

**committee agenda**



**Epping Forest  
District Council**

***District Development Management Committee  
Wednesday, 20th April, 2022***

You are invited to attend the next meeting of **District Development Management Committee**, which will be held at:

**Council Chamber - Civic Offices**  
on **Wednesday, 20th April, 2022**  
at **7.00 pm** .

**Georgina Blakemore**  
Chief Executive

**Democratic Services  
Officer**

G. Woodhall Tel: (01992) 564243  
Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

**Members:**

Councillors S Jones (Chairman), B Rolfe (Vice-Chairman), R Baldwin, H Brady, I Hadley, S Heap, S Heather, H Kauffman, P Keska, J Lea, R Morgan, C C Pond, S Rackham, J M Whitehouse and K Williamson

**SUBSTITUTE NOMINATION DEADLINE:**

**18:00**

**1. WEBCASTING INTRODUCTION**

This meeting is to be webcast and the Chairman will read the following announcement:

*“I would like to remind everyone present that this hybrid meeting will be broadcast live to the internet (or filmed) and will be capable of repeated viewing (or other such use by third parties). Therefore by participating in this meeting, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If any public speakers on Zoom do not wish to have their image captured they should ensure that their video setting throughout the meeting is turned off and set to audio only.*

*Please also be aware that if technical difficulties interrupt the meeting that cannot be overcome, I may need to adjourn the meeting.”*

**2. ADVICE FOR PUBLIC & SPEAKERS AT PLANNING COMMITTEES (Pages 5 - 6)**

(Team Manager – Democratic & Electoral Services) General advice for those persons attending the meeting of the Committee is attached as an Appendix to this agenda.

**3. APOLOGIES FOR ABSENCE**

Please use the Members' Portal webpage to report non-attendance at meetings [https://eppingforestdc-self.achieveservice.com/service/Member Contact](https://eppingforestdc-self.achieveservice.com/service/Member>Contact) to ensure that your query is properly logged.

Alternatively, you can access the Members' Portal from the front page of the Council's website, at the bottom under 'Contact Us' <https://eppingforestdc.gov.uk/your-council/members-portal/>.

**4. SUBSTITUTE MEMBERS**

(Team Manager – Democratic & Electoral Services) To report the appointment of any substitute members for the meeting.

**5. DECLARATIONS OF INTEREST**

(Team Manager – Democratic & Electoral Services) To declare interests in any item on the agenda.

**6. MINUTES (Pages 7 - 26)**

(Team Manager – Democratic & Electoral Services) To confirm the minutes of the following meetings of the Committee:

- (a) 26 April 2021 (attached); and
- (b) 26 January 2022 (attached).

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

(Service Manager – Development Management) A Planning Policy Briefing Note, dated October 2021, has been produced by the Planning Policy Team to ensure that a consistent approach is taken to the provision of planning policy advice for the District, particularly in relation to the Epping Forest District Local Plan Submission Version, which was published on 18 December 2017 and the Main Modifications to the LPSV published for consultation between 15 July and 23 September 2021.

The primary purpose of the Planning Policy Briefing Note is to inform the development management process and to provide assistance for Development Management Officers, Councillors, applicants and planning agents. The Planning Policy Briefing Note is available at:

<https://www.eppingforestdc.gov.uk/wp-content/uploads/2021/10/Planning-Policy-Briefing-Note-06-October-2021-accessible.pdf>

**8. PLANNING APPLICATION EPF/2211/21 - 100 BROOKER ROAD, WALTHAM ABBEY EN9 1JH (Pages 27 - 42)**

(Service Manager – Development Management) To consider the attached report for the resurfacing of application site to be used for parking by Sainsbury's Waltham Point workers during the construction of a new multi storey car park. Once complete the site will be used for parking of HGV trailers.

**9. PLANNING APPLICATION EPF/2713/21 - LAND AT FORMER CHIMES GARDEN CENTRE, OLD NAZEING ROAD, NAZEING EN10 6RJ (Pages 43 - 74)**

(Service Manager – Development Management) To consider the attached report for the erection of 14 dwellings (4 flats and 10 dwellings).

**10. PLANNING APPLICATION EPF/0103/22 - GROVE COTTAGES, 64 ONGAR ROAD, LAMBOURNE RM4 1UJ (Pages 75 - 84)**

(Service Manager – Development Management) To consider the attached report to remove condition 2 'Soft Landscaping' on EPF/2334/21 (Retention of a vehicular crossover field access, associated gate and hedgerow planting along boundary).

**11. PLANNING APPLICATION EPF/2103/21 - WALTHAM POINT, MERIDAN BUSINESS PARK & SAINSBURYS DISTRIBUTION CENTRE, WALTHAM ABBEY EN9 3BZ (Pages 85 - 116)**

(Service Manager – Development Management) To consider the attached report for the erection of a decked car park on the site of the existing staff car park to provide an additional 192 new spaces and the provision of 95 new trailer spaces.

**12. ANY OTHER BUSINESS**

(Team Manager – Democratic & Electoral Services) Section 100B(4)(b) of the Local Government Act 1972 requires that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

**13. EXCLUSION OF PUBLIC AND PRESS**

Exclusion

(Team Manager – Democratic & Electoral Services) To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

<u>Agenda Item</u>	<u>Subject</u>	<u>Paragraph Number</u>
Nil	None	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any

currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Background Papers

(Team Manager – Democratic & Electoral Services) Article 17 (Access to Information) of the Constitution defines background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information and in respect of executive reports, the advice of any political advisor.

The Council will make available for public inspection one copy of each of the documents on the list of background papers for four years after the date of the meeting. Inspection of background papers can be arranged by contacting either the Responsible Officer or the Democratic Services Officer for the particular item.

## **Advice to Public and Speakers at the Council's District Development Management Committee and Area Plans Sub-Committees**

### **Are the meetings open to the public?**

Yes, all our meetings are open for you to attend. Only in special circumstances are the public excluded. If you wish to observe meetings live you can view the webcast on the Council's website at: <https://www.eppingforestdc.gov.uk/your-council/watch-a-meeting/> Alternatively, you can attend in person and will be seated in the public gallery of the Council Chamber.

### **When and where is the meeting?**

Details of the location, date and time of the meeting are shown at the top of the front page of the agenda along with the details of the contact officer and Members of the Committee.

### **Can I speak?**

If you wish to speak **you must register with Democratic Services by 4.00 p.m. on the day before the meeting**, by telephoning the number shown on the front page of the agenda. You can register to speak at the meeting either virtually via Zoom or in person at the Civic Offices. Speaking to a Planning Officer will not register you to speak; you must register with Democratic Services. Speakers are not permitted on Planning Enforcement or legal issues.

### **Who can speak?**

Three classes of speakers are generally allowed: Only one objector (maybe on behalf of a group), the local Parish or Town Council and the applicant or his/her agent. In some cases, a representative of another authority consulted on the application may also be allowed to speak.

### **What can I say?**

You will be allowed to have your say about the application, but you must bear in mind that you are limited to **3 minutes**. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Committee members.

If you are not present by the time your item is considered, the Committee will determine the application in your absence.

If you have registered to speak on a planning application to be considered by the District Development Management Committee, Area Plans Sub-Committee East, Area Plans Sub-Committee South or Area Plans Sub-Committee West you will either address the Committee from within the Council Chamber at the Civic Offices, or will be admitted to the meeting virtually via Zoom. Speakers must NOT forward the Zoom invite to anyone else under any circumstances. If attending virtually, your representation may be supplied in advance of the meeting, so this can be read out by an officer on your behalf should there be a technical problem. Please email your statement to: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

### **Can I give the Councillors more information about my application or my objection?**

**Yes, you can but it must not be presented at the meeting.** If you wish to send further information to Councillors, their contact details can be obtained from Democratic Services or our website <https://www.eppingforestdc.gov.uk/> Any information sent to Councillors should be copied to the Planning Officer dealing with the application.

## **How are the applications considered?**

The Committee will consider applications in the agenda order. On each case they will listen to an outline of the application by the Planning Officer. They will then hear any speakers' presentations.

The order of speaking will be (1) Objector, (2) Parish/Town Council, then (3) Applicant or his/her agent. The Committee will then debate the application and vote on either the recommendations of officers in the agenda or a proposal made by the Committee. Should the Committee propose to follow a course of action different to officer recommendation, it is required to give its reasons for doing so.

An Area Plans Sub-Committee is required to refer applications to the District Development Management Committee where:

- (a) the Sub-Committee's proposed decision is a substantial departure from:
  - (i) the Council's approved policy framework; or
  - (ii) the development or other approved plan for the area; or
  - (iii) it would be required to be referred to the Secretary of State for approval as required by current government circular or directive;
- (b) the refusal of consent may involve the payment of compensation; or
- (c) the District Development Management Committee have previously considered the application or type of development and has so requested; or
- (d) the Sub-Committee wish, for any reason, to refer the application to the District Development Management Committee for decision by resolution.

## **Further Information**

Further information can be obtained from Democratic Services.

## 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 5,000m<sup>2</sup> 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**

## **EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** District Development Management Committee    **Date:** 26 January 2022

**Place:** Council Chamber - Civic Offices    **Time:** 7.00 - 8.30 pm

**Members Present:** S Jones (Chairman), B Rolfe (Vice-Chairman), R Baldwin, H Brady, I Hadley, S Heap, S Heather, H Kauffman, P Keska, J Lea, R Morgan, C C Pond, S Rackham and K Williamson

**Other Councillors:** -

**Apologies:** J M Whitehouse

**Officers Present:** A Marx (Development Manager Service Manager (Planning)), G Woodhall (Team Manager - Democratic & Electoral Services), C Ahmet (Planning Officer), S Dhadwar (Senior Planning Officer), L Kirman (Democratic Services Officer) and S Mitchell (PR Website Editor)

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### **46. 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.

### **47. 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 persons to address the Committee in relation to the determination of applications for planning permission. The Committee noted the advice provided for the public and speakers in attendance at meetings of the Council's planning committees.

### **48. SUBSTITUTE MEMBERS**

The Committee was advised that no substitute members had been appointed for the meeting.

### **49. DECLARATIONS OF INTEREST**

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

- (a) Councillor S Heap declared a personal interest in item 8 (Planning Application EPF/0826/18 – 48 Russell Road, Buckhurst Hill) of the agenda for the meeting, by virtue of the applicant being known to the Councillor and the Councillor being a member of Buckhurst Hill Parish Council. 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) Councillor S Rackham declared a personal interest in item 8 (Planning Application EPF/0826/18 – 48 Russell Road, Buckhurst Hill) of the agenda for the meeting, by virtue of the applicant being known to the Councillor. The Councillor had determined that her interest was not pecuniary and indicated that she would remain in the meeting for the consideration of the application and voting thereon.

(c) Councillor K Williamson declared a personal interest in item 8 (Planning Application EPF/0826/18 – 48 Russell Road, Buckhurst Hill) of the agenda for the meeting, by virtue of the applicant being known to the Councillor. 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.

(d) Councillor J Lea declared a personal interest in item 9 (planning application EPF/2829/21 – 1A Monkswood Avenue, Waltham Abbey) and item 10 (EPF/2870/21 – 1A Monkswood Avenue, Waltham Abbey) of the agenda for the meeting, by virtue of being the applicant for both applications. The Councillor had determined that her interest was pecuniary and indicated that she would leave the meeting for the consideration of the application and voting thereon.

## 50. MINUTES

Cllr S Heap proposed that the name of one of the objectors at the last meeting and a summary of their objections should be added to the minutes for the meeting. This proposal was seconded by Cllr C C Pond, but the proposal was lost when voted on by the Committee.

### **RESOLVED:**

(1) That the minutes of the meeting of the Committee held on 27 October 2021 be taken as read and signed by the Chairman as a correct record.

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

The Committee was reminded 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 (LPSV) on 18 December 2017 and the Main Modifications to the LPSV, which had been published for consultation on 15 July 2021. 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.

### **Resolved:**

(1) That the Planning Policy Briefing Note for the Epping Forest District Local Plan Submission Version be noted.

**52. PLANNING APPLICATION EPF/0826/18 48 RUSSELL ROAD, BUCKHURST HILL**

The Planning Officer, C Ahmet, presented a report for the demolition of the existing bungalow at 48 Russell Road in Buckhurst Hill and construction of a block of three flats over three floors. Car parking for each flat along with bin and cycle storage would be located in the front forecourt.

The Committee noted that it had previously considered this application at its meeting held in August 2018, when it was resolved to grant planning permission, subject to conditions and the completion of a legal agreement to secure mitigating measures in relation to the Epping Forest Special Area of Conservation (EFSAC). This application was before the Committee again as some new material facts and considerations had been identified in line with section 70(2) of the Town and Country Planning Act 1990.

C Ahmet informed the Committee that the site currently comprised a large single storey detached dwelling on a hillside location. It was flanked by three-storey terraced houses and two-storey semi-detached dwellings. Russell Road was a mixture of dwelling types and styles, and although within an urban area, it was not listed or within a conservation area. One of the neighbouring properties had been extended to the side, but this was unlawful and was currently the subject of enforcement action.

Planning Officers had concluded that the application would provide a well-designed residential scheme that made good use of an existing urban site. The proposed design was acceptable in terms of its scale, bulk and mass, and relationship with neighbouring buildings as well as the impacts on neighbouring amenities. The proposed development would not cause harm to highway safety and the level of parking close to local services and local public transport modes was acceptable. Overall, the proposal complied with the aims and objectives of national planning guidance and the relevant policies contained within the adopted Combined Local Plan and Alterations 2006 and the Submission Version Local Plan 2017.

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

Cllr S Heap queried that numbers 44 and 46 Russell Road appeared to have moved a metre away from the road in comparison to the original planning application in 2018. The Planning Officers present double-checked the drawings in relation to this application and agreed that in one of the drawings the houses appeared to be slightly forward, but confirmed that this was not actually the case and the Committee should consider the drawings submitted by the applicant which showed the three dwellings level with each other.

Cllr H Kauffman had some concerns that the Committee did not have the facts regarding the street scene as different images had been submitted by the applicant and the objector, and would like factual drawings to be provided that the Committee could rely on. However, the Chairman reminded the Committee that the Planning Officers would have visited the site, and that extensive plans and drawings in relation to this application were available to view on the Council's Planning Portal.

Some members of the Committee felt that there were no sound planning reasons to reverse the original decision made by the Committee in 2018, and the design actually made the proposed block of flats look like a large house. It was also noted that Buckhurst Hill had a number of large town houses so this proposal would not look out of place within the settlement.

Cllr C C Pond felt that the site was only 400 metres away from the EFSAC, and that fact alone warranted the application to be reconsidered by the Committee especially as an application in Chigwell had been refused permission in relation to the EFSAC, and that site was further away than this site. A Marx clarified that any reasons for refusal in relation to the EFSAC were listed if the applicant had failed to agree a legal agreement with the Council with measures to mitigate the potential harm.

Cllr S Heap was concerned about the loss of a bungalow, and felt that a block of flats was too big and incongruous for Russell Road. However, it was pointed out that a ground floor flat was similar to a bungalow, and that other buildings within the District had been converted into apartments and town houses. C Ahmet reminded the Committee that the loss of this bungalow would not set a precedent and that each planning application was always judged on its own merits. The ground floor flat could easily be converted to special accommodation and a lift shaft was included in the plans.

Cllr H Kauffman felt that the proposed building was too large and the roof height would be demonstrably higher than the current building. Again, the Councillor expressed his concerns about the information put before the Committee for an application that was clearly contentious.

**Decision:**

(1) That planning application EPF/0826/18 at 48 Russell Road in Buckhurst Hill be granted planning permission, subject to:

(a) the completion, within 6 months, of a Section 106 Legal Agreement to secure appropriate financial contributions towards:

(i) access management and monitoring of visitors to the Epping Forest Special Area of Conservation (EFSAC); and

(ii) mitigation of air pollution in the vicinity of the EFSAC; and

(b) the following planning 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:

318-PL-11 Rev A - Site & Location Plans

318-PL-12 Rev A - Proposed & Existing Street Elevation

318-PL-13 Rev A – Proposed Ground Floor Plan

318-PL-14 Rev A – Proposed Lower Ground & First Floor Plans

318-PL-15 Rev A – Proposed Second Floor & Roof Plans

318-PL-16 Rev A – Proposed Elevations

318-PL-17 – Proposed & Existing Section A-A

318-EX-01 Rev A – Existing Lower Ground & Ground Floor Plans

318-EX-02 Rev A – Existing Roof Plan

318-EX-03 Rev A – Existing Elevations

Supporting Documents:  
Tree Constraints Plan CA/RUS/01 Rev A

3...No construction works above ground level shall have taken 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, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.

4...No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.

5...No development, including works of demolition or site clearance, shall take place until foundation details have been submitted to the Local Planning Authority and approved in writing. The foundations shall consist of piles and an above ground beam design. Drawings submitted shall include cross sectional detail of pile and beam join and the location of piles in plan form. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.

6...Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and 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.

7...No services shall be installed within the root protection area of the retained trees on or adjacent to the site unless the Local Planning Authority gives its prior written approval.

8...The lift shown on the approved plans shall be provided as part of the construction of the approved building and completed prior to first occupation and maintained thereafter.

9...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. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

10...Prior to any above groundworks, details and location of the parking spaces (including garages) equipped with active and/or passive Electric Vehicle Charging Point(s) shall have been submitted to and approved in writing with the Local Planning Authority (LPA), unless otherwise agreed in writing with the LPA. The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation. The details shall include:

- Location of active and passive charging infrastructure;
- Specification of charging equipment; and
- Operation/management strategy. The council will expect that a management plan for the charging points is set out clearly. This will address:

- (a) which parking bays will have active and/or passive charging provision, including disabled parking bays;
- (b) how charging point usage will be charged amongst users;
- (c) the process and the triggers for identifying when additional passive charging points will become activated; and
- (d) electricity supply availability. The electricity supply should be already confirmed by the Network Provider so that the supply does not need to be upgraded at a later date.

11...Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

12...Prior to first occupation of the development, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the Local Planning Authority. The ecological value shall be quantified using the Biodiversity Impact Assessment Calculator (BIAC) where appropriate. The scheme shall be implemented in full prior to the occupation of the development hereby approved.

13...Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean

vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.

14...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.

15...If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.

16...No construction works above ground level shall take place until the documentary and photographic details showing the fenestration to be completed in timber have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.

**53. PLANNING APPLICATION EPF/2829/21 1A MONKSWOOD AVENUE, WALTHAM ABBEY**

The Planning Officer, S Dhadwar, presented a report for a hip to gable extension to the roof and insertion of a rear dormer with a Juliette balcony.

S Dhadwar reported that the dwelling was a two-storey inter-war semi-detached house which had been converted into two flats. It was located on a corner plot at the junction of Crooked Mile and Monkswood Avenue, but was not located in the Waltham Abbey Conservation Area. The application was before the Committee as it had been submitted by or behalf of a District Councillor.

Planning Officers had concluded that the proposal would have a neutral impact on the character and appearance of the host property, the wider street scene and the adjoining Conservation Area. The living conditions of neighbouring properties would not be adversely affected and the proposal met the requirements of the adopted Local Plan. Therefore, it was recommended to grant planning permission.

The Committee noted the summary of representations that had been received in relation to this application. The Committee heard from the applicant before proceeding to debate the application.

S Dhadwar confirmed that the proposed extension to the roof would not increase its height and would not have a material effect on the view of the church spire in the surrounding area.

**Decision:**

(1) That planning application EPF/2829/21 at 1A Monkswood Avenue in Waltham Abbey be granted planning permission, subject to the following planning conditions:

1... The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2... The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

- i...Location Plan;
- ii...Block Plan;
- iii...Existing Plans Elevations and Section; and
- iv...Proposed Plans Elevations and Section.

3... The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building, unless otherwise agreed in writing by the Local Planning Authority.

**54. PLANNING APPLICATION EPF/2870/21 1A MONKSWOOD AVENUE, WALTHAM ABBEY**

The Planning Officer, S Dhadwar, presented a report for a single storey in-fill rear and side extension.

S Dhadwar reported that the dwelling was a two-storey inter-war semi-detached house which had been converted into two flats. It was located on a corner plot at the junction of Crooked Mile and Monkswood Avenue, but was not located in the Waltham Abbey Conservation Area. The application was before the Committee as it had been submitted by or behalf of a District Councillor.

Planning Officers had concluded that the proposal would preserve the character and appearance of the site, and would not have an excessive adverse impact on neighbouring residential occupiers. The application also met the requirements of the adopted Local Plan and would not impinge upon the character and appearance of the adjoining conservation area. Therefore, it had been recommended to grant planning permission.

The Committee noted the summary of representations that had been received in relation to this application. The Committee heard from the applicant before proceeding to debate the application.

**Decision:**

(1) That planning application EPF/2870/21 at 1A Monkswood Avenue in Waltham Abbey be granted planning permission, subject to the following planning conditions:

1... The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2... The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

- i...Location Plan;
- ii...Block Plan;
- iii...Existing Plans Elevations and Section; and
- iv...Proposed Plans Elevations and Section.

3... The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building, unless otherwise agreed in writing by the Local Planning Authority.

#### **55. PLANNING APPLICATION EPF/0583/21 8 BOLEYN ROW, EPPING**

The Service Manager for Development Management, A Marx, presented a report for the demolition of the existing single storey utility building, conversion of the rear half of the garage into a habitable room, the erection of a single-storey rear extension, the erection of a two-storey rear extension, a change of roof from a pitched roof to a shallow hip roof, and enlargement of the central rear roof slope skylight for the stairway. This application was before the Committee by virtue of a minority reference from Area Planning Sub-Committee East at its meeting on 13 October 2021.

A Marx informed the Committee that the site currently consisted of a two-storey gable roof double fronted detached dwelling house located to the north of Boleyn Row, which was residential in character. The property had a detached side/rear garage and a two-storey rear aspect that formed part of the original house sited to the east elevation of the property. The properties in this part of Boleyn Row were uniform in character comprising of large detached dwellings of equal spacing and of a similar main front building line. Numbers 7 and 8 were sited on the corners of the access to King Henry's walkway and were the only 2 properties in this frontage that varied in design terms with a rear staggered building line. The property was not part of a conservation area and was not listed. The site had been subject of a previous planning application, which had been refused permission in February 2021.

Planning Officers had concluded that the proposed development had satisfactorily addressed the previous reason for refusal and was considered appropriate in terms of its design and appearance, maintaining the established spatial pattern of development in Boleyn Row and would not result in any appreciable harm to its architectural local context. The extensions were not judged to result in any amenity implications to neighbouring properties and other aspects in relation to parking/highway safety were considered satisfactory. The application was considered to be in accordance with the adopted Local Plan and Alterations (1998-2006) and the emerging Local Plan Submission Version 2017 and with the relevant parts of the National Planning Policy Framework. Therefore, it was recommended that planning permission be granted subject to planning conditions.

The Committee noted the summary of representations in respect of this application and heard from an objector, Epping Town Council and the applicant before proceeding to debate the application.

Cllr P Keska reported that Area Planning Sub-Committee East had felt that the application was not detrimental to the existing street scene; the estate was originally built to be uniform but this had been stretched in the past and the Sub-Committee had felt this application to be acceptable. The Committee was reminded that the application had been referred up with a recommendation to approve permission. Other members of the Committee accepted that a garage did not have to be used to store cars anymore, and as there was some distance between the neighbouring properties it was difficult to see how a terracing effect could come about. However, Cllr C C Pond felt that too much was being crammed onto a small plot and agreed with the points raised by the objector.

**Decision:**

(1) That planning application EPF/0583/21 at 8 Boleyn Row in Epping be granted planning permission, subject to the following conditions:

1...The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2...The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

- Location Plan;
- 20-8BR-04 Rev A;
- 20-8BR-05; and
- 20-8BR- 06.

3...The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building [or those specified on the approved plans, or those specified in the submitted application form], unless otherwise agreed in writing by the Local Planning Authority.

4...Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development permitted by virtue of Class A-E of Part 1, to schedule 2 shall be undertaken, without the prior written agreement of the Local Planning Authority.

5...Prior to first occupation of the building/extension hereby permitted the window(s) in the flank elevation(s) at first floor level and above, shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of that/those window[s] that is less than 1.7 metres above the internal floor level of the room in which it is installed shall be capable of being opened. Once installed the obscure glass shall be retained thereafter.

6...No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays without the prior written permission of the Local Planning Authority.

**56. ANY OTHER BUSINESS**

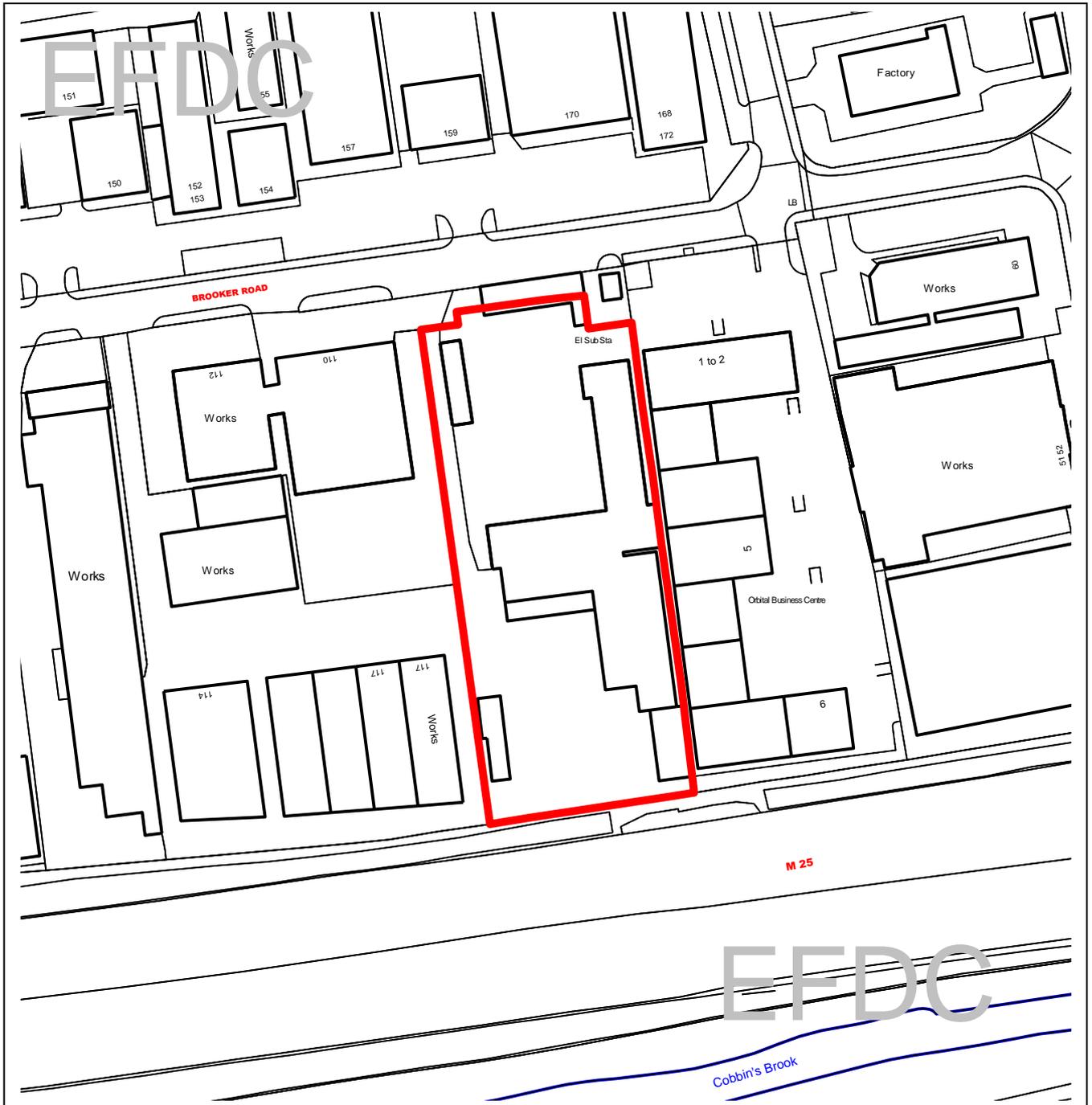
It was noted that there was no other urgent business for consideration by the Committee. A Marx took the opportunity to explain to the Committee that a Legal Officer had been present for the application at 48 Russell Road in Buckhurst Hill in order to answer any legal questions that might have arisen from the re-consideration of this application by the Committee.

**57. 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**

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Application Number:	EPF/2211/21
Site Name:	100 Brooker Road Waltham Abbey, EN9 1JH
Scale of Plot:	1:1250

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## Report to District Development Management Committee

Date of Meeting: 20<sup>th</sup> April 2022

Site Address: 100 Brooker Road, Waltham Abbey, EN9 1JH

<b>Application Number:</b>	EPF/2211/21
<b>Proposal:</b>	Resurfacing of application site to be used for parking by Sainsbury's Waltham Point workers during the construction of a new multi storey car park. Once complete the site will be used for parking of HGV trailers.
<b>Site Address:</b>	100 Brooker Road, Waltham Abbey, EN9 1JH
<b>Parish/Town:</b>	Waltham Abbey
<b>Conservation Area:</b>	No
<b>EFDLP Site Allocation</b>	Yes   WAL.E4
<b>Epping Forest Special Area of Conservation</b>	No adverse effects subject to conditions and legal agreement to ensure HGVs cannot route through the forest.

<b>Applicant:</b>	Sainsburys Supermarkets Plc
<b>Agent:</b>	Emily Taylor, WSP
<b>Case officer:</b>	James Rogers
<b>Reason for reporting application to Members:</b>	Linked application to a new multi storey car park on Waltham Point

### 1. RECOMMENDATION

- 1.1 That planning permission be granted subject to a s106 legal agreement and conditions.

## **2. SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- 2.1 The proposal will facilitate the delivery of up to 350 new employment opportunities on an existing and well-established nearby distribution centre which is operated by Sainsbury's Supermarkets.
- 2.2 The application site is proposed for allocation in the LPSV for employment uses and seeks to provide temporary parking for existing staff at the nearby distribution centre for approximately 10 months, whilst new parking areas are delivered to facilitate an increase in staff.
- 2.3 The analysis contained within this report has demonstrated that there are no conflicts with the Development Plan or the LPSV and as such the proposal is recommended for approval, subject to a legal agreement and conditions.

## **3. HEADS OF TERMS AND PLANNING CONDITIONS**

### **3.1 Proposed Heads of Terms:**

- HGVs associated with the storage of the HGV trailers to be stored on the site must not use any route within 200m of the Epping Forest Special Area of Conservation.
- Upon first operation of the multi storey car park approved under planning reference EPF/2103/21 on the Waltham Point Distribution Centre, the use of 100 Brooker Road for the parking of vehicles shall cease.

### **3.2 Planning conditions proposed:**

- 3.3 *The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.*

*Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.*

- 3.4 *The development hereby permitted shall be carried out in accordance with the details shown on the approved plans listed below:*

DR-A-9011 P03 Brooker Rd Location Plan; DR-A-9008 P03 Brooker Rd Existing Site Plan; DR-A-9009 P04 Brooker Rd Temp Proposed Site Plan; and DR-A-9010 P05 Brooker Rd Proposed Site Plan.

*Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.*

- 3.5 *No development shall take place, including any ground works or demolition until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for the following all clear of the highway:*

- *Safe access into the site*
- *The parking of vehicles and site operatives and visitors*
- *Loading and unloading of plant and materials*
- *Storage of plant and materials used in constructing the development*
- *Wheel washing and underbody washing facilities*

*Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.*

- 3.6 *Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.*

*Reason: to ensure that appropriate parking and turning for vehicles is provided.*

- 3.7 *Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.*

*Reason: To ensure satisfactory provision and disposal of surface water in the interests of Land Drainage.*

- 3.8 *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. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.*

*Reason: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be*

*carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.*

#### **4. PROPOSED DEVELOPMENT**

- 4.1 The proposal is to resurface the existing site and to use it for the parking of up to 203 vehicles for staff members at the Waltham Point depot ("Waltham Point") on a temporary basis whilst a new multi storey car park is built on the site. After construction is complete, the site will be used for the storage of HGV trailers.

#### **5. SITE AND SURROUNDINGS**

- 5.1 The application site is located on the Brooker Road industrial estate on the southern edge of Waltham Abbey and just to the north of the M25 motorway. The site is approximately 0.5ha in size, is currently cleared of all structures and is covered in hardstanding. The site was previously used for the storage of scaffolding, but this use has since ceased and the site is currently vacant.
- 5.2 The surrounding area contains a number of industrial style buildings, palisade fencing, significant areas of car parking and has the character and appearance of an industrial estate with a mix of different employment uses.

#### **6. RELEVANT PLANNING HISTORY**

- 6.1 None relevant

#### **7. CONSULTATION AND REPRESENTATIONS**

- 7.1 40 neighbours were consulted by letter and site notices were displayed: No comments received
- 7.2 WALTHAM ABBEY TOWN COUNCIL – NO OBJECTION and commented:
- 7.3 Subject to comments being met regarding drainage concerns and that as well as having electrical points added to the carpark. The committee suggested an electric shuttle service for employees.

#### **8. DEVELOPMENT PLAN**

- 8.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in dealing with any planning application the authority shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material planning considerations.
- 8.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise

8.3 The Development Plan currently comprises the saved policies of the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006) (ALP). The list below indicates which policies of the ALP are relevant to the determination of this application and the degree to which officers consider that they are consistent with the NPPF as noted in the report to the Local Plan Cabinet Committee (25<sup>th</sup> March 2013):

CP1 – Achieving Sustainable Development Objectives – Compliant

CP2 – Protecting the Quality of the Rural and Built Environment – Compliant

CP3 – New Development – Compliant

CP4 – Energy Conservation – Compliant

CP5 – Sustainable Building – Compliant

CP 6 – Achieving Sustainable Urban Development Patterns – Compliant

CP 7 – Urban Form and Quality – Compliant

CP 8 – Sustainable Urban Economic Development – Compliant

CP 9 – Sustainable Transport – Compliant

GB2A – Development in the Green Belt – Generally Compliant

GB7A – Conspicuous Development – Compliant

HC1 – Scheduled Ancient Monuments and Other Archaeological Sites – Partially Compliant

RP3 – Water Quality – Compliant

RP4 – Contaminated Land – Compliant

RP5A – Adverse Environmental Impacts – Compliant

U3B – Sustainable Drainage Systems – Compliant

DBE1 – Design of New Buildings – Compliant

DBE2 – Effect on Neighbouring Properties – Compliant

DBE3 – Design in Urban Areas - Compliant

DBE4 – Design in the Green Belt – Compliant

DBE9 – Loss of Amenity – Compliant

LL1 – Rural Landscape – Compliant

LL2 – Inappropriate Rural Development – Compliant

LL10 – Adequacy of Provision for Landscape Retention – Compliant

LL11 – Landscaping Schemes – Compliant

ST1 – Location of Development – Compliant

ST2 – Accessibility of Development – Compliant

ST4 – Road Safety – Compliant

- 8.4 The relevance of the identified saved Local Plan policies to the determination of this application and the weight to be accorded to each policy are addressed in further detail within Section 12 of this report.

#### **The National Planning Policy Framework (July 2021):**

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

(a) approving development proposals that accord with an up-to-date development plan without delay; or

(b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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

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

#### **Epping Forest District Local Plan (Submission Version) 2017:**

- 8.7 On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.
- 8.8 The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the

examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

8.9 During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.

8.10 Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "may give weight to relevant policies in emerging plans according to:

*a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

*b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*

*c) The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).*

8.11 Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.

8.12 As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework.

8.13 The following policies in the LPSV are considered to be of relevance to the determination of this application, with the advanced stage of the LPSV, all policies should be afforded significant weight:

<b>No.</b>	<b>POLICY</b>
SP1	Presumption in favour of sustainable development
SP2	Spatial Development Strategy
SP3	Place Shaping
E1	Employment sites
P3	Waltham Abbey Place policy
SP7	The Natural Environment, landscape character and green infrastructure
T1	Sustainable transport choices

T2	Safeguarding of routes and facilities
DM1	Habitat protection and improving biodiversity
DM2	Epping Forest SAC and Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM5	Green and Blue Infrastructure
DM9	High Quality Design
DM15	Managing and reducing flood risk
DM16	Sustainable Drainage Systems
DM17	Protecting and enhancing watercourses and flood defences
DM18	On site management of waste water and water supply
DM19	Sustainable water use
DM20	Low carbon and renewal energy
DM21	Local environmental impacts, pollution and land contamination
DM22	Air quality

## **9. PLANNING CONSIDERATIONS**

### **Principle**

- 9.1 The application site is proposed for allocation in the LPSV for employment purposes (WAL.E4), although it is rather better to describe it as a designated employment site since it is located within an established industrial estate, although the site itself is currently vacant.
- 9.2 The NPPF encourages the effective and efficient use of previously developed land for suitable purposes and Policy E 1 of the LPSV strongly encourages the redevelopment or extension of existing employment sites around the District. Providing that a proposal facilitates the delivery of new or retention of existing employment, then the principle of the development, as far as the proposed allocation is concerned is established.
- 9.3 In this case, the proposal on this site is closely linked to a planning application lodged on nearby Waltham Point distribution centre (“Waltham Point”) under reference EPF/2103/21. Waltham Point is an existing and well-established distribution centre which is operated by Sainsbury’s Supermarkets. Sainsbury’s are seeking to move away from their reliance on a mechanised packing system on Waltham Point and are turning towards an expanded workforce for their operations.
- 9.4 To facilitate this expanded workforce, it is necessary to provide additional staff and HGV parking on the site in order to attract the necessary employees. Both applications are before Members because if the additional parking is approved at Waltham Point in accordance with the Officer recommendation, then it will be necessary to provide alternative parking for existing staff members during the construction of the parking, which is estimated to take around 10 months to complete.
- 9.5 The LPSV seeks to support the expansion and intensification of existing employment sites within the District to provide more job opportunities for local residents. The delivery of the alternative parking on Brooker Road will facilitate the construction of the new parking on Waltham Point to deliver up to 350 new jobs and therefore it has the

effect of delivering more job opportunities within Waltham Abbey on an existing and well established local employer. As such the proposal is compliant with the proposed employment allocation as noted within the LPSV.

- 9.6 Once the construction of the new parking has been completed on Waltham Point, the site will be used for the storage of up to 26 HGV trailers. Similarly to the above, the use of the site for such purposes will facilitate the expanded operations on Waltham Point and therefore complies with the proposed allocation of the site. It is also worth noting that the existing site is currently vacant and was last in use as a storage area for scaffolding, which would deliver a high yield of employment numbers.

### **Highway and access**

- 9.7 The site will utilise the existing access from Brooker Road, which is well used for industrial purposes and can facilitate the volume and nature of the proposed use. Indeed, Essex County Council (“ECC”) have commented that the proposal will not cause any harm to the safety, capacity or efficiency of the local highway network.

- 9.8 Their position is taken subject to the imposition of two conditions requiring a Construction Management Plan to be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the site which requires details of:

- Safe access into the site
- The parking of vehicles and site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Wheel washing and underbody washing facilities

- 9.9 The second condition is a requirement to provide the hard surfaced, sealed and marked out parking and turning areas as indicated on the approved plans. These conditions are reasonable and necessary to impose and will ensure no adverse impacts on the local highway network.

- 9.10 National Highways (“NH”) are responsible for the safe and efficient function of the M25 motorway, located within close proximity to the site. After consideration, NH have concluded that the proposal will not have an adverse impact on the M25.

### **Design and appearance**

- 9.11 The site is located within an industrial estate which contains utilitarian style buildings, palisade fencing, swathes of hardstanding and significant areas of car parking. The site itself is currently vacant but covered in hardstanding. The proposal will initially be used for the parking of staff vehicles, which would not appear discordant with the prevailing character of the estate given that there are many examples of car parking in the viewable street scene. Upon cessation of the use of the site for the parking of staff

vehicles, it will be used to store HGV trailers. Considering the already industrial character of the area, this will not cause further harm to the appearance of the area.

- 9.12 The proposal therefore preserves the appearance of the existing area and is therefore compliant with the design policies of the LPSV.

### **Ecology**

- 9.13 An ecological assessment has been prepared by the applicant which demonstrates that there are no significant habitats on the site and consequently the development will have a negligible impact.

### **Land Contamination**

- 9.14 The Council's contaminated Land Team have considered the application and have commented that the site was once used as a former landfill and sewage works, however due to the nature of the proposed use the potential risks can be managed through the use of a planning condition.

### **Land Drainage**

- 9.15 The applicant proposes to dispose of surface water by main sewer and new development should take opportunities to further reduce the runoff and improve on water quality entering into main sewers. The Council's Land Drainage Team have commented that this can be achieved, but further details are required and these can be secured through the use of planning conditions.

### **Impact on the Epping Forest SAC**

- 9.16 Biodiversity features within, or associated with, a Special Area of Conservation are given the highest level of protection under UK law, and national planning policy in England. The provisions of the EU Habitats Directive are given effect in UK law by the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations").
- 9.17 Under the Habitats Regulations, the Epping Forest SAC is classified as a 'European Site' and, as such, any plans and projects (including applications for planning permission) that are likely, either alone or in combination with other plans or projects, to have a significant effect on the SAC must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any plan or proposal, either alone or in combination, will have an adverse effect the integrity of the European Site.
- 9.18 The Council has a legal duty as the 'competent authority' under the Habitats Regulations to protect the Epping Forest SAC from the effects of development (both individually and in combination) having regard to the representations of Natural England (NE).
- 9.19 Two specific issues relating to new development within the District have been identified as being likely to have a significant effect on the integrity of the Epping Forest SAC.

Firstly, as a result of increased levels of visitors using the Epping Forest SAC for recreation arising from new development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Forest from atmospheric pollution generated by motor vehicles (referred to as "air quality").

- 9.20 Policies DM 2 and DM 22 of the LPSV provide the policy context for dealing with the effect of development on the integrity of the Epping Forest SAC outlined above.
- 9.21 The LPSV was supported by a Habitats Regulations Assessment 2021 ("the HRA 2021"). Two specific 'pathways of impact' relating to new development within the District were identified as being likely to have a significant effect on the integrity of the Epping Forest SAC. Firstly, an 'urbanisation' pathway of impact primarily as a result of increased levels of visitors using the Epping Forest SAC for recreation arising from new residential development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Epping Forest SAC from an atmospheric pollution 'pathway of impact' (referred to as "air quality") caused primarily by motor vehicles using roads within 200m of it.
- 9.22 The HRA 2021 undertook an Appropriate Assessment of the planned development proposed within the LPSV, including the effect of that development on the Epping Forest SAC. The HRA 2021 concluded that, subject to securing urbanisation/recreational pressure and air quality mitigation measures the adoption of the Local Plan will have no adverse effect on the Epping Forest SAC.

#### Recreational Pressure

- 9.23 With regards to recreational pressure, any adverse effect on the integrity of the Epping Forest SAC only arises from new residential development. Consequently, the application can be screened out as having no adverse effect on the integrity of the Epping Forest SAC in relation to the recreational pressures 'pathway of impact'.

#### Atmospheric Pollution

- 9.24 As noted previously, this application is closely linked with the Waltham Point application. It is proposed that the Brooker Road site is initially used for the parking of existing staff members whilst the new multi storey car park is being constructed. Since these are existing staff members, displaced from an already extant use, there will be no additional AADT within 200m of the EFSAC.
- 9.25 It is however important that once the new parking has been delivered on the Waltham Point site, the use of this site as a staff car park must cease to prevent additional unsolicited trips through the boundaries of the EFSAC. This is part of the description of the proposal and can be secured through the S106 legal agreement.
- 9.26 Turning to the proposed storage of HGV trailers which will be kept on site upon completion of the multi storey car park on Waltham Point, HGVs have the potential to have significant adverse impacts in relation air quality if they utilise routes within 200m of the EFSAC. The main distribution centre at Waltham Point is already the subject of

HGV routing restrictions secured by legal agreement to prevent them from using such routes. It is reasonable and necessary to ensure that the HGV trailers on the Brooker Road site are also the subject of such restrictions and as such a legal agreement is required to ensure that this is the case.

- 9.27 Subject to an appropriately worded legal agreement as noted above, the Council as the competent authority can conclude that there will not be an adverse effect on the special interest features of the EFSAC. The proposal is therefore compliant with policies DM 2 and DM 22 of the emerging Local Plan, with the NPPF 2021 and with the requirements of the Habitat Regulations 2017.

## **10. EQUALITY DUTIES AND HUMAN RIGHTS**

- 10.1 Section 149 of the Equality Act 2010 requires that a public authority must exercise its functions having due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic (age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation) and persons who do not share it, and foster good relations between persons who share a relevant protected characteristic and persons who do not.
- 10.2 In making this recommendation, due regard has been given to this Public Sector Equality Duty and the relevant protected characteristics. It is considered that there will be no specific implications and that, if approving or refusing this proposal, the Council will be acting in compliance with its duties.
- 10.3 The Human Rights Act 1998 makes it unlawful for a public authority to act in a way which is incompatible with any of the Convention rights protected by the Act unless it could not have acted otherwise. Careful consideration has been given to the rights set out in the European Convention on Human Rights, in particular Article 6 (right to a fair trial); Article 8 (right to respect for private and family life; Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (right to peaceful enjoyment of possessions).
- 10.4 The Council is of the opinion that the recommendation does not interfere with any such rights except insofar as is necessary to protect the rights and freedoms of others. The Council is permitted to control the use of property in accordance with the public interest and the recommendation is considered a proportionate response to the submitted application based upon the considerations set out in this report.

## **11. THE PLANNING BALANCE AND CONCLUSION**

- 11.1 The proposed use of this site for the temporary parking of staff vehicles in connection with the Waltham Point site is compliant with its proposed allocation in the LPSV since it will facilitate the delivery of up to 350 new jobs in the local area. This will provide new job opportunities and investment in the local area, thereby bringing substantial benefits to the community.

- 11.2 No conflicts with the Development Plan, or the LPSV have been identified through this report and as such it is recommended that planning permission is granted subject to a s106 legal agreement and conditions.

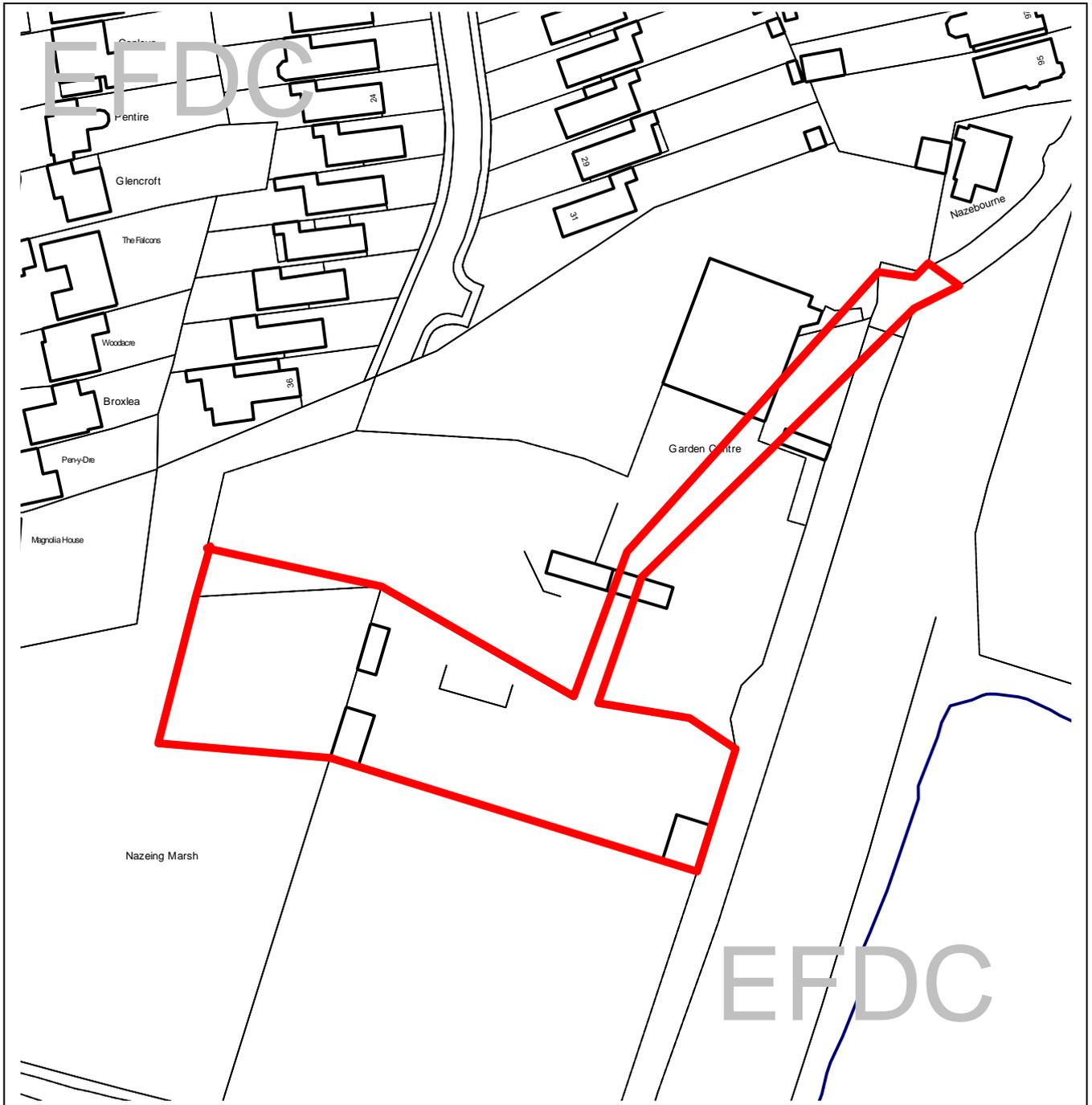
***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: James Rogers***

***Direct Line Telephone Number: 01992 564 371***

***Or if no direct contact can be made please email:***  
**[contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)**

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Application Number:	EPF/2713/21
Site Name:	Land at the former Chimes Garden Centre, Old Nazeing Road Nazeing, EN10 6RJ
Scale of Plot:	1:1250

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**Report to District Development  
Management Committee**

**Date of meeting: 20<sup>th</sup> April  
2022**



**Epping Forest  
District Council**

**Address: Land at the former Chimes  
Garden Centre  
Old Nazeing Road  
Nazeing  
Waltham Abbey  
EN10 6RJ**

**Subject: Erection of 14 dwellings (4 flats  
and 10 dwellings) (resubmission of  
EPF/3040/19)**

**Officer contact for further information:** Kie Farrell (01992 564248)

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

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**Recommendations/Decisions Required:**

**That planning permission is granted subject to conditions, completion of a suitable legal agreement to address matters set out below,**

**Proposed conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

Drawing 17171-P-001 - Existing location - Phase 2

Drawing 17171-P-002 Rev A - Proposed site layout

Drawing 17171-P-003 Rev A - Proposed layout

Drawing 17171-P-004 Rev A - Type C house - plots 36, 39, 40, 46 and 47

Drawing 17171-P-005 Rev A - Type D house - plots 35, 37 and 38

Drawing 17171-P-006 Rev A – Type H1 apartments

Drawing 17171-P-007 - Type K house - plots 34 and 35

Flood Risk Assessment and Sustainable Drainage Strategy, MTC, December 2019

Highways Technical Note No 2, SCP, 6 April 2020 (Net Traffic Impact)

Preliminary Ecological Assessment, ASW Ecology, December 2019

Gas Risk Assessment, epg, May 2018

Covering Letter, G & J Geo-Environmental, 15th November 2019  
Additional Ground Investigation Works, Interpretative Report, G & J Geo-Environmental, May 2018  
Environmental Interpretative Report, G & J Geo-Environmental, September 2017  
Ground Investigation Factual Report, G & J Geo-Environmental, September 2017  
Remediation Strategy, G & J Geo-Environmental, August 2019  
Geotechnical Interpretative Report, Maund Geo-Consulting, 28 July 2017  
Arboricultural Report Phase 2, Andrew Day, 12th November 2021, Rev 2.  
Planning, Design & Access Statement, pps, September 2021  
Addendum to Planning Statement, 1 February 2022  
Tree Protection Plan, Andrew Day, 12th November 2021  
Tree Protection Plan, Andrew Day, 8th December 2019  
Toolkit Viability Assessment, Savills, October 2021.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

3. Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity, in accordance with policies DBE1 and DBE4 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021.

4. Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.

Reason: To ensure satisfactory provision and disposal of surface water in the interests of Land Drainage, in accordance with policy RP3 of the adopted Local Plan and Alterations 1998 & 2006, policies DM16 and DM18 of the Local Plan Submission Version 2017, and the NPPF 2021.

5. The development be carried out in accordance with the flood risk assessment (FRA Phase 2, Ref 1333, December 2019) submitted with the application unless otherwise agreed in writing with the Local Planning Authority.

Reason:- The development is located in an area identified as being in an Epping Forest District Council flood risk assessment zone and would be likely to result in increased surface water run-off, in accordance with policy U2B of the adopted Local Plan and Alterations 1998 & 2006, policy DM15 of the Local Plan Submission Version 2017, and the NPPF 2021.

6. Prior to commencement of development, details of flood mitigation measures shall be submitted to and approved by the LPA. These details are to be clearly set out in a statement, alongside a sound Flood Evacuation Plan that includes details of access and egress. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with approved details.

Reason:- The development is located in an area identified as being in an Epping Forest District Council flood risk assessment zone and would be likely to result in increased surface water run-off, in accordance with policy U2B of the adopted Local Plan and Alterations 1998 & 2006, policy DM15 of the Local Plan Submission Version 2017, and the

NPPF 2021.

7. A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. 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. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.

8. If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 as well as to safeguard the amenity of the existing trees, shrubs or hedges and to ensure a satisfactory appearance to the development, in accordance with policies LL10 and LL11 of the adopted Local Plan and Alterations 1998 & 2006, and policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.

9. Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. 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.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with policies CP2 and LL11 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.

10. Tree protection shall be installed as shown on Andrew Day Arboricultural Consultancy Ltd 'Tree Protection Plan' – revision 1 (dated 12th November 2021) prior to the commencement of development activities (including any demolition). The methodology for development (including Arboricultural supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees / hedges, so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policy LL10 of the adopted Local Plan 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021

11. Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.

Reason: To ensure that appropriate parking and turning is provided in accordance with Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021.

12. 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.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February

2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021.

13. Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

Reason: The District is classed as being in an area of severe water stress and the reduction of water use is therefore required in the interests of sustainability and in accordance with policy CP2 of the Adopted Local Plan and Alterations and Policy DM 19 of the Epping Forest District Council Local Plan Submission Version 2017.

14. Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.

Reason:- To avoid the deposit of material on the public highway in the interests of highway safety, in accordance with the guidance contained within the National Planning Policy Framework, policy ST4 of the adopted Local Plan and Alterations, and Policy T 1 of the Epping Forest District Council Local Plan Submission Version 2017.

15. 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 garages and car ports 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.

Reason:- It is essential that the garage be retained for the storage of a motor vehicle to satisfy the requirements of the Council's adopted vehicle parking standards, in accordance with the guidance contained within the National Planning Policy Framework, policy ST6 of the adopted Local Plan and Alterations, and Policy T 1 of the Epping Forest District Council Local Plan Submission Version 2017.

16. 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.

Reason:- To increase the biodiversity of the site and to mitigate any impact from the development hereby approved, in accordance with the guidance contained within the National Planning Policy Framework.

17. Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point for each dwelling that has a garage or allocated parking space and 1 Electric Vehicle Charging Point for every 10 properties that share unallocated parking shall be installed and retained thereafter for use by the occupants of the site.

Reason: To help support improvements to air quality in accordance with the NPPF and Policy T1 and DM22 of the Epping Forest District Local Plan Submission Version 2017.

18. 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.
7. Tree protection measures.

Reason:- To limit the impact of the construction work on the living conditions of residents living in close proximity to the site, in accordance with the guidance contained within the National Planning Policy Framework, policies RP5A and DBE9 of the adopted Local Plan and Alterations, and policy DM 21 of the Epping Forest District Council Local Plan Submission Version 2017.

19. No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

Reason: To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours and in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, and policies DM9 and DM 21 of the Local Plan Submission Version 2017, and the NPPF 2021.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Class A, B, D, E, F of Part1, and Class A and B of Part 2 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.

Reason:- The specific circumstances of this site warrant the Local Planning Authority having control over any further development, in accordance with the guidance contained within the National Planning Policy Framework and policies GB2A and GB15A of the adopted Local Plan and Alterations and policies DM4 and DM9 of the Local Plan Submission Version 2017.

### **S106 obligations**

- i. Provision of four units of affordable housing within the development site in partnership with an approved provider.
- ii. A late stage affordable housing viability review mechanism
- iii. Contributions to mitigate the development's impact on early years and childcare provision (£15,680), primary education (£45,843) and libraries (£1089.20).
- iv. Contribution to air quality mitigation impacts comprising contribution of £335 per dwelling.
- v. Payment of 5% of total financial contribution monitoring fee

### **Report:**

1. This application was reported to Area Planning Sub-Committee West on 16<sup>th</sup> March 2022

with a recommendation to refuse permission on the following grounds:

1. **The application site comprises previously developed and undeveloped land within the Metropolitan Green Belt. The proposed development would have a greater impact on the openness of the Green Belt than the existing development and is therefore inappropriate development, by definition, harmful to the Green Belt. In addition, the erection of 14 no. dwellings on the site will have a significant physical and visual impact on the openness of the Green Belt. No very special circumstances have been demonstrated that are sufficient to outweigh the significant harm to the Green Belt and to the purposes of including land within the Green Belt. The development is therefore contrary to policy GB2A of the adopted Local Plan and Alterations and Policy DM4 of the Local Plan Submission Version 2017 and the NPPF (2021).**
  2. **The proposed development would result in the loss of an area previously identified and approved as managed open space for the benefit of future residents of the dwellings approved, and currently under construction, under application reference EPF/1351/18, contrary to Policy DM6 of the Local Plan Submission Version 2017 and the NPPF (2021).**
  3. **In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.**
2. Following discussion on the merits of the proposal, Members voted to support the application, subject to conditions and a legal agreement.
  3. Since the approval of this development would constitute a departure from Local Plan policy, the application has been referred up to District Development Management Committee for a decision, with a recommendation from Area Planning Sub-Committee West to approve planning consent, subject to conditions and a legal agreement.

## ORIGINAL REPORT

EPF/2713/21

*This application is before this Committee since it has been called in by Cllr Richard Bassett (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).*

### Address:

Land at the former Chimes Garden Centre, Old Nazeing Road, Nazeing, Waltham Abbey, EN10 6RJ.

### Description of Site:

The former Chimes Garden Centre site has an extensive planning history. It was subject to gravel

extraction in the mid-1970s, backfilled with waste and then redeveloped in part to provide a Garden Centre.

The current application site is to the south of what is now described by the applicant as the “Phase 1” site where planning permission was granted for 33 houses in February 2019 (EPF/1351/18). The 33 unit scheme is currently being built out.

The current application site, now described by the applicant as “Phase 2”, relates to the southern section of the former garden centre and is a site of approximately 1.18 acres made up with landfill materials and which is approved as ‘Managed Open Space’ as part of the EPF/1351/18 development.

To the north of the “Phase 1” site is residential. To the south and east of the “Phase 2” site is open Green Belt land.

The site is accessed from Old Nazeing Road. In addition there is currently a gated but disused 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. The site is within Flood Zone 2.

#### Description of Proposal:

*Erection of 14 dwellings (4 flats and 10 dwellings) (resubmission of EPF/3040/19).*

This application follows refusal of application EPF/3040/19 in August 2021.

This application seeks planning permission for residential development (4 flats and 10 houses) on the former landfill area which is now approved as an area of Managed Open Space.

The scheme proposes 14 dwellings comprising 4 x 1 bedroom flats and 10 x 4 bedroom houses with associated parking and private amenity spaces.

Vehicular access is via the estate road approved as part of the EPF/1351/18 development.

The proposed houses and flats are laid out around two private drives off the access road.

The proposed houses and flatted block will be 2.5 storeys in height with accommodation in the roofspace in the case of the houses.

The design of the development is contemporary and similar to the design of the dwellings approved in the EPF/1351/18 (33 unit) scheme.

The current application differs from refused application EPF/3040/19 in the following way:

1. Proposes affordable housing in the form of 4 x 1 bedroom ‘Discounted Market Sales Housing’ units at 80% of market value (i.e 20% discount), replacing the previously proposed 4 x 1 bed market sale units.

#### Relevant Planning History:

EPF/3040/19 - Proposed erection of x14 no. dwellings (4 flats and 10 dwellings). (Phase 2).  
Refused 13.08.2021.

Reasons for refusal:

1. The application site comprises previously developed and undeveloped land within the Metropolitan Green Belt. The proposed development would have a greater impact on the openness of the Green Belt than the existing development and is therefore inappropriate development, by definition, harmful to the Green Belt. In addition, the erection of 14 no. dwellings on the site will have a significant physical and visual impact on the openness of the Green Belt. No very special circumstances have been demonstrated that are sufficient to outweigh the significant harm to the Green Belt and to the purposes of including land within the Green Belt. The development is therefore contrary to policy GB2A of the adopted Local Plan and Alterations and Policy DM4 of the Local Plan Submission Version 2017 and the NPPF (2021).
2. The proposed development would result in the loss of an area previously identified and approved as managed open space for the benefit of future residents of the dwellings approved, and currently under construction, under application reference EPF/1351/18, contrary to Policy DM6 of the Local Plan Submission Version 2017 and the NPPF (2021).
3. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

EPF/1351/18

Demolition of site buildings and redevelopment to provide 33 new homes

Approved subject to conditions and legal agreement 14.02.2019.

Provides 5 x 3 bed affordable rented dwellings on site. This scheme is currently being built out.

EPF/1232/16

Demolition of existing Garden Centre/Commercial Buildings and erection of 17 (16, 6 bed and 1, 4 bed) dwellings with associated parking and landscaping.

Approved subject to conditions and legal agreement 14.06.2018.

Affordable Housing contribution of £952,180. Legal agreement also includes requirement to submit a Private Open Space Management Plan relating to the proposed open space above the landfill. This scheme cannot now be implemented as it is on the same site as the EPF/1351/18 scheme which is currently being built out.

EPF/1492/16

Outline planning application for 7 no. Self-Build Houses in accordance with Self-Build Act 2015 with all matters reserved.

Refused 30<sup>th</sup> November 2017.

Reasons for refusal:

1. The proposed development includes "more vulnerable" development within Flood Zone 3. The development does not meet the sequential test and does not provide wider sustainability benefits that outweigh the flood risk and does not therefore pass the

Exceptions Test. The proposal is therefore contrary to the NPPF Para 102 and policy U2A of the Adopted Local Plan and Alterations.

2. The development of this green field site within the metropolitan Green Belt amounts to inappropriate development by definition harmful to the Green Belt and to the purposes of including land within the Green Belt, in addition the erection of 7 houses on the site will have a significant physical and visual impact on the openness of the Green Belt. No very special circumstances exist sufficient to outweigh the harm to the Green Belt that would result and the development is therefore contrary to policy GB2A of the adopted Local plan and Alterations and to the NPPF.
  
3. The proposed development will adversely impact on the landscape of the Lee Valley Regional Park contrary to the strategic policies on landscape and detailed proposals which identify the site as within a landscape enhancement area, and adversely impact on the amenity of users of the Regional Park, as such the development is contrary to Policy RST24 of the adopted Local Plan and Alterations.

EPF/0570/15

Demolition of existing Garden Centre/Commercial Buildings and erection of 26 dwellings with associated parking and landscaping.

Approved subject to conditions and legal agreement 02.10.2015.

Affordable Housing contribution of £500,000.

This scheme cannot now be implemented as it shares part of the same site as the EPF/1351/18 scheme which is currently being built out.

EPF/0206/14

Demolition of existing garden centre/commercial buildings and erection of 43 dwellings with associated parking and landscaping

Refused (11.02.2015) and dismissed at appeal (10.02.2016)

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 I1A 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 were 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.

Relevant Policies:

Adopted 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  
GB10 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.

#### National Planning Policy Framework Policy (July 2021)

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

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- c)
  - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

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

The above listed Local Plan policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

#### Epping Forest District Local Plan Submission Version) 2017 (LPSV)

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning

applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019.

The appointed Inspector issued her initial advice on 2 August 2019 and since then, the Council has undertaken further work to address the actions identified by the Inspector. This has led to the production of a number of proposed changes to the Local Plan Submission Version 2017 (known as the Schedule of Main Modifications) and additional supporting documents associated with the Main Modifications. These are to address issues of soundness and/or legal compliance identified by the Inspector.

The Main Modifications include changes to some of the supporting text and Policies within the Plan, deletion and amendment to some site allocations, updated Housing Supply data to March 2020, along with associated changes to the mapping contained within the Plan.

The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan. Following the close of the consultation (ended 23<sup>rd</sup> September 2021), the representations will be passed to the Inspector for her consideration before the publication of the Inspector's final report.

The following policies in the LPSV are considered to be of relevance to the determination of this application:

- SP1 Presumption in favour of sustainable development
- SP2 Spatial Development Strategy 2011-33
- SP6 Green Belt and District Open Land
- SP7 The Natural Environment, Landscape Character, and Green and Blue Infrastructure
- T1 Sustainable transport choices
- T2 Safeguarding of routes and facilities
- DM1 Habitat protection and improving biodiversity
- DM2 Epping Forest SAC and the Lee Valley SPA
- DM3 Landscape Character, Ancient Landscapes and geodiversity
- DM4 Green Belt
- DM9 High Quality Design
- DM10 Housing Design and Quality
- DM15 Managing and reducing flood risk
- DM16 Sustainable drainage systems
- DM19 Sustainable water use
- DM21 Local environmental impacts, pollution and land contamination

DM22 Air quality.

## SUMMARY OF REPRESENTATIONS AND CONSULTEE RESPONSES

The application was advertised in the Local Press, site notices were erected and 41 neighbours were consulted.

Five (5) responses were received comprising four (4) objections and one (1) neutral comment as follows:

Woodacre, Riverside Avenue (Objection):

"I still feel that this is more development impacting on the Green Belt and wildlife. Is this area safe to develop away from the contaminated landfill? Regarding surface water flood risk to neighbours you need to make sure that permeable driveways are used and the site slopes towards the open fields as per previous development control meetings with previous applications for The Chimes site."

97 Old Nazeing Road (Objection):

"Phase 1 of this development has taken 3 years and is still not complete. All that time we have had to put up with noise and dust from the works. I haven't washed my car in over two years because there's no point. The builders are inconsiderate and take as long as they like. They are a small firm and sometimes there are only 3 or 4 men on site at a time! It's taken far too long. I do not want to spend another 3 years living next to a building site!"

90 Old Nazeing Road (Objection):

"Having been to the Council to see about a new build on my property and being told there is no possibility on Keysers and knowing that other residents have been refused planning permission in Old Nazeing Road and Keysers Road, I don't see how you can allow another 14 dwellings when they are even closer to the river than my property. All the reasons you have given to deny us planning permission apply to these new builds and I don't even know how permission was given for the original development on Chimes.

In addition I am a member at Broxbourne Cruising Club in Green lane. The land adjacent to our fields has been cleared already and the landfill has been put on Snakey Lane, which is a public right of way to the river. I believe this has been reported but no action seems to have been taken. They have already installed electricity boxes so it seems as though this is a done deal. I would like to know what grounds permission can be given for these builds and not on other land in the same area."

81 Old Nazeing Road (Objection):

Flood risk, car pollution, sewage problems, not enough school places.

Broxbourne Cruising Club, 17<sup>th</sup> December 2021:

*"Our attention has been drawn to this application. As neighbours we would have expected to have been informed by the council of the application and should be obliged if you would note our interest and keep us advised both in respect of this and any future applications for this site.*

*We have no objection to the proposed houses and flats, people need somewhere to live.*

*However we would remind you that when we made an application for a small amendment to our permitted hours last year (EPF3070/20) the applicant and associates objected on the grounds that any houses they might build in the future would have their amenity affected by our activities (presumably referring to noise and light pollution).*

We therefore request that if permission is granted it should be subject to appropriate mitigation measures not only to protect householders from the minimal noise/light we might make but to protect us from the increased noise/light from the use of the housing impairing our member's quiet enjoyment of their riverside country location and nature reserve.

*Mitigation should include not only extra glazing measures and the like but also retention and enhancement of existing vegetation and perhaps a bund on their site boundary. It is a shame that so many trees were removed prior to development proposals being made!*

*(NPPF. Paragraph 182 states that:*

*'Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.)'*

Nazeing Parish Council: No objection (14<sup>th</sup> December 2021).

"The Council supports the application as they had no objection to the previous one and with the condition that road warnings are installed for the current access road prior to commencement of works".

EFDC Affordable Housing:

Comments 23<sup>rd</sup> December 2021:

*As currently presented, apart from any other planning reasons that may apply, I cannot support the application from an affordable housing point of view.*

*The viability report provided does not appear to be independently assessed by the Council's independent consultants to verify that the scheme cannot provide any affordable housing and remain viable.*

*However, in the event that it is confirmed, that the scheme cannot meet the Council's affordable housing requirement in full, a review mechanism will need to be included in the S106 agreement.*

Further Comments 18th February 2022:

- *It would be useful to understand from BPS why the benchmark land value is 0.*
- *It was suggested in the report, that the site has no existing use value, however, in Phase 1, the built out site, this site was allocated and deemed a managed site; to be managed and maintained. In view of that, this site should have an amenity value in the first instance then any contamination and abnormal costs applied thereafter. It would be useful to understand from BPS why this approach wasn't adopted.*

- *The PPG and NPPF have all indicated that developers should factor all planning requirements and obligations including affordable housing into the price paid for land. It is, therefore, useful to understand why the developer would purchase this site, with its high remediation and abnormal costs, then deliver the market units in full but compromise the delivery of affordable housing. Where is the public benefit for this development?*
- *However, I note that the applicant had proposed 4 starter homes as the affordable housing offer, this does not comply with the requirement of the District Council to provide affordable housing and shared-ownership units in particular in a 75%:25% split (affordable rent : shared ownership). However, in this situation, we will consider a mix of shared-ownership units.*
- *In view of my comments above, it will be useful that BPS models the shared-ownership units on reduced numbers.*
- *Further, to BPS clarifying the points raised above, and the scheme still unable to deliver the affordable housing requirement, a review mechanism will need to be included in the S106 agreement to assess the life time of the development.*
- *Finally, I will suggest that we are included in any negotiations.”*

EFDC Environmental Protection and Drainage (17<sup>th</sup> December 2021):

*No objection to planning application in principle, subject to the approval/implementation of the requirements set out by this team.*

Environment Agency:

No comments provided – the site is in Flood Zone 2 and therefore Environment Agency standing advice applies.

EFDC Contaminated Land (16<sup>th</sup> December 2021):

*“G&J Environmental Consultant Ltd, on behalf of the Client, was appointed to investigate potential pollutant linkages, which could affect the proposed redevelopment for residential properties with gardens and soft landscape areas.*

*It is acknowledged from the planning statement submitted under EPF/3040/19, that the site has been previously investigated for contaminations. The results of intrusive site investigations showed the presence of lead and asbestos on site. The Phase 1, Phase 2 and Remediation Method Statement was approved.*

*As a result, the remediation plan has been prepared to address contamination on site. The works can be summarised as below:*

- *Removal of contamination in all gardens and soft landscape areas,*
- *Disposal of excavated soils,*
- *Replacement of the ground with clean cover – The capping layer is to consist of a no-dig geo-membrane, 300mm crushed aggregate, 700mm imported clean inert soil*
- *Gas mitigation measures (CS2) will be incorporated into the design of the building*

- *The design of water supply pipes should also be taken into consideration when installed in remaining made ground*
- *The verification report will be required to confirm all the above.*

*Due to the sensitive nature of the proposed residential use, condition NSCN57B – Verification Report only should be attached to any approval granted.”*

EFDC Trees and Landscape (30<sup>th</sup> November 2021):

*We have NO OBJECTION to this application subject to the addition of conditions*

Essex CC Highways (29<sup>th</sup> November 2021):

*“All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.*

*This proposal is likely to generate around 6-7 additional vehicle movements in the peak hours, on top of the permitted use, and could not be considered as having a significant impact on the highway.*

*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.*

*From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following measures:*

*1. Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.*

*Reason: To ensure that appropriate parking and turning is provided.*

*2. 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.*

*Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.*

*The above measures are to ensure that this proposal is not contrary to the Highway Authority’s Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021.*

*Informative:*

*The development would not be considered for adoption by the Highway Authority.”*

*Essex CC Infrastructure (3<sup>rd</sup> December 2021):*

*“Thank you for providing details of the above detailed planning application for up to 14 new homes that you consider to form Phase 2 of the development of this site. I note the unit number and mix reflects a previous application and from the information I have received, I have assessed the application on the basis of 4 x 1bed flats (exempt) and 10 x 4bed houses. I can advise that a development of this size can be expected to generate the need for up to 0.9 Early Years and Childcare (EY&C) places; 3 primary school places, and 2 secondary school places.*

*Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.*

#### *Early Years and Childcare*

*Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand.*

*The proposed development is located in the Lower Nazeing ward and would generate a demand for up to 0.9 additional Early Years & Childcare places. The latest sufficiency data and up to date information from the pre school provider confirms that there is no capacity for additional children. Therefore, a developer contribution of £15,680.00 index linked to April 2018, is sought to mitigate its impact on local early years & childcare provision. This equates to £17,422 per place.*

#### *Primary Education*

*This proposed development is located within the priority admissions area of Nazeing Primary School and based on demand generated by this proposal set out above, a developer contribution of £45,843, index linked to April 2018, is sought to mitigate its impact on local primary school provision. This equates to £15,281 per place.*

#### *Secondary Education*

*A contribution toward Secondary Education will not be sought.*

#### *School Transport*

*Having reviewed the proximity of the site to the nearest primary school, Essex County Council will not be seeking a school transport contribution, however, the developer should ensure that safe direct walking and cycling routes to local schools are available.*

#### *Libraries*

*ECC may seek contributions to support the expansion of the library service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.*

*The suggested population increase brought about by the proposed development is expected to create additional usage of the nearest library, therefore a developer contribution of £1,089.20 is considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit.*

#### *Employment and Skills*

*Both Central and Local Government have a crucial role to play in identifying opportunities*

*to maximise employment, apprenticeships, and to invest in skills to realise personal and economic aspirations.*

*ECC has a role to play in supporting Local Planning Authorities and helping to ensure that the development industry has the necessary skills to build the homes and communities the county needs. ECC supports Epping Forest District Council (EFDC) in securing obligations which will deliver against this crucial role in supporting employment and skills in the district.*

*In the current economic climate and national skills shortage, ECC supports EFDC in requiring developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. These plans will help to address negative perceptions of the sector and develop a strong future pipeline. This is referred to as the 'development phase'. ECC also supports EFDC in requiring landowners to produce an ESP for commercial developments, to enable wider employment opportunities for those requiring additional support to enter the job market. This is referred to as the 'end-use phase'. Additionally, ECC encourages EFDC to consider the inclusion of other requirements, including financial contributions, to support appropriate employment and skills outcomes as a result of this development.*

*In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on early years & childcare, primary education and libraries.*

*The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.*

*If your council were minded to turn down the application, I would be grateful if the lack of surplus early years & childcare provision, primary education and libraries in the area to accommodate the proposed new homes 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."*

Essex Police (Crime Prevention):

*"Essex Police comments in accordance with NPPF and Epping Adopted Local plan; section POLICY ST2 – ACCESSIBILITY OF DEVELOPMENT (v), design and layout which will reduce the potential for crime and fear of crime page 71 of the Epping Adopted Local Plan.*

*From inspection of the documents provided there are no major concerns, however, Essex Police would require further information on the following to form a more detailed opinion.*

- *Boundary treatments*
- *Security for the shell of the buildings*
- *Security for the perimeter*
- *Egress and access around the site*
- *Surveillance*

- *Cycle and bin store security and locations*
- *Security and surveillance for the flats*

*There is no record of pre application meeting with the applicant however now would be the opportunity to contact Essex Police to exploit the opportunities to incorporate Crime Prevention through Environmental Design into the development to benefit future users.”*

### Issues and Considerations:

The main issues for consideration are Principle of development on the former landfill site, Loss of approved Managed Open Space, Green Belt, Affordable Housing, Flood Risk, Contamination, Layout and Design, Highways and Parking, Impact on neighbouring amenity, Impact on the Lee Valley Regional Park, Impact on Ecology and the Epping Forest Special Area of Conservation.

### Principle of Development on the “Phase II” (former landfill) site

As set out in the Planning History section above, in October 2015 planning permission (EPF/0570/15) was granted for 26 dwellings across the wider site (north and south parts; now being described as ‘Phase 1’ and ‘Phase 2’).

Most recently, planning permission (EPF/1351/18, February 2019) was granted for 33 dwellings on the northern (Phase 1) part of the site.

Whilst the LPA has previously granted planning permission for residential development on the southern part of the site it was understood that, following the approval of the EPF/1351/18 33 unit scheme in February 2019, no development would come forward on the southern part of the site and that the former landfill area would be maintained in perpetuity as ‘Managed Open Space’.

The Planning Statement (pps, May 2018) submitted with EPF/1351/18 states:

*Para 1.3 – The former landfill area to the south is to be provided as an area of managed open space.*

*Para 1.8 - At this stage and subject to further discussion with the Council through the application process it is anticipated that the ‘Heads of Terms’ should include:*

*- The setting up of a resident’s management company / scheme to secure the long-term future of the managed open space.*

*Para 2.14 As may be expected, the accompanying report by G & J Geoenvironmental demonstrates that outside of the former landfill area (southern element of the site) the level of remediation required to enable residential re-use is much less significant than within that area.*

*Para 2.15 This proposal therefore seeks to locate the housing outside of the former landfill boundary and reclaim the southern section as managed open space.*

*Para 5.16 In general terms the key layout principle has been to retain the proposed new housing to the north side of the site and so away from the former landfill area. The former landfill area is shown laid out as managed open space. At pre-application stage officers provided general support for this approach subject to securing future management and maintenance of the open space area.*

The Committee Report for EPF/1351/18 states in the 'Description of Proposal' section:

*“Land to the south of the proposed houses, but within the red lined application site is an area that has been used for landfill and is proposed to be used as managed open space for the resident, to be maintained through a management company.”*

Based on the above, Officers understood that the EPF/1351/18 permission was the conclusion of the planning history for this site (both northern and southern / Phase 1 and Phase 2 parts) and that no development would come forward on the former landfill area, that the approved Managed Open Space would be maintained in perpetuity, and that the Green Belt land to the south of the EPF/1351/18 development would remain undeveloped and allowed to perform its function of preventing urban sprawl.

#### Loss of the Managed Open Space approved as part of the EPF/1351/18 development

The area of Managed Open Space on the former landfill area forms a part of the approved EPF/1351/18 development that has now been built out.

Whilst there is no requirement within the legal agreement or a specific planning condition for the Managed Open Space to be retained in perpetuity the open space forms part of the approved development and should therefore be available for use by future residents of the 33 dwellings. Condition 2 of planning permission EPF/1351/18 requires the development to be built in accordance with the approved drawings which show the Managed Open Space.

Policy DM6 (Designated and Undesignated Open Spaces) of the LPSV states that existing open space should not be built on unless it can be demonstrated that the land is surplus to requirements; or would not have a detrimental impact on access to open space; or the loss would be replaced by equivalent or better provision in a suitable location.

It is considered that the loss of the Managed Open Space would harmfully impact the quality of the approved EPF/1351/18 33 unit scheme and consequently the proposed development to build 14 no. additional dwellings on the land approved as Managed Open Space is considered unacceptable and contrary to Policy DM6 of the LPSV on this basis.

#### Green Belt.

The application 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 National Planning Policy Framework (NPPF, July 2021) 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 (Para 149) sets out some exceptions to this, these include:

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

#### EPF/0570/15, 26 unit scheme approved October 2015 (north and south parts of site)

The Green Belt section of the Committee Report for EPF/0570/15 states:

*“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.”*

The area of undeveloped land referred to includes the land where the flatted block is proposed to be located in the current scheme.

The Committee Report goes on to say:

*“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 (sic). 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 Keysers 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.*

EPF/1351/18, 33 unit scheme approved February 2019 (north part of site)

The Green Belt section of the Committee Report for EPF/1351/18 largely repeats that of the EPF/0570/15 Committee Report; again acknowledging that the majority of the application site is previously developed land and stating that redevelopment of the site for housing is not inappropriate development provided it would not have a greater impact on the openness of the Green Belt than the existing development.

As per EPF/0570/15, the report goes on to conclude that the proposed development will have a greater impact on openness than the existing development and therefore very special circumstances (VSC) need to be demonstrated which are sufficient to outweigh the harm to the Green Belt.

The VSC which were accepted were:

1. "The existence of current consents for 26 houses and 17 houses, would have had a greater volume than the current proposal"
2. Visual improvement of what has been a problem site for many years
3. A reduction in HGV movements / traffic through Nazeing compared to the lawful use of the site.
4. Contribution of housing to the housing land supply. The report states that the previous consent for the 26 unit scheme was taken into consideration when deciding housing allocations and as such the site is seen as important in achieving the required housing provision.

The EPF/1351/18 scheme also provides affordable housing in the form of 5 x 3 bed affordable rented dwellings on site.

#### Current scheme, 14 units (south part of site)

The current application site comprises some previously developed land and some undeveloped land.

Consistent with the approach taken with EPF/0570/15 and EPF/1351/18, it is clear that the proposed development of 14 no. dwellings (due to their height, volume and footprint) would have a greater impact on openness than the existing development (former garden centre) and therefore very special circumstances (VSC) need to be demonstrated sufficient to outweigh the harm to the Green Belt.

When considering what very special circumstance exist in favour of the current application it is noted that many of the VSC previously identified in favour of the EPF/1351/18 33 unit scheme do not equally apply to the current application because the identified benefits have already been claimed.

For example, as the EPF/1351/18 scheme is currently being built out the benefits in terms of removal of a commercial/problem site and reduction in HGV movements / traffic have already come forward.

Similarly, the 26 residential units which were taken into account when deciding Local Plan housing allocations subsequently became 33 units and so there has already been an improved contribution to housing land supply above and beyond what was originally budgeted for.

The EPF/1351/18 Committee Report identifies “the existence of current consents for 26 houses and 17 houses, which would have had a greater volume than the current proposal” as a very special circumstance. This is on the basis that if either of those consents were implemented (only one could be implemented as they are on the same application site) they would have a greater impact on the Green Belt than the EPF/1351/18 33 unit scheme.

Again, because the EPF/1351/18 33 unit scheme is now built out neither the 26 unit scheme nor the 17 unit scheme can now be built out and as such this particular benefit (reduced Green Belt impact) has already been claimed by the Local Planning Authority.

The submitted Planning Statement at Paragraphs 5.17-5.19 suggests that there are three new matters which comprise further VSC.

*“5.18 Firstly, the proposal will enable full remediation of the former landfill area (e.g., the application site) not simply a capping and management as agreed under the 33 dwelling scheme. This will ensure all contamination is removed ensuring no future leaching onto neighbouring land, a significant environmental benefit.”*

In response, whilst full remediation is recognised to be an environmental benefit, the former landfill area is already due to be sufficiently remediated to a level where it can be used as Managed Open Space as part of the approved EPF/1351/18 scheme which is a significant benefit to the future occupiers of the 33 dwellings.

The proposed development would be built on an area of Managed Open Space which by its very nature is open land. It is not accepted that the impact of the proposed development can be described as negligible in this context.

*“5.19 Secondly, the application can now be viewed in the context of the 33 dwelling scheme i.e., it is well related to it and effectively surrounded by it to the north and west sides. The proposal would not therefore have any material impact upon the openness of the green belt.”*

In response, the fact that the 33 unit scheme is now built out is not a VSC. The proposed development would still harmfully impact the openness of Green Belt land to the south and east.

*“5.20 Thirdly and importantly this proposal will deliver four new affordable homes for low cost sale at 20% below the market value and greatly improve the overall mix of dwellings provided. This is a significant material consideration in favour of this proposal which was not previously included.”*

In response, the offer of affordable housing in the form of 4 x 1 bedroom ‘Discounted Market Sales Housing’ units at 80% of market value (i.e 20% discount) is the single material difference between the current application and refused application EPF/3040/19.

Whilst the affordable housing offer is noted it is not considered that this is sufficient to outweigh the harm to the Green Belt that would arise as a result of the proposed development.

The application site comprises previously developed and undeveloped land within the Metropolitan Green Belt. The proposed development would have a greater impact on the openness of the Green Belt than the existing development and is therefore inappropriate development, by definition, harmful to the Green Belt. In addition, the erection of 14 no. dwellings on the site will have a significant physical and visual impact on the openness of the Green Belt. No very special circumstances have been demonstrated that are sufficient to outweigh the significant harm to the Green Belt and to the purposes of including land within the Green Belt.

### Housing Land Supply

Based on the Housing Implementation Strategy update 2019 and its Appendices 5 and 6 (EB410B), the Council's Land supply is currently calculated at 2.43 years.

The Council expects that upon adoption of the Local Plan it will be able to demonstrate a full 5 year housing land supply.

Lack of a 5 year housing land supply does not in itself constitute very special circumstances.

In this case, it is considered that the benefit of a 14 no. dwelling contribution to housing land supply is not sufficient to outweigh the harm to the Green Belt that would arise as a result of the proposed development.

### Fall back position / Volume / Floorspace / comparisons

The EPF/1351/18 33 unit scheme has been implemented and built out.

The applicant argues that the EPF/0570/15, 26 unit permission is extant on the basis that it was implemented by way of demolition existing buildings on the site.

Notwithstanding whether the EPF/0570/15 26 unit permission is lawfully extant, it is clear that this scheme cannot now be built out unless the EPF/1351/18 33 unit scheme is demolished. This is because the schemes share a large part of the same application site. As this scenario is considered to be very unlikely, the weight given to the EPF/0570/15 26 unit scheme as a fallback position is limited.

It therefore follows that any comparison of the volume or floorspace of the EPF/0570/15 26 unit scheme versus the EPF/1351/18 33 unit scheme plus the current 14 unit scheme also carries little weight in terms of considering Green Belt openness impact.

### Affordable Housing

Policy H6A of the Councils adopted Local Plan requires that a development of this scale would require 40% of the proposed dwellings to be provided as affordable housing and states that "the levels will apply unless it can be shown that they are inappropriate or that they make a scheme economically unfeasible".

The Local Plan Submission Version (LPSV) similarly requires 40% affordable housing and this is in accordance with the NPPF (July 2021).

For a relatively small development such as this, all on site affordable housing should be provided on the basis of affordable rented units in line with the Council's Shared Ownership Policy.

A Viability Report prepared by Savills was submitted with this application. The report concludes that the development cannot viably provide affordable housing either on site or as an off site payment.

Notwithstanding the conclusions of the Savills Viability Report, the application is proposing provision of 4 x 1 bedroom 'Discounted Market Sales Housing' units at 80% of market value (i.e 20% discount) as an affordable housing offer. The current application differs from refused application EPF/3040/19 in this respect.

An independent Viability consultant (BPS Surveyors) was instructed to review the Savills Viability Report on behalf of the Council.

The BPS review (3<sup>rd</sup> February 2022) did not agree with all of the Savills assumptions but based on their own assumptions and assessment, BPS also concluded that the proposed development cannot viably provide any on or off site affordable housing.

The BPS Report looked at four scenarios as follows:

		Residual Land Value
1	4 x 80% market value units as proposed	£ -477,000
2	No affordable units	£ -315,719
3	4 x First Homes (70% market value)	£ -568,497
4	4 x Shared Ownership units	£ -488,949

All four scenarios produced a negative residual land value, confirming that the proposed development cannot viably provide affordable housing.

The BPS Report concludes as follows:

*“2.22 We therefore consider it is reasonable to assume that no further affordable housing can be provided. We note that the current proposals including DMS units may become problematic in delivery as there will be no one-bed units from within the scheme with which to define the open market value of the units prior to discount. We consider it important that the market value of the units is robustly supported upon delivery in order to ensure the proper application of a discount.*

*2.23 We recommend that the scheme should be subject to a late stage review of viability in order that the viability can be assessed over the lifetime of the development.”*

The NPPF (2021) glossary defines ‘Discount market sales housing’ as follows:

*“that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.”*

In the event that planning permission is granted, a legal agreement would be required in order to set the values of the discount market sales units and to ensure the units remain discounted in perpetuity. A late stage viability review mechanism would also be required.

#### 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.

At the time of the approval of 26 houses on the site, the Council did not have a Strategic Flood Risk Assessment in place, and each application received for development in a flood risk area needed to be accompanied by a sequential test, to show that there was nowhere at lesser risk of flooding and which is available and deliverable, for a development of the type proposed. At the time of the last application the sequential test submitted indicated that there were no sites of sufficient size available and deliverable for 26 houses. Essentially this is because most sites in this District are within the Green Belt and not previously developed land and residential development is therefore inappropriate. The sequential test was therefore accepted.

Since that time the LPSV has been produced and this identifies potential sites for development in order to meet the Council's future housing need. All sites within flood zones 2 and 3 were rejected as unsuitable and it is clear that there are a large number of potential sites in the District, at lesser risk of flooding, on which 14 houses could be developed.

This current application site appears in the Draft Local Plan simply as it had been identified as having an extant consent for development. Had consent not already been granted here, it would not have been identified as a suitable site for development due to the flood risk and the presence of landfill. However at the current time there are extant approvals for 33 dwellings on the northern part of the site (currently being built out) and planning permission has previously been granted for a 26 dwelling scheme across the larger site (comprising what the applicant now refers to as Phase 1 (north) and Phase 2 (south)).

Whilst the current application site is within Flood Zone 2, the planning history as set out above is a material consideration and on this basis it is not considered reasonable to recommend refusal on Sequential Test grounds.

The application is supported by an up-to-date Flood Risk Assessment and Sustainable Drainage Strategy prepared by MTC Engineering. The Council's Environmental Protection and Drainage Team have reviewed the submitted document and agree with its findings in principle and have no objection to the proposed development subject to conditions.

#### Contamination.

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.

The 26 unit scheme included housing over the existing land fill area.

The 33 units scheme (now built out) does not include any housing over the landfill area and instead the landfill area is to be utilised as Private Open Space.

The current application once again proposes to build housing over the existing landfill area.

The Council's Contaminated Land team have reviewed the submitted Contaminated Land documents and they are considered to be acceptable (full comments above).

The Contaminated Land Team have no objection to the proposal subject to suitable conditions being attached to any planning permission issued.

#### Layout and Design

Notwithstanding the in principle Green Belt objection and the objection to the loss of the Managed Open Space as set out above, there is no objection to the layout or design of the proposal itself.

#### Quality of Accommodation

The submitted Planning Statement states that all of the proposed houses and flats exceed the minimum national space standards.

#### Impact on Neighbouring Amenity

The 14 no. proposed dwellings are all located a sufficient distance from the houses within the 33 unit scheme (EPF/1351/18) to ensure that there would be no harmful loss of privacy or outlook to the occupiers of those properties.

The proposal is considered to be acceptable in this respect.

#### Highways and Parking:

The proposed access is taken from the spine road associated with the approved 33 unit scheme (EPF/1351/18).

6 no. houses would be served off the eastern access and 4 no. houses plus the 4 x 1 bed apartments would be served from the western access.

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

The County Highway Authority has considered the proposals and has no objection subject to conditions (full comments set out above).

#### Impact on the Lee Valley Park

The LVRPA has not objected to the application. Given the planning history of the site it is not considered reasonable to recommend refusal on grounds of impact on the LVRP.

#### Epping Forest SAC

The site has been considered in the context of the Epping Forest Special Area of Conservation and Policy DM2 and lies outside the 3km zone where it would be expected that the development should provide mitigation to with regard to potential impact on the SAC from increased visitor numbers.

The potential impact of the development on air quality (with regard to the SAC) has also been considered.

The submitted TRICS data concludes that there will be a reduction when compared to the former use of the site (which has now ceased due to the implementation of EPF/1351/18). The Highway Authority consider that the proposal is likely to generate around 6-7 additional vehicle movements in the peak hours, on top of the use of the site for 33 units, and could not be considered as having a significant impact on the highway.

The Interim APMS (2020) sets out mitigation requirements for all new housing, which requires a financial contribution along with electric vehicle charging capacity and provision of high-speed broadband.

Since the application is not accompanied by a suitable legal agreement, and in the absence thereof, suitable mitigation cannot be secured.

#### Ecology

A Preliminary Ecological Assessment, ASW Ecology, December 2019 was submitted with the application.

This concludes as follows:

“The only protected species potential present within the development footprint at The Chimes (Phase 2), as identified during this ecological assessment, was for: breeding birds.

No active or previously used bird nests were found within the small number of boundary trees in the development footprint.

The boundary trees offer some limited nesting bird structure, but these trees have few niches for birds in general, with only the occasional nest expected.

There is no bat roosting potential within the trees in the development footprint, given the lack of niches that bats would require for roosting purposes.

The development footprint has no ecological value, other than the few small trees at one of the site boundaries.

Therefore, based on the results of this formal ecological investigation, there are no further surveys required, in regards to the development proposal, although best practice guidance must be followed at all times by the client and contractors working at this site.”

#### Archaeology

The Archaeology of the site has been fully investigated under the previously approved schemes and no further investigation is required.

#### S106 Legal Agreement

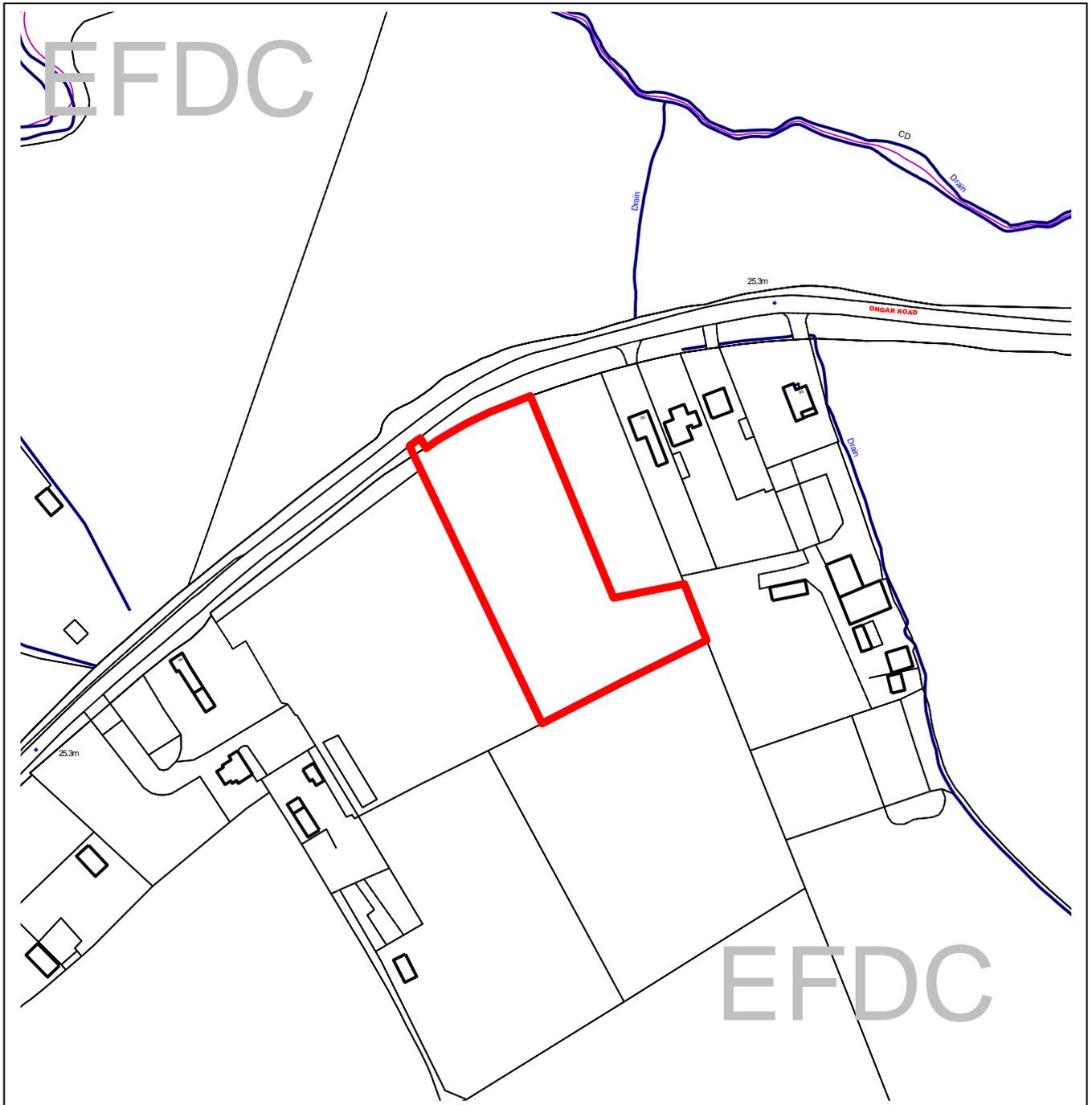
In the event that planning permission is granted a legal agreement would be required for the following items:

- Affordable housing clauses relating to the 4 x 1 bed discount market sales units and a late stage review mechanism.
- Essex CC Infrastructure financial contributions
- SAC Mitigation financial contributions in relation to air pollution.

#### Conclusion

Recommended for refusal.

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Application Number:	EPF/0103/22
Site Name:	Grove Cottages 64 Ongar Road, Lambourne Romford, RM4 1UJ
Scale of Plot:	1:2500

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



**Epping Forest  
District Council**

**Date of meeting:  
20 April 2022**

**Reference: EPF/0103/22  
Address: Grove Cottages, 64 Ongar  
Road, Lambourne, RM4 1UJ**

**Subject: Application to remove condition  
2 'Soft Landscaping' on EPF/2334/21  
(Retention of a vehicular crossover field  
access, associated gate and hedgerow  
planting along boundary) (Revised  
application to EPF/0229/21)**

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

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### **Recommendation:**

**That planning permission be REFUSED for the following reason:**

- 1 The proposal, to remove the landscaping condition, would have a significant adverse impact on the landscape character of the locality. This is due to the existing species mix of planting which is incongruous within this rural setting, that also introduces a considerable 'urbanisation', contrary to Policy LL11 of the adopted Local Plan 1998 & 2006, Policy DM3 of the Local Plan Submission Version 2017, and the NPPF 2021.**

### **Report:**

- 1. This application was reported to Area Planning Sub-Committee East on 06 April 2022 with a recommendation to refuse consent for the above reason.**
- 2. Following discussion, Members voted to refuse the application. However, four Members stood in order to refer this item to District Development Management Committee for further consideration.**
- 3. Therefore, the application is being presented to District Development Management Committee with a recommendation to refuse consent from both Area Planning Sub-Committee East and Planning Officers.**

## ORIGINAL REPORT

*This application is before this Committee since it has been 'called in' by Councillor Brian Rolfe (Pursuant to The Constitution Part 3: Part Three: Scheme of Delegation to Officers from Full Council).*

### Site and Surroundings

The site comprises of a plot of land situated in between 64 Ongar Road, and 90 Ongar Road, and is accessed via Ongar Road, a classified highway.

### Proposal

The Application is for the Removal of Condition 2 'Landscaping' for EPF/2334/21 (Retention of a vehicular crossover field access, associated gate and hedgerow planting along boundary).

### Relevant Planning History

EPF/2404/18 - Retention of vehicular crossover and gated access to fields on the site of an old historic crossover. Gate and re-planting of hedgerow boundary – Refused

EPF/0229/21 - Retention of a vehicular crossover & gated access to fields on the site of an old historic crossover & gate and replanting of a hedgerow along the boundary (Revised app to EPF/2404/18) – Refused

EPF/2334/21 - Retention of a vehicular crossover field access, associated gate and hedgerow planting along boundary (Revised application to EPF/0229/21) - Approved

Enforcement - ENF/0351/18 - Formation of vehicular crossover, gated access to fields and erection of fencing over 1m high adjacent to the highway – Closed

### Development Plan Context

#### *Local Plan & Alterations 1998 & 2006 (LP)*

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

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

LL10            Adequacy of Provision for Landscape Retention  
LL11            Landscaping Schemes

#### *National Planning Policy Framework 2021 (Framework)*

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

- a. approving development proposals that accord with an up-to-date development plan without delay; or
- b. where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

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

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Paragraph 180

*Epping Forest District Local Plan Submission Version 2017 (LPSV)*

Although the LPSV does not currently form part of the statutory development plan for the district, on 14<sup>th</sup> December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2<sup>nd</sup> August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

Following the Examination Hearing Sessions for the emerging Local Plan, the Council has prepared a number of changes, known as Main Modifications, to the Epping Forest District Local Plan Submission Version (2017) to address issues of soundness and/or legal compliance identified by the Inspector. These are put forward without prejudice to the Inspector's final conclusions on the Plan.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional Main Modifications, the **highest weight** should be afforded to LPSV policies in accordance with paragraph 48 of Framework. The following policies below are relevant to the determination of this application;

DM3 Landscape Character, Ancient Landscapes and Geodiversity  
DM5 Green and Blue Infrastructure

### Summary of Representations

Number of neighbours Consulted: 4. No response(s) received  
Site notice posted: No, not required.

LAMBOURNE PARISH COUNCIL – No comments received at the time of writing this report.

### Planning Considerations

As the application seeks to remove condition 2 (soft landscaping) on EPF/2334/21, the Councils Arboricultural Officer has objected to the proposal.

The condition attached to the original consent read:

*“Within 3 months of the date of this decision notice, full details of soft landscaping works shall be submitted to the Council for approval. Details shall include plans for planting and a full written specification and schedule of plants (i.e. species / plant sizes and proposed planting densities) and including a timetable for its implementation the landscaping in the roadside of the boundary fence shall consist of a native hedgerow species mix. The landscape scheme shall be carried out in accordance with the approved details and the agreed timetable. If any plant dies, becomes diseased or fails to thrive within a period of 5 years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the Local Planning Authority agrees to a variation beforehand in writing.*

*Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with policy LL11 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.”*

To justify the condition, the Tree Team commented that:

*‘We note that this is a retrospective application and that the crossover and gateway have already been installed. We also note that some planting has been undertaken along the field boundary adjacent to the fence. However, given that this is the boundary of a field with agricultural status and in a rural location we would expect a native hedge to be planted – not laurels or photinia (Red Robin) as shown on the submitted plan.’* We also provided details of the native hedgerow planting species, and planting density that would be appropriate for this setting.

The letter that accompanies this current application states that *‘The majority of the land directly behind the fence has been used as residential garden since the applicant purchased the property in 2009’*. However, in application EPF/2334/21 we were advised that *‘The field is used for grazing polo horses...’*. Irrespective of the use of the land behind the fence it is the visual impact in the street scene that is of relevance and the reason that the condition was included.

Please see the photos below of the same stretch of road taken in 2014 and 2021 respectively-



***Google street view dated October 2014 looking towards Abridge***



***Google street view dated March 2021 looking towards Abridge***

The subject property boundary is on the left-hand side, and clearly shows the alteration. The length of this fence line is approx. 150metres.

Officers are fully aware that in order to comply with this condition that the existing planting would need to be removed. But this application is retrospective, and with its current landscaping is not considered appropriate. Had the application been submitted prior to the work being undertaken the Tree Team would have requested a condition for native hedge

planting. In having undertaken the work without having the necessary planning permission, was a risk that the owner took, and does not automatically mean that what has planted is acceptable. Likewise, the fact that the landscaping information had been provided with the original application, does not mean that it is going to be acceptable.

The Chris Blandford Associates 2010 EFDC Landscape Character Assessment places this site with the 'River Valley – B4 Lower Roding'

The overall character of the area includes '*A patchwork of relatively small arable and pastoral fields line the river corridor. These fields are delineated by a network of hedgerows, occasionally containing hedgerow trees.*' And it is considered to have a moderate to high sensitivity to change.

The area around this site is rural in nature with some isolated clusters of houses, the vast majority of the surrounding land is fields in agricultural use or grazing. Where some of these nearby properties adjoin the road their front boundaries in some cases do consist of laurel / photinia – however, these are short sections of hedging, to the front of what is very clearly the front garden of a house. The remainder of the land boundaries with the road are of native trees and hedges.

In summary, in terms of the species mix of the planting along this boundary is currently incongruous within to this rural setting, it introduces a considerable 'urbanisation' which we consider is contrary to policies LL11 & DM3 – in particular that proposals should;

- Be sensitive to their setting in the landscape, and its local distinctiveness and characteristics; and
- Minimise the impact and appearance of the proposal by taking into account the surrounding landscape and using appropriate 'materials' i.e. appropriate species selection. In this case it is considered that native hedging as described within the condition would be in accordance with this policy.

## **Conclusion**

For the reasons set out above, it is recommended that planning permission be refused.

## **Alternative Recommendation**

To assist with clarity, decision notices for the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission unless they have already been discharged.

If Members are minded to approve the application, then a point to note is that whilst the applicant has sought to remove condition 2, however, the existing landscaping scheme will need to be secured via a condition. In this instance, it would be sufficient to modify condition 2 to as specified below. The relevant conditions are as follows;

1. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 904-01 Rev A, 904-02, F210733/01 and 221211-PL-001. Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.
2. Within 3 months of the date of this decision notice, the Landscaping scheme shall be carried out in accordance with the details specified on the approved plans. If any plant dies, becomes diseased or fails to thrive within a period of 5 years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by

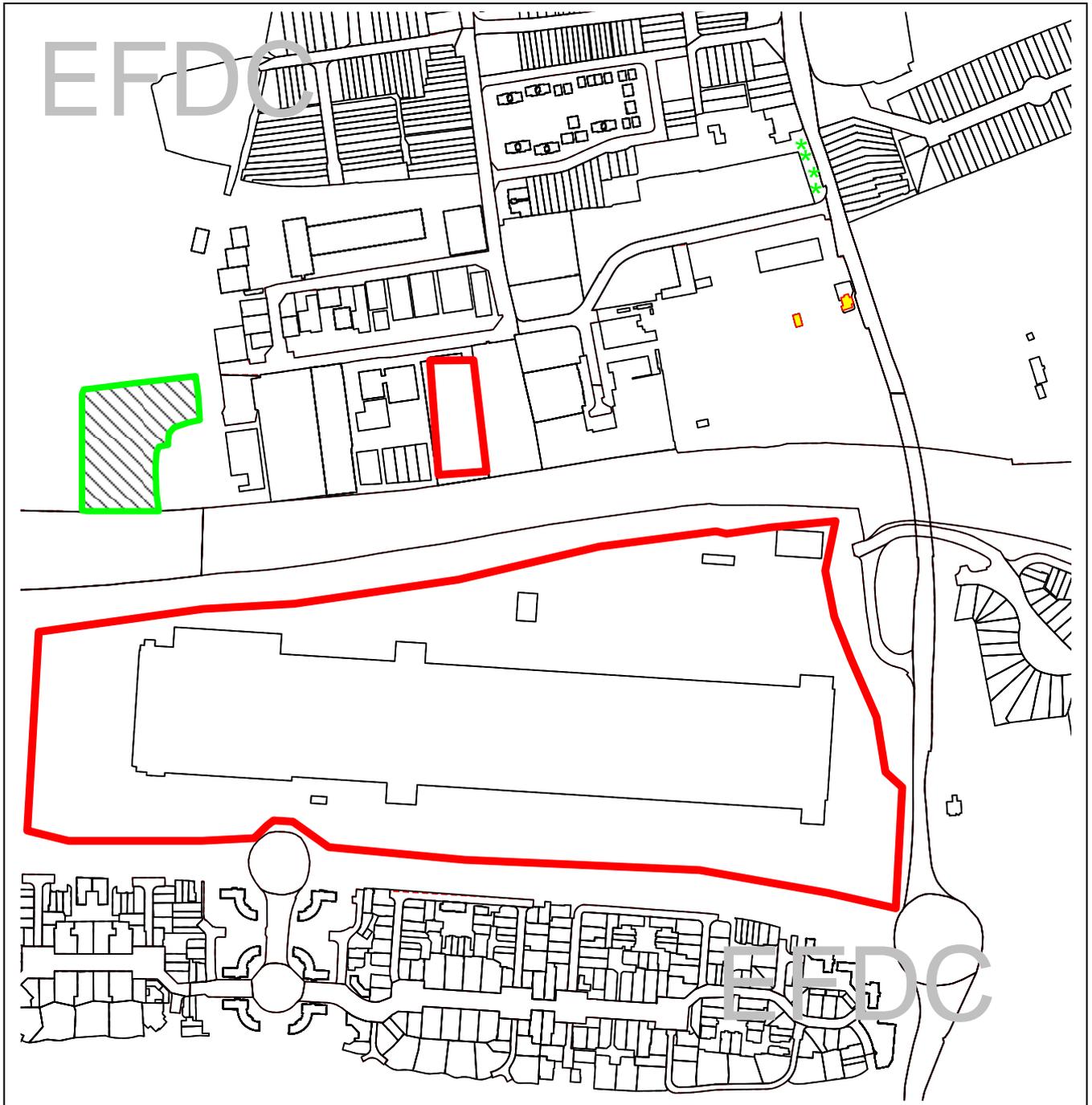
another plant of the same kind and size and at the same place, unless the Local Planning Authority agrees to a variation beforehand in writing. Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with policy LL11 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.

3. Within 3 months of the date of this decision notice, the visibility splays, as shown on drawing no. F21073/01 (2.4m x 118m to the west & 2.4m x 107m to the east), shall be fully implemented clear to ground level, with any planting being located a minimum of 1m behind the splays and so retained. Reason: To provide clear and adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety, and to ensure that this proposal is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, and Policy T1 of the Local Plan Submission Version 2017.
4. Within 3 months of the date of this decision notice, there shall be no unbound material used in the surface treatment of the vehicular access within 6 metres of the highway boundary. Reason: To avoid displacement of loose material onto the highway in the interests of highway safety, and to ensure that this proposal is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, and Policy T1 of the Local Plan Submission Version 2017.
5. There shall be no discharge of surface water onto the Highway. Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety, and to ensure that this proposal is not contrary to the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011, Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, and Policy T1 of the Local Plan Submission Version 2017.
6. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified on the approved plans, unless otherwise agreed in writing by the Local Planning Authority. Reason: To ensure a satisfactory appearance in the interests of visual amenity of the area, in accordance with policy DBE1 & DBE4 of the adopted Local Plan 1998 & 2006, and Policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Muhammad Rahman on 01992 564415 or  
if no direct contact can be made please  
email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***

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Application Number:	EPF/2103/21
Site Name:	Waltham Point Distribution Centre Fleming Road. Waltham Abbey EN9 3YJ
Scale of Plot:	1:5000

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**Report to District Development  
Management Committee**

**Date of Meeting: 20 April 2022**



**Epping Forest  
District Council**

**Site Address: Waltham Point**

<b>Application Number:</b>	EPF/2103/21	
<b>Application Type:</b>	Major employment	
<b>Proposal:</b>	Erection of a decked car park on the site of the existing staff car park to provide an additional 192 new spaces and the provision of 95 new trailer spaces.	
<b>Site Address:</b>	Waltham Point, Meridian Business Park & Sainsbury's Distribution Centre, Waltham Abbey, EN9 3BZ	
<b>Parish/Town:</b>	Waltham Abbey	
<b>Conservation Area:</b>	No	
<b>EFDLP Site Allocation</b>	Yes	WAL.E5
<b>Epping Forest Special Area of Conservation</b>	No adverse effects subject to conditions	

<b>Applicant:</b>	Sainsburys Supermarkets Plc
<b>Agent:</b>	Emily Taylor, WSP
<b>Case officer:</b>	James Rogers

<b>Reason for reporting application to Members:</b>	Largescale major development
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**1. RECOMMENDATION**

1.1 That planning permission be granted subject to a s106 legal agreement and conditions.

**2. SUMMARY OF KEY REASONS FOR RECOMMENDATION**

2.1 The proposed development seeks to increase HGV and vehicular parking on a well established employment site in Waltham Abbey. The new multi storey car park will provide new employment opportunities on the site and contribute significantly to the local economy.

2.2 The emerging Local Plan seeks to intensify existing employment sites, subject to any application complying with the Development Plan as a whole. In this case there are no conflicts with local or national planning policy and therefore the proposal is recommended for approval.

2.3 This application is linked to another on Brooker Road (EPF/2211/21) which is proposed to be used initially for Waltham Point staff to park during the construction phase of the multi storey car park, after which time it will be used for the parking of trailers. The applicant for both applications is Sainsbury's Supermarkets.

**3. PLANNING CONDITIONS**

3.1 It is recommended that the following conditions are attached if Members are resolved to grant planning permission:

**Time Limit and approved drawings**

3.2 *The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.*

*Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.*

3.3 *The development hereby permitted shall be carried out in accordance with the details shown on the approved plans listed below:*

*DR-A-9001 P04 - Location Plan; DR-A-9002 P04 Existing Site Plan; DR-A-9003 P04 Proposed Site Plan; DR-A-9004 P03 Existing Car Park Plan; DR-A-9005 P04 Proposed Car Park Plans; DR-A-9006 P06 Proposed Elevations; DR-A-9007 P03 Proposed Site Sections; DR-A-9007 P03 Proposed Site Sections; DR-A-9012 P02 Proposed Plan- Eastern Perimeter; J210589-GC-A-DR-3-001-Tree Survey Plan - Sheet 1; J210589-GC-A-DR-3-002-Tree Survey Plan - Sheet 2; J210589-GC-A-DR-3-*

003-Tree Constraints - Protection Plan - Sheet 1; and J210589-GC-A-DR-3-004-Tree Constraints - Protection Plan - Sheet 2.

*Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.*

### **Materials**

- 3.4 *Prior to the commencement of any above ground works, samples of the materials to be used in the construction of the external surfaces of the development hereby permitted, including any external cladding and internal cladding that is decorative and visible externally, decorative fascia or panels, balustrades and glazing shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.*

*Reason: To ensure a high-quality design and satisfactory appearance to the development as a whole in accordance with Policies DM 9 of the Local Plan Submission Version and with Policies DBE1 and DBE4 of the Adopted Local Plan and Alterations 2006.*

### **Flood Risk and SuDs**

- 3.5 *The development shall be carried out strictly in accordance with the flood risk assessment (143672, D.I.D.143672.02, July 2021) submitted with the application unless otherwise agreed in writing by the Local Planning Authority.*

*To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future users, in accordance with Policies DM 18 and DM 19 of the Local Plan Submission Version and with Policy RP5A and U3B of the Adopted Local Plan and Alterations 2006.*

- 3.6 *Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.*

*Reason: To ensure satisfactory provision and disposal of surface water in the interests of Land Drainage, in accordance with policy RP3 of the adopted Local Plan and Alterations 1998 & 2006, policies DM16 and DM18 of the Local Plan Submission Version 2017, and the NPPF 2021.*

### **Highways and transport**

- 3.7 *Prior to occupation of any part of development hereby permitted, an Operational Management Plan will be submitted to and agreed in writing by the Local Planning*

*Authority, in consultation with National Highways. The Operational Management Plan will include but not be limited to the following:*

- *Details of HGV routing;*
- *Measures to manage HGV movements during peak periods (Monday-Friday AM Peak (0800-0900) and PM Peak (1630-1800));*
- *Details of staff shift changes which seek to minimise the effect during peak operational periods of the surrounding highway network;*
- *Signage Strategy;*
- *Car Park Management Plan; and*
- *Framework Travel Plan for staff on site.*

*Reason: To ensure that the M25 trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety and in accordance with Policy T 1 of the Local Plan Submission Version 2017 and the NPPF 2021.*

3.8 *The Development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority, in consultation with National Highways. This shall include but not be limited to:*

- *information relating to the temporary facilities being made available for staff and commercial vehicles during the construction phase*
- *Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on SRN*
- *The hours that delivery vehicles will be permitted to arrive and depart, and.*
- *The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved.*

*Reason: To ensure that the M25 trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety and in accordance with Policy T 1 of the Local Plan Submission Version 2017 and the NPPF 2021.*

3.9 *No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the*

*Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for the following all clear of the highway:*

- *Safe access into the site*
- *The parking of vehicles of site operatives and visitors*
- *Loading and unloading of plant and materials*
- *Storage of plant and materials used in constructing the development*
- *Wheel and underbody washing facilities*

*Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.*

3.10 *A Workplace Travel Plan is to be submitted to and approved in writing by the Local Planning Authority (in consultation with Essex County Council) prior to the occupation of the development, which shall include the following details:*

- *travel plan co-ordinator;*
- *travel surveys;*
- *measures to be taken to encourage walking, cycling, use of public transport and reduce car travel by staff;*
- *monitoring and review in collaboration with ECC;*
- *programme for implementation.*

*Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies ST4 and ST6 of the Adopted Local Plan, policy T 1 of the Local Plan Submission Version 2017 and the NPPF 2021.*

3.11 *Prior to the first occupation of the development a Routing Management Plan and a Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the life of the development.*

*Reason: In the interests of highway safety and efficiency by the routing of HGV onto appropriate roads to ensure compliance with policies ST4 and ST6 of the Adopted Local Plan, policy T 1 of the Local Plan Submission Version 2017 and the NPPF 2021.*

## **Landscaping**

- 3.12 *Soft landscaping shall be implemented as shown on Ground Control 'soft landscape proposals plan' drawing number J210583-GC-L-DR-3-006 rev A dated July 2021; and the accompanying planting schedule. The works shall be carried out prior to the occupation of the building or completion of the development. 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.*

*Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees / hedges, so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policy LL10 of the adopted Local Plan 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.*

#### **Air Quality (human health)**

- 3.13 *Prior to demolition works commencing a Demolition Management Statement shall be submitted to and approved in writing by the Local Planning Authority for a management scheme whose purpose shall be to control and minimise emissions of pollutants from and attributable to the demolition of the development. This should include a risk assessment and a method statement in accordance with relevant guidance such as IAQM assessment of dust from demolition and construction guidance and the control of dust and emissions from construction and demolition best practice guidance published by the Greater London Authority. The scheme shall set out the secure measures, which can, and will, be put in place.*

*Reason: Dust and other air pollution from demolition and construction can impact greatly on the health and quality of life of people working on and living close to these sites if they are badly managed. To help support improvements to air quality in accordance with the NPPF and Policy T1 and DM22 of the Epping Forest District Local Plan Submission Version 2017*

- 3.14 *Prior to construction works commencing a Construction Management Statement shall be submitted to and approved in writing by the Local Planning Authority for a management scheme whose purpose shall be to control and minimise emissions of pollutants from and attributable to the construction of the development. This should include a risk assessment and a method statement in accordance with relevant guidance such as IAQM assessment of dust from demolition and construction guidance and the control of dust and emissions from construction and demolition best practice guidance published by the Greater London Authority. The scheme shall set out the secure measures, which can, and will, be put in place.*

*The submitted method statement shall include details of:*

- *Site hoarding*
- *Wheel washing*
- *Dust suppression methods and kit to be used*
- *Bonfire policy*
- *Confirmation that all Non Road Mobile Machinery (NRMM) comply with the Non Road Mobile Machinery (Emissions of Gaseous and Particulate Pollutants) Regulations*
- *1999*
- *Confirmation if a mobile crusher will be used on site and if so, a copy of the permit and*
- *indented dates of operation*
- *Site plan identifying location of:*
  - *site entrance and exit*
  - *wheel washing*
  - *hard standing*
  - *hoarding (distinguishing between solid hoarding and other barriers such as heras and monarflex sheeting)*
  - *stock piles*
  - *dust suppression*
  - *location of water supplies and*
  - *location of nearest neighbouring receptors*
- *Copy of an asbestos survey*

*The details and measures contained in the approved demolition and construction management statements must be fully implemented to the Council satisfaction.*

*Reason: Dust and other air pollution from demolition and construction can impact greatly on the health and quality of life of people working on and living close to these sites if they are badly managed. To help support improvements to air quality in accordance with the NPPF and Policy T1 and DM22 of the Epping Forest District Local Plan Submission Version 2017.*

### **Land contamination**

3.15 No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites – Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. 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. The assessment shall include:

- A survey of the extent, scale and nature of contamination;
- An assessment of the potential risks to:
  - a) human health;

- b) property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes;
- c) adjoining land;
- d) groundwater and surface waters;
- e) ecological systems; and
- f) archaeological sites and ancient monuments.

If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2019.*

### **Ecology**

- 3.16 *The development hereby approved shall be carried out in accordance with the Ecological Impact Assessment and deliver the mitigation measures therein to ensure a biodiversity net gain.*

*Reason: To ensure that the development delivers a biodiversity net gain in accordance with policy DM 1 of the Local Plan Submission Version 2017 and the NPPF 2021.*

### **The Epping Forest Special Area of Conservation**

- 3.17 The Multi Storey Car Park hereby approved shall provide active EV charging points at a minimum of 15% of all parking spaces and they shall be permanently retained thereafter.

*Reason: to ensure there will be no adverse effect on the Epping Forest Special Area of Conservation in accordance with Policy NC3 of the Adopted Local Plan, with Policies*

*DM 2 and DM 22 of the Local Plan Submission Version 2017, with the NPPF 2021 and with the Habitat Regulations 2017.*

- 3.18 Prior to the commencement of works a Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority which identifies how the car park will be managed to ensure exclusive use of EV parking bays by EVs, with appropriate monitoring procedures to ensure effective monitoring and compliance.

*Reason: to ensure there will be no adverse effect on the Epping Forest Special Area of Conservation in accordance with Policy NC3 of the Adopted Local Plan, with Policies DM 2 and DM 22 of the Local Plan Submission Version 2017, with the NPPF 2021 and with the Habitat Regulations 2017.*

- 3.19 *Prior to first occupation of the Multi Storey Car Park hereby approved a staff and visitor travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan will identify:*

- *Measures to inform and encourage access by means other than the private car and/or by vehicles that are ultra-low emitting/EV;*
- *Appropriate Travel Plan mechanisms for monitoring to be submitted to the Local Planning Authority*

*Reason: to ensure there will be no adverse effect on the Epping Forest Special Area of Conservation in accordance with Policy NC3 of the Adopted Local Plan, with Policies DM 2 and DM 22 of the Local Plan Submission Version 2017, with the NPPF 2021 and with the Habitat Regulations 2017.*

#### **4. PROPOSED DEVELOPMENT**

- 4.1 The proposed development is for the erection of a decked car park on the site of the existing staff car park to provide an additional 192 new spaces and the provision of 95 new trailer spaces.

#### **5. SITE AND SURROUNDINGS**

- 5.1 The application site (“the site”) is approximately 17.8ha in size and is located at the southern edge of Waltham Abbey and is bounded by the M25 directly to the north and a residential estate located to the south.
- 5.2 The site is currently used by Sainsbury’s Supermarkets as a 24 hour, 7 day a week distribution centre which is accessed from Fleming Road located on the southern boundary of the site.
- 5.3 The site contains a very large and utilitarian looking distribution warehouse as well as a vehicle maintenance unit and a substantial amount of hardstanding which is partly used for the parking of 432 cars and 405 trailers.

- 5.4 Junction 26 of the M25 is located approximately 700m from the eastern boundary and offers both east and westbound entry onto the M25 orbital.
- 5.5 There is some significant existing landscaping on the boundaries of the site which provide robust screening, particularly when viewed from public viewpoints from the southern and eastern boundaries. The northern boundary directly abuts the M25 and whilst there are a number of trees planted on this boundary, the site is significantly visible from these public views.
- 5.6 There are significant numbers of HGV trailers located on the site during the day which are particularly visible when viewed from the M25, giving the site a distinctly commercial character.
- 5.7 The site is currently located within the boundaries of the Metropolitan Green Belt but does not have an open character for the reasons noted above. Furthermore, the site is designated within the Submission Version Local Plan as an existing employment site (WAL.E5) and it is also proposed to remove the site from the Green Belt as part of the Submission Version Local Plan Green Belt review.

## **6. RELEVANT PLANNING HISTORY**

- 6.1 EPF/0620/00 - Regional distribution facility (61,211m<sup>2</sup>) with ancillary offices and vehicle maintenance unit, associated vehicle parking and servicing area and landscaping. – Approved
- 6.2 EPF/1333/03 - Eleven business starter units (3,193sqm) (B1 & B2), a regional recovery unit (B2) for receipt, cleaning, washing & drying of crates, pallets and the like for re-use with ancillary offices (7,043sqm), 18 no. lorry loading bays, 119 car parking spaces for the recovery unit and 63 spaces for business starter units, and ancillary landscaping. – Approved
- 6.3 EPF/0901/13 - Variation of Section 106 Legal Agreement to planning permission EPF/0620/00 in respect of HGV delivery vehicles movement routing restrictions associated with Waltham Point Distribution Centre. Proposed variation to allow daily HGV movements along the A121 (Honey Lane, Goldings Hill) and the A1168 (Rectory Lane and Chigwell Lane) when delivering to and from the Sainsbury's Debden store at Torrington Drive, Loughton. – Approved

## **7. CONSULTATION AND REPRESENTATIONS**

- 7.1 462 neighbour letters were sent, and 6 site notices displayed around the site. Three letters of objection were received:
- 12 Hayden Road – OBJECTION - Meridian Way already far exceeds the amount of HGV traffic it can handle. The road was poorly surface-dressed over two years ago and immediately collapsed under the weight of the HGVs, resulting in a cobblestone road rather than a highway. This road needs to be

reinforced and resurfaced, not dressed, if it is expected to handle 95 new trailers. The much better solution is to create an entry/exit directly off of the Sewardstone roundabout, so that the heavy traffic doesn't even need to travel down Meridian Way (or as a compromise, entry at the roundabout, and exit as it is now). I object to any further traffic until the Meridian Way issue is resolved.

- Unit 1 Meridian Business Park – OBJECTION - 192 new car parking spaces and 95 new lorry trailer spaces will increase traffic and will cause congestion on Meridian Way and on the roundabout to Fleming Road which is the only access road we have to get to our business park.
- 4 Hayden Road – OBJECTION - We currently live on the Meridian Park development and have done for the past 17 years. Over the years we have noticed a considerable increase in traffic in the area which is often made worse when there are issues on the M25. A vast number of vehicles which create the traffic are the lorries that are going into the distribution centre. To add to this is the damage to the road that is caused by the constant heavy loads that travel up the A121. With the proposed plans it states there will be provision for 95 new trailer spaces. This can only mean one thing, more heavy goods vehicles in a residential area which leads to more traffic, the likelihood of more road damage which will impact the residents but more worryingly is the increased risk of danger to pedestrians (often children).
- Waltham Abbey Town Council – NO OBJECTION - The Committee are happy with this application as long as Highways comments are met.

## **8. PLANNING CONSIDERATIONS**

8.1 The main issues raised by the proposed development are:

- Principle of development.
- Economic development.
- Strategic and Local Highway network.
- Sustainable transport.
- Natural environment and green infrastructure
  - Habitat protection and improving biodiversity;
  - Epping Forest Special Area of Conservation;
  - Impact on landscape character;
  - Trees;

- Historic Environment – Archaeology;
- High quality design;
- Landscaping;
- Managing and reducing flood risk;
- Sustainable drainage;
- Air Quality;
- Land contamination and pollution; and

## **9. DEVELOPMENT PLAN**

9.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in dealing with any planning application the authority shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material planning considerations.

9.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise

9.3 The Development Plan currently comprises the saved policies of the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006) (ALP). The list below indicates which policies of the ALP are relevant to the determination of this application and the degree to which officers consider that they are consistent with the NPPF as noted in the report to the Local Plan Cabinet Committee (25<sup>th</sup> March 2013):

CP1 – Achieving Sustainable Development Objectives – Compliant

CP2 – Protecting the Quality of the Rural and Built Environment – Compliant

CP3 – New Development – Compliant

CP4 – Energy Conservation – Compliant

CP5 – Sustainable Building – Compliant

CP 6 – Achieving Sustainable Urban Development Patterns – Compliant

CP 7 – Urban Form and Quality – Compliant

CP 8 – Sustainable Urban Economic Development – Compliant

CP 9 – Sustainable Transport – Compliant

GB2A – Development in the Green Belt – Generally Compliant

GB7A – Conspicuous Development – Compliant

HC1 – Scheduled Ancient Monuments and Other Archaeological Sites – Partially Compliant

RP3 – Water Quality – Compliant

RP4 – Contaminated Land – Compliant

RP5A – Adverse Environmental Impacts – Compliant

U3B – Sustainable Drainage Systems – Compliant

DBE1 – Design of New Buildings – Compliant

DBE2 – Effect on Neighbouring Properties – Compliant

DBE3 – Design in Urban Areas - Compliant

DBE4 – Design in the Green Belt – Compliant

DBE9 – Loss of Amenity – Compliant

LL1 – Rural Landscape – Compliant

LL2 – Inappropriate Rural Development – Compliant

LL10 – Adequacy of Provision for Landscape Retention – Compliant

LL11 – Landscaping Schemes – Compliant

ST1 – Location of Development – Compliant

ST2 – Accessibility of Development – Compliant

ST4 – Road Safety – Compliant

9.4 The relevance of the identified saved Local Plan policies to the determination of this application and the weight to be accorded to each policy are addressed in further detail within Section 12 of this report.

## **10. The National Planning Policy Framework (July 2021):**

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

*(a) approving development proposals that accord with an up-to-date development plan without delay; or*

*(b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

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

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

#### **Epping Forest District Local Plan (Submission Version) 2017:**

10.3 On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

10.4 The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

10.5 During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.

10.6 Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "may give weight to relevant policies in emerging plans according to:

a) *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

b) *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*

c) *The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).*

10.7 Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.

10.8 As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework.

10.9 The following policies in the LPSV are considered to be of relevance to the determination of this application, with the advanced stage of the LPSV, all policies should be afforded significant weight:

<b>No.</b>	<b>POLICY</b>
SP1	Presumption in favour of sustainable development
SP2	Spatial Development Strategy
SP3	Place Shaping
E1	Employment sites
P3	Waltham Abbey Place policy
SP7	The Natural Environment, landscape character and green infrastructure
T1	Sustainable transport choices
T2	Safeguarding of routes and facilities
DM1	Habitat protection and improving biodiversity
DM2	Epping Forest SAC and Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM4	Green Belt
DM5	Green and Blue Infrastructure
DM9	High Quality Design
DM15	Managing and reducing flood risk
DM16	Sustainable Drainage Systems
DM17	Protecting and enhancing watercourses and flood defences
DM18	On site management of waste water and water supply
DM19	Sustainable water use
DM20	Low carbon and renewal energy
DM21	Local environmental impacts, pollution and land contamination
DM22	Air quality

## **11. CONSIDERATION OF PLANNING ISSUES**

- 11.1 The following section of the report will consider the proposal against the requirements of the Adopted Development Plan and the LPSV.

### Principle of development

- 11.2 As part of the Local Plan making process, the Council undertook a Site Selection process to ensure that its objectively assessed housing and employment needs would be met over the Plan Period (2011-2033).
- 11.3 As part of this process, the Council sought to safeguard existing employment sites across the district by designating them for such uses. The site is designated as WAL.E5 in the LPSV and is a retained employment allocation for the District.
- 11.4 The proposed development seeks to support the existing employment use on the site by providing more parking for staff and visitors as well as an increased number of trailer parking spaces in order to expand existing operations. It is within this context that the following Green Belt section is to be considered.

### Green Belt assessment

- 11.5 As previously identified, the application site is proposed for allocation in the LPSV to provide significant employment uses over the Plan Period. The site is currently located within the boundaries of the Green Belt, however the proposed allocation also includes an amendment to the existing Green Belt boundary, to remove it from this designation.
- 11.6 The proposed amendment to the boundary of the Green Belt will not occur until the formal adoption of the emerging Local Plan. Since this application has been lodged prior to the formal adoption, the application site remains within the boundaries of the Metropolitan Green Belt and as such the Local Planning Authority must assess it within the context of this existing policy designation.
- 11.7 Paragraph 137 of the NPPF identifies that the Government attaches great importance to Green Belts. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 11.8 Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 11.9 Paragraph 148 of the NPPF also requires the Local Planning Authority to ensure that substantial weight is given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm, by reason of inappropriate development and any other harm is clearly outweighed by other considerations.

11.10 However paragraph 149 of the NPPF notes an exhaustive list of exceptions to inappropriate forms of development in the Green Belt. Of relevance to this application is the exception noted under sub paragraph g) which notes the following is not inappropriate development in the Green Belt:

*limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*

*– not have a greater impact on the openness of the Green Belt than the existing development; or*

*– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

11.11 The first stage of this assessment is to first consider whether the site constitutes previously developed land, which is defined in annex 2 (page 70) of the NPPF as:

*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*

11.12 As previously noted, the site is used by Sainsbury's as a large scale, 24 hour distribution centre and as such is occupied by a large warehouse building, an additional large building used as a resource recovery unit (RRU), hardstanding, lorry parking and associated paraphernalia. Having regard to the circumstances, the site clearly constitutes previously developed land as defined by the NPPF.

11.13 The second stage of the exception is to consider whether the proposed development will constitute a limited infilling of the previously development and whether or not it will have a greater impact on the openness of the Green Belt than the existing development.

11.14 The proposed multi storey car park (MSCP) is large in size and scale at 12m high and will be observable from many public viewpoints into the site, including Fleming Way and the M25 in particular. Despite its scale and visibility however, it will be located directly adjacent to the distribution centre to the east which is approximately 20m high and to the RRU to the west which is approximately 16m high. Owing to their scale, both these existing buildings give a distinct industrial and enclosed feel to the site as do the significant number of spaces for the parking of HGV and LGVs. As a consequence, the new MSCP will be observed within the context of this existing

character and will serve to visibly infill an existing gap between these two existing buildings and on that basis it will not cause material harm to the openness of the Green Belt. It is acknowledged that increased parking provision for both cars and trailers will bring further vehicle movements and general activity in and around the site, however as previously noted, the site is a 24 hour working distribution centre and as a result the visible impact of the increase in activity will be small.

- 11.15 As such it is concluded that it will constitute a limited infilling of a previously developed site, which would not cause material harm to the openness of the Green Belt. As such the proposal falls within this exception to inappropriate development as defined by the NPPF.
- 11.16 In any event however, consideration should also be given to the progress of the emerging Local Plan, which is at a very advanced stage of its production. The Local Plan proposes this site for allocation for employment uses and also includes an alteration to the Green Belt boundary as it currently exists. Upon formal adoption, the site would no longer be located within the Green Belt and there would be no requirement to demonstrate an exception to inappropriate development or to provide very special circumstances. Since the Local Plan is at a very advanced stage and no Main Modifications have been proposed to this proposed allocation site, it is very likely that the site will be allocated and the Green Belt boundary redrawn. This should be afforded significant weight.

### **Economic Development**

- 11.17 Both Local and National planning policy recognise that the economy plays an important role in promoting sustainable development. As such, Policy E 1 of the emerging Local plan seeks to promote the intensification of existing employment sites across the District.
- 11.18 Sainsbury's are seeking to reduce their reliance on mechanisation in their distribution centre and are putting more onus on using a human workforce. The proposed development will provide 350 new jobs in the local area, which the applicant submits will provide over £17M gross value added to the local economy and an additional spending of £550,000 per annum in the local area. The construction phase will provide £5M of investment and 27 new construction jobs in the local area and give new job opportunities for the local community.
- 11.19 The benefits provided by the proposed development to the local economy is fully compliant with the economic policies of the Local Plan and would be a significant benefit to the local area.

### **Local and Strategic Highway considerations**

- 11.20 Paragraph 110 of the NPPF identifies that when assessing planning applications for new development proposes, it should be ensured that:

*a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*

*b) safe and suitable access to the site can be achieved for all users; and*

*c) any significant impacts from the development on the transport network (in terms of capacity and congestion) or on highway safety, can be cost effectively mitigated to an acceptable degree.*

11.21 Paragraph 109 advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 states that within this context, applications for development should:

*a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*

*b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*

*c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*

*d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*

*e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

11.22 Policy T 1 of the LPSV (Sustainable Transport Choices) seeks to promote a safe, efficient and convenient transport system and will permit development proposals where they integrate into existing transport networks; provide safe, suitable and convenient access for all users; provide onsite layouts that are compatible for all potential users with appropriate parking and servicing provision, provide electric charging points, and do not result in unacceptable increases in traffic generation or compromise highway safety.

11.23 Saved Policies ST1 and ST2 of the adopted Local Plan seek to ensure that new development must be designed to encourage walking and cycling and where appropriate, to provide integrated transport choices and enhanced infrastructure to facilitate sustainable methods as far as possible.

11.24 Saved Policy ST4 of the adopted Local Plan requires that new development must not compromise highway safety, nor cause excessive highway congestion in the local

area. In the interests of highway safety, the Council may use legal agreements to ensure that off-site alterations to the highway network are completed prior to the operation of a particular scheme.

11.25 Saved Policy ST5 of the adopted Local Plan sets out that proposals which would create a significant generation of people movements will be required to submit a Travel Plan which identifies measures to reduce car usage and encourage sustainable forms of transport.

11.26 These Saved Policies are all consistent with the provisions of the NPPF and the LPSV.

11.27 ECC in their capacity as the Local Highway Authority have commented that:

*The Highway Authority has assessed the submitted information and has concluded that; given the relatively minor increase in vehicle movements, in the peak hours, at all the assessed junctions on the local highway network, the proposed development will not result in a severe impact upon the highway network.*

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

11.28 These conclusions are subject to the imposition of three conditions to ensure the submission and approval of a construction management plan prior to any development taking place, the submission of a workplace travel plan and finally the submission of a route management plan and car park management plan prior to first occupation of the development. These conditions are all reasonable and necessary to impose. However it is important to note that the monitoring fee will need to be secured through a s106 legal agreement.

11.29 National Highways, formally known as Highways England are the highway authority for the Strategic Road Network (SRN) in this case, the M25. After review of the applicants submitted Transport Assessment National Highways has commented that:

*The Mayer Brown TA identifies the uplift in development trips, based on an existed 3 shift working pattern where increases in trips happen outside of the network peaks. As a result, the increase in operations at the existing distribution centre, should not have a material impact at the SRN. This conclusion is based on the data provided within the TA and the use of the existing site operation to generate a trip generation profile for the development proposals, which identifies under current shift patterns the identified impact shall be limited at the SRN.*

*A planning condition is therefore required to ensure the site operations are maintained through an Operational Management Plan, which should be reviewed and agreed by National Highways before coming into effect. Furthermore, a Construction Environment Management Plan should be implemented before any construction starts on site to ensure details as to temporary staff parking and parking locations are*

*understood and agreed by National Highways through the construction phase of the development.*

- 11.30 The conditions required by National Highways are reasonable and necessary to ensure that there will not be an adverse impact on junction 26 of the M25.

### **Parking**

- 11.31 As previously identified Policy E 1 of the emerging Local Plan seeks to promote the enhancement of existing employment sites in the District. Proposals which will intensify existing employment uses will be encouraged, subject to compliance with the Development Plan as a whole.
- 11.32 The increased level of parking proposed will facilitate the creation of 350 new jobs for the local economy. Subject to considerations regarding the EFSAC, which are considered further in this report, the intensification of the existing employment site should be encouraged as far as possible, which in this case will be achieved by increasing the level of parking on the site. Of the parking to be provided, spaces for car sharing will be located on the ground floor, close to the entrance to the site to incentivise their use. The exact number of car sharing spaces is to be agreed through a comprehensive car park management plan and this will be an important condition to impose.
- 11.33 Currently the site provides for 40 cycle spaces, enclosed in a small fence open to the elements. The new cycle parking offer includes 225 cycle spaces in the ground floor level of the MSCP which is a secure and covered area designed to facilitate cycling to the site by employees. In addition, the applicant proposes to deliver electric charging provision for electric cycles and will be submitting a comprehensive travel plan to the Council prior to the first operation of the MSCP, which will include the provision of a work place travel plan coordinator to support sustainable transport measures as far as possible. Such measures will clearly encourage more sustainable and active means of accessing the site and are compliant with the general objective of policy T 1 of the emerging Local plan, which seeks to facilitate and encourage more sustainable means of travel.
- 11.34 As previously identified, both ECC and National Highways have not objected to the increased level of parking for HGVs and cars and therefore such an intensification will not cause harm to the road network.

### **Design and landscaping**

- 11.35 The multi storey car park will be comprised of three decks, reaching a parapet height on the northern section of 11.6m and 10.5 on the southern section. The highest point of the building will be at the top of the stair core which is 12.5m in height. The building will be located immediately adjacent to the main distribution centre and the Resource Recovery Unit, both of which are significantly higher. In addition the building will not be overtly visible from Meridian Way given the significant screening on the southern

boundary. It will be somewhat visible from the M25, however there is also screening on the northern boundary in the form of a landscaped bank comprising of trees and shrubs. Whilst the building will be glimpsed from the M25, it will be sited directly adjacent to the two existing utilitarian buildings already on the site.

- 11.36 In terms of detailed design, the building will have a somewhat utilitarian design, similar to the existing buildings on the site, however the northern and southern elevations will be finished in perforated cladding which will serve to break up the potential bulk of the building. The car park will include headlight barriers which will serve to contain light and noise created by its use.
- 11.37 A soft landscaping proposal has been submitted, including a planting schedule which will be located along the eastern boundary. This includes ornamental shrub planting, native species and the erection of new trees. The Council's Tree and Landscape Team have considered these details and commented that subject to their suitable delivery prior to the completion of the development, there will be no harm caused to the character and appearance of the area from a landscape perspective.
- 11.38 As a result of this analysis, it is concluded that the new multi storey car park will not appear as an overly prominent or incongruous addition to this existing employment site. The use of materials for the building will be important in ensuring a high quality finish and these can be secured through condition. It is therefore concluded that the proposal is compliant with the design policies of the adopted and emerging Local Plans.

### **Flood Risk and SuDs**

- 11.39 The applicant has submitted a Flood Risk Assessment which has been considered by the Council's Land Drainage Team. The applicant is proposing to dispose of surface water by way of sustainable drainage systems and the main sewer, however further details are required. Subject to these further details being identified, the Land Drainage Team agree with the findings of the report and the further details can be secured by way of a planning condition.

### **Ecology**

- 11.40 The emerging Local Plan seeks the retention and enhancement of biodiversity and networks of natural habitats. Policy DM 1 requires all new development to seek to deliver net biodiversity gain for new development sites.
- 11.41 The applicant has submitted an Ecological Impact Assessment which identifies that the development will involve the small loss of potential habitat through the loss of existing trees and hedges.
- 11.42 In response to this loss of habitat, the Ecological Impact Assessment identifies that six new bird boxes and six new bat boxes to deliver biodiversity enhancement should be delivered on the site. This can be secured through the use of planning conditions. The

proposed development will also deliver new planting on the boundaries if the site, which will provide further habitat opportunities.

- 11.43 The proposed development will result in a biodiversity net gain and therefore is compliant with policy DM 1 of the emerging Local Plan

#### **Ground contamination**

- 11.44 The Geo-Environmental and Geotechnical Preliminary Risk Assessment Report (ref. 143672), dated July 2021, relating to potential contamination issues at the above site has been reviewed by the Council's contaminated land team who have commented that:
- 11.45 *The report satisfactorily addresses the requirements for submission of Phase I contaminative study, in that it is signed, dated, contains relevant information and evidence of a site walkover performed; background information for the site and surrounding area; a detailed conceptual site model (CSM); and a preliminary risk assessment identifying and assessing potential contaminant linkages.*
- 11.46 *Reviews of historic maps and background checks have identified plausible pollutant pathways. As the CSM has highlighted potentially active pollutant linkages, the report has recommendations for further site investigations to assess the extent of any potential contamination at the site.*
- 11.47 This can be secured by way of planning condition and will be a reasonable and necessary condition to impose.

#### **Impact on the Epping Forest SAC**

- 11.48 Biodiversity features within, or associated with, a Special Area of Conservation are given the highest level of protection under UK law, and national planning policy in England. The provisions of the EU Habitats Directive are given effect in UK law by the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations").
- 11.49 Under the Habitats Regulations, the Epping Forest SAC is classified as a 'European Site' and, as such, any plans and projects (including applications for planning permission) that are likely, either alone or in combination with other plans or projects, to have a significant effect on the SAC must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any plan or proposal, either alone or in combination, will have an adverse effect the integrity of the European Site.
- 11.50 The Council has a legal duty as the 'competent authority' under the Habitats Regulations to protect the Epping Forest SAC from the effects of development (both individually and in combination) having regard to the representations of Natural England (NE).

- 11.51 Two specific issues relating to new development within the District have been identified as being likely to have a significant effect on the integrity of the Epping Forest SAC. Firstly, as a result of increased levels of visitors using the Epping Forest SAC for recreation arising from new development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Forest from atmospheric pollution generated by motor vehicles (referred to as "air quality").
- 11.52 Policies DM 2 and DM 22 of the LPSV provide the policy context for dealing with the effect of development on the integrity of the Epping Forest SAC outlined above.
- 11.53 The LPSV was supported by a Habitats Regulations Assessment 2021 ("the HRA 2021"). Two specific 'pathways of impact' relating to new development within the District were identified as being likely to have a significant effect on the integrity of the Epping Forest SAC. Firstly, an 'urbanisation' pathway of impact primarily as a result of increased levels of visitors using the Epping Forest SAC for recreation arising from new residential development (referred to as "recreational pressure"). Secondly, damage to the health of the protected habitats and species of flora within the Epping Forest SAC from an atmospheric pollution 'pathway of impact' (referred to as "air quality") caused primarily by motor vehicles using roads within 200m of it.
- 11.54 The HRA 2021 undertook an Appropriate Assessment of the planned development proposed within the LPSV, including the effect of that development on the Epping Forest SAC. The HRA 2021 concluded that, subject to securing urbanisation/recreational pressure and air quality mitigation measures the adoption of the Local Plan will have no adverse effect on the Epping Forest SAC.

#### Recreational Pressure

- 11.55 With regards to recreational pressure, any adverse effect on the integrity of the Epping Forest SAC only arises from new residential development. Consequently, the application can be screened out as having no adverse effect on the integrity of the Epping Forest SAC in relation to the recreational pressures 'pathway of impact'.

#### Atmospheric Pollution

- 11.56 The HRA 2021 advises that without appropriate mitigation measures, new development proposed in the District would cause harm to the integrity of the Epping Forest SAC as a result of atmospheric pollution. A key contributor to atmospheric pollution arises from vehicles using roads in close proximity (i.e. within 200m of the Epping Forest SAC).
- 11.57 The Council has undertaken further technical work in relation to the atmospheric pollution 'pathway of impact' to provide the evidence base to support the development of an Air Pollution Mitigation Strategy (APMS) and which was used to inform the HRA 2021.

- 11.58 The APMS is the mechanism which has been agreed with Natural England by which the Council will protect the SAC from an adverse air quality effect on integrity due to net new housing and employment development over the Epping Forest Local Plan period. It is based on a defined amount and distribution of housing and employment growth, and on the resulting modelled air quality effect of that growth on the SAC.
- 11.59 Producing an APMS that satisfied Natural England was a considerable challenge due to the need to quantifiably model those mitigation measures on which the Local Plan Habitats Regulations Assessment (HRA) relies to conclude no adverse effect on integrity of the SAC. There are many measures, such as increasing cycle parking or providing strong broadband infrastructure to maximise home working, that can reasonably be expected to make some contribution to improving air quality and are included in the Interim APMS, but for which the benefit cannot be quantified.
- 11.60 In order to satisfy Natural England that there would be no adverse effect on the integrity of the Epping Forest SAC due to growth, there are stringent pollutant reduction targets that must be met. On the most affected links through the SAC that includes reducing the nitrogen dose that would otherwise occur due to traffic growth to 2024 by at least 40%. In order to restrict pollutant growth to this extent the Interim APMS must convert at least 10% of petrol cars on the SAC road network to Ultra-Low Emission Vehicles (ULEVs) by 2024 or suppress the forecast increase in traffic on the SAC network to a similar degree by strongly discouraging car ownership. In other words, on the worst affected roads 4-5% of the 2024 Epping Forest SAC vehicle fleet must either be ULEVs or be removed entirely, equivalent to 1,000 trips per day. This is a challenging target and can only be met through a step-change in the effort put into encouraging uptake of electric vehicles (not just on new development) and discouraging the use of other types of private car and van. Passive provision is not enough; strong active provision is required.
- 11.61 The APMS was developed to mitigate the potential adverse effects on the EFSAC resulting from the growth proposed in the emerging Local Plan as well as a small “windfall” allowance. Waltham Point was not specifically included in the previous traffic modelling which accompanied the Local Plan since it was a designated employment site, rather than a new proposed allocation.
- 11.62 In order not to undermine the APMS, and to ensure that no adverse effect on the integrity of the SAC results, traffic additional to that captured in the Local Plan modelling must therefore be addressed by its own bespoke air pollution mitigation strategy targeted at Epping Forest SAC.
- 11.63 A new iteration of the air quality model was therefore run by the Council’s air quality specialists which included the growth proposed in the emerging Local Plan as well as the predicted annual average daily traffic (AADT) movements of the proposed development. The first stage of this assessment was to first consider the potential traffic flow increases resulting from the proposed development, which are:

**Table 1 - Net change in AADT on SAC Links for Waltham Point expansion**

Waltham Point expansion		Local Plan Traffic and Air Quality Model	Net change
Link			
A	B1393 Epping Road	63	+10
B	B172	0	+2
C	A121 Golding's Hill	10	+4
D	A104 Epping New Rd	25	0
E	Wake Road	0	0
F	A121 Woodriddden Hill	28	+16
G	Woodgreen Rd	0	0
H	Forest Side	0	0
I	A121 Honey Ln	28	+16
J	Earl's Path	0	0
K	A104 Epping New Rd (S)	25	0
L	Cross Roads	0	0
M	High Beech	0	0
N	Avey Ln	0	0
O	A112 Sewardstone Rd (S)	0	+4
P	A112 Sewardstone Rd (N)	0	+6

11.64 No mitigation has been included in the proposals as modelled although the prohibition on HGVs using roads through Epping Forest SAC was taken into account in the traffic forecasts. It can be seen that the maximum change when compared to the Local Plan traffic modelling is 16 AADT on several links.

11.65 The existing distribution centre is the subject of an extant route management plan which restricts HGVs travelling through roads through the EFSAC. This was attached to the original consent (EPF/0620/00) but was later varied in 2013 (EPF/0901/13) to allow a small number to drive through the EFSAC to deliver to the Sainsbury's store in Torrington Drive in Debden. For completeness, the variation of the legal agreement was to insert the following clause:

*The Routing Restrictions Scheme, the Excluded Routes and the obligations in clause 8 will not apply to any HGV movements to or from the Site in connection with the Sainsbury's store located at Torrington Drive Debden.*

11.66 Whilst this application would allow for the parking of more HGVs on the Waltham Point site, it would not increase the number of HGVs travelling through the EFSAC since the exception made to the legal agreement noted above is only for the small number of HGVs in connection with the Sainsbury's store in Debden, which is not expanding its operations, opening hours or intensifying its use.

11.67 As such the maximum change in AADT is 16, all from normal traffic cars. This is a small increase to traffic numbers using these roads within 200m of the EFSAC and the air quality and has lead the Councils air quality specialists to conclude:

*The greatest difference in NOx is an increase of 0.02  $\mu\text{g}\text{m}^{-3}$  at the roadsides of transects B2, I and K. For the most part the change is 0.01  $\mu\text{g}\text{m}^{-3}$ . At the concentrations forecast, the main role of NOx is as a source of nitrogen. The maximum change in nitrogen deposition is 0.01 kgN/ha/yr at the roadside of transect N. No difference in the APMS ammonia results was caused, meaning that the ammonia attributable to the Waltham Point development is too small to show in the model, affecting the third decimal place or beyond. The ammonia results are therefore not presented in the appendices.*

*The change is therefore sufficiently small that the APMS will not be undermined provided the Waltham Point development makes an appropriate contribution to delivery of that APMS. The air quality model is set up to apply a 10% conversion of petrol cars to Ultra-Low Emission Vehicles by 2024 because that is a target of the APMS, and that 10% conversion is applied to all new traffic added into the model. It therefore automatically assumes that 10% of the petrol cars attributable to the Waltham Point development by 2024 will be electric vehicles through delivery of the measures in the APMS. For the maximum increase of 16 AADT on a single road in Epping Forest SAC due to the Waltham Point Distribution Centre, the shift from petrol to electric cars due to the APMS equates to 1 AADT...Since this application has not previously been accounted for in modelling, and the cumulative effect of small incremental increases in traffic needs to be addressed*

*All new development that adds more traffic to the Epping Forest network, including employment development, must make a proportionate contribution to the delivery of the APMS and achievement of its targets. The application must contain sufficient mitigation to ensure that at least 2 AADT on the road network by 2024 and at least 3 AADT by 2033 through Epping Forest SAC are electric vehicles or other comparable Ultra-Low Emission Vehicles.*

- 11.68 In order to achieve these targets, the Council's air quality and transport advisors have commented that 15% of the new car parking spaces in the MSCP will need to be for active EV charging provision. It will also be necessary to ensure that these spaces are for EVs/ULEVs only and not for use by potentially polluting vehicles and this can be assured through a robust car park management plan. In addition the applicant will need to provide a robust staff and visitor travel plan to encourage the use of sustainable methods of transport. All of these measures will need to be adequately monitored and enforced by the Council as well and can be secured through planning conditions.
- 11.69 Provided that these conditions are attached to the application, the Council as the Competent Authority can conclude, beyond a reasonable scientific doubt that there will be no adverse effect on the integrity of the EFSAC as a result of the proposed development.
- 11.70 The proposal is therefore compliant with policies DM 2 and DM 22 of the emerging Local Plan, with the NPPF 2021 and with the requirements of the Habitat Regulations 2017.

## **12. EQUALITY DUTIES AND HUMAN RIGHTS**

- 12.1 Section 149 of the Equality Act 2010 requires that a public authority must exercise its functions having due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic (age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation) and persons who do not share it, and foster good relations between persons who share a relevant protected characteristic and persons who do not.
- 12.2 In making this recommendation, due regard has been given to this Public Sector Equality Duty and the relevant protected characteristics. It is considered that there will be no specific implications and that, if approving or refusing this proposal, the Council will be acting in compliance with its duties.
- 12.3 The Human Rights Act 1998 makes it unlawful for a public authority to act in a way which is incompatible with any of the Convention rights protected by the Act unless it could not have acted otherwise. Careful consideration has been given to the rights set out in the European Convention on Human Rights, in particular Article 6 (right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (right to peaceful enjoyment of possessions).
- 12.4 The Council is of the opinion that the recommendation does not interfere with any such rights except insofar as is necessary to protect the rights and freedoms of others. The Council is permitted to control the use of property in accordance with the public interest and the recommendation is considered a proportionate response to the submitted application based upon the considerations set out in this report.

## **13. THE PLANNING BALANCE AND CONCLUSION**

- 13.1 The analysis of this report has demonstrated that the proposal does not conflict with the requirements of the Development Plan or the emerging Local Plan. Indeed the proposal will intensify an existing employment use and provide more employment opportunities for the local community, contributing to the local economy.
- 13.2 It is concluded that the proposal is not inappropriate development in the Green Belt since it complies with an exception given by the NPPF and the emerging Local Plan. In any event, if the Committee determine that the proposal is inappropriate development, since there are no other conflicts with the Development Plan, very special circumstances are required to clearly outweigh the harm caused by reason of inappropriate development and additional harm to openness as identified in this report.
- 13.3 Given the status of the emerging Local Plan, which is at a very advanced stage and that the Local Plan Inspector has not raised any concerns regarding the proposed allocation of this site and that, upon adoption of the emerging Local Plan the site will

no longer be within the Green Belt it is concluded that very special circumstances do exist to clearly outweigh the harm.

- 13.4 It is recommended that planning permission is granted subject to the conditions set out in section 3 of this report.

***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: James Rogers***

***Direct Line Telephone Number: 01992 564 371***

***or if no direct contact can be made please email:***

***[contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***

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