

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: District Development Management Committee **Date:** 26 April 2021

Place: Virtual Meeting on Zoom **Time:** 7.00 - 8.50 pm

Members Present: S Jones (Chairman), B Rolfe (Vice-Chairman), H Brady, D Dorrell, I Hadley, S Heap, H Kauffman, J Lea, R Morgan, J Philip, C C Pond, C Roberts, J Share-Bernia, J M Whitehouse and R Bassett

Other Councillors: -

Apologies: H Kane

Officers Present: A Marx (Development Manager Service Manager (Planning)), G Woodhall (Team Manager - Democratic & Electoral Services), Bell (Solicitor for the Senior Legal Officer), G Courtney (Planning Applications and Appeals Manager (Development Management)), S Dhadwar (Senior Planning Officer), V Messenger (Democratic Services Officer) and C Ahmet (Planning Officer)

72. WEBCASTING INTRODUCTION

On behalf of the Chairman, the Team Manager for Democratic & Electoral Services reminded everyone present that the meeting would be broadcast live to the internet and would be capable of repeated viewing, which could infringe their human and data protection rights.

73. ADVICE FOR PUBLIC & SPEAKERS AT PLANNING COMMITTEES

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements adopted by the Council to enable members of the public to address the Committee. The Committee noted the advice provided for the public and speakers at meetings of the Council's planning committees.

74. SUBSTITUTE MEMBERS

The Committee was advised that the following substitute had been appointed for the meeting:

- (a) Cllr R Bassett for Cllr H Kane.

75. DECLARATIONS OF INTEREST

The following interests were declared by members of the Committee pursuant to the Council's Code of Member Conduct:

- (a) Cllr R Bassett declared a personal interest in item 7 (Planning Application EPF/2712/19 – Nazeing Glass Works, Nazeing) of the agenda for the meeting, by virtue of being a trustee of Epping Forest Community Transport. The

Councillor had determined that his interest was not pecuniary and indicated that he would remain in the meeting for the consideration of the application and voting thereon.

- (b) Cllr S Heap declared a personal interest in item 7 (Planning Application EPF/2712/19 – Nazeing Glass Works, Nazeing) of the agenda for the meeting, by virtue of having corresponded with the Applicant in relation to the existing stained glass windows. The Councillor had determined that his interest was not pecuniary and indicated that he would remain in the meeting for the consideration of the application and voting thereon.

76. EPPING FOREST DISTRICT LOCAL PLAN SUBMISSION VERSION - PLANNING POLICY BRIEFING NOTE

The Service Manager for Development Management reminded the Committee that a briefing note had been prepared to ensure that a consistent approach was taken to the provision of planning policy advice, following the publication of the Epping Forest District Local Plan Submission Version on 18 December 2017. Members were advised that the primary purpose of the briefing note was to inform development management activities and to provide assistance for Councillors, Officers, Applicants, Planning Agents and other persons involved in the development management process.

The Committee noted the Planning Policy Briefing Note for the Epping Forest District Local Plan Submission Version.

77. PLANNING APPLICATION EPF/2712/19 - NAZEING GLASS WORKS, NAZEING

The Senior Planning Officer, S Dhadwar, presented a report for the Committee to consider an outline planning application for the demolition of all buildings and structures at the Nazeing Glass Works site in Nazeing New Road, Nazeing to be replaced with a comprehensive mixed use development comprising up to 5,000m² of floorspace for employment uses, a maximum of 230 residential units, the formation of new pedestrian, cycle and vehicular circulation routes, new private and public open space, play space, and cycle and vehicular parking. The Application was before the Committee as it constituted a 'large scale' development as defined in Article 10 of the Council's Constitution. The Service Manager for Development Management, A Marx, presented drone footage of the site which had been filmed in November 2020.

S Dhadwar informed the Committee that the site was 2.9 hectares in size and was relatively flat. Approximately half of the site was designated as being part of an existing Employment Area and the largest single building was operated by the Nazeing Glassworks Company. Other uses within the Employment Area included: furniture manufacture; car spraying; car sales; office accommodation; education and training services; and warehousing. The site included an open area of grassland known as Nazeing Mead, and to the south of this was a more densely vegetated and wooded area which was part of the Metropolitan Green Belt. The site was within the Lee Valley Regional Park Area and was also identified as an area at risk from flooding. The site also adjoined the Lee Valley Central Local Wildlife Site, the River Lee Navigation Canal, woodland, residential properties and caravan park. As an outline planning application, approval was being sought for the access, landscaping, layout and scale of the development; the only matter being reserved was the appearance.

Planning Officers had acknowledged that the proposal would provide a number of benefits, including the provision of 230 new homes, a general improvement in the

site's appearance and financial contributions to improve public transport and pedestrian access to the site. However, the application would: result in the loss of designated employment floorspace for which there was a strong demand; result in an increase in annual average daily traffic compared to the existing uses on the site; provide only 50% of the required affordable housing for a development of this size and the submitted viability assessment had not followed the correct criteria; not deliver the necessary infrastructure to make the development acceptable; be highly vulnerable to potential flooding being located in Flood Risk Zones 2 and 3; construct a five-storey block of flats to the detriment of the landscape character of the site; be inappropriate development in the Green Belt for the southern section of the site and no very special circumstances had been proffered to outweigh the harm caused by this development. Therefore, Planning Officers had concluded that planning permission should not be granted for this application.

The Committee noted the summary of representations that had been received for this application. The Committee heard from an objector, the Parish Council and the applicant before proceeding to debate the application.

A Marx explained to the Committee the viability assessment procedure, which applied to all applications received by the Council. The Council had also used the same viability consultants that were used for advice on the Local Plan, so they knew the District very well. The Council's Legal Officer, S Bell, also informed the Committee that he was not aware of any delays in determining this application by Officers, and endorsed the report before the Committee.

Cllr C C Pond understood why the Parish Council were in favour of this application, as it would regulate and improve the site. However, this site was allocated for employment use only in the draft Local Plan and there was no mechanism available to convert a site for employment use into a site for residential use. Local employment sites within the District had become important as many residents commuted to work in London, and therefore the Councillor would support the officer recommendation to refuse planning permission as the proposal was unacceptable when judged against the Local Plan.

Cllr R Bassett was the local ward member for this site and explained that the majority of the site had been occupied by the old glassworks and therefore was contaminated with lead. The state of the current buildings was very poor, and this application attempted to create more housing and employment opportunities. There had been confusion created by the conflicting viability assessments, and the Councillor felt that both parties should have discussions to resolve the differences. The Councillor understood why some local residents had concerns about this application, but also highlighted that many residents also supported the application. The Councillor felt that this was an important application which would resolve some of the housing and employment issues in the local area, and that officers and the applicant should engage in discussions to come to an agreement over the future use of the site.

A Marx reiterated that the Council had engaged expert advice to undertake the viability assessment for this application, which was published on the Council's website in November 2020. It was also pointed out to the Committee that the planning application process was not a negotiation process as it would not be appropriate for the Development Management Team to co-design applications which they would then subsequently have to judge in relation to planning law and the Local Plan. During the Local Plan process, this site had not been set aside for residential development.

Cllr S Heap felt that the proposal would be better than what was currently at the site, and it was unlikely that anyone else would invest in the longer-term future of the site. It was close to Broxbourne railway station and the Lee Valley Regional Park, would be an ideal location for small craft or manufacturing industries, and that refusing this application could represent a missed opportunity for the site.

The Committee generally felt that the Officer recommendation to refuse permission for this application should be supported. The site had been allocated for employment use in the Local Plan, and the owner had not argued at the Local Plan hearings for it to be changed to residential. The Committee also noted that the site was in a flood zone which made it unsuitable for residential development, and that the Local Plan generally had good reasons for each of its site allocations. The report highlighted the reasons that this application did not meet the Council's policies, including the affordable housing element and not complying with the emerging Local Plan. It was commented that a different application that took account of the site allocation for employment use, but with some residential use, would be welcomed.

Decision:

(1) That planning application EPF/2712/19 at the Nazeing Glassworks site be refused planning permission for the following reasons:

1...The majority of the site is located within land designated as an existing employment site and is also designated for employment in the Local Plan Submission Version. The purpose of this designation is to retain and enhance employment sites such as this one to enable their vital role in accommodating the level of employment growth required over the Local Plan period. The development would result in the unacceptable loss of employment floorspace within a designated employment site, which has also been identified as appropriate for employment intensification. The introduction of residential uses on the site fails to perform an enabling role to the renewal of the employment function of the site. The lesser level of employment re-provision proposed is further compromised by the lack of detail provided to satisfy the Council that a high quality and true employment-led mixed-use scheme will be delivered. The starting point for any employment-led mixed-use scheme on the site must be the re-provision of the existing quantum of employment floorspace for its existing uses, or for other activities within the B Use Class, or uses of an employment character which are Sui generis or within Use Class E. The proposed development is therefore inconsistent with the Council's approach to meeting the District's employment needs to support economic growth required. It is therefore contrary to the requirements of policies E1, E2, E4A of the Adopted Local Plan along with policies SP 2 and E 1 of the Local Plan Submission Version.

2...The application does not provide sufficient information to satisfy the Council, as Competent Authority, that the development would not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM 2 and DM 22 of the Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

3...The submitted viability assessment was found to have insufficient information. It is for this reason that the Council is unable to fully and properly assess whether it would be financially unviable for the proposal to provide

40% of the onsite housing provision as affordable. The proposal therefore fails to meet a key housing need within the District and as such is contrary to the requirements of paragraph 62 of the National Planning Policy Framework, policy H5A of the Adopted Local Plan and policy H2A of the Local Plan Submission Version 2017.

4...The application site is located outside of the areas of lowest flood risk and the type of development proposed is highly vulnerable if flooding does occur. Since the proposal fails to demonstrate that it would provide sufficient wider sustainability benefits to the public to outweigh the risks posed by the development, it does not meet the requirements of the Exception Test. The proposal is therefore contrary to the requirements of paragraphs 160 and 161 of the NPPF and DM 15 of the Local Plan Submission Version Plan.

5...A Section 106 Agreement has not been sought by the Council as the proposed development is in principle unsustainable. However, had the Council found the principle of the development to be acceptable, the Council would have sought planning obligations to deliver the necessary infrastructure needed to make the impact of the development on the Epping Forest SAC, education provision, health provision and sustainable travel acceptable. The offer made by the applicant falls short of the contributions required to make these impacts acceptable. The proposal is therefore contrary to policy D1 of the Local Plan Submission Version 2017 and the National Planning Policy Framework.

6...The proposal would introduce a 5-storey block of flats which would be in close proximity to the Nazeing Meads South Lagoon and as a result would represent an incongruous and prominent visual intrusion to the detriment of the landscape character of the site. It would also result in significant adverse impact when viewed from the surrounding countryside to the detriment of the character of the Lee Valley Regional Park and is therefore contrary to the requirements of the National Planning Policy Framework policies CP2, RST24, DBE1, LL2 of the Adopted Local Plan and Alterations along with SP 3 and DM 9 of the Local Plan Submission Version 2017.

7...The public realm which would be provided by the development would be dominated by hard surfacing and its layout would give the impression of prioritising vehicular traffic over pedestrians. Consequently, it would not result in the kind of user-friendly multi-purpose public domain sought by the National Planning Policy Framework, policies DBE3 and DBE5 of the adopted Local Plan and policy DM9 of the Local Plan Submission Version and which would be necessary to make such a highly intensive development successful.

8...The southern section of the site falls within land designated as Green Belt. The creation of an access road and car parking spaces along with the removal of trees in this section of the site falls outside of the list of exceptions to inappropriate development contained within paragraphs 145 and 146 of the NPPF. These works are therefore inappropriate development in the Green Belt and by definition harmful. No very special circumstances or other considerations have been advanced that would outweigh the harm caused by the inappropriateness and the other harm identified. The development would therefore conflict with requirements of chapter 13 of the NPPF and policies LL2, GB2A and GB7A of the adopted Local Plan and Alterations along DM 4 of the of the Local Plan Submission Version 2017.

78. RELEASE OF PLANNING PERMISSIONS PREVIOUSLY AGREED BY COMMITTEE

The Planning Officer, C Ahmet, presented a report for the release of planning permissions previously agreed by Planning Committees, following recommendations to grant planning permission subject to planning conditions, contributions or mitigation measures to offset recreational visitor pressure, and air quality impacts within the Epping Forest Special Area of Conservation (EFSAC).

The Committee was reminded that the Council had adopted an Interim Air Pollution Mitigation Strategy in February 2021 and an Interim Strategy for Managing Recreational Visitor Pressures in October 2018, both of which would form the basis for addressing the negative impacts on the EFSAC arising from new residential and commercial development proposals. This new combined approach to assessing impacts on the EFSAC would also apply to dealing with those planning applications that had been held in abeyance from being determined until the above measures were agreed. Officers were currently working through this backlog to enable their release at the earliest possible opportunity where it could be concluded that there was no adverse effect on the integrity of the EFSAC.

C Ahmet stated that to deal with the backlog in the most efficient and equitable way, a process has had to be implemented (referred to formally as the EFSAC Protocol). In essence, the protocol outlined the sequence in which each planning application would be released. Together with the publication of the protocol, all applicants (through their agents) had also been notified of this new process for dealing with their respective applications. Members were asked to note the content of the report, and to agree the three recommendations allowing Planning Officers to progress any Section 106 Legal Agreements, finalise all appropriate habitat assessments and to add or amend planning conditions before the release of the planning permissions for the 32 planning applications listed in Appendix 1 of the report.

C Ahmet added that a 21-day consultation period had been undertaken for the 32 planning applications and ten responses had been received in total. One of the applications listed in Appendix 1 of the report had been the subject of a late third party representation which had alleged changes to the material circumstances of the planning application. Planning Officers were in the process of investigating this and this application – EPF/0826/18 48 Russell Road, Buckhurst Hill – should be omitted from the list.

Cllr C C Pond proposed that two further planning applications should be removed from the list; these being EPF/0287/18 at 51 High Road in Loughton, and EPF/1471/19 at 113 Church Hill in Loughton. Both of these sites were very close to the Forest and the Councillor felt that the interim Air Quality Mitigation Strategy was not sufficiently robust to be applied to these two applications. The Service Manager for Development Management, A Marx, reminded the Committee that the Council had received legal advice which stated that the Air Quality Mitigation Strategy could be applied to all development in combination or separately. The traffic modelling for both of these sites had been undertaken, and Officers believed that this process had been undertaken correctly.

The Committee acknowledged that the steps outlined by the Planning Officers had to be followed in order to release these planning permissions. The Council now had the Air Quality Mitigation Strategy, and it should be used to work through the backlog of outstanding planning applications which had been agreed by Planning Committees but pending the agreement of suitable mitigation measures for the EFSAC. There was also general agreement that the two applications highlighted by Cllr C C Pond

should be removed from the list and submitted to the Committee for a final decision at a later date.

A Marx informed the Committee that there were approximately 200 planning applications in the backlog outlined earlier. Most of these applications would not be brought back to a Planning Committee, but would be dealt with by Planning Officers under delegated authority using the Air Quality Mitigation Strategy.

The Chairman, Cllr S Jones, clarified that Planning Officers had requested EPF/0826/18 to be removed from the list, and Cllr C C Pond had proposed that EPF/0287/18 and EPF/1471/19 should be removed from the list as well.

Decision:

(1) That the following planning applications be removed from the list of proposed planning applications to be dealt with under delegated authority by Planning Officers at Appendix 1 of the report:

- (a) EPF/0826/18 48 Russell Road, Buckhurst Hill;
- (b) EPF/0287/18 51 High Road, Loughton; and
- (c) EPF/1471/19 113 Church Hill, Loughton.

(2) That the completion of S106 legal agreements be continued to be progressed by the relevant Planning Officers for all planning applications indicated in Appendix 1 of this report with the exception of the three applications listed in (1) above;

(3) That all Appropriate Assessments (in accordance with the requirements of Regulation 63 the Conservation of Habitats and Species Regulations 2017 (as amended)) be finalised by the relevant Planning Officers and planning permissions only be granted as previously agreed by Committee where the outcome of that assessment had concluded that there was no adverse effect on the integrity of the EFSAC for each planning application indicated in Appendix 1 of this report with the exception of the three applications listed in (1) above; and

(4) That any planning conditions or Section 106 legal agreement planning obligations in respect of securing the necessary measures to mitigate air pollution impacts on the EFSAC be added or amended by the relevant Planning Officers, in accordance with the previous resolution(s) to grant planning permission for the development on the sites indicated in Appendix 1 with the exception of the three sites listed in (1) above.

79. ANY OTHER BUSINESS

It was noted that there was no other urgent business for consideration by the Committee.

80. EXCLUSION OF PUBLIC AND PRESS

The Committee noted that there was no business which necessitated the exclusion of the public and press from the meeting.

CHAIRMAN