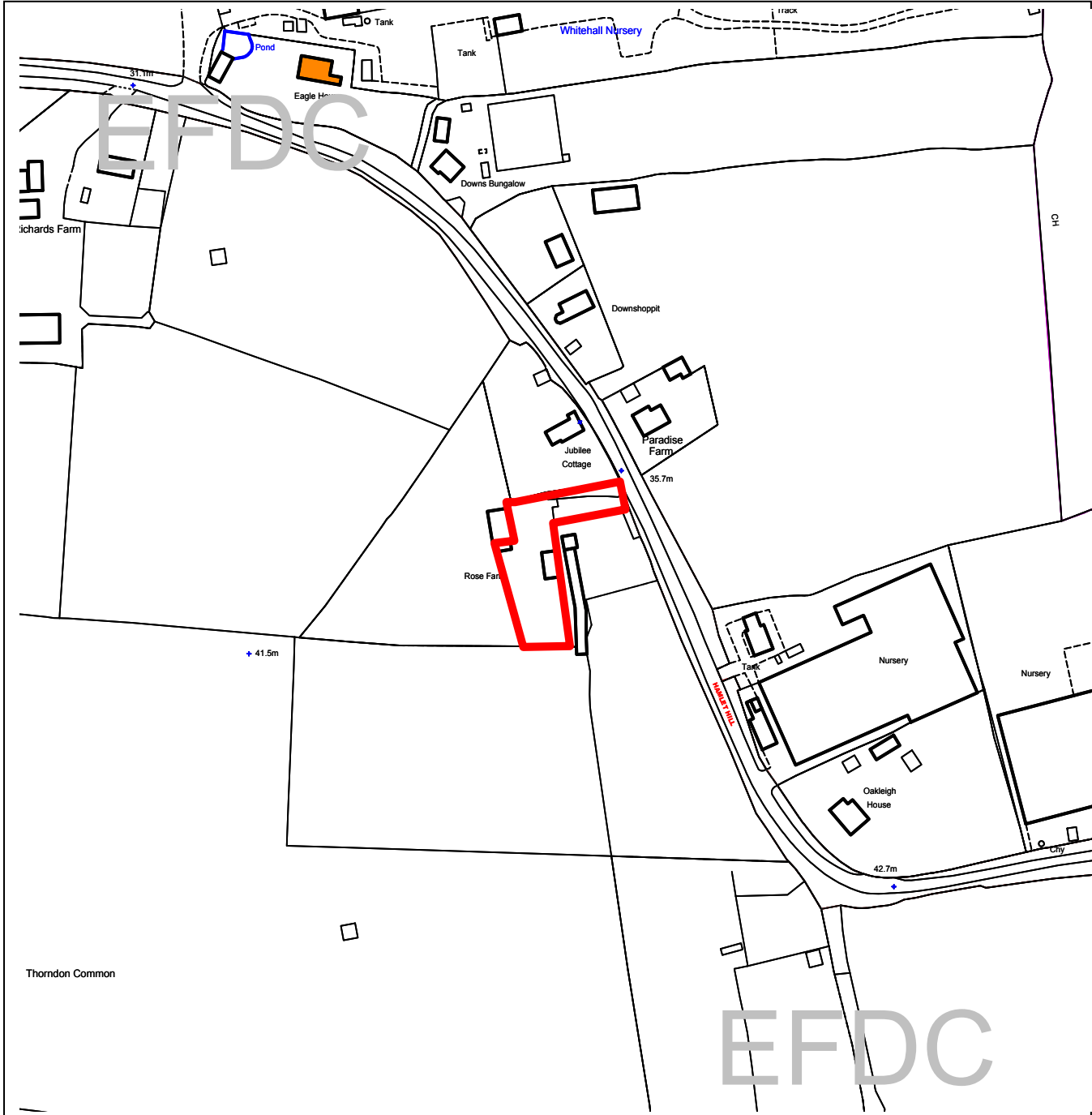
***Planning Application Case Officer: Jill Shingler
Direct Line Telephone Number: 01992 564106***

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



Epping Forest District Council

Agenda Item Number 2



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Application Number:	EPF/1345/15
Site Name:	Rose Farm, Hamlet Hill Roydon, CM19 5JU
Scale of Plot:	1/2500

Report Item No:2

APPLICATION No:	EPF/1345/15
SITE ADDRESS:	Rose Farm Hamlet Hill Roydon Essex CM19 5JU
PARISH:	Roydon
WARD:	Roydon
APPLICANT:	Mr Thomas Breaker
DESCRIPTION OF PROPOSAL:	Siting of replacement mobile home to replace existing, provision for standing for 2 touring caravans, retention of dayroom and part barn used as playroom/gym for permanent residential purposes
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=576734

CONDITIONS

- 1 The development hereby permitted will be completed strictly in accordance with the approved Location Plan and drawings nos: 13-5056-101 Rev A & TOPAZ 65x22 4B
- 2 The use hereby permitted shall be carried on only by Mr Thomas Breaker and Ms Maria Wilson and their resident dependants and shall be for a limited period, being the period of four years from the date of this decision or the period during which the premises are occupied by them, whichever is the shorter.
- 3 When the premises cease to be occupied by Mr Thomas Breaker and Ms Maria Wilson and their resident dependants or at the end of four years, whichever shall first occur, the use hereby permitted shall cease and the mobile home hereby permitted shall be removed from the site, along with all caravans, structures, materials and equipment brought on to the premises in connection with the use and the land shall be restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.
- 4 With the exception of the mobile home hereby permitted, no more the two caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time. None of which shall be a static caravan or mobile home.

- 5 No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 6 No commercial activities shall take place on the land, including the storage of materials.

This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(g));

since it is for a type of development that cannot be determined by Officers if more than two objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(f).); and

since the recommendation conflicts with a previous resolution of a Committee (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(i))

Description of Site:

The application site is a 0.18 hectare area of agricultural farmland to the west of Hamlet Hill that currently benefits from a temporary permission for residential use for the stationing of mobile homes for named occupants. Access to the site is from Hamlet Hill via an existing farm access. The entire site lies within the Metropolitan Green Belt.

Description of Proposal:

Consent is being sought for the permanent siting of a replacement mobile home, the stationing of two touring caravans, and the retention of the day-room and part of the barn currently used as a playroom/gym ancillary to the residential use of the site.

The proposed replacement mobile home, whilst still considered to be a 'temporary structure', would not meet the definition of a caravan as it would be constructed from four sections, contrary to the requirements laid out within the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. The proposed replacement mobile home would measure 19.8m in length and approximately 6.6m in depth with a shallow pitched roof. The mobile home would contain four bedrooms (one with an en-suite), a bathroom and a partially open kitchen/dining/living room. The building would include an open sided front gable projection over the main entrance door.

The southern section of the former barn would be retained for ancillary residential purposes. The access, extent of hardstanding and application site intended for residential use is unchanged from that granted temporary consent on appeal subsequent to the Enforcement Notice served ref: ENF/0652/08.

Relevant History:

The site was previously part of Richards Farm, which has a long planning history, however none of the previous applications relate to the specific area indicated in this application. The only relevant planning applications are:

EPF/1817/08 - Wet weather exercise and training area for trotting or harness racing horses – **refused 16/12/08 (appeal dismissed 21/08/09)**

CLD/EPF/2106/08 - Certificate of lawfulness for existing use of siting of one mobile home and one touring caravan – **Not lawful 16/12/09 (appeal dismissed 21/08/09)**

EPF/1890/09 - Retrospective application for change of use for siting of one mobile home and two touring caravans for gypsy/traveller use and hardstanding in connection with that use. Use of barn as ancillary day room, bathroom, utility room and storage/workshop and installation of septic tank – **refused 16/12/09**

EPF/0339/10 - Continuation of siting of 1 mobile home and 2 touring caravans for Romany Gypsy residential use, and use of part of existing barn and stables for ancillary residential use, and retention of existing wet weather area as hardstanding for mobile home and caravans. Use of barn for horse carriages and Gypsy paraphernalia (resubmitted application) – **refused 15/04/10**

EPF/0982/14 - Erection of four bedroom bungalow, retention of existing large touring caravan, storage of small touring caravan when not in use when working away, retention of day-room and part barn used as playroom/gym for residential purposes – **refused 23/06/14**

Despite the above planning refusals, a five year temporary permission was given at appeal for the residential use of the site for specific named occupants. This was granted as a result of an appeal against the enforcement notice ref: ENF/0652/08, which was approved on 12 April 2011.

Policies Applied:

CP1 – Achieving sustainable development objectives
CP2 – Protecting the quality of the rural and built environment
GB2A – Development in the Green Belt
GB5 – Residential moorings and non-permanent dwellings
H10A – Gypsy caravan sites
LL1 – Rural landscape
LL2 – Inappropriate rural development
ST1 – Location of development
ST4 – Road safety

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Consultation Carried Out and Summary of Representations Received:

5 neighbours were consulted and a Site Notice was displayed on 28/07/15.

PARISH COUNCIL – Object. I refer to our recent discussion regarding the planning application, in particular to the e-mail sent from the Applicant's agent, Stuart Harrison Quote – 'I understand that at the Parish Council meeting held last Thursday, 6th August 2015 this application received unanimous support and is recommended for approval'. This statement is strongly refuted and wholly inaccurate, as reflected in our meeting notes and minutes.

Since the Roydon Parish Council meeting of the 6th August we have learned the size of the bungalow exceeds planning guidelines (even though a 4 section bungalow). We further object to this application due to:

- Sight lines onto the highway due to the presence of a conifer hedgerow (owned by neighbour to Rose Farm).
- There appear to be no special circumstances to support this application. It is understood the Barn will not be relinquished nor the presence of touring caravans and concern for site expansion is an issue.
- Neighbouring properties continue to be concerned that they are surrounded with yet more Gypsy encampments and whilst recognising that the Gypsy community have a right to be located in an encampment environment Roydon Parish Council continues to question why EFDC cannot find suitable locations away from Hamlet Hill/Sedge Green where Gypsy encampments have been allowed to grow over recent years.

We remind you that Rose Farm was originally granted a 4 year temporary planning permission and that permanent permission should not be supported on the grounds of over development.

ROYDON HAMLETS RESIDENTS SOCIETY – Object as residents believed that the permission would expire after four years. Since the site is believed to be used as a holiday home and the family have other properties they live in so there is no overriding housing crisis. The site has too much hardstanding which will never be green grass in Green Belt again. The barn is being lived in so to allow this would mean two very large homes, plus caravans. Hamlet Hill is very busy with large lorries speeding down it and it is felt that the entrance does not have adequate vision. The proposal will set a precedent and the area is already saturated with gypsy sites. The application must not be approved as there are no special circumstances to allow for the development.

JUBILLEE COTTAGE – Object as the site is in the Green Belt and this constitutes inappropriate development, the original conditions of the appeal have never been complied with as there have been 3 caravans on site for the past 12 months, there is insufficient land drainage on site, the entrance has subsequently been altered and made larger, there is too much hardstanding on the site, and since there is currently a proliferation of traveller sites on Hamlet Hill. Whilst there is sympathy with the applicants sick children I cannot see how living on Hamlet Hill is convenient to go to Addenbrookes Hospital in Cambridge (as stated in the previous appeal) and the original five year consent was given to allow Mr Breaker to make appropriate arrangements for the children.

PARADISE FARM, HAMLET HILL – Object.

Issues and Considerations:

The application site has been granted temporary use for residential purposes for named residents as a result of enforcement action. This decision was granted on appeal in April 2011 and the consent will inure until April 2016. Within this decision the Planning Inspector highlighted that the proposal constitutes inappropriate development in the Green Belt and also stated that *“the residential use carried out has involved alterations to the buildings and together with the associated vehicles and other trappings of residential use the overall result is that the openness of the Green Belt is eroded and the rural character and appearance of the area materially harmed”*. It was also considered that *“the access is substandard”* and *“in particular, visibility to the north is severely constrained”*. He therefore concluded that *“there are serious highway safety objections to the retention of this development”*.

The personal circumstances of the appellants, including the second eldest child's (Michael's) medical condition, and the need for additional gypsy pitches was considered by the Planning Inspector, however it was nonetheless stated that *“taking the case as a whole I do not consider that the combined weight of the other considerations put forward by the appellant clearly*

outweighs the harm caused through inappropriateness and the other harm identified. Consequently I do not consider a grant of permanent permission is justified".

However the Planning Inspector did conclude that "*on balance I consider that for a temporary period of five years the absence of alternative sites and the appellant's personal circumstances clearly outweigh the harm caused and represent the very special circumstances which justify a temporary as opposed to a permanent permission*".

The existing consent is subject to conditions stating:

- **The use hereby permitted shall be carried on only by Mr Thomas Breaker and Ms Maria Wilson and their resident dependants and shall be for a limited period, being the period of five years from the date of this decision or the period during which the premises are occupied by them, whichever is the shortest.**
- **No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than one shall be a static caravan or mobile home) shall be stationed on the site at any time.**

Proposed new mobile homes:

This application proposes to replace the existing mobile home with a new mobile home. This falls within the size requirements of a 'caravan', as amended by the Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006, of:

- *Length (exclusive of any drawbar): 20 metres (65.616 feet);*
- *Width: 6.8 metres (23.309 feet);*
- *Internal height (10.006 feet).*

Nonetheless the definition of a 'caravan' as laid out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 is:

- (1) *Any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.*

[Part I of the Caravan Sites and Control of Development Act 1960]

and

- (1) *A structure designed or adapted for human habitation which-*

- (a) *is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps or other devices; and*
- (b) *is, when assembled, physically capable of being moved by road from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer),*

shall not be treated as not being (or as not having been) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 by reason only that it cannot lawfully be so moved on a highway road when assembled.

[Part III of the Caravan Sites Act 1968]

The proposed new mobile home would be composed of four sections and therefore would not be permitted on the site without requiring planning consent under section (1)(a) of Part II of the

Caravan Sites Act 1968. Nonetheless the building is still a building of 'temporary construction' (a mobile home) and is no larger than that which could be stationed on the land without permission (albeit for a temporary period). As such the proposed larger mobile home is not in itself considered to be unduly detrimental.

In addition to the above, this application would allow for the stationing of a further touring caravan on the site, resulting in a maximum of three mobile homes as opposed to two as permitted on appeal. Whilst the provision of additional caravans would have some additional impact on the visual amenities of the area it is not considered that the provision of one additional mobile home in itself would cause undue harm to the area.

Permanent consent:

The main consideration in this application is that the applicant seeks permanent residential consent on the site. The submitted Planning Statement puts forward the following arguments in favour of the proposal:

- The 2nd eldest boy, Michael, suffers from Crohn's disease and has multiple food allergies
- The youngest son, Levi-Jhon, has Autistic Spectrum Disorder. Various special needs professionals have recommended a permanent home would be beneficial.
- Along with the above, there are two other children (Tommy and Rosemary), and as such a larger living area is required.
- The applicant travels away for work for periods in excess of four weeks at a time and therefore his wife needs family support during these times, which would be catered for by the touring caravan.

This application is almost identical to that previously submitted under ref: EPF/0982/14, which was refused consent for the following reason:

The application site is located within the Metropolitan Green Belt and is served by a substandard access. Permanent residential use of the site and the erection of a four bedroom bungalow would constitute inappropriate development, harmful to the openness of the Green Belt, the overall character of this rural area and would result in serious highway safety concerns. No further very special circumstances exist that would justify the grant of a permanent residential use of this site and therefore the development is contrary to the guidance contained within the National Planning Policy Framework and policies CP2, GB2A, GB5, GB10, H10A and ST4 of the adopted Local Plan and Alterations.

The Planning Inspector previously made it clear that the proposal constitutes inappropriate development harmful to the openness of the Green Belt, that the works erode the rural character and appearance of the area, and that the access arrangements are substandard. The only additional argument put forward that was not considered within the previous appeal is that the applicant's youngest child, Levi-Jhon, has been diagnosed with Autistic Spectrum Disorder. Letters from Essex County Council and health professionals have been submitted diagnosing this condition and recommending that a permanent consent for the land would be beneficial, although this is primarily because such a permission would allow for the applicants to 'plan ahead' for Levi-Jhon's needs and also as this would 'relieve the stress' that the applicants are under.

Whilst it is understood that having a child with such a disorder is stressful it is not considered that this in itself (or collectively with the previously considered personal circumstances) would be sufficient to outweigh the permanent harm from this inappropriate development.

Essex County Council continue to object to the proposed development due to the substandard access, responding to the consultation as follows:

- *“As far as can be determined from the submitted plans the applicant does not appear to control sufficient land to provide the required vehicular visibility splay of 2.4m x 120m to the north. The lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highway safety”.*
- *“The proposal would intensify the use of an access onto a Secondary Distributor highway where the main function is that of carrying traffic freely and safely between centres of population. The existence of an access in this location is a matter of fact and therefore some degree of conflict and interference to the passage of through vehicles already occurs but the intensification of that conflict and interference which this proposal would engender would lead to a deterioration in the efficiency of the through road as a traffic carrier to the detriment of highway safety”.*

The applicant's Agent has responded to this objection by stating that the hedge preventing adequate sightlines to the north has been cut back by the Highway Authority over the past 2 or 3 years which *“indicates that that hedgerow is within the ‘highway boundary’ and at least the only part of the hedge that may not be in the highway boundary and can be cut back legally by my client is ‘delineated by the lie of and position of the main stems of the trees and bushes forming the hedgerow’*. They also state that details of the number of reported accidents or incidents within 200m to the north and south of the entrance within the past 5 years have been requested from Essex Police and that the response showed no accidents.

Essex County Council responded to the additional statements by highlighting that *“previously the Highways Records Team made very thorough investigations into this matter including measurements on site and confirmed for themselves that the highway boundary did indeed match the approximate position of the hedge. Therefore as far as ECC are concerned that highway extends up to the root line of the hedge, but the hedge will not be in ECC's ownership, but anything roadside can be cut by ECC as it would encroach into the highway”*.

As a result of the above the substandard access and impact on highway safety in itself would be significant enough to justify the refusal of a permanent permission. In addition the permanent harm to openness and impact on the rural character of the area would be such that permanent consent would be contrary to the guidance contained within the National Planning Policy Framework and Local Plan policies CP2, GB2A, GB5, GB10, H10A and ST4.

Temporary consent:

At the time of the previous application the existing temporary consent for the site had a further two years to run, which was still a significant period of time. It was due to this that no temporary consent was considered necessary as part of EPF/0982/14. However the current consent now only has approximately seven months left to run and therefore a further temporary consent must be considered for the site.

Despite the clear harm to openness, rural character and highway safety the Planning Inspector nonetheless previously concluded that *“on balance I consider that for a temporary period of five years the absence of alternative sites and the appellant’s personal circumstances clearly outweigh the harm caused and represent the very special circumstances which justify a temporary as opposed to a permanent permission”*.

The main justification given from the Planning Inspector for this decision is was as follows:

“The option of a temporary permission was raised. In considering this I am aware that the harm through inappropriateness and issues of harm to openness and highway safety would remain, although these would be proportionately less for a limited period. On the other hand there is an unmet need for gypsy sites which means that the appellant and his family would have nowhere to go if they leave Rose Farm. This would result in trauma, the interruption of the children’s education and, above all, would have very serious implications for Michael’s health. The Council is addressing the need for additional sites through its DPD but it is unlikely that new sites will be genuinely available, in the sense that they have not only been identified but also brought forward so they are ready for occupation, for a further five years. On balance I consider that for a temporary period of five years the absence of alternative sites and the appellant’s personal circumstances clearly outweigh the harm caused and represent the very special circumstances which justify a temporary as opposed to a permanent permission”.

Since there is still an absence of available alternative sites for the applicant and his family to relocate to and continued personal circumstances it is considered appropriate in this instance to grant a further temporary consent for an additional four years from the date of this decision. This would be in line with the recent temporary consent at Ashview, Hamlet Hill (EPF/1965/12), which is located approximately 400m to the east of the site and was granted consent on appeal by letter dated 28th July 2015. Within this appeal decision the Inspector stated that *“when considering a temporary planning permission, Policy H of the Planning Policy for Traveller Sites states that the lack of a 5 year supply of sites should be a significant material consideration. Adding this into the equation and the balance is tipped firmly in favour of granting a temporary planning permission”*.

The Planning Policy for Traveller Sites has recently been amended (August 2015) and now includes the following within the definition of Gypsies and Travellers:

- 2. In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:**
 - a) Whether they previously led a nomadic habit of life**
 - b) The reasons for ceasing their nomadic habit of life**
 - c) Whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.**

In this instance the Council is aware that the applicant does continue to live a nomadic habit of life in that Mr Breaker continues to travel for work, although his family more often remain on the site. Therefore this new definition does not alter the above decision.

Human Rights Act:

The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) into UK law and is a relevant consideration. Before making a decision to pursue further enforcement action it is necessary for the Council to be mindful of the impact it would have on the occupants,

including the children, of the site. It is recognised that the enforcement action will be an interference with the Human Rights of the families currently occupying the site, including their right to respect for their way of life as members of the travelling community and the legal protections afforded to them as members of that group. There is a clear obligation upon the Council to ensure that the any decision it makes accords with the obligations under Article 8 of the ECHR.

Incorporated into that obligation are the obligations set out under the United Nations Convention of the Rights of the Child (UNCRC), and in this case specifically Article 3. As the Article 8 Rights of the families occupying the site are clearly engaged, any decision to take enforcement action must be proportionate. In the assessment of proportionality there is an explicit requirement to treat the needs of the children as a primary consideration (UNCRC, Article 3) and to safeguard and promote the welfare and wellbeing of the children (Children's Act 2004, section 11(1)).

A temporary planning consent for a further four years would not cause any undue distress to the current occupants since it would allow them to remain settled on this site until suitable alternative accommodation can be brought forward as part of the new Local Plan. This would ensure that there is no disruption to schooling or to the welfare and wellbeing of the children and no disruption of the applicant's way of life.

Conclusion:

The majority of the points put forward in favour of the development have previously been assessed and dismissed by the Planning Inspectorate with regards to the grant of a permanent planning consent. The only change to the material planning considerations since the original appeal decision is that Levi-Jhon has been diagnosed with Autistic Spectrum Disorder. Whilst this disorder means that Levi-Jhon would need access to health care facilities and he may need to attend a specialist school it is not considered that this would now justify the grant of permanent residential use of this site, which would constitute inappropriate development harmful to the Green Belt and would result in serious highway safety concerns.

Nonetheless the Planning Inspector previously considered that the lack of alternative available sites was a material planning consideration weighing in favour of an approval and concluded that a temporary permission would result in proportionately less harm to the Green Belt and highway safety. Since there are still no alternative sites available for the applicant to relocate to, and a temporary consent has recently been approved at Ashview (approximately 400m to the east of the site), it is considered that a further four year temporary permission would be acceptable on this site and, on balance, would comply with the guidance contained within the National Planning Policy Framework and the relevant Local Plan policies. Therefore the application is recommended for approval for a further four year temporary consent, subject to conditions.

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:

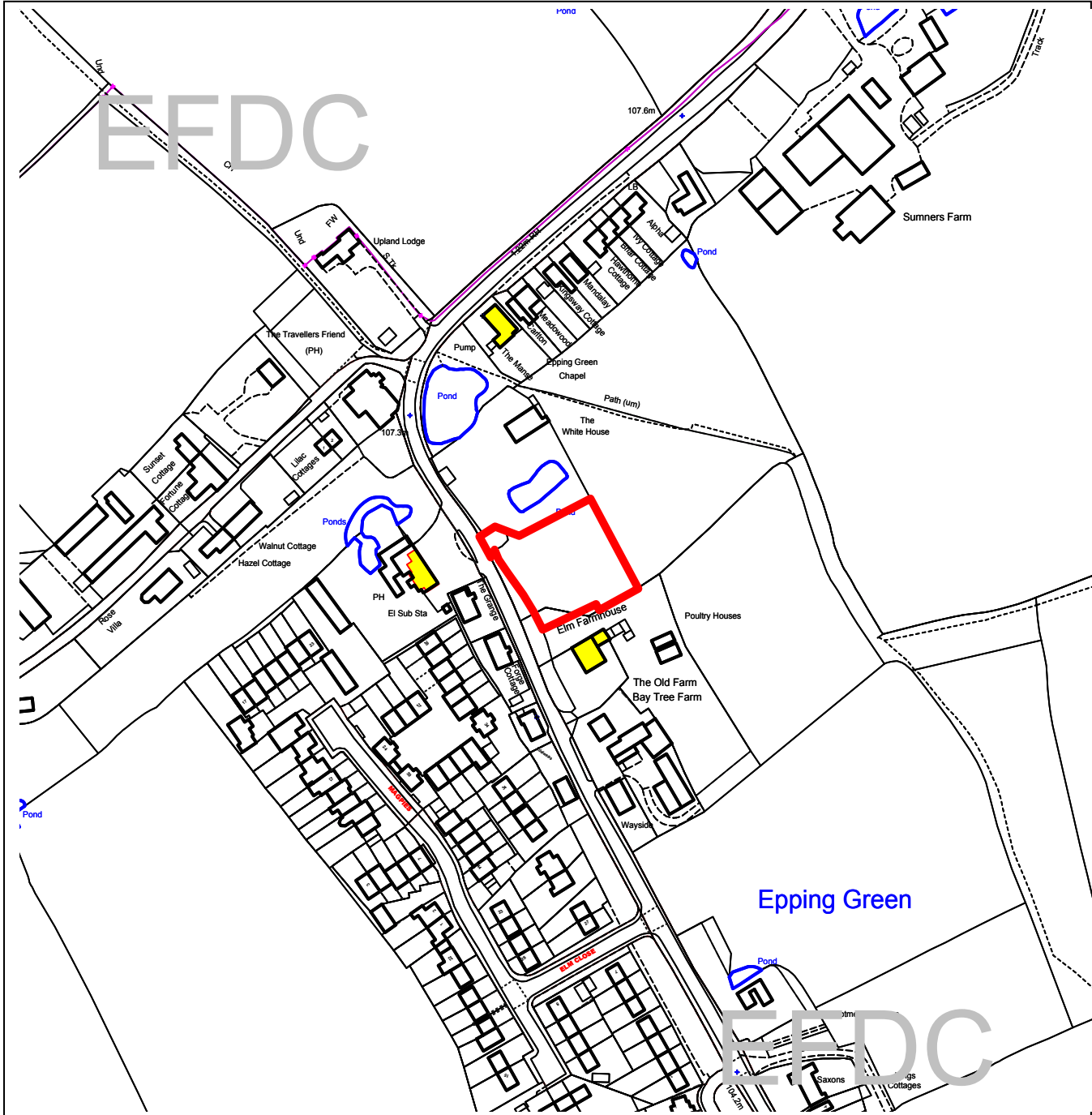
***Planning Application Case Officer: Graham Courtney
Direct Line Telephone Number: 01992 564228***

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



Epping Forest District Council

Agenda Item Number 3



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Application Number:	EPF/1640/15
Site Name:	The White House Epping Green, CM16 6PU
Scale of Plot:	1/2500

Report Item No:3

APPLICATION No:	EPF/1640/15
SITE ADDRESS:	The White House Epping Green Essex CM16 6PU
PARISH:	Epping Upland
WARD:	Broadley Common, Epping Upland and Nazeing
APPLICANT:	Antellas Developments Ltd
DESCRIPTION OF PROPOSAL:	Erection of two detached dwellings with garages, improved highway access, drives, turning areas and ancillary works.
RECOMMENDED DECISION:	Grant Permission (Subject to Legal Agreement)

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=577556

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved Location Plan and plan numbers: 2966/1, A1, A2, A3, A4, B1, B2, B3 & B4
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
- 4 No development shall take place until details of surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 5 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to an approved in writing by the Local Planning Authority. These works shall be carried out as approved. 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, unless the Local Planning Authority gives its written consent to any variation.

- 6 No development, including works of demolition or site clearance, shall take place until details of the retained landscaping (trees / hedges) and their methods of protection (in accordance with BS5837:2012 -Trees in relation to design, demolition and construction Recommendations) have been submitted to and approved in writing by the Local Planning Authority. 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.
- 7 Before any preparatory clearance or construction works commence on site, full ecological surveys and a mitigation strategy for the site shall be submitted to the Local Planning Authority for agreement in writing with a working methodology for site clearance and construction work to minimise impact on any protected species and nesting birds. Development shall be undertaken only in accordance with the agreed strategy and methodology.
- 8 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Planning Authority.
- 9 A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tool. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.
- 10 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site.

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.

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.

- 11 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 12 Prior to first occupation of proposed development, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of the carriageway and provided with an appropriate dropped kerb crossing of the verge.
- 13 There shall be no discharge of surface water onto the Highway.
- 14 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 15 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

And the completion by the 21st September 2015 (unless otherwise agreed in writing by the Local Planning Authority) of a legal agreement to secure a contribution of £10,000 towards the provision of affordable housing.

This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(g))

Description of Site:

The application site is part of the residential curtilage of The White House, which is located on the eastern side of Epping Road within the village of Epping Upland. The site is located close to the corner junction opposite the Travellers Friend and Cock & Magpie public houses.

Whilst the site is located within the village of Epping Upland, the site is within the designated Green Belt. There is a large pond located to the northwest of the site and a smaller pond located within the adjacent donor property. There is a large established hedge bordering the site and some individual trees located within the site area.

Access to the site is via Epping Road opposite the carriage driveway serving the Cock & Magpie.

Outline consent currently exists on the site for the erection of two detached dwellings with garages, which was granted in August 2014.

Description of Proposal:

Consent is being sought for the erection of two detached dwellings with garages, improved highway access, and ancillary works (i.e. driveways, turning areas, etc.). The proposed dwellings would measure:

Dwelling A:

- 15m in width and 10m in depth at two storey level;
- A maximum of 22m in width and 14m in depth at ground floor level (due to the single storey rear projection and attached single storey side double garage);
- Maximum ridge height of 9.6m and eaves height of 5.6m on the main bulk of the house;
- Ridge height of 5.4m and eaves height of 3.5m on the side garage projection; and
- Crown top pitched roof height of 4.5m and eaves height of 3.5m to single storey rear projection.

Dwelling B:

- 15.2m in width and 10m in depth at two storeys with an additional 4m deep single storey rear extension;
- Maximum ridge height of 9.8m and eaves height of 6m on the main bulk of the house;
- Flat roof to a height of 4.5m to the single storey rear extension; and
- Detached double garage to the front of the property measuring 6.4m in width and 7.4m in depth with a pitched roof to a ridge height of 5.9m.

The proposed access to the site would be by way of the existing access serving The White House and would be improved as part of the development.

Relevant History:

EPO/0484/64 - Erection of two houses – approved/conditions 09/02/65

OUT/EPO/0639/72 - Outline Application for house – approved/conditions 10/10/72

OUT/EPF/1233/80 - Outline Application for one dwelling – refused 06/10/80 (appeal dismissed 10/11/81)

EPF/1499/90 - Erection of detached house – refused 11/01/91

OUT/EPF/1934/01 - Outline application for the erection of a detached house – refused 20/02/02

CLD/EPF/2143/02 - Certificate of lawfulness for use of land as residential curtilage – lawful 24/01/03

OUT/EPF/0910/14 - Outline application for the erection of two detached dwellings with garages within the curtilage of the existing dwelling and ancillary works – approved/conditions (subject to S106 Agreement) 28/08/14

Policies Applied:

CP1 – Achieving sustainable development objectives

CP2 – Protecting the quality of the rural and built environment

GB2A – Development in the Green Belt

GB7A – Conspicuous development

DBE1 – Design of new buildings

DBE2 – Effect on neighbouring properties
DBE8 – Private amenity space
DBE9 – Loss of amenity
LL10 – Adequacy of provision of landscape retention
LL11 – Landscaping schemes
NC4 – Protection of established habitat
ST1 – Location of development
ST4 – Road safety
ST6 – Vehicle parking
U2B – Flood risk assessment zones

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Consultation Carried Out and Summary of Representations Received:

21 neighbours were consulted.

PARISH COUNCIL – Object due to:

- Overdevelopment of the site;
- Properties too large for plot;
- Concerns remain regarding access and egress both for residential use and during building works; and
- Concerns regarding trees and would request that TPOs be considered prior to the start of the build should the application be granted.

ELM FARM HOUSE, EPPING GREEN – Object for the following reasons:

- The mass and scale of the building is substantially increased from the indicative drawings. Dwelling B is very close to the shared boundary and would result in the removal of a screen of trees that would result in a loss of their amenity value and privacy to the neighbour;
- The originally proposed two storey buildings have been superseded by three storey dwellings. This would result in overlooking of the properties opposite the site; and
- Concerned about how accurate the plans are with regards to the neighbouring buildings and the existing trees.

Issues and Considerations:

Suitability of the site:

Outline consent was granted in 2014 for two dwellings with garages on this site since it was considered that this proposal constitutes a 'limited infill' and therefore would not be inappropriate development harmful to the openness of the Green Belt. Given this extant outline consent the site is clearly considered to be suitable for the erection of two detached houses.

Design:

Whilst indicative plans were provided with OUT/EPF/0910/14 showing an example of two dwellings on the site, these were not actually proposed. Nonetheless the indicative plans were not dissimilar to this proposed development. This proposal has increased the footprint of the proposed dwellings through the introduction of single storey rear projections, and have slightly increased the roof heights to allow for habitable space to be created. Furthermore the proposed dwellings have been relocated slightly, which results in a flush front building line and slightly closer set in from the side boundary between Dwelling B and Elm Farm House. Furthermore the detached garage serving Dwelling B has been set further into the southern corner of the site.

Epping Green contains a mix of dwellings of various sizes and design. The proposed dwellings would retain a relatively rural appearance and would utilise traditional materials, although would incorporate some more modern elements (predominantly at the rear) such as feature glazed gables and glazed bifold ground floor projections. Given the presence, and retention, of the large established hedge along the roadside frontage views of the proposed dwellings would be limited and it is therefore considered that there would not be any detrimental impact on the appearance of the street scene.

Whilst the proposed dwellings would be three storeys, which is not common within this part of Epping Green, the upper storey would be wholly located within the roof slope and would be served by front (in terms of Dwelling B) and rear gable projections and rooflights. As such it is not considered that the properties would appear overly dominant or prominent within this area or harmful to the character of the area.

Amenity considerations:

The application site is a generous plot that can accommodate two dwellings of this size whilst still retaining adequate separation from the side boundaries. There would be a minimum distance of 5m between the flank wall of Dwelling B and the shared boundary with Elm Farm House and no upper storey flank windows proposed in this elevation. There would be a distance of 8m between the flank wall of Dwelling A (excluding the single storey attached garage) and the shared boundary with the donor property (The White House) and only a small first floor flank window. Whilst this could be condition to be obscure glazed this would be unnecessary given the extent of the neighbouring property and the distance between the house and the neighbours dwelling.

The dwellings would be set back in excess of 12m from the front of the site and therefore would be greater than 22m from the front boundary of the properties opposite and 28m from the front wall of these neighbouring dwellings.

Due to these distances it is not considered that there would be any undue loss of amenities to any of the surrounding residents. Whilst an objection has been received from the neighbour at Elm Farm House, which would be the most affected resident, with regards to the loss of the existing tree screen and resulting impact from this, it is proposed to plant a mixed hedge along this shared boundary in order to reinstate the screening between the application site and Elm Farm House.

The proposed garages would encroach to within 2m of the shared boundaries with the neighbours, however these are single storey and are positioned as such that there would be no detrimental impact on neighbours amenities.

Affordable housing:

The application site is a greenfield site greater than 0.1 hectare in size and is located within a settlement with a population of less than 3,000. As the development proposes two dwellings this application meets the threshold for requiring 50% affordable housing.

Given the location of the site and small scale nature of the proposal it is not considered that on-site provision for affordable housing would be suitable in this instance. However the applicant has once again agreed to pay a sum of £10,000 financial contribution towards affordable housing elsewhere, which was considered acceptable as part of the previous outline consent and therefore is still considered appropriate in this application.

Landscaping/ecology:

There are a number of trees and hedgerows on site, most of which will be retained. It is intended to remove an area of conifers from the southern end of the site to facilitate the build, however no other trees would be removed. Whilst the removal of these trees would result in a gap in the vegetation between the application site and Elm Farm House it is intended to plant a new mixed hedge along the south eastern boundary to reinstate the privacy between the two properties.

Due to the above there is no objection from the Councils Tree & Landscape section with regards to the proposal subject to conditions regarding the retention and protection of the existing hedge and the provision of new hard and soft landscaping.

The Parish Council has requested that TPOs be considered for the site, however there are no existing trees proposed for retention within the application site. Whilst there are a number of trees within the area of curtilage remaining for use by The White House these are outside of the application site and would be unaffected by the development. A suitable condition can be imposed to ensure the retention and protection of the hedge along the boundaries of the site, which is the key landscape feature.

Given the proximity of two ponds and the existing vegetation on site it would be necessary to undertake Ecological Assessments of the site. However this matter can be dealt with by condition.

Highways/access:

The proposed new dwellings would utilise the existing access point serving the White House, which would be widened to improve this access. Whilst this section of Epping Road is known to be somewhat problematic at times the existing access has appropriate visibility onto Epping Road and would be further improved through the widening of the access. As such it has been deemed by Essex County Council that the proposal would not be detrimental to highway safety or capacity at this location.

There is more than sufficient parking on site to provide all required resident and visitor parking provision along with manoeuvrability space to ensure vehicles can enter and leave the site in forward gear.

Other matters:

The application site is located within an EFDC flood risk assessment zone and the development is of a size where it is necessary to avoid generating additional runoff and where the opportunity should be taken to improve existing surface water runoff. Therefore a condition requiring a flood risk assessment should be imposed. Furthermore, details of surface drainage would also need to be agreed, which can be dealt with by way of a condition.

The Essex Historic Environment (EHER) Record shows that the application site lies adjacent to the site of a medieval moated site (EHER 48394), and it is not clear whether the moated area originally extended into the application site, joining up with the pond with The White House garden. The application site is also located within the area of the medieval greenside settlement of Epping Green. Any development of this site may therefore have the potential to impact on features and finds associated with these historic areas. As such, the implementation of a programme of archaeological works will be required prior to the commencement of any development on this site, which can be dealt with by condition.

Conclusion:

Outline consent was granted in August 2014 for the erection of two detached dwellings and garages, the indicative plans for which were similar to this proposal. As such it has previously been agreed that the proposal does not constitute inappropriate development harmful to the Green Belt and is suitable within this location. The proposed access would be improved through the widening of this access point and is unchanged from that previously granted outline consent. Whilst the size, design and location of the two dwellings and garages have altered slightly from the previously submitted indicative plans these would not have any detrimental impact on neighbours amenities or the character and appearance of the area. The removal of the existing conifer trees is considered to be acceptable subject to the retention of the boundary hedge and additional planting. As such the proposed development complies with the guidance contained within the National Planning Policy Framework and the relevant Local Plan policies and is therefore recommended for approval.

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: Graham Courtney
Direct Line Telephone Number: 01992 564228***

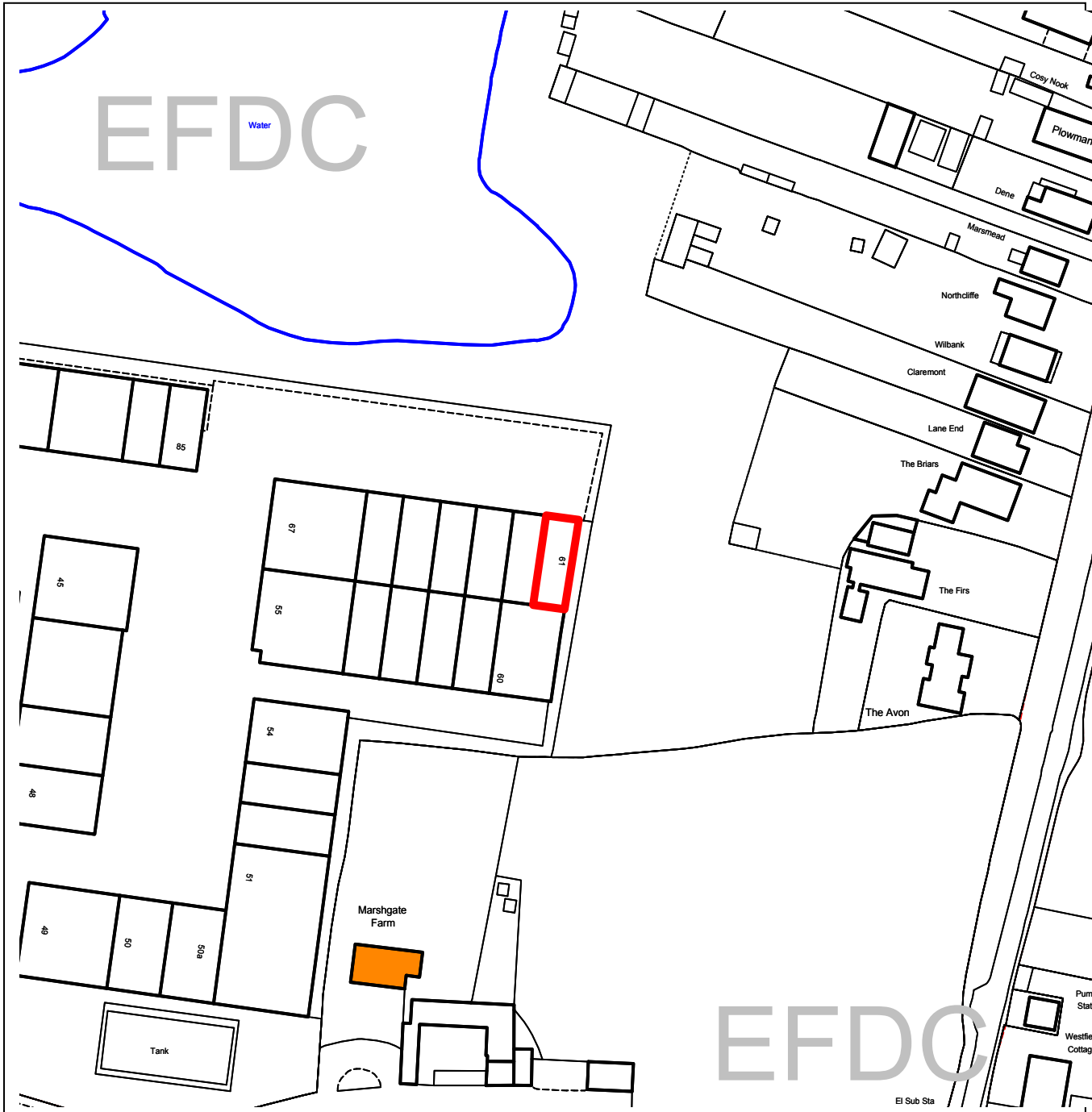
or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

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Epping Forest District Council

Agenda Item Number 4



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Application Number:	EPF/1652/15
Site Name:	Unit 61, Hillgrove Business Park Nazeing Road, Nazeing, EN9 2HB
Scale of Plot:	1/1250

Report Item No:4

APPLICATION No:	EPF/1652/15
SITE ADDRESS:	Unit 61 Hillgrove Business Park Nazeing Road Nazeing Essex EN9 2HB
PARISH:	Nazeing
WARD:	Lower Nazeing
APPLICANT:	Mr Danny Fielder
DESCRIPTION OF PROPOSAL:	Change of from class B1 Business to class D2 Assembly & Leisure (fitness studio).
RECOMMENDED DECISION:	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=577576

REASONS

- 1 The proposed use of the existing unit for D2 (Assembly & Leisure) purposes would be inconsistent and out of character with the wider Hillgrove Business Park and, due to the frequency and nature of vehicle and pedestrian movements to the proposed use, would have an adverse affect on the character of this commercial area, contrary to the guidance contained within the National Planning Policy Framework and policies CP3 and RST1 of the adopted Local Plan and Alterations.
- 2 Insufficient information has been provided to show that adequate off-street parking space is available to comply with the requirements of the Essex County Council Parking Standards (2009). As such the proposal has the potential to result in disturbance to surrounding occupants of Hillgrove Business Park and/or local residents, contrary to the guidance contained within the National Planning Policy Framework and policies ST6 of the adopted Local Plan and Alterations.

This application is before this Committee since it would otherwise have been refused under delegated powers by the Director of Governance but there is support from the relevant local Parish/Town Council and no other overriding planning consideration necessitates refusal (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(I))

Description of Site:

The application site consists of an end unit within Hillgrove Business Park that has a lawful B1 use and is currently occupied by Serious Gym, a D2 use.

The business park is located on the northern side of Nazeing Road and the application building is located towards the rear of the site, vehicle access to the unit is through the estate.

Description of Proposal:

Consent is being sought for the continued use of the existing business premises as a D2 (Assembly & Leisure) gym. There are no external alterations proposed as part of the application and it has three designated parking spaces.

Relevant History:

EPF/0369/15 - Change of use from B8 (Storage and Distribution) to D2 (Assembly and Leisure) to allow for unit to be occupied by a gym. Refuse Permission - 24/04/2015.

Policies Applied:

CP1 – Achieving sustainable development objectives
CP2 – Protecting the quality of the rural and built environment
CP3 – New development
RST1 – Recreational, sporting and tourist facilities
ST1 – Location of development
ST6 – Vehicle parking

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

Consultation Carried Out and Summary of Representations received:

PARISH COUNCIL: No objection. The Council strongly supports the application.

12 neighbours consulted: 1 reply received.

PAUL WALLACE PROFESSIONAL on behalf of HILLGROVE MANAGEMENT BOARD: Objection
The units on this Estate and have previously objected to similar applications for Planning Approval to the Planning Department that conflict to the business ethos of the Estate and its Directors.

We note previous application for change of use for a Gym for on the estate was refused by Epping Forest Planning recently.

Hillgrove Business Park is a very busy industrial site with B1 and B8 Usage, the current site transport route is at a maximum for the site and is not suitable for increased pedestrian traffic across these vehicle routes. The site was not designed for short term visitors given the limited visitors parking bays and is more in keeping with owner occupancy use. There are no additional parking areas to support this type of use on the Estate.

Viability of a gym would mean a constant turnover of users, there is potential for a bottle neck at the main entrance at certain times of the day. Which in turn will cause traffic congestion in Nazeing for traffic entering and leaving the site. There have been various accidents at this junction usually at busy times.

Unit 61 clearly does not have sufficient parking to support this proposed Change of Use as there are only 3 allocated parking spaces to this property. This would leave no parking bays for visitors

or members of the proposed Gym once the 3 spaces were taken. Ultimately this may cause conflict with the adjacent Unit holders and un-authorized parking on the site is not allowed.

There are no traffic parking measures on Nazeing Road around the unit entrance and public parking would cause visibility and road restriction problems if users of the proposed Gym decided to park on Nazeing Road.

Current security arrangements that are deemed necessary for Hillgrove by the site owners provides for physical vehicle barriers after 7pm until 7am Monday to Friday with Saturday and Sunday further extended hours this would mean traffic queuing to enter and leave the site at the main entrance at the times the access barrier was down or not manned.

Our residential neighbours opposite the main entrance to our Estate have continually been engaged in dialogue with the Directors. Their main concern is keeping the volumes of traffic leaving the site during out of hours being kept to a minimum. Given how busy the Estate is during the day we are supportive of their concerns.

Issues and Considerations:

The main considerations in this proposal are regarding the suitability of the site for a D2 use and regarding parking and highways considerations. The planning history of the estate is another material consideration.

Principle of development:

The planning history of the business park includes at application decided in April of this year for a similar proposal at unit 38A. This is clearly a material consideration of some weight as part of this overall assessment. That application was refused for the following two reasons;

1. The proposed use of the existing unit for D2 (Assembly & Leisure) purposes would be inconsistent and out of character with the wider Hillgrove Business Park and, due to the frequency and nature of vehicle and pedestrian movements to the proposed use, would have an adverse affect on the character of this commercial area, contrary to the guidance contained within the National Planning Policy Framework and policies CP3 and RST1 of the adopted Local Plan and Alterations.
2. Insufficient information has been provided to show that adequate off-street parking space is available to comply with the requirements of the Essex County Council Parking Standards (2009). As such the proposal has the potential to result in disturbance to surrounding occupants of Hillgrove Business Park and/or local residents, contrary to the guidance contained within the National Planning Policy Framework and policies ST6 of the adopted Local Plan and Alterations.

In order to be acceptable the proposed development, located in close proximity to unit 38A, would have to be materially different in its specific circumstances.

The application site is located within Hillgrove Business Park, which contains approximately 90 B1 and B8 units offering various services and commercial activities.

Hillgrove Business Park is a large industrial estate that is intensely used and appears to be extremely busy. The vehicle access to the application site is around the rear part of the Park past several business units that contain loading bays and parking areas to the front of their sites.

Local Plan policy RST1 states that "the Council will permit the development of additional recreational, sporting and tourist facilities where it is satisfied that there are:

- (i) in the best interests of the local community; and
- (ii) unlikely to result, either directly or indirectly, in the character of the surrounding area being affected adversely".

In addition to this Local Plan policy CP3 require that, amongst other factors, "sequential approaches have been used to ensure that appropriate types of development, redevelopment or intensification of use take place at suitable locations" and "the scale and nature of development is consistent with the principles of sustainability and respects the character and environment of the locality".

The nature of Hillgrove Business Park is extremely commercial and industrial and the site appears to be intensely used and serviced with several units loading/unloading throughout the day and several private (staff) and commercial vehicles both accessing the site and parked throughout the designated parking spaces. Due to the location of the application site any access and egress by vehicle would need to traverse this estate in order to reach the proposed gym. Due to the setting and surrounding nature of the site it is considered that the proposed continued use of this B8 unit as a D2 gym would be inconsistent and out of character with the wider Business Park and, due to the frequency and nature of visits to the site by the general public (i.e. gym members), this would have an adverse affect on the character of this commercial area.

Whilst other examples of gyms permitted on existing commercial estates can be found throughout the District, including at Nazeing Glassworks (Nazeing) and Brooker Road Industrial Estate (Waltham Abbey) there was not considered to be any detrimental conflict with other business users in these instances.

Whilst Officers have formed the view that the proposed development is inappropriate for this location there is some sympathy for a local resident hoping to advance a business in still testing economic times. Central Government requires Local Authorities to approve appropriate development without delay and to be positive and proactive in their dealings with all applicants. However having given this, and the previous application some serious consideration, Officers have formed the view that the planning balance falls on the side of refusal. Members may feel that a deviation from the B1/B8 uses which dominate this site may be justified in this instance.

Highway impact:

Objections have been received from the management of Hillgrove Business Park with regards to concerns over parking provision. The submitted application form states that the existing unit benefits from 3 on-site parking spaces and this is shown on the submitted plans. It is stated by the Managing Agents of Hillbrook Business Park that Unit 61 only benefits from these three allocated parking spaces and no additional spaces have been applied for or granted for this unit.

The stated floor area of the unit is 183m². Based on this total floor area the proposed gym would require 19 off-street parking spaces in order to comply with the ECC vehicle parking standards. Such underprovision would have a detrimental impact since visiting gym members would most likely park in the allocated spaces of other commercial units, causing conflict with surrounding businesses, or would be forced to park on the surrounding roads, causing additional stress on on-street parking within the locality. Owing to the location of the site, which is not particularly sustainable, the majority of visits to the site would be by motor vehicle. Therefore a reduced provision is hard to justify.

Conclusions:

The proposed continued use of the existing unit as a D2 gym would be inconsistent and out of character with the wider Business Park and would have an adverse affect on the character of this

commercial area. Furthermore the submitted application does not provide sufficient evidence to show that adequate off-street parking space is available to cater for staff and gym member vehicles without causing disruption to other businesses on the Park or on-street parking within the locality of the site. Therefore the proposed development fails to comply with the guidance contained within the NPPF and Local Plan policies CP3, RST1 and ST6 and is recommended for refusal.

Is there a way forward?

Whilst additional information showing that adequate on-site parking can be provided to serve the proposed new use it is not considered that there is any way to overcome the overall harm to the character of the Business Park.

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: Dominic Duffin
Direct Line Telephone Number: 01992 564336***

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