

committee agenda



Epping Forest District Council

District Development Control Committee Wednesday, 24th August, 2011

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.30 pm

Democratic Services Officer: Simon Hill, The Office of the Chief Executive
Tel: 01992 564249 Email:
democraticservices@eppingforestdc.gov.uk

Members:

Councillors B Sandler (Chairman), R Bassett (Vice-Chairman), A Boyce, K Chana, D Dodeja, C Finn, J Hart, Mrs S Jones, J Markham, J Philip, Mrs C Pond, H Ulkun, Ms S Watson, J M Whitehouse and J Wyatt

A BRIEFING WILL BE HELD FOR THE CHAIRMAN, VICE-CHAIRMAN AND GROUP SPOKESPERSONS OF THE-COMMITTEE, AT 6.30 P.M. IN COMMITTEE ROOM 1 PRIOR TO THE MEETING

SUBSTITUTE NOMINATION DEADLINE:

18:30

1. WEBCASTING INTRODUCTION

1. This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking.

2. The Chief Executive will read the following announcement:

“This meeting will be webcast live to the Internet and will be archived for later viewing. Copies of recordings may be made available on request.

By entering the chamber’s lower seating area you consenting to becoming part of the webcast.

If you wish to avoid being filmed you should move to the public gallery or speak to the webcasting officer”

2. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING SUBCOMMITTEES (Pages 5 - 6)

General advice to people attending the meeting is attached together with a plan showing the location of the meeting.

3. MINUTES (Pages 7 - 14)

To confirm the minutes of the last meeting of the Committee held on 29 June 2011 (attached).

4. APOLOGIES FOR ABSENCE

5. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

6. PLANNING APPLICATION EPF/1399/09- GARDEN CENTRE, 212 MANOR ROAD, CHIGWELL - OUTLINE PLANNING APPLICATION FOR 69 RESIDENTIAL UNITS (54 AFFORDABLE), PUBLIC OPEN SPACE AND A COMMUNITY FACILITY (D1 USE) WITH ALL MATTERS RESERVED EXCEPT ACCESS. (Pages 15 - 46)

(Director of Planning and Economic Development) To consider the attached report.

7. PLANNING APPLICATION EPF/1181/11- VALLEY GROWN NURSERIES, PAYNE'S LANE, NAZEING, ESSEX . - CONSTRUCTION OF GLASSHOUSE, ANCILLARY WAREHOUSE AREA, OFFICE AND WELFARE FACILITY SPACE, HABITAT ENHANCEMENT AND LANDSCAPING. (Pages 47 - 80)

(Director of Planning and Economic Development) To consider the attached report.

8. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

9. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council Procedure Rules contained in the Constitution 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.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

10. EXCLUSION OF PUBLIC AND PRESS

Exclusion: 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):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	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.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define 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 (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

Advice to Public and Speakers at Council Planning Subcommittees

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.

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 Subcommittee.

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**. Ring the number shown on the top of the front page of the agenda. Speaking to a Planning Officer will not register you to speak, you must register with Democratic Service. Speakers are not permitted on Planning Enforcement or legal issues.

Who can speak?

Three classes of speakers are allowed: One objector (maybe on behalf of a group), the local Parish or Town Council and the Applicant or his/her agent.

Sometimes members of the Council who have a prejudicial interest and would normally withdraw from the meeting might opt to exercise their right to address the meeting on an item and then withdraw.

Such members are required to speak from the public seating area and address the Sub-Committee before leaving.

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 three minutes. At the discretion of the Chairman, speakers may clarify matters relating to their presentation and answer questions from Sub-Committee members.

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

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 through Democratic Services or our website www.eppingforestdc.gov.uk. Any information sent to Councillors should be copied to the Planning Officer dealing with your application.

How are the applications considered?

The Subcommittee 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 Subcommittee will then debate the application and vote on either the recommendations of officers in the agenda or a proposal made by the Subcommittee. Should the Subcommittee propose to follow a course of action different to officer recommendation, they are required to give their reasons for doing so.

The Subcommittee cannot grant any application, which is contrary to Local or Structure Plan Policy. In this case the application would stand referred to the next meeting of the District Development Control Committee.

Further Information?

Can be obtained through Democratic Services or our leaflet 'Your Choice, Your Voice'

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: District Development Control **Date:** 29 June 2011
Committee

Place: Council Chamber, Civic Offices, **Time:** 7.30 - 9.40 pm
High Street, Epping

Members Present: Councillors B Sandler (Chairman), R Bassett (Vice-Chairman), A Boyce, K Chana, D Dodeja, C Finn, Mrs S Jones, J Knapman, Mrs J Lea, Mrs M McEwen, J Markham, J Philip, H Ulkun and J M Whitehouse

Other

Councillors: Councillor D Stallan

Apologies: Councillors J Hart, Mrs C Pond, Ms S Watson and J Wyatt

Officers Present: N Richardson (Assistant Director (Development Control)), I White (Forward Planning Manager), G Lunnun (Assistant Director (Democratic Services)) and G J Woodhall (Democratic Services Officer)

1. WEBCASTING INTRODUCTION

The Assistant to the Chief Executive reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

2. MINUTES

RESOLVED:

That the minutes of the meeting held on 5 April 2011 be taken as read and signed by the Chairman as a correct record.

3. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was noted that Councillor Knapman was substituting for Councillor Hart, Councillor Lea was substituting for Councillor Watson and Councillor McEwen was substituting for Councillor Wyatt.

4. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor Lea declared a personal interest in agenda item 8 (planning application EPF/0116/11 – Holyfield Farm, Holyfield, Waltham Abbey) by virtue of being a member of Waltham Abbey Town Council. The councillor advised that she had determined that her interest was not prejudicial and that she would remain in the meeting for the consideration and voting on the matter.

(b) Pursuant to the Council's Code of Member Conduct, Councillor Lea declared a personal interest in agenda item 9 (planning application EPF/0046/11 – Town Mead Sports and Social Club, Brooker Road, Waltham Abbey) by virtue of being a member of the Waltham Abbey Town Council. The councillor advised that she had determined that her interest was prejudicial and that she would leave the meeting for the consideration and voting on the matter.

(c) Pursuant to the Council's Code of Member Conduct, Councillor Bassett declared a personal interest in agenda item 8 (planning application EPF/0116/11 – Holyfield Farm, Holyfield, Waltham Abbey) by virtue of having bought eggs from the farm. The councillor advised that he had determined that his interest was not prejudicial and that he would remain in the meeting for the consideration and voting on the matter.

(d) Pursuant to the Council's Code of Member Conduct, Councillor Ulkun declared a personal interest in agenda item 8 (planning application EPF/0116/11 – Holyfield Farm, Holyfield, Waltham Abbey) by virtue of having previously expressed a potential interest in a converted building on the site. The councillor advised that he had determined that his interest was not prejudicial and that he would remain in the meeting for the consideration and voting on the matter.

5. ANY OTHER BUSINESS

The Committee noted that there was no business to be considered under this heading.

6. **PLANNING APPLICATION EPF/0116/11 – HOLYFIELD FARM, HOLYFIELD, WALTHAM ABBEY, ESSEX, EN9 2ED. - DEMOLITION AND REMOVAL OF EXISTING MASONRY AND CORRUGATED STRUCTURES AND REFURBISHMENT AND EXTENSION OF EXISTING TIMBER BARNS AND CONVERSION TO A TOTAL OF TWO, 2 BEDROOMED DWELLINGS (REVISED APPLICATION)**

The Committee considered an application for the demolition and removal of existing masonry and corrugated structures and refurbishment and extension of existing timber barns and conversion to a total of two, 2 bedroom dwellings (revised application) at Holyfield Farm, Holyfield, Waltham Abbey.

Members noted that the application had been considered and referred by Area Plans Sub-Committee West with a recommendation that planning permission be granted. The Committee noted that the report to the Sub-Committee had carried a recommendation from officers to refuse planning permission. The debate at the Sub-Committee meeting had centred on the recommended reasons for refusal and the harm that the proposal might have on the Green Belt, residential amenity of adjacent occupants, the setting of the adjacent listed building and sustainability issues. In addition, as members had been minded to approve the scheme, the highway implications of the proposed hedge planting along the front boundary of the site had also been considered.

The Committee was advised that the Sub-Committee had considered that the circumstances of the site, particularly the poor state of the existing building on the site that was to be removed, the quality of the existing barn conversion on the adjacent site and the need to find a use for redundant farm buildings were sufficient to outweigh the harm to the Green Belt that would result from the development. The

Sub-Committee had considered that the design of the development was appropriate to its location and that it would in fact enhance the setting of the listed buildings. Members had not considered that the sustainability issue was so strong as to warrant refusal of the application. Discussion regarding the sight lines from the access and the impact of a hedgerow had been inconclusive, and members of the Sub-Committee had asked that further clarification on the issue should be presented to this meeting.

RESOLVED:

That planning application EPF/0116/11 for the demolition and removal of existing masonry and corrugated structures and refurbishment and extension of existing timber barns and conversion to two, 2 bedroom dwellings (revised application) on land at Holyfield Farm, Holyfield, Waltham Abbey be granted subject to the following conditions:

- (1) The development hereby permitted must not be begun later than the expiration of three years beginning with the date of this notice.
- (2) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no development generally permitted by virtue of Part 1, Classes A, B, C, D, E or F shall be undertaken at either of the approved dwellings without the prior written permission of the Local Planning Authority.
- (3) Notwithstanding the details shown on the approved plan, the hedge shown to be planted along the highway frontage, or any other obstruction, shall not be over 600mm high within the existing sight splay of 2.4m by 110m to the north of the access as measured from the centre line of access and along the nearside edge of the carriageway.
- (4) Gates shall not be erected on the vehicular access to the site without the prior written approval of the Local Planning Authority.
- (5) No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to an approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

(6) No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]

(7) Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]

(8) Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]

(9) Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report (referred to in PPS23 as a Validation Report) that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

(10) In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.

(11) No development shall have taken place until 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.

(12) No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.

7. PLANNING APPLICATION EPF/0046/11 – TOWN MEAD SPORTS AND SOCIAL CLUB, BROOKER ROAD, WALTHAM ABBEY, EN9 1HJ – PROPOSED GOLF DRIVING RANGE (REVISED APPLICATION).

The Committee considered an application referred to it by Area Plans Sub-Committee West seeking permission for a proposed golf driving range (revised application). Members noted that the application had been referred to this Committee by the Sub-Committee with no recommendation. The application had been reported to the Sub-Committee with a recommendation of refusal for the reason that the proposed development would result in the loss of a woodland area of amenity value. Members noted that the Sub-Committee had debated the merits of the proposal but had felt that further information was required in respect of the trees and the possibility of golf balls being driven on to the M25 motorway.

The Assistant Director (Development Control) reported that since the meeting of the Sub-Committee amended plans had been submitted which had overcome the officer concerns. The amended plans had been subject to full re-consultation. The driving range had now been set at an angle of approximately 8 degrees to the Town Mead boundary with the motorway which would allow for a 12 metre landscaped strip between the driving range and the motorway boundary at its closest point and a 40 metre gap at its furthest point. This would allow for part of the woodland preserved by the Committee at its previous meeting to be retained along with additional landscaping to be planted to better screen the entire Town Mead site from the motorway.

The Committee noted that despite two rounds of consultation, the Highways Agency had not submitted any response.

RESOLVED:

(1) That consideration of application EPF/0046/11 for a proposed golf driving range (revised application) on land at Town Mead Sports and Social Club, Brooker Road, Waltham Abbey be deferred to enable officers to obtain a risk assessment from an appropriate body on the likelihood of golf balls being driven onto the M25 motorway and additional information about the impact of the proposed lighting on the motorway; and

(2) That further consideration be given to the planning application at the next meeting of the Committee.

8. CURRENT PROVISION OF PITCHES FOR GYPSIES AND TRAVELLERS

The Committee considered a report on the current position regarding the numbers of authorised and unauthorised (including tolerated) pitches within the District and on what further action, if any, should be taken in relation to five sites with unauthorised and tolerated pitches.

Attention was drawn to the Department of Communities and Local Government consultation on "Planning for Traveller Sites" which had been considered by the Planning Services Scrutiny Panel on 14 June and by full Council on 28 June 2011. Members noted that the changes being proposed by the Government included replacing existing circulars with one Planning Policy Statement which would (a) have the overriding aim of ensuring fair treatment for those in traveller and settled communities; (b) align Gypsy Roma Traveller pitch provision more closely with guidance in Planning Policy Statement 3 which dealt with permanent housing provision; (c) enable local planning authorities to make their own assessment of need for the purposes of planning; (d) limit the opportunities for retrospective planning applications in relation to any form of development; and (e) ask local planning authorities to treat favourably Gypsy Roma Traveller pitch applications for temporary permission in the absence of an identified five year supply of such sites.

The Committee received details of records kept by the Environment and Street Scene Directorate (caravan counts and site licences) and the Planning and Economic Development Directorate (planning application and appeal decisions). Analysis of the combined records showed that in July 2010 the unauthorised percentage of total caravans had been 31% whereas in January 2011 the unauthorised percentage of total caravans had been reduced to 16%. This reduction had been primarily due to the permanent permission (on appeal) being granted for the Holmsfield Nursery site in Meadgate Road, Nazeing. Members noted that the increase in the number of authorised pitches, with the consequent reduction in the number of unauthorised caravans, had been linked to an increase in planning applications from the Gypsy Roma Traveller community and this in turn had been linked to the public consultation exercise undertaken between November 2008 and February 2009 in relation to the Development Plan Document required by the previous Government's Direction.

The Committee noted that officers had hoped that the remaining unauthorised or tolerated sites would be the subject of future applications to enable the Council to reach decisions on all of the outstanding cases. However, this had not yet been

achieved and the Committee were asked to consider what future action, if any, should be pursued in relation to the five sites with unauthorised and tolerated pitches. The Committee discussed the circumstances of the five sites.

RESOLVED:

- (1) That the current position regarding the numbers of authorised and unauthorised (including tolerated) pitches within the District be noted;
- (2) That in relation to Devoncot, Carthagen Estate:
 - (a) the occupants be given one further final period of three months in which to submit a planning application for the stationing of three caravans on the site; and
 - (b) in the event of an application not being received within that timescale, proportionate enforcement action be taken subject to sufficient evidence of a breach of planning policy and it being considered expedient to take such action;
- (3) That in relation to Richards Farm, Sedge Green the outstanding planning application for the stationing of four caravans be determined within the next eight weeks;
- (4) That in relation to land opposite Oakwood, Tylers Cross and Rosewood, Tylers Cross proportionate enforcement action be taken subject to sufficient evidence of a breach of planning policy and it being considered expedient to take such action;
- (5) That in relation to Horsemanside Farm, Stapleford Abbots, in the event of an unauthorised caravan still being stationed on the land at the July 2011 caravan count:
 - (a) the occupants be given one further final period of three months in which to submit a planning application for the stationing of the unauthorised caravan on the site; and
 - (b) in the event of an application not being received within that timescale, proportionate enforcement action be taken subject to sufficient evidence of a breach of planning policy and it being considered expedient to take such action.

9. ESSEX COUNTY COUNCIL DEVELOPMENT MANAGEMENT POLICIES - ADOPTION AS SUPPLEMENTARY GUIDANCE

The Committee was informed that a revised policy document dealing with the highway and transport aspects of new development had recently been adopted by Essex County Council as County Council Supplementary Guidance.

The Committee noted that the policies reflected the balance between the need for new housing and employment opportunities, the regeneration and growth agenda, and protection of the transport network for the safe movement of people and goods. The document was split into the following five sections:-

- (a) Highway access policies aimed at protecting the safety and efficiency of the highway network;
- (b) Broad design standards policies cross referenced to other design documents;
- (c) Accessibility and transport sustainability policies aimed at minimising the number of journeys by private motor vehicles;
- (d) Impact and migration policies identifying the requirement on a developer to provide, where necessary, transport assessments, safety audits, and to demonstrate no detrimental impact on congestion on the highway, mitigation measures and maintenance contributions;
- (e) Policies regarding HGV movements and construction management.

Members were informed that Planning Policy Statement 12: Local Spatial Planning referred to supplementary guidance produced by County Council. It stated that such guidance would not be a supplementary planning document but that where appropriate consultation and sustainability appraisal had been carried out, the supplementary guidance might be afforded a weight commensurate with a supplementary planning document in decision making. It was recognised that this would be more likely where the supplementary guidance had been endorsed by the District Council. The Committee were advised that the County Council policies had been the subject of a full public consultation exercise, together with a sustainability appraisal and strategic environmental assessment.

RESOLVED:

That a report be submitted to the Council recommending the adoption of the Development Management policies as supplementary guidance.

CHAIRMAN

Report to the District Development Control Committee



**Epping Forest
District Council**

Date of meeting: 24 August 2011

Subject: Planning application EPF/1399/09 – 212 Manor Road, Chigwell – Outline planning application for 68 residential units (54 affordable), public open space and a community facility (D1 Use) with all matters reserved except access

Responsible Officers: Alan Hall, Director of Housing (01992 564004)
Katie Smith, Senior Planning Officer (01992 564109)

Committee Secretary: Simon Hill (01992 564249)

Recommendations:

- (1) That planning permission be granted, subject to the completion of a altered Section 106 Legal Agreement to secure the following planning obligations:**
 - (a) The provision of affordable housing (in accordance with the detailed Heads of Terms attached as Appendix 2, which have been negotiated with and agreed by the Applicant);**
 - (b) Highway improvements (works and/or financial contributions);**
 - (c) Vehicular access into the adjacent site;**
 - (d) The provision of an area of public space within the site to be transferred to Epping Forest District Council at nil consideration and a financial contribution towards the maintenance of the public open space; and**
- (2) That the Committee considers the timescale for the completion of the altered Section 106 Legal Agreement.**

Introduction:

1. This application was originally considered by the Committee in October 2009, when the Committee resolved to grant planning permission, subject to referral to the Government Office and to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 (a "Section 106 Agreement") to secure:
 - The amount, tenure and occupancy of the affordable housing;
 - Highway improvements (works and/or financial contributions);
 - A significant financial contribution towards the provision of a Post Office within the locality of the site;
 - Vehicular access into the adjacent site; and
 - The provision of an area of public space within the site to be transferred to Epping Forest District Council at nil consideration.

2. Ordinarily, planning permission would not be granted for residential development within the Metropolitan Green Belt, since it would be considered as inappropriate development. Accordingly, planning permission may only be granted if it can be demonstrated that there are “very special circumstances” which outweigh the harm to the Green Belt.
3. When originally considering the application, the Committee accepted that there were very special circumstances in this case. This was mainly because the development would provide a high percentage of affordable housing on a previously-developed site, located in a sustainable location adjacent to an Underground Station on the Central Line.
4. A copy of the previous report to the District Development Control Committee is attached as Appendix 1.
5. Confirmation was received from the Government Office in December 2009, stating that the Secretary of State had concluded that the application should be determined by the Council.
6. However, to date, no Section 106 Agreement has been completed to secure the planning obligations listed above, since the Applicant has stated that the affordable housing aspects of the development are no longer financially viable in the form previously submitted and agreed. At one point, the Applicant was proposing that a significant amount of the affordable housing could be provided as “low cost market housing”, which was not considered acceptable to officers since such provision is not recognised as affordable housing in either national planning policy or the Council’s Local Plan.
7. At its meeting held on 5th April 2011, the Committee considered the non-completion of the required Section 106 Agreement and agreed that the time limit for its completion should be extended for a period of six months, to enable further negotiations to take place with Officers.
8. Since the Committee meeting in April 2011, the Director of Housing and planning officers have held detailed and lengthy negotiations with the Applicant, and its Housing Association Partner (Moat – also one of the Council’s Preferred Housing Association Partners), and an approach has now been agreed which – under the circumstances - appears acceptable to all parties, subject to the approval of the Committee.
9. The proposed development has already been considered by this Committee, which has formally resolved to grant planning permission. Accordingly it is not, at this stage, appropriate to reconsider the merits of the proposal. Consideration may only be given to the deviations in the proposed Heads of Terms for the legal agreement, from those which were agreed in October 2009. The fundamental changes to the proposed Heads of Terms relate to the provision of affordable housing. This report explains the outcome of the negotiations and the rationale of the proposed approach, and recommends Heads of Terms relating to the provision of affordable housing for the proposed Section 106 Agreement that have been agreed with the Applicant.
10. The Heads of Terms now proposed also do not include the provision of a financial contribution towards the re-opening of a Post Office counter within the locality, as previously agreed. This is proposed as over the passage of time since the Committee resolved to grant planning permission changes in economic circumstances have affected the viability of the proposal. Officers have worked closely with the Applicant to ensure that the delivery of affordable housing is secured, despite these changed economic circumstances. On balance, it is considered that the community need for affordable housing is greater than the need for the additional Post Office Counter. Accordingly, it is

proposed that the sum sought for the Post Office service is directed towards providing affordable housing.

Proposed reduction in number of dwellings for the Outline Planning Application

11. The application site is adjacent to another, smaller site - for which a resolution to grant planning permission to another applicant, subject to the completion of a Section 106 Agreement, has also been made by the Committee. That application is for the provision of 21 residential properties, with underground parking, of which 80% will be provided as affordable housing. That site would be accessed via the application site which is the subject of this report.
12. Members of both the Area Plans Sub-Committee and the District Development Control Committee have previously expressed a desire that the two sites be developed through a co-ordinated and complementary approach. The Applicant has recently advised officers that, following discussions with the applicant for the adjacent smaller site, an agreement has been reached in principle to provide some of the land within the application site to the smaller development, in order to provide surface parking, which would obviate the need for underground parking and make the adjacent development more viable.
13. However, for this reason, the Applicant has advised that the number of properties that can be provided on the application site which is the subject of this report has to be reduced from 69 properties (including 54 affordable homes) that was previously proposed, to 68 properties (still including 54 affordable homes – representing 79% of the total). This is considered acceptable to Officers.

Tenure mix of Affordable Housing

14. The Applicant's original Outline Planning Application for 69 properties, which was the one determined by the Committee in October 2009, provided the following tenure mix of properties:

Market Housing	15 properties (21.7%)	
Social Rented Housing	37 properties (53.6% - 69% of the a/h)	} 78.2% affordable housing
Shared Ownership	17 properties (24.6% - 31% of the a/h)	

15. Under the Council's Shared Ownership Policy, the Council would normally expect no more than 30% of the affordable housing to be in the form of shared ownership, with at least 70% of the affordable housing provided as rented housing. This is in recognition of the increasing numbers of households registered on the Council's Housing Register for rented housing, of which there is currently around 5,500 households - an increase of around 50% over the past 4 years.
16. The agreed tenure mix at that time was based on the reasonable assumption that sufficient capital grant would be provided by the Homes and Communities Agency (HCA) to subsidise the cost of provision. However, as explained in the introduction to this report, after the planning application was determined (subject to the completion of a Section 106 Agreement) the Applicant advised officers that, in the Applicant's view, such a tenure mix was no longer economically viable. It is on this issue that there has been disagreement, negotiation and now agreement in principle between officers and the Applicant.

Grant funding for affordable housing and the Government's new "Affordable Rent" model

17. One of the major changes since the time the planning application was originally considered, which affects the viability of the scheme, is a significant change in the way the provision of affordable housing is funded nationally. In the past, affordable rented housing provided by housing associations and local authorities has been in the form of “social rented housing” let at “social rents”, which are set at levels in accordance with a Government formula. Social rent levels are significantly lower than market rents, and were achieved through the provision of capital grants from the Homes and Communities Agency (HCA) which subsidised the construction costs.
18. Following the Government’s Comprehensive Spending Review in October 2010, the Government has introduced a new model for affordable housing called “affordable rented housing”, with a different funding regime. Under the new regime, housing associations are now required to charge much higher rents for new rented housing schemes, called “affordable rents”, which are up to 80% of market rent levels (including service charges). This enables more rental income to be generated by the housing association, which reduces the need (or amount required) for capital grant from the HCA.
19. The HCA’s Affordable Rent Framework states that, generally, no capital grant will be provided by the HCA to housing associations for affordable rented housing on development sites where there is Section 106 Agreement requiring the provision of affordable housing. This is based on an assumption by the HCA that the income generated from these higher rents, together with an appropriate level of subsidy from the developer, should be sufficient to meet the costs of providing the affordable housing and for the development to be financially viable.
20. In view of this change in national housing policy, it has been necessary for the Applicant to vary the form of rented housing proposed for the development from social rented housing to affordable rented housing, and it is recommended that this change be agreed.
21. However, despite this change and higher rents being charged, the Applicant has expressed the view that the scheme is no longer viable with the same tenure mix as previously agreed, without any capital grant. The main reason for this is that the HCA’s assumption/assertion that affordable housing developments provided through Section 106 Agreements should be viable without any capital grant relates to schemes where only around 40% of the total number of dwellings is provided as affordable housing. However, for this development, for the reasons explained earlier, around 80% of the dwellings will be provided as affordable housing. Therefore, for the scheme to proceed with a similar tenure mix without any capital grant from the HCA, a greater level of subsidy is required from the developer than assumed by the HCA. In this case, the Applicant has expressed the view that the increased level of developer subsidy required makes the scheme unviable.

Proposed approach to the tenure mix

22. Therefore, in order for the development to be viable and go ahead, it is necessary to either vary the tenure mix from that previously agreed - by reducing the amount of affordable rented housing and increasing the amount of shared ownership - or by obtaining a capital grant to subsidise a similar level of affordable rented housing.
23. The Applicant has expressed the view that, without any capital grant, no more than 33% of the affordable housing can be provided as affordable rented housing, without the scheme becoming unviable.

24. Therefore, the Director of Housing has discussed with Moat, the proposed housing association to provide the affordable housing, the possibility of Moat either providing grant from its own resources, through its Recycled Capital Grant Fund (RCGF – from past shared ownership sales on other schemes) or seeking grant funding from the HCA, in order to achieve a similar tenure mix for the affordable housing of 60% rented housing and 40% shared ownership.
25. Any grant from the HCA would be sought on the basis that the grant would provide “additionality” to the affordable housing provision (by providing more rented housing than would otherwise be possible), and would require Moat to submit a bid to the HCA. Similarly, any grant funded from Moat’s RCGF would require the approval of the HCA.
26. In response, Moat has advised that, subject to approval of its Board and the approval of the HCA, it would be prepared to use sufficient grant from its RCGF to provide 60% of the total number of affordable homes as rented housing.
27. Since it will not be known whether or not the HCA agrees to the use of Moat’s RCGF, or to provide capital grant itself, until after the Section 106 Agreement has been completed it is proposed (and agreed with the Applicant and Moat, subject to the Committee’s agreement) that the Section 106 Agreement is drafted with a “cascade” approach to the proposed tenure mix, whereby the developer is required to provide either:
 - (a) 32 affordable rented properties (60% of the affordable housing); and 22 shared ownership properties (40% of the affordable housing);

if the HCA agrees to Moat utilising sufficient grant from its RCGF or to provide sufficient grant itself; or

 - (b) 18 affordable rented properties (33% of the affordable housing); and 35 shared ownership properties (67% of the affordable housing);

if the HCA does *not* agree to Moat utilising sufficient grant from its RCGF or to provide sufficient grant itself.

Heads of Terms relating to the provision of affordable housing for the proposed Section 106 Agreement

28. Heads of Terms, based on the above approach, have been agreed with the Applicant and Moat (subject to the Committee’s agreement), which are set out at Appendix 2. These also include the proposed property mixes of the affordable housing agreed with the Applicant and Moat.
29. It is proposed that Moat is a party to the Section 106 Agreement, since the approach is reliant on Moat providing grant funding from its RCGF, which another housing association may not be prepared to provide.

Summary and Conclusion

30. The changes to this proposal following the Committee’s previous decision to grant planning permission relate to a reduction in the number of units proposed from 69 to 68, the removal of the obligation upon the Applicant to contribute towards the cost of reopening a Post Office counter within the locality and changes to the proposed Heads of Terms for the delivery of the affordable housing. The planning merits of the case were determined to be acceptable at the time that the resolution to grant planning permission

was issued and there has been no material change in circumstances to support a different decision at this time.

31. Since this application was previously reported to Members in April of this year, the Director of Housing and planning officers have worked with the Applicant and Moat to ensure that the development would still deliver approximately 80% of the dwellings as affordable housing, which was fundamental to the case for very special circumstances for permitting the development within the Green Belt. Furthermore, those negotiations have led to proposed Heads of Terms which would ensure that as many of the dwellings as possible (between 33% and 60%) are available for rent, for which there is a greater need within the District.
32. In light of the above appraisal, it is recommended that the Committee resolves to grant planning permission for the proposed development, subject to the completion (within a set period of the resolution) to secure the provision of the affordable housing, highway works, the open space/maintenance contribution and the vehicular access into the adjacent site.

**Previous Report to District Development
Control Committee**

Date of meeting: 5 April 2011



**Epping Forest
District Council**

Subject: Planning Application EPF/1399/09–212 Manor Road, Chigwell– Outline planning application for 69 residential units (54 affordable), public open space and a community facility (D1 Use) with all matters reserved except access.

Officer contact for further information: K Smith Ext 4109
Committee Secretary: S Hill Ext 4249

Recommendation:

That the Committee refuses planning permission for application EPF/1399/09, for the following reasons:

1. The proposal represents inappropriate development in the Metropolitan Green Belt which by definition is harmful to the objectives of including land in the Green Belt and is therefore at odds with Government advice in PPG2 and policy GB2A of the adopted Local Plan and Alterations. There are no very special circumstances that are sufficient to outweigh this harm in Green Belt terms.
2. The Application fails to secure the provision of affordable housing. The District is subject to a significant and increasing demand for affordable housing and accordingly the failure of this development to provide affordable housing would be contrary to Policies H5A and H6A of the adopted Local Plan and Alterations.
3. The Application fails to secure a financial contribution towards the provision of traffic orders and road markings which are considered necessary along both sides of Grange Crescent between Froghall Lane and Grange Crescent. In the absence of these Highway improvements, the proposed development would be detrimental to highway safety, contrary to policy ST4 of the adopted Local Plan and Alterations.
4. The Application does not make any provision for the encouragement of the use of more sustainable types of transport, contrary to Policies CP9 (iii) and ST5 of the adopted Local Plan and Alterations.

5. The Application fails to secure the provision of access into the adjacent site (located to the east of the Application Site). As the intensification of the access into the adjacent site would be unacceptable in highway safety terms following the creation of the access proposed through this Application, this lack of access could render the adjacent site undevelopable. This would result in a failure to make best use of the site, which is previously developed land, contrary to advice within Planning Policy Statement 3 and also contrary to Policies CP1(vii) and ST1 (iii) PPS3 of the adopted Local Plan and Alterations.
6. The Application fails to secure the provision and maintenance of public open space, contrary to the requirements of DBE7.

Report Detail

1. (Director of Planning and Economic Development) This application was considered by the Committee in October 2009. The Committee resolved to grant planning permission subject to referral to the Government Office and subject to the completion of a Section 106 legal agreement to secure:
 - The amount, tenure and occupancy of the affordable housing;
 - Highway Improvements (Works and/or financial contributions);
 - A significant financial contribution towards the provision of a Post Office within the locality of the site;
 - Vehicular access into the adjacent site; and
 - The provision of an area of public space within the site to be transferred to Epping Forest District Council at nil consideration
2. Confirmation was received from the Government Office in December 2009, stating that the Secretary of State had concluded that the application should be determined by the Council.
3. A copy of the previous report to the District Development Control Committee is attached as Appendix 1.
4. However, no legal agreement has been completed to secure the planning obligations listed above. The implications of the absence of these planning obligations on the planning merits of the proposal now requires consideration.
5. Government guidance relating to the use of planning obligations is contained within Circular 05/05 and within the Community Infrastructure Levy (CIL) Regulations 2010.
6. Supporting text of Policy I1A of the Local Plan re-states the guidance within Circular 05/05, states that in general it will be reasonable to seek, or take account of, a planning obligation if what is sought or offered is:
 - Needed to enable the development to go ahead and, in the case of financial payment, will meet or contribute towards the cost of providing such facilities in the near future; or

- Necessary from a planning point of view and is so directly related to the proposed development and to the land after its completion that the development ought not to be permitted without it.

7. Furthermore, it is stated that '*acceptable development should never be refused because an applicant is unwilling or unable to offer benefits*'.

Planning Issues

8. The suggested Heads of Term for the legal agreement were intended to address the impacts of the development on the Metropolitan Green Belt, on the supply of affordable housing; on highway safety; and on local Post Office services. These matters will be considered in turn.

Impact on the Metropolitan Green Belt

9. The application site is located within the Metropolitan Green Belt, where the proposed development would be inappropriate. On this basis, planning permission may only be granted if it can be demonstrated that there are very special circumstances which outweigh the harm to the Green Belt.

10. When this application was considered previously by the District Development Control Committee, the Committee carefully considered the case for very special circumstances. Members accepted that there were very special circumstances in this case that outweighed the harm of built residential development in the Green Belt, which were that it was providing a high percentage of affordable housing on a previously developed site, located in a sustainable location adjacent to a tube station on the Central Line.

11. Whilst the provision of 80% affordable housing provided only part of the case for very special circumstances, it was fundamentally this that justified what is inappropriate in Green Belt terms. It is considered by Officers that it formed such a substantial component that, in its absence, the case for very special circumstances is weakened to the extent that it would no longer outweigh the harm to the Green Belt caused by the proposal.

12. The applicant has proposed a revision to the tenure of the 'affordable' housing to be provided. The applicant proposes that 80% 'affordable' housing could still be provided. However, as an alternative to the Council's normal requirement for 70% of the housing to be available for social rent, the application proposes that only approximately 30% could be available for social rent, with the remaining 70% being sold as 'low cost housing'. It is anticipated that this housing would be sold at 60% of the market value and the Applicant suggests that this limitation on market value could be retained for future purchasers. However, whilst this housing may be attainable to some residents within the District who would be unable to purchase at 100% of the market value, this housing does not fall within the Government's definition of affordable housings, as stated at paragraph 41 of Annex B of PPS3. Furthermore, this type of housing would not meet the needs of those residents on the Council's housing register whom are in the greatest of need, unlike the provision of more of the housing for social rent.

13. If the housing within the development were to be delivered in line with the proposal in the paragraph above, 20% of the development would be open market housing; 56% would be low cost market housing and only 24% would be affordable housing, in accordance with the Government's definition. It is not considered that the

provision of housing on this basis would provide a case for very special circumstances to outweigh the harm to the Green Belt caused by the proposed inappropriate development.

Affordable Housing

14. Policy H6A(i) states that in settlements where the population is greater than 3,000 provision of affordable housing will be required for sites which exceed 0.5 hectare or on which 15 or more dwellings will be provided. This site generates a requirement for affordable housing on both criteria. Policy H7A (i) states that the Council will seek at least 40% of the total number of units to be affordable.

15. In the absence of the legal agreement to secure the affordable housing, the proposed development would be contrary to these policies. Furthermore, the Applicant's proposal for the affordable housing to include the sale of low cost housing, would result in a considerable shortfall in the provision of affordable housing (as defined by the Government) in relation to Local Plan policy.

16. The Council's Housing Directorate confirmed in August 2009 that there were 4,740 housing applicants registered on the Council's Housing Register as being in need of affordable housing. At present (March 2011) this figure stands at 5,305 applicants. Accordingly, the requirement for affordable housing within the District is even greater now than at the time than this application was previously considered.

Highway Safety

17. County Highways raised no objection to the proposed development, subject to the imposition of a number of planning conditions and planning obligations.

18. Matters to be included within the legal agreement would include the provision of a financial contribution towards the provision of traffic orders and road markings along both sides of Grange Crescent between Froghall Lane and Grange Crescent; the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport; and improvements to bus-stops. Members had previously considered that there was not a need for the closure of the existing lay-by on the north-eastern carriageway.

19. In the absence of the improvements to the highway (i.e traffic orders and road markings) being secured by legal agreement, it is considered that the proposed access and the vehicle movements associated with the proposed development would have a detrimental impact on highway safety, contrary to Policy ST4 of the Local Plan, which relates to highway safety.

20. Furthermore, it is also considered necessary that some provision is made to encourage the future occupiers of the proposed development to make use of alternative methods of transport to the private car. This may be achieved by the provision of schemes to secure this including the implementation of a Transport Information and Marketing Scheme for sustainable transport (Essex County Council's equivalent of a residential travel plan). Furthermore, a need for improvements to local bus stops has also been identified, which would encourage the use of local bus services.

Provision for Post Office Services

21. Previously, Members identified a need within the locality for additional Post Office services, following the recent closure of a counter. As the proposed development would create an additional demand for such services, a contribution towards the reopening of a Post Office counter (facilitated by Essex County Council) was sought.

22. Bearing in mind the advice referred to in Policy I1A of the Local Plan and within Circular 05/05 (referred to above), Officers do not consider the absence of a contribution towards the reestablishment of a Post Office counter would justify the refusal of planning permission. Circular 05/05 states that '*acceptable development should never be refused because an applicant is unwilling or unable to offer benefits*'. It is the opinion of Officers that the proposed development would be acceptable, even in the absence of this contribution.

23. However, Members should carefully consider whether or not the proposed development would be 'acceptable' in the absence of this contribution and therefore, whether or not the absence of this contribution would justify the refusal of planning permission.

Vehicle Access into Adjacent Site

24. The proposal takes into account an adjacent site for which a development proposal also exists. That site does not presently benefit from a planning permission, but a proposal has been considered by this Committee, who resolved to grant planning permission subject to referral to the Secretary of States and the completion of a Section 106 legal agreement (the legal agreement has not been completed and the application is also included within this agenda for further consideration). However, the planning history of this adjacent site, suggests that despite its Green Belt status, it is capable of development, subject to an acceptable proposal which provides adequate very special circumstances for allowing the development to proceed within the Green Belt.

25. Consultation with County Highways on previous applications has suggested that it would not be acceptable for the other site to create an access onto Froghall Lane, or for a second access onto Manor Road, in such close proximity to the access proposed into this Application site, to be created. On this basis, unless provision is made for access to the site via the Application Site, the adjacent Brownfield site could be rendered undevelopable. This would be contrary to Government guidance within PPS3, which encourages the efficient use of land and also contrary to Policy CP1 (vii) which advises that planning powers and actions will be used to minimise the use of non-renewable resources, including Greenfield land and Policy ST1 (iii) which states that new development should make the best use of land which is highly accessible to public transport or close to services and employment opportunities.

Public Open Space

26. In the absence of the legal agreement, it is not possible to secure the provision of the proposed area of public open space. The provision of public open space is required for new residential developments on large sites by policy DBE7. Having regard to the number of family sized homes to be provided within the development, it is considered to be essential that public open space is provided within the development. Furthermore, the legal agreement would ensure the transfer of the land to Epping Forest District Council and a payment to cover its maintenance for the first few years, to ensure that it is suitably managed and maintained after the Applicant's interest in the land ceases.

The Applicants Position

27. Following notification that this application was due to be reported back to this Committee, the Applicant has provided the following comment on 25th January 2011:

We are appreciative that we must settle the S106 legal agreement and that this must be within the framework of the original application and terms upon which the approval was granted.

It is however a fact that the economic climate has changed drastically since the project was put together and certainly since the Consent was recommended at Committee. The change in Government has not only caused Policy changes, but there have also been catastrophic cuts in funding for affordable new housing from the grant and the public purse generally that have rendered the scheme as promoted unviable.

We have sort to reduce the cost base and in partnership with our partner RSL, Moat, be creative in sourcing fresh funds. However this is all to no avail and if the project is to continue then we need to review the S106 in a way that reflects the low/no grant scenario and emerging government policy whilst keeping within EFDC Policy and any appropriate legislation in respect of it being, and continuing to be available as, affordable housing.

I have had outline consultation with experts in the appropriate fields with a view to submitting an amendment to the Resolution for Consent that can be put before members for their consideration, which we believe complies with precedent, PPS3 and EFDC Housing Policy. I have further meetings arranged to prepare this statement that we will submit as soon as possible for your consideration.

Conclusion

28. In light of the above appraisal, whilst the current economic pressures on development are acknowledged. In this case it is considered that , in the absence of the matters to be secured by legal agreement the proposed development would be in conflict with the Local Plan due to the inadequacy of the case for very special circumstance for permitted the development within the locality and due to the lack of provision for affordable housing (the demand for which is increasing due to the current economic situation) and would cause harm to the locality in terms of the impacts on highway safety and increased pressure on local education services.

29. Whilst the Applicant has advised that they intend to seek a resolution to the Committee's resolution to grant planning permission, a period of 16 months has lapsed since that resolution and no significant progress has been apparent. The provision of affordable housing, education services and the highways improvements are essential to ensure that the development does not have any adverse impacts on the locality and the reduction of the affordable housing significantly below he proposed level of 80% would result in the case for very special circumstances being eroded to the degree that it would no longer mitigate the identified harm to the Metropolitan Green Belt.

Extract

**Report to District Development Control
Committee**

Date of meeting: 6th October 2009



**Epping Forest
District Council**

Subject: Planning Application EPF/1399/09– Garden Centre, 212 Manor Road, Chigwell – Outline planning application for 69 residential units (54 affordable), public open space and a community facility (D1 Use) with all matters reserved except access.

**Officer contact for further information: K Smith
Committee Secretary: S Hill Ext 4249**

Recommendation:

That the Committee considers an outline planning application on land Garden Centre, 212 Manor Road, Chigwell for 69 residential units (54 affordable), public open space and a community facility (D1 Use) with all matters reserved except access, which has been referred by Area Plans Subcommittee South without a recommendation.

Report Detail

This application has been referred by the Area Plans Sub Committee South on 16 September 2009. The report to the sub-committee (attached as Appendix 1) carried a recommendation from officers to grant planning permission (subject to a Section 106 agreement) and the planning merits of the case are attached.

Planning Issues

The debate at the Sub-Committee meeting was inconclusive, with some Members implying support for this scheme, which they felt was a better design than the scheme for the adjacent site and which incorporates a community facility and public open space. Conversely, some Members expressed concern with some elements of the scheme, in particular the size of the area of Green Belt land that would be developed and the number of units proposed to be development on both this site and the adjacent site. Generally, Members expressed a desire for a cohesive approach to the development of both this application site and the adjacent site (upon which there is a current planning application for 21 flats which is also on this Agenda).

Officers consider that that the provision of affordable housing on this site would make a valuable contribution towards the identified need within the District. When this is considered in conjunction with site specific factors (such as the proximity to the

transport network and local shops, the location of the site on the edge of the urban area, the previously developed status of the land and the distinct boundaries to all sides of the site, which would retain a defensible boundary to the Metropolitan Green Belt), it is considered by Officers that there is a strong case for exceptional circumstances to justify an exception to the normal green belt policy of restraint. Whilst this application only seeks outline planning permission, it is accompanied by indicative plans that illustrate that a development of this scale can be comfortably accommodated within the site. At a density of approximately 53 dwellings per hectare, the development of this site is considered to be acceptable in line with Government advice and the surrounding built-up area.

Further to the planning obligations set out in the Officer's report to the Sub-Committee, Councillor Knapman suggested at the Sub-Committee meeting that the proposed development of the two sites would generate additional demand for services which were provided by the Post Office within the local shops until its recent closure. The Post Office was closed following a review and consultation exercise undertaken by Royal Mail in 2007. Following the closure of this and other Post Offices across the country, Royal Mail provided local authorities with an option to re-open Post Offices, provided that they are 'cost-neutral' to Royal Mail and do not have a significant impact on surrounding Post Offices. Discussions regarding this matter are taking place between Officers, Essex County Council and the applicant's agent at the time of preparing this report.

Conclusion

Should the Committee recommend granting planning permission, the application will have to be referred to the Government Office for the East of England, as a departure from the Local Plan. The recommendation to grant planning permission should be subject to conditions requiring:

- The submission of the reserved matters
- The use of suitable external materials;
- Highway matters including details of the site access, the discharge of water from the site, the provision of the car parking, and the layout of the roads and footpaths in accordance with the Essex Design Guide;
- The submission of further information relating to tree protection and site landscaping;
- The submission of a Flood Risk Assessment;
- Construction matters including a restriction of working hours and the provision of wheel washing facilities;
- The submission of further information relating to site levels; and
- Further information/mitigation relating to contaminated land issues;
- The submission of further information regarding the potential for protected species on the site; and
- Further detail relating to the storage of refuse facilities.

It is further recommended that any grant of planning permission should be subject to a legal agreement to secure planning obligations, within 9 months of the date of a resolution, which may include:

- The amount, tenure and occupancy of the affordable housing;
- Highway Improvements (Works and/or financial contributions);
- Education Provision (financial contribution and/or other); and
- Community benefits (financial contribution and/or other).

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Extract from Area Planning Subcommittee South on 16 September 2009
Report Item No: 3

APPLICATION No:	EPF/1399/09
SITE ADDRESS:	212 Manor Road Chigwell Essex IG7 4JX
PARISH:	Chigwell
WARD:	Grange Hill
APPLICANT:	Mr Graham Cox
DESCRIPTION OF PROPOSAL:	Outline planning application for 69 residential units (54 affordable), public open space and a community facility (D1 Use) with all matters reserved except access.
RECOMMENDED DECISION:	Grant Permission (Subject to S106)

CONDITIONS

- 1 Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2 Application for the approved reserved matters referred to in condition 1 must be made not later than the expiration of three years from the date of this notice. The development hereby permitted must be begun not later than the expiration of two years from the date of the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last matter approved.
- 3 Details of the types and colours of the external finishes shall be submitted for approval by the Local Planning Authority in writing prior to the commencement of the development, and the development shall be implemented in accordance with such approved details.
- 4 No development shall take place on site, including site clearance, tree works, demolition, storage of materials or other preparatory work, until all details relevant to the retention and protection of trees, hereafter called the Arboricultural Method Statement, have been submitted to the Local Planning Authority and approved in writing. Thereafter the development shall be undertaken only in accordance with the approved details, unless the Local Planning Authority has given its prior written consent to any variation.

The Arboricultural Method Statement shall include a tree protection plan to show the areas designated for the protection of trees, shrubs and hedges, hereafter referred to as Protection Zones. Unless otherwise agreed, the Protection Zones will be fenced, in accordance with the British Standard Trees in Relation to Construction-

Recommendations (BS.5837:2005) and no access will be permitted for any development operation.

The Arboricultural Method Statement shall include all other relevant details, such as changes of level, methods of demolition and construction, the materials, design and levels of roads, footpaths, parking areas and of foundations, walls and fences. It shall also include the control of potentially harmful operations, such as burning, the storage, handling and mixing of materials, and the movement of people or machinery across the site, where these are within 10m of any designated Protection Zone.

The fencing, or other protection which is part of the approved Statement shall not be moved or removed, temporarily or otherwise, until all works, including external works have been completed and all equipment, machinery and surplus materials removed from the site.

The Arboricultural Method Statement shall indicate the specification and timetable of any tree works, which shall be in accordance with the British Standard Recommendations for Tree Works (BS.3998: 1989).

The Arboricultural Method Statement shall include a scheme for the inspection and supervision of the tree protection measures. The scheme shall be appropriate to the scale and duration of the works and may include details of personnel induction and awareness of arboricultural matters; identification of individual responsibilities and key personnel; a statement of delegated powers; frequency, dates and times of inspections and reporting, and procedures for dealing with variations and incidents. The scheme of inspection and supervision shall be administered by a suitable person, approved by the Local Planning Authority but instructed by the applicant.

5 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) have been submitted to an approved in writing by the Local Planning Authority, and these works shall be carried out as approved. These 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 vehicle artefacts and structures, including signs and lighting and functional services above and below ground. Details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers / densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

6 No development shall take place, including site clearance or other preparatory work, until all details relevant to the implementation of hard and soft landscape works and tree planting, hereafter called the Landscape Method Statement, have been submitted to the LPA, and the development shall not commence until the Landscape Method Statement has been approved by the LPA in writing. All landscape works shall be undertaken in accordance with the approved details, unless the LPA has given its prior written consent to any variation.

The Landscape Method Statement shall include as appropriate, protection of the

planting areas, where appropriate by fencing, during construction; preparation of the whole planting environment, particularly to provide adequate drainage; and the provision which is to be made for weed control, plant handling and protection, watering, mulching, and the staking, tying and protection of trees. The Landscape Method Statement shall also normally include provision for maintenance for the period of establishment, including weeding, watering and formative pruning, and the removal of stakes and ties. Provision shall be made for replacement of any plant, including replacements, that are removed, are uprooted, or which die or fail to thrive, for a period of five years from their planting, in the first available season and at the same place, with an equivalent plant, unless the LPA has given its prior written consent to any variation.

All hard and soft landscape works shall be completed prior to the occupation or use of any part of the development, unless the LPA has given its prior written consent to a programme of implementation. The hard and soft landscape works, including tree planting, shall be carried out strictly in accordance with any approved timetable.

The Landscape Method Statement shall state the provision which is to be made for supervision of the full programme of works, including site preparation, planting, subsequent management and replacement of failed plants.

- 7 Before the occupation or use of any phase or part of the development, whichever is the soonest, a Landscape Management Plan (LMP) shall be submitted to and approved by the LPA.

The LMP shall contain a statement of the long-term aims and objectives covering all elements of the implementation of the agreed landscape scheme and full details of all management and establishment operations over a five-year period, unless otherwise agreed in writing by the LPA. It shall also include details of the relevant management, and supervisory responsibilities.

The LMP shall also include provision for a review to be undertaken before the end of the five year period. A revised LMP shall be submitted for the agreement of the LPA before five years has expired. The revised details shall make similar provisions for the long term maintenance and management of the landscape scheme. The revised scheme shall also make provision for revision and updating.

The provisions of the LMP, and subsequent revisions shall be adhered to and any variation shall have been agreed beforehand in writing by the LPA. No trees, shrubs, hedges or other plants shall be removed for the duration of the Landscape Management Scheme or its revisions, without the prior written approval of the LPA. Any trees, shrubs, hedges or other plants being so removed shall be replaced in the first available planting season by an equivalent replacement or replacements to the satisfaction of the LPA. Management of the landscape scheme in accordance with the LMP or their agreed revisions shall not cease before the duration of the use of the development unless agreed in writing by the LPA.

- 8 Prior to the commencement of the development hereby permitted, details of the provision of suitable temporary access arrangements to the application site in connection with the land forming/construction operations, to include wheel washing facilities, any necessary traffic management, turning and off loading facilities for delivery/construction vehicles within the limits of the site together with an adequate parking area for those employed in developing the site shall be submitted to the Local Planning Authority for approval in writing. The development shall proceed in accordance with these approved details.

- 9 Prior to the first occupation of any part of the development hereby approved details of an access to adoptable standards, to include visibility splays of 90m by 2.4m by 90m, 10.5m radii kerbs (if unachievable radii should be to the maximum possible) and 5.5m carriageway width with 2m wide footway along the edge of the site boundary and the bell mouth of the access (x2 footways), including the removal of any redundant dropped kerbs and replacement with full upstand kerbs shall be submitted to the Local Planning Authority for approval in writing. The details approved shall be implemented prior to the first occupation of the development approved and retained thereafter.
- 10 All roads and footpaths within the development should be designed in accordance with the Essex Design Guide.
- 11 A flood risk assessment shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using Windes or other similar programme. The approved measures shall be undertaken prior to the first occupation of the building hereby approved and shall be adequately maintained in accordance with a management plan to be submitted concurrently with the assessment.
- 12 Prior to commencement of development, details of levels shall be submitted to and approved by the Local Planning Authority showing the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
- 13 Prior to commencement of development, including demolition or site clearance works, a phased contaminated land investigation shall be undertaken to assess the presence of contaminants at the site in accordance with an agreed protocol as below. Should any contaminants be found in unacceptable concentrations, appropriate remediation works shall be carried out and a scheme for any necessary maintenance works adopted.

Prior to carrying out a phase 1 preliminary investigation, a protocol for the investigation shall be agreed in writing with the Local Planning Authority and the completed phase 1 investigation shall be submitted to the Local Planning Authority upon completion for approval.

Should a phase 2 main site investigation and risk assessment be necessary, a protocol for this investigation shall be submitted to and approved by the Local Planning Authority before commencing the study and the completed phase 2 investigation with remediation proposals shall be submitted to and approved by the Local Planning Authority prior to any remediation works being carried out.

Following remediation, a completion report and any necessary maintenance programme shall be submitted to the Local Planning Authority for approval prior to first occupation of the completed development.

- 14 Prior to the commencement of the development hereby approved, details of mitigation methodology regarding reptiles and bats which may be present on the site shall be submitted to the Local Planning Authority for approval in writing. The

development shall proceed in accordance with the approved details.

- 15 The development shall proceed only in accordance with the recommendations set out in Section 7 (pages 25-27) of the Desk Study and Extended Phase 1 Habitat Survey produced by Thompson Ecology (July 2009) unless otherwise agreed in writing by the Local Planning Authority.

and subject to a Section 106 Legal Agreement to secure 54 residential units (78%) for on-site affordable housing, and a contribution towards highway and public transport improvements in the locality, and education provision.

This application is before this Committee for the following reasons:

since it is an application for development of a significant scale and/or wider concern and is recommended for approval (Pursuant to Section P4, Schedule A (c) of the Council's Delegated Functions);

since it is an application for residential development of 5 dwellings or more and is recommended for approval (Pursuant to Section P4, Schedule A (d) of the Council's Delegated Functions); and

since it is an application for commercial development and the recommendation differs from more than one expression of objection (Pursuant to Section P4, Schedule A (f) of the Council's Delegated Functions).

Description of Proposal:

This application seeks outline planning permission for a residential development with public open space and a community facility. The proposal will provide a total of 69 housing units, of these 54 units proposed are affordable (78%). The breakdown is 15 market housing units (21%), 37 social rented units (53%) and 17 intermediate housing units (24%). All matters other than access are reserved for consideration at a later time.

Description of Site:

The application site is previously developed, accommodating part of the Jennykings Garden Centre. The site is bounded by Manor Road to the south, the railway line to the west and Froghall Lane to the east. There are some mature trees along the northern boundary and some dense vegetation along the eastern site boundary with Froghall Lane. The land across the site is generally level, but with a slight decrease towards the Froghall Lane boundary.

Relevant History:

CHI/0187/57. Layout of new roads & erection of 72 houses. Refused 21/08/57.

CHI/0132/73. Use of land for residential purposes. Refused 23/05/73.

CHI/0279/73. Proposed residential development. Refused 23/05/73.

CHI/0577/73. Use of land for residential purposes. Refused 30/01/74.

Members will recall recent planning applications for residential development on the adjacent site. The most recent (EPF/1071/09) was referred to the District Development Control Committee with a recommendation of support by Area Plans South on 5th August 2009.

Policies Applied:

East of England Plan

SS7 – Green Belt
H1 – Regional Housing Provision 2001-2021
H2 – Affordable Housing
T14 - Parking
ENV7 – Quality in the Built Environment
LA1 – London Arc

Adopted Local Plan and Alterations

HC12 – Development Affecting the Setting of a Listed Building
GB2A – Development in the Green Belt
GB7A – Conspicuous Development
GB16 – Affordable Housing
H2A – Previously Developed Land
H3A – Housing Density
H4A – Dwelling Mix
H5A – Provision for Affordable Housing
H6A – Site Thresholds for Affordable Housing
H7A – Levels of Affordable Housing
CP1 – Achieving Sustainable Development Objectives
CP2 – Protecting the Quality of the Rural and Built Environment
CP3 – New Development
CP4 – Energy Conservation
CP5 – Sustainable Building
CP6 – Achieving Sustainable Urban Development Patterns
CP7 – Urban Form and Quality
CP8 – Sustainable Economic Development
DBE1 – Design of New Buildings
DBE2 – Impact of New Buildings
DBE5 – Design and Layout
DBE8 – Amenity Space Provision
ST1 – Location of Development
ST2 – Accessibility of Development
ST4 – Highways Considerations
ST6 – Car Parking Standards
LL11 – Landscaping Schemes
E4A – Protection of Employment Sites

Summary of Representations:

CHIGWELL PARISH COUNCIL: No objection.

35 properties were consulted, a site notice erected and responses were received from the following properties – their comments are summarised below:

9 WARREN COURT
28 WARREN COURT
1A LONG GREEN
42 LONG GREEN
115 LONG GREEN
81 MOUNT PLEASANT ROAD
205 MANOR ROAD

Green Belt

Development could set a precedent for future developments on Green Belt land. Development would further encroach onto Green Belt Land and would destroy more of the countryside to the detriment of local residents and future generations.

Need

There is no need for this build. There are seven empty flats in my complex in Long Green (raised by 42 Long Green). There are already plans to build flats at junction of Manor Road and Fencepiece Road so why build more?

Highways and Parking

Existing traffic congestion in the locality would worsen. Parking is limited on the development site. Limited access/egress to and from the site. Difficulties for pedestrians crossing the road.

Character and Appearance.

Would be out of character with the surrounding semi-rural area. Would overpower the nearby listed cottages.

Neighbouring Amenity

Increased noise and pollution. Overlooking of neighbouring gardens and houses (raised by 28 Warren Court). Would spoil views of the forest and cemetery. Loss of privacy for visitors to cemetery.

Impact of setting of Listed Buildings

Would overpower nearby listed cottages. Could cause movement to the nearby listed cottages, which have only limited foundations.

Other Matters

Already strain on local facilities (schools and doctors). The Council's reasons for refusing 116 houses at Grange Farm should apply here too. Increased risk of crime. Grange Hill Station has a poor service to central London.

ESSEX AREA RAMBLERS. Objection. The amount of traffic which would inevitably be generated would present a threat to the safety of Manor Road. The large number of affordable residences is not exceptional circumstances.

Issues and Considerations:

The main issues in this case are:

- The acceptability of the proposed development within the green belt;
- The impact of the proposed development on the amenities of the occupiers of neighbouring dwellings;
- The design of the development;
- The impact of the development on the character and appearance of the area;
- Impacts on nearby listed buildings;
- The proposed highways and parking arrangements;
- The proposed provision of affordable housing; and

The sustainability of the proposed development.

Acceptability of the Development within the Green Belt

The site is located within the Metropolitan Green Belt, where new residential development is considered to be inappropriate. In this instance, the applicant has put forward a case explaining why they consider that there are very special circumstances which justify this development within the Green Belt. The applicant's case for exceptional circumstances is that *'the particular merits of this case mean that the limited harm to the function of the Green Belt by allowing inappropriate development is outweighed by the acute identified need for family affordable housing accommodation, particularly 3+ bed houses with private gardens, that cannot be met in any other way and which can be reasonably expected to persist in the long term'*.

Policy GB16 of the local plan deals with affordable housing on Green Belt sites and provides for small scale affordable housing development as a whole to be built within the green belt subject to a number of criteria.

Policy GB16 provides for the provision of affordable housing in the Green Belt so long as it is small-scale and a "settlement". The policy allows for affordable housing where:

- There is a demonstrable social or economic need not met elsewhere,
- It is supported by the local parish council and a proper appraisal of need,
- It is well related to the existing settlement,
- Will not have a detrimental impact on the character of the locality,
- There are no significant grounds for objection on highways, infrastructure or other planning grounds.
- Isolated pockets of development should be avoided.

The application site is located on the edge of the urban area. The site is well served by transport infrastructure, not least by Grange Hill Underground Station. The submitted Affordable Housing Statement refers to the identified need in the Council's most recent (2003) Housing Needs Survey. The need for the affordable housing proposed is supported by both the Council's Housing Services and also Moat Homes Limited, one of the preferred Registered Social Landlord's (RSL's). Moat state 'we feel that the housing requirements for the District have been adopted and consequently feel that this scheme offers a good opportunity for Moat to increase its housing stock within Epping Forest'. There has been no objection to the scheme raised by Chigwell Parish Council. Accordingly, it is considered that the provision of affordable housing on this site may be acceptable in relation to the criteria set out in policy GB16, subject to consideration of the other planning merits of the case. These will be considered in subsequent sections of this report.

Policy GB7A of the Local Plan states that the Council will refuse planning permission for development conspicuous from within or beyond the green belt which would have an excessive adverse impact upon the openness, rural character or visual amenities of the green belt. It is considered that the height and density of the development proposed is such that it would be in keeping with the pattern of surrounding development. Furthermore due to the natural screening to the northern and eastern boundaries of the site and the context of the western and southern boundaries (which are adjacent to the railway line and Manor Road) it is not considered that the development would appear overly conspicuous. There is also built development opposite to the south and to the west on the other side of the railway line. It therefore would not appear isolated in the countryside.

Affordable Housing

Policy GB16 specifically relates to proposals for affordable housing within the Green Belt and has been discussed above. Policy H5A sets out a list of criteria which are to be applied to consider whether a site is suitable for affordable housing. These are:

- The overall level, nature and distribution of housing need in the district;
- The size and characteristics of the site;
- The type of affordable housing required and the type of dwellings proposed on the site;
- The dispersal of affordable housing throughout the site;
- The nature of any adjacent housing; and
- The proximity of the site to public transport and accessibility to facilities.

There is a considerable need for the provision of affordable housing within the District, with currently 4,700 applicants being registered on the Council's Housing Register. The site is located in close proximity to the existing urban area and the associated transport infrastructure. Surrounding residential developments are generally modest sized semi-detached and terraced dwellings, with some detached dwellings interspersed. The mix of dwellings proposed accords with policy H4A in terms of the size and tenures. The mix of housing also generally meets the identified need with the only exception being the suggestion by the Head of Housing that the four 4+ bed houses be replaced with 3 bed houses, for which there is a greater need. This mix can be finalised in an associated Section 106 legal agreement which would ensure the provision of affordable housing to the development.

Neighbouring Amenity

Neighbouring amenity is an issue which will need to be considered at greater depth upon the submission of reserved matters relating to the detailed design of the development. Notwithstanding this, it is considered that the site is capable of accommodating a development of the scale proposed without resulting in material harm to the amenities of the occupiers of neighbouring residential properties. The closest property to the site is 193a Manor Road, located on the opposite side of the street. Some concern has also been raised by a local resident regarding the potential impact on Warren Court, to the west of the site. However, the nearest gardens of these properties are located some 75 metres from the site, separated by the railway line and it is not considered that a development of a reasonable height would cause any material loss of privacy.

Design

The detailed design of the proposed development is also an issue which is reserved for later consideration. However, an indicative layout and indicative sections have been submitted which indicate that the development would be fairly spacious and of a reasonable density, in keeping with the built development in the area. The maximum building height shown on the sections are three storey buildings. Considerable amounts of the vehicle parking shown on the site layout would be enclosed in car courts away from the main street views. An indicative masterplan also shows how the adjacent site could be integrated as part of a comprehensive development.

Impact on the Character and Appearance of the area

The impact of the proposed development on the character and appearance of the area will need to be fully considered upon the submission of reserved matters. Notwithstanding this, it is considered from the indicative plans provided and the density proposed that a development of this scale could be accommodated without any material harm to the character and appearance of the area.

Impact on Nearby Listed Buildings

The row of listed cottages is located on the opposite side of Manor Road and are set back from the public highway. Their location on the other side of the street visually divorces them from the site and as a result it is not considered that the proposed development would be detrimental to their

setting. Concern has been raised by a local resident regarding the potential for disturbance from the construction proposed to cause movement to the listed cottages, which are built on limited foundations. Having regard to the distance separating the cottages from the application site (approximately 57 metres to the nearest cottage) and the location of the road in between, it is not considered that sufficient weight should be applied to this consideration as to justify the refusal of planning permission on this basis.

Highways and Parking

Access is the only reserved matter for which consent is being sought at this stage. Essex County Council, the Highway Authority, has no objection to the proposed development subject to a number of planning conditions and other requirements which would need to be facilitated by means of a Section 106 legal agreement. Matters to be included within a section 106 would include the provision of a financial contribution towards the provision of traffic orders and road markings along both sides of Grange Crescent between Froghall Lane and Grange Crescent; the closure of the lay-by on the north-eastern carriageway; the provision and implementation of a Transport Information and Marketing Scheme for sustainable transport; and improvements to bus-stops. Accordingly, subject to the imposition of the planning conditions suggested by the Highways Authority and subject to the completion of a legal agreement to secure the above, it is considered that the proposed access arrangements are acceptable.

Trees and Landscaping

The existing landscaping on the site is generally located to the site boundaries and it should therefore be feasible to work around these in the detailed layout proposals. Accordingly, it is expected that most of the existing trees on the site would be retained. This may be controlled by the use of a tree protection condition. The submitted tree survey recommends that a 5m strip of vegetation is retained along the boundary with Froghall Lane, this is not shown on the submitted indicative layout. However, this is a matter which may be considered upon the submission of reserved matters relating to design and landscaping. It is considered that a development of the scale proposed would need to be softened by additional landscaping and this may also be controlled by the use of planning conditions.

Drainage and Flooding

This planning application was not accompanied by a Flood Risk Assessment (FRA) at the time of submission. Accordingly, in the absence of the FRA being submitted the Environment Agency has lodged an objection. However, an FRA was submitted on 26th August and it is anticipated that the Environment Agency comments in respect of the FRA can be verbally reported to the Planning Committee.

Sustainability

Policies CP1 – CP8 of the adopted Local Plan relate to achieving sustainable development and place emphasis on encouraging developments which provide for renewable energy, energy conservation and sustainable building. These are matters which will generally need to be considered at the reserved matters stage. However, the applicant has submitted a sustainability statement in which they commit to achieving the Code for Sustainable Homes Level 3 for all residential units on the development. They suggest that this may be secured by the use of a planning condition.

Other Matters

Loss of Employment Site

Policy E4A of the Local Plan safeguards employment sites from redevelopment to other uses, unless a number of criteria are satisfied. An element of employment would be retained on the site due to the proposed provision of a community use. Whilst exact employment figures would be dependent on the exact use, which is not yet confirmed, it is considered that this policy has been addressed. The application form suggests that 5 people could be employed on the site and whilst this would be dependant upon the exact use of the facility proposed, it is considered to be accessible bearing in mind the existing use of the land which does not generate large numbers of employees.

Education

ECC have advised that if planning permission is granted they would seek a financial contribution towards Early Years and Childcare provision and Secondary Education provision in the locality. Due to a surplus of primary school places in the locality they would not seek a contribution towards primary education.

Protected Species

The application is supported by an Extended Phase 1 Habitat Survey and Natural England has no objection to the proposed development subject to the recommendations contained within that study. It is also considered likely that there could be reptiles present on the site and, less likely, that bats may also be present. It is considered that a planning condition requiring a mitigation methodology would prevent any adverse impacts on these species groups.

Conclusion

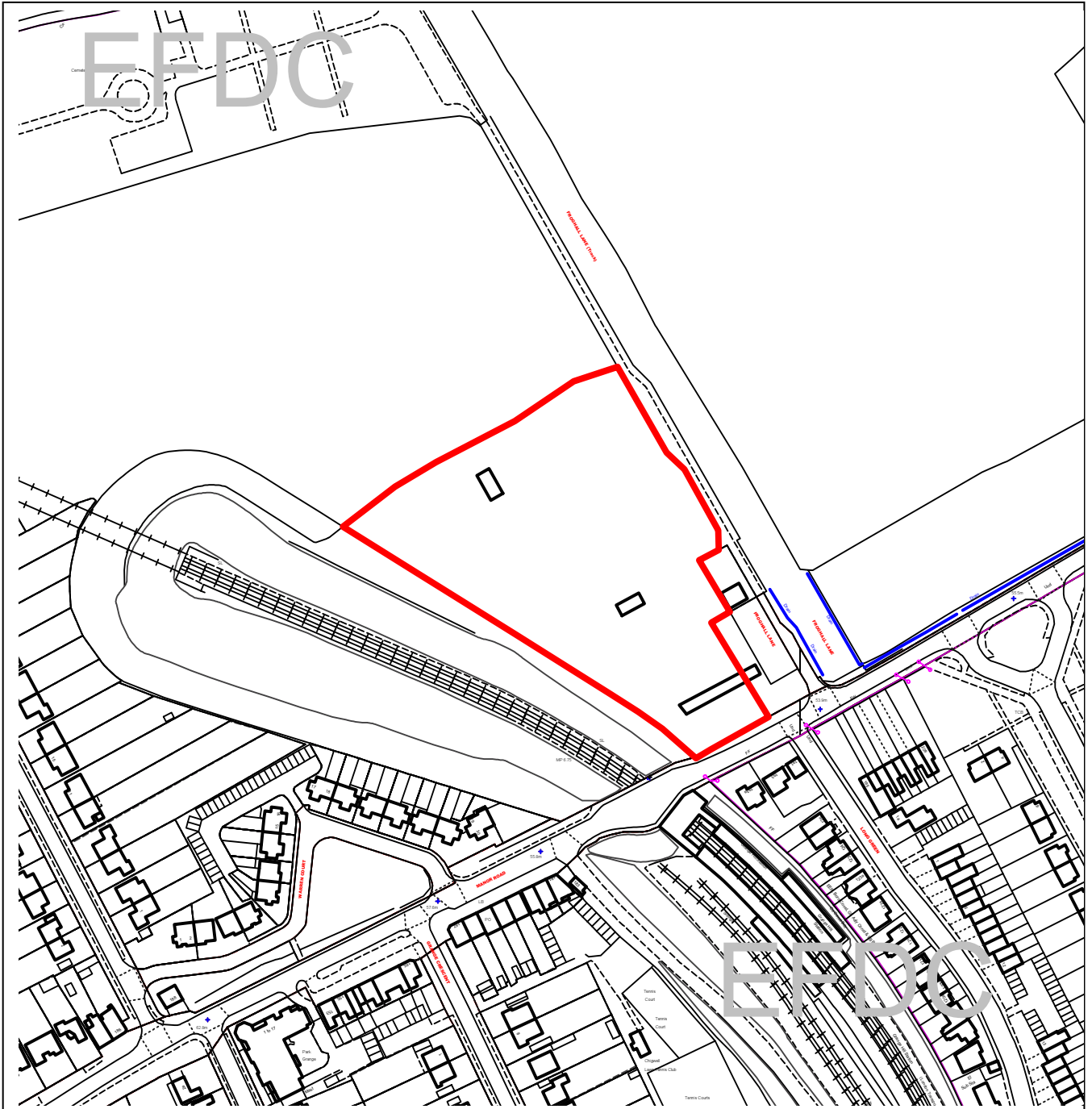
In light of the above appraisal, it is considered that the provision of affordable housing on this site would make a valuable contribution towards the identified need within the District. When this is considered in conjunction with site specific factors (such as the proximity to the transport network, the location of the site on the edge of the urban area, the previously developed status of the land and the distinct boundaries to all sides of the site, which would retain a defensible boundary to the Metropolitan Green Belt), it is considered that there is a strong case for exceptional circumstances to justify an exception to the normal green belt policy of restraint.

For these reasons, it is recommended that planning permission be granted, subject to the completion of a Section 106 legal agreement to secure the matters referred to in this report also subject to those planning conditions discussed.



Epping Forest District Council

Area Planning Sub-Committee South



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Agenda Item Number:	3
Application Number:	EPF/1399/09
Site Name:	212 Manor Road, Chigwell, IG7 4JX
Scale of Plot:	1/2500

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Jennikings Nursery, Manor Road, Chigwell

**Section 106 Agreement – Proposed Heads of Terms (Affordable Housing Elements Only)
(Subject to the approval of Moat’s Board)**

- (1) Moat Housing to be a signatory and party to the Section 106 Agreement.
- (2) 54 dwellings (79% of the total number) to be provided as affordable housing.
- (3) Subject to the agreement of the Homes and Communities Agency (HCA) to Moat utilising sufficient grant from its Recycled Capital Grant Fund (RCGF) or to the receipt of sufficient capital grant from the HCA:
 - (a) 32 (60%) of the affordable properties to be provided in the form of Affordable Rented Housing, at Affordable Rents, that meet the requirements of the HCA’s Affordable Rent Framework, with the following property mix:
 - 6 X 2 bedroom flats
 - 16 X 2 bedroom houses
 - 10 X 3 bedroom houses
 - (b) 22 (40%) of the affordable properties to be provided as shared ownership, with the following property mix:
 - 17 X 2 bedroom flats
 - 1 X 2 bedroom house
 - 4 X 3 bedroom houses
- (4) If HCA approval to the use of sufficient grant from Moat’s RCGF is not given, or if sufficient capital grant is not provided by the HCA:
 - (i) 18 (33%) of the affordable properties to be provided in the form of Affordable Rented Housing, at Affordable Rents, that meet the requirements of the HCA’s Affordable Rent Framework, with the following property mix:
 - 5 X 2 bedroom flats
 - 13 X 3 bedroom houses
 - (ii) 36 (67%) of the affordable properties to be provided as shared ownership, with the following property mix:
 - 18 X 2 bedroom flats
 - 1 X 2 bedroom house
 - 17 X 3 bedroom houses
 - (iii) No grant funding from either the HCA or Moat to be required as a result.
- (5) All the affordable housing to be provided by Moat.
- (6) All shared ownership properties to meet the Council’s Shared Ownership Policy, i.e.:
 - (i) The *average* initial equity share sold to shared owners across all the shared ownership homes within to development to be no more than 35%;

- (ii) Shared owners to be able to purchase a minimum equity share of 25% and a maximum equity share of 50% for shared ownership schemes;
 - (iii) Shared owners to be able to purchase additional equity shares (staircase) up to full 100% ownership; and
 - (iv) Shared owners to pay an initial rent of no more 2.5% of the unsold equity per annum, with subsequent rent increases determined in accordance with Moat's Rent Setting Policy.
- (7) The affordable housing to meet the HCA's design and quality standards.
 - (8) No more than 50% of the market housing on the development to be occupied until the developer (or subsequent developer) has entered into a legally binding agreement with Moat for the sale of the affordable housing to Moat.
 - (9) Moat to comply with its signed District-wide Nominations Agreement with the Council.
 - (10) The Council's usual provisions to be included within the S106 Agreement that release any mortgage in possession from the affordable housing requirements, in specified circumstances.

August 2011

Report to District Development Control Committee

Date of meeting: 24 August 2011



**Epping Forest
District Council**

Subject: Planning application EPF/1181/11- Valley Grown Nurseries, Payne's Lane, Nazeing, Essex EN9 2EX. – Construction of 87,119m² glasshouse, 4,514m² ancillary warehouse area, 238m² of associated office space and 194m² of welfare facility space, together with habitat enhancement and landscaping.

Officer contact for further information: J Shingler Ext 4106
Committee Secretary: S Hill Ext 4249

Recommendation:

That the Committee considers the recommendation of the Director of Planning and Economic Development to grant planning permission for the above development, subject to the completion of the applicants unilateral undertaking and officers recommended planning conditions, appended at the end of this report.

Report

1. This application is brought to this committee as it is a matter that is considered of major significance that raises issues that are of more than local concern. The application has not been reported to the West Area Planning Sub Committee as there were concerns that the committee would not be quorate and in addition as the development is contrary to the adopted policies of the Local Plan any decision to approve the scheme would have to be made by the Parent Committee.

Description of Proposal:

2. Construction of 87,119m² of horticultural glasshousing, 4,514m² of ancillary warehouse area, 238m² of associated office space and 194m² of welfare facility space, together with habitat enhancement and landscaping. The proposal is to expand an existing established Nursery located immediately to the north of the site, which grows peppers.

3. This is a proposed extensive mass of glasshouse and associated buildings essentially covering an additional 9 hectares of mainly arable land with intensive modern horticultural development. The proposed glasshouse is to be a single rectangular unit over 300 metres in length and 8.2 metres high and the maximum height of the ancillary buildings is 9.5m. Additionally, the site slopes and it is proposed to level it using a cut and fill method, which means that the western area of the site will be higher than existing. The westernmost element of the glasshouse will therefore be built on land that will have been raised by 1.8 metres. The glasshouse is however located about 30metres from the western boundary of the site (Payne's

Lane) and significant bunding and planting is proposed along this boundary. Three new accesses into Payne's lane are proposed along with 10 additional car parking spaces and 5 HGV parking spaces.

4. The proposals include backfilling a third of an existing lake, which will be reconfigured, and enhanced as a wildlife habitat, and the provision of an open storage pond in the south east corner of the site to provide irrigation and drainage attenuation. The proposal would obstruct an existing Public Right of Way, but an alternative route is proposed and would be the subject of an application for diversion if planning permission is granted.

5. The application was accompanied by a request for an Environmental Impact Screening Opinion, and following consideration of the nature of the proposals including the creation of replacement wildlife habitats, it was not considered that the proposals would have wide significant environmental impacts and that in their totality the works are not EIA development and that an EIA was not required.

6. The application is accompanied by a draft unilateral planning obligation should permission be granted that would;

a) prevent the development from being divided or segmented whereby any third party could own or operate any part of the glasshouse. This would prevent the possibility of the site being utilised by several different businesses that would lead to potential for significantly increased traffic movements.

b) require the owner to dismantle and remove any building from the site that is not utilised for production within 1 year of its use ceasing, and to reinstate the land to a specification to be agreed with the Council. This is required to ensure that there is no risk of the site becoming derelict in the future, as previous glasshouse sites have.

c) create and maintain a long term wildlife habitat area on the lake and adjacent area, including, provision of an outdoor classroom and information boards, working with appropriate community and ecology groups to complete a programme of planting, creating and agreeing an ongoing landscape management plan and creating the new landscape and wetland area before any construction commences on the areas adjacent to the lake.

Description of Site:

7. The overall site comprises 18.2 hectares of land located at the southern end of Payne's Lane. The land is mainly arable, but includes a former mineral extraction pit in the south west corner which has recently been restored to create a wildlife area and splash pool, a shallow lake that currently takes surface water runoff from the existing glasshouse via a ditch that runs due south across the centre of the site. The existing, established Valley Grown Nursery, covering several hectares of glass, is located immediately to the north; there is established woodland to the east where the land rises significantly (Clayton Hill). There is open agricultural land to the south. Holyfield Lake lies to the west. The site lies within the Lea Valley Regional Park and the Green Belt and is adjacent to a Local Wildlife Site. Payne's Lane is a private single track road that serves a number of businesses and residential properties. The nearest residential properties to the site are those at Langridge Farm that lies to the west of the site. A public right of way crosses the application site and Payne's Lane itself is also a public footpath.

The site itself rises gently with the central and western area being at about 23m Above Ordinance Datum (AOD) rising to 30-35 AOD to the east. The highest point of Clayton Hill to the east is about 79 AOD.

Relevant History:

8. There has been nursery development on the current Valley Grown Nursery site to the north for a considerable period. The current glasshousing was approved in 1997.

9. Whilst there is no other relevant history relating to the current application site, Valley Grown Nurseries did apply to extend their business with an additional 4 hectares of glass on land to the west of Payne's Lane (opposite their current site) in 2001 under planning application ref: EPF/0633/01. This application was refused at District Development Control Committee for the following reasons:

- 1. The proposals, being sited within the Lee Valley Regional Park, are contrary to the provisions of the Lee Valley Park Plan and do not enhance the functions and enjoyment of the Park and are thereby contrary to policies GB10 and RST24 of the adopted Local Plan.*
- 2. The proposals by reason of their size, scale and prominence and lack of natural landscaping, would be intrusive in the landscape, contrary to policies DBE4, LL1 and LL2 of the adopted Local Plan.*
- 3. The site is accessed by a single track road with few passing places and the proposed development is likely to lead to conditions more detrimental to users of the lane whether in vehicles or on foot by virtue of its status as a public footpath, contrary to policy T17 of the adopted Local Plan.*

Policies Applied:

East of England Plan:

SS1 and SS4 relating to sustainable development

Local Plan and Local Plan Alterations:

CP1 Achieving Sustainable Development Objectives

CP2 Protecting the quality of the environment.

CP3 New development

CP4 Energy conservation

CP8 Sustainable economic development

GB2A Development in the Green Belt

GB7A Conspicuous development

GB10 Development in the Lee Valley Regional Park

GB11 Agricultural Buildings

HC1 Archaeological sites

HC12 development affecting the setting of listed buildings

NC1 SPA's, SAC's and SSSI's

NC2 County Wildlife Sites

NC3 Replacement of lost habitat

NC4 Protection of established habitat

NC5 promotion of nature conservation schemes

RP3 Water quality

RP4 Contaminated land
RP5A Adverse environmental impacts
E13A New and replacement glasshouses
E13C Prevention of dereliction of new glasshouse sites
RST2 Enhance rights of way network
RST23 Outdoor leisure uses in the LVRP
RST24 Design and location of development in the LVRP
U2A Development in Flood risk areas
U3A Catchment effects
U3B Sustainable drainage systems
DBE1 Design of new buildings
DBE2 Effect on neighbouring properties
DBE4 Design in the Green Belt
LL1 Rural Landscape
LL2 Inappropriate rural development
LL4 Agricultural/forestry related development
LL7 Planting, care and protection of trees
LL10 Adequacy of provision for landscape retention
LL11 Landscaping Schemes
St1 Location of development
ST2 Accessibility of development
ST3 transport assessments
ST4 Road Safety
ST5 Travel Plans
ST6 Vehicle parking
I1A Planning Obligations

Summary of Representations.

10. 20 neighbouring properties were consulted, 2 site notices were erected and the application was advertised in the local press. The following responses were received.

PARISH COUNCIL – Objections. Considerable impact on residents in Payne’s Lane with additional vehicle movements especially HGV’s in a narrow lane that is also a public footpath (contrary to Policy E12a) Nazeing is covered by a 7.5t weight restriction and additional HGV’s using the premises would add to the existing problem and would be contrary to Policies ST2, ST3 and ST4. The Planned development is not in an area covered by Policy E13 and would be contrary to E13a as it is not a replacement or small scale extension or modest expansion. The site is within the LVRP and would not enhance the functions or enjoyment of the park which is contrary to GB10 and RST24. Due to the size and scale of proposed development and the lack of natural landscaping it would be visually intrusive in the landscape contrary to DBE4, LL1 and LL2. There are also concerns in respect of adequate facilities for parking, foul sewerage and flood risk.

LEA VALLEY REGIONAL PARK AUTHORITY - The planning application was considered by the Authority’s ULV Regeneration and Planning Committee on 21st July 2011, when it was resolved that:

- (1) Epping Forest District Council be informed that this Authority objects to this application on the following grounds:
- (a) the scale of built development is incompatible with the function of the Regional Park, as set out in the Lee Valley Regional Park Act 1966;
 - (b) the proposed glasshouse would fundamentally affect the landscape setting of the site, as it is located in an open area of the Regional Park and is widely visible;

(c) the proposed landscaped bund would not offer an effective, reliable and permanent screen to shield the raised west elevation of the glasshouse;

(d) the further ecological surveys and habitat management plan recommended in the Phase 1 habitat survey are not complete, and there is not adequate information upon which to base a decision;

(e) the significant increase in HGV movements along Payne's Lane would lead to an increase in the likelihood of conflicts with users of two footpaths that access areas of the Regional Park to the west and east;

(2) for the reasons stated above, the proposed glasshouse fundamentally conflicts with Lee Valley Regional Park Plan Policies 3.1, LS, L1.1, L2.1, LS1.2 and LS1.6 that seek to protect the landscape setting, openness and visual amenity of the Regional Park, along with the Landscape proposals in the Park Development Framework (2011);

(3) the proposed screening does not adequately mitigate the impact of the proposed glasshouse; and

(4) if Epping Forest District Council are minded to grant planning permission, the Lee Valley Regional Park Authority requests that the application be referred to the Secretary of State under Section 14 (8) of the Lee Valley Regional Park Act.

OAKLEIGH, PAYNE'S LANE- Object in strongest possible terms. Inappropriate development in the Green Belt. Prominent development in the Green belt, Adverse impacts on amenity, particularly residents of properties at southern end of Payne's Lane. Road totally unsuitable for additional traffic. Adverse impact on walkers from increased traffic. Other recent applications in Payne's lane have been refused. Loss of open countryside to 27 to 31 feet high development. Only special circumstance apparent is financial gain for applicant. Proposal will result in further deterioration of the lane. Already significant traffic problems at times due to HGV's, no formal passing points. Additional weight of traffic may impact on gas and other pipes beneath Payne's Lane. Will add to existing problem of too many HGV's through Nazeing. Harmful to safety of walkers, harmful to character and visual amenity of the area, Concerned also that information submitted is lacking and or contradictory.

WILLOW LODGE, PAYNE'S LANE. - Object. Already significant traffic, noise, congestion etc from existing businesses in the lane, any increase would exacerbate this. Not a suitable road for heavy vehicles, already traffic accidents. Business owners should try living in Payne's Lane. Would not object if an alternate access to the site could be found.

THE HAWTHORNES, PAYNE'S LANE-Strenuously object. The land is Green belt and LVRP. The landscaping proposed is unlikely to offset the enormous proposal. Adverse impact on wildlife in the area. Harm to highway safety, road too narrow, no passing points, blind corner just past our property, pedestrians at risk as no pathway and no room on the road. Cyclists similarly at risk. No lighting, road surface deteriorating. Noise and disturbance/vibration from lorries. Harm to wildlife habitat and the local environment.

WOODSIDE BARN, PAYNE'S LANE. The application should be turned down. Harm to local wildlife, loss of newly built bird sanctuary. Unacceptable increase in traffic on unsuitable road, noise and pollution through Nazeing Village. Increase in discharge of water full of fertilisers and sprays, into watercourse of sailing lake at rear of my property, adversely impacting on wildlife. Development excessive in height. Development would back on to my front sitting room and I would look onto a sea of glass or white reflective blinds. Workers would look straight into my home. Loss of property value. Developers should look for sites closer to motorways. And not congest country lanes.

LANGRIDGE BARN, PAYNE'S LANE – Strongly object. Payne's lane unsuitable for additional traffic, no formal passing places reliant on goodwill of residents and businesses who allow their accesses to be used as passing places. Already too much unsuitable commercial traffic in the lane. The lane is a designated public footpath, no separate pavement; additional traffic will increase danger to walkers. Already too many HGV's go through Nazeing. Proposal will result in dramatic daily increase in number of huge container lorries taking deliveries to major supermarkets. Loss of new wildfowl refuge. Waste of public money? Concern that the development will result in drainage problems and problems to cesspits, boreholes and land drainage. The proposed footpath diversion is not acceptable in policy terms. The development will be conspicuous and intrusive within the Green Belt and the LVRP, when viewed from Clayton Hill. Large and unsightly, out of keeping with the Park. Not an E13 area and is unsuitable for expansion. Concerned about disruption, noise, lighting along our eastern boundary. Harm to wildlife. Previous expansion plans were refused in 2001 those reasons remain valid. Finally proposed trees on western boundary if of height suggested my obstruct light to the glasshouse, can we be sure that they will plant and maintain them at that height?

LANGRIDGE FARM, PAYNE'S LANE – Object. Concern over increased use of unsuitable road, risk of increased flooding, contaminated land, inadequate parking facilities, potential for 24 hour working, major development equivalent in area to 768 units of housing with no infrastructure to support it. Increase in HGV movements thro Nazeing which has 7.5t weight limit. Vehicles could block the lane and prevent or delay emergency vehicles. Not within a glasshouse area, harmful to character and appearance of the countryside, Contrary to the adopted policies of the Local Plan, potential flood risk. Wild fowl area already exists; footpath would be diverted but would be adjacent to 31 foot wall of glass. Need at least £1.5 million towards infrastructure. Previous application was refused. More time is needed to consider everything.

ESSEX AREA RAMBLERS –If granted then diversion of footpath 10 will be required, the Council may wish to consider the recent County Council scheme to divert Footpaths 8,9 and 26 in Nazeing that are at present under consideration by the planning inspectorate due to a number of objections being lodged. If Planning permission is granted it should be conditional on the applicants securing the necessary diversion of footpath 10 before any other part of the proposed development may proceed

Issues and Considerations:

11. The main considerations in the determination of this application are:
 - Impact on the Green Belt
 - Containment of Glasshouse Development
 - Sustainability
 - Landscape Impact
 - Impact on the Regional Park
 - Highway Issues
 - Impact on Neighbouring Residents
 - Impact on wildlife and nature Conservation
 - Flooding
 - Public Rights of Way

Green Belt

12. The proposed development is required for the purposes of horticulture and is therefore “appropriate” in the Green Belt in terms of national guidance and Policy GB2A of the adopted Local Plan and Alterations. The applicant does not therefore need to demonstrate very special circumstances in order to justify the development. The visual impact, and impact on amenity, the environment and on highway safety do however also need to be addressed in accordance with GB7a and GB11 of the Plan and these matters are considered below.

Containment of Glasshouse Area

13. The Lee Valley has a long tradition of Glasshouse development and there are a large number of nurseries in and around the District. In the latter part of the 20th Century the Glasshouse industry declined and the district suffered with many smaller nurseries becoming uneconomic and falling into disuse, resulting in large areas of derelict and unsightly land within the Green Belt. Local Plan policies were therefore drawn up with the intention of preventing the spread of glasshouses outside of existing glasshouse areas, to ensure that old glasshouse sites would be reused rather than new glass being developed on green field sites. The current adopted policy E13A of the Plan states:

Planning permission will be granted for new and replacement glasshouses within areas identified for this purpose on the Alterations Proposals Map. Glasshouses will not be permitted outside the areas subject to this policy unless the proposed development is either

- 1) A replacement of, or a small scale extension to the glasshouse or nursery outside the areas identified in the Alterations Proposals Map: or*
- 2) Necessary for the modest expansion of a glasshouse or existing horticultural undertaking on a site at the edge of an area identified on the Alterations Proposals Map which is unable to expand because all the available land in that designated area is occupied by viable glasshouse undertakings and where there is no suitable land, including redundant glasshouse land) in this or the other glasshouse areas identified on the alterations proposals map:*

And in all cases the proposal will not have an adverse effect on the open character or appearance of the countryside.

14. The existing nursery is within an identified E13 Glasshouse area but the proposed site is not. The development cannot in any way be described as a *modest* extension and the proposal will have an adverse impact on the open character of the countryside in this location due to its sheer scale. It is therefore clearly at odds with this policy.

15. However it is acknowledged that the Councils Glasshouse policy is based on a study carried out in 2003 and is therefore perhaps not addressing the current needs of the industry; a new study has been commissioned but is in too early a stage to be a consideration

16. As part of this application the applicant has looked at whether any existing sites within the designated glasshouse areas could meet their requirements. The site needs to be large enough to accommodate 9 hectares of glass and ancillary service buildings. They argue that to make a fully contributing combined heat and power unit viable it needs to be capable to generating 4 MgW of power. Based on its heating requirements a modern insulated glasshouse generates about 0.45MgW/hectare hence 9 hectares is required to generate 4 MgW. The site also needs to be large enough to accommodate a 35000m³ capacity reservoir to meet surface water

recycling and stormwater storage requirements of a 9 hectare glasshouse. This adds a further hectare the required site area and the developers have concluded that to meet all requirements a minimum 12 hectare site is needed. In addition there needs to be suitable power grid in the vicinity with practical cable routing distance. Close proximity to the existing nursery would achieve better economies of scale by sharing a single workforce, sharing transport, staff facilities, loading, offices etc, bulk buying of gas and bulk generation of electricity. Finally the site needs to be flat or have scope for levelling with cut and fill. A flat site is needed to provide consistent temperatures across the glasshouse area and for ease of movement of staff and produce within the site.

17. With these criteria in mind the applicants carried out a search for potential sites. Whilst there are about 4 hectares of land to the north of the application site that is designated glasshouse land this land is unsuitable for many reasons, The land is in two sections a western field of about 1 hectare of which about 0.72 hectares could be built and an eastern section of about 3 hectares of which only about 1.8 hectares could be built. Therefore only about 2.5 hectares of glass could be built which added to the existing 3.3 hectares at the site would give a total of about 5.7 hectares which is below the required size. In addition the western field is separated from the current site by six separately registered land parcels and two strips with no registered title, it would be extremely unlikely that the applicant would be able to successfully connect a glasshouse development on this field to his existing glasshouse development. A land registry search shows that the eastern section has 9 registered titles and one parcel with no registered title. On enquiry the applicant was told this was in perhaps as many as 25 different ownerships and that there would be difficulties identifying the owners many of whom had returned to Ireland. On this basis it is not considered that this area to the north of the site has any real prospect of becoming available for development.

18. The applicants have therefore looked for potential sites within other designated glasshouse areas. There are only 2 sites with sufficient land capable of accommodating a scheme of the necessary size. These are an area of about 25.7 hectares between Sedge Green and Hoe Lane in Nazeing and a 33.8 hectare site to the north of Parklands Waltham Abbey. The applicants' consideration of these sites is as follows;

Shottentons Farm

19. This is the western section of the designated land. Although capable of meeting VGN's requirements, Shottentons Farm was bought last year by Glinwell PLC, one of the Country's largest growers and a commercial rival of VGN. Since purchasing the site they have converted an existing 2.8ha glasshouse to tomato production and intend to build a further 2.8ha at the end of this year. A planning application to develop a further 11ha of glasshouses on the remaining designated land at the site is expected later this year. It is intended to build this over the next 2 -3 years. No part of the site would therefore be available for VGN's proposals.

Hoe Lane

20. This is the eastern part of the designated land. Vehicular access is from Hoe Lane. In the centre of this site is a block of existing glasshouses with a total area of about 5 hectares, which is currently in horticultural production. There are four blocks of designated open land around these glasshouses. On the western side of the vehicular access from Hoe Lane are existing dwellings and an existing active nursery. To the north of this is a former compost manufacturing site, now in use for industrial purposes. These sites are unavailable. Apart from being a bad neighbour

the industrial site separates the land at the southern end of the allocation from the land in the north-western part of the allocation.

Southern Parcel

21. In October 1997 planning permission was refused by the Council for the construction of 2.72ha of glasshouses on this land because:-

.The proposed operational needs of the development are likely to be severely detrimental to the character of Hoe Lane and to the safety and amenities of occupiers of nearby properties contrary to Policy T18 of the Deposit Draft of the District Wide Local plan... A public footpath crosses the southern part of this parcel. With this constraint and taking into account the need for a reservoir and ancillary buildings it is estimated that an awkward L shaped glasshouse of about 5.5ha could be built, but still well short of VGN's minimum requirement.

Northern & Western Parcels

22. Together these two sites form an L-shaped parcel. To retain existing field boundaries it would be logical to develop a reservoir on the north-western field, thus leaving sites for two independent blocks of glasshouses with a total area of 6.96ha, well short of the VGN's minimum requirement.

Eastern Parcel

23. This field is part of Virus Nursery and is used by them for the growing of outdoor herbs as part of the herb growing business and is therefore unavailable. Due to the Council's previous refusal of planning permission on part of the Hoe Lane land for a relatively small glasshouse area in 1997 it is very probable that an application for a larger area of glasshouses would be opposed for similar reasons. Any development would therefore need to take access through Shottentons Farm, which is in the ownership of a rival grower. It is not considered a practical possibility to achieve access by this means.

Parklands

24 The applicants have submitted a letter from Aaron Forbes of Paul Wallace Commercial dated 6 July 2010 describing their failed attempt to purchase the Parklands site on behalf of Valley Grown Nurseries. The site is clearly not available for glasshouse development.

25. Officers are of the opinion that the applicants have satisfactorily shown that there is no reasonably viable location within the designated glasshouse areas for a development of the scale that is being proposed here. On this basis, although the development is contrary to the policy, it is not appropriate simply to conclude that it should not be allowed, the scheme throws up wider issues that relate to the future of the glasshouse industry in the Lee Valley and this councils response to the needs of the industry.

26. The Council has accepted that the study on which the existing glasshouse policy is based is now outdated and has commissioned a new study which is underway. However this application has been submitted before the completion of that work and must therefore be considered on its merits, in the absence of an up to date policy framework.

27. The recently published draft National Planning Policy Framework includes the following: *"The Government is committed to ensuring that the planning system does everything it can to support long term, sustainable economic growth....significant weight should be placed on the need to support economic recovery through the planning system To help achieve this, the Government's clear expectation is*

that we move to a system where the default answer to development is “yes”, except where this would compromise the key sustainable development principles set out in national planning policy. Planning should help to deliver a strong, flexible and sustainable economy, by ensuring that sufficient land of the right type, and in the right places, is available to allow growth and innovation.....”

28. If the Council wishes to continue its support for the glasshouse industry, there has to be a greater understanding of how it is changing with increased pressure for economies of scale, new technology etc, and growing competition from Europe, North Africa and significant sites elsewhere in the UK (notably Thanet Earth). The application reflects these trends and if the decision is to refuse on policy grounds, the consequences may be that the growers will seek to find suitable sites outside the District, leaving the potential problem of a large derelict site, and the loss of employment of 40 full time posts (now) and the potential loss of an additional 40 full time posts.

29. These are important concerns and any decision here has the potential for significantly adverse consequences.

30. In the light that there is no site within the existing identified glasshouse areas that could meet the needs of the developer it is not considered that this site can be dismissed simply because it is outside the scope of policy E13A. The particular merits of the development in this location therefore need to be looked at in detail.

Sustainability

31. The Sustainability Statement accompanying the application outlines the use of CHP that “*will provide significant electricity back to the national grid*” and with filtered CO2 exhaust gases being re-circulated within the glasshouses to supplement photosynthesis. There has been minimum use of pesticides on this unit for a number of years, which was noted as one of the advantages compared with the southern European growers at the time of the last Glasshouse Industry study (in 2003). Significant attention is being paid to water use and storage. The site is not isolated, it is relatively close to major transport links and it is considered that the scheme generally meets the sustainability policies of the Local Plan.

Landscape Impact

32. Clayton Hill is a significant feature to the east of the site which will shield views from further to the east. Similarly, views from the north are restricted by existing developments. The major impacts are therefore on views from the west and the south. This is recognised by the Landscape & Visual Impact Assessment document submitted with the planning application, and mitigation includes extensive bunding with planting along the western edge of the application site and a mixture of additional planting/habitat creation along the southern edge. These measures may eventually be successful, but this will take several years to be effective, and will need to be monitored to ensure that they are being maintained and managed. The existing glasshouses provide a very stark edge when viewed from the south, and this effect will only be increased when the much larger (and higher) buildings are constructed. The eastward views of open countryside currently enjoyed by the residents of the Langridge buildings will be lost. Policy DBE4 of the Plan requires that buildings respect the wider landscape setting, due to its scale it is not considered that the proposal accords with this element of the policy, although given the long tradition of glasshouse development in the area the scheme could be regarded as respecting local character.

Impact on The Lee Valley Regional Park

33. The site is within the Lee Valley Regional Park and pays heed to para (i) of policy RST24, which requires new development in the Park to have regard to the importance of the park for leisure, recreation and nature conservation and make provision, where appropriate, for improved public access and landscaping. The developers have from the outset included habitat provision within the reconfigured lake area and seek to provide access and education at the site through the provision of picnic site, interpretation boards and an outdoor classroom. With the intention of protecting and enhancing wildlife provision while enabling visitors not only to view the wildlife from but also to find out about the history of the Lee Valley Glasshouse industry and showcase the modern development. The intention is to forge links with schools and work with the Councils Countryside team and the Lee Valley Park to provide facilities appropriate to the location.

34. It has to be acknowledged, however, that the proposal is contrary to aims (ii) and (iii) of the policy – i.e. safeguarding the amenity and conserving the landscape of the Park. The application site is included in a “Landscape Enhancement Area” in the Park Plan of 2000. The area immediately south of the application site is described thus, *“The positive and attractive landscape character to the south of Langridge Farm to be retained and protected. This strong identity of woodland, wetland and open parkland to be extended north to Nazeing Road..... The primary focus is to continue the restoration of degraded land and bring it into use for informal recreation.”* Whether this is practical or achievable in the current economic climate is open to question, but this remains the most detailed approach of the Authority to this area of the Park. The action presumably taken since this plan was published was to restore the application site to arable use, rather than for informal recreation.

35. The more recently published “Park Development Framework: Thematic Proposals” (January 2011) pays slightly more heed to other land uses within the Park. Objective 6.3 (Production) states *“Commercial food production remains a significant land use in the Park, particularly through glasshouse operations and other farming operations to the north of the Park.”* The Authority wants *“production to be part of the visitor destination”* and for *“.... The Park to continue to provide food for the region in a way that does not compromise the delivery of the wider objectives of the Park”*. The purpose of the Park is defined in the 1966 Act as *“a place for the occupation of leisure, recreation, sport, games or amusements or any similar activity, for the provision of nature reserves and for the provision and enjoyment of entertainments of any kind.”* Even though there has been some movement towards acknowledging food production in the Park, there is still little acceptance of glasshouse production,

36. The Park Authority have raised objection to the proposal as set out above and it is clear that the Authority consider that this development would be significantly harmful to the aims of the Park and the development may set a dangerous precedent if approved for other such development within the park boundaries.

Highway Issues.

37. Payne’s Lane is a narrow single track private road with speed humps along its length and no formal passing places. Vehicles utilising the track have to pull into private accesses to allow other vehicles to pass, or reverse. The road runs from its junction with Old Nazeing Road, southwards to a dead end, ending at Langridge Farm. The road serves a variety of business uses as well as nurseries and

approximately 20 residential properties. It is also a Public Footpath, so is utilised by walkers accessing pathways within the Lee Valley Park. There are no pavements and the lane is not lit. The lane already carries a significant number of HGV's in connection with the business uses along its length. The junction onto Nazeing Road is wide and has good sight line. The County Highway Authority is content that this junction meets standards, and as such has raised no objection to the proposal. The Highway authority do not however have any jurisdiction over the private road and have not therefore commented on the safety aspects of the proposed development with regard to the impacts on the lane itself. The Footpaths Officer has raised concern that the development may adversely affect people utilising the lane as a public right of way.

38. The application has been accompanied by a Transport Statement and a framework travel plan. The Transport Statement includes a traffic count carried out in September 2010 which indicated that 287 vehicles travelled along Payne's Lane in each direction on the day of the count of which 29 were accessing the existing Valley Grown site (approximately 10%). The existing nursery employs two management staff and 14 full time crop handlers, with the proposed expansion it is expected that a further 40 full time nursery workers will be needed rising to over 50 at peak cropping times, 20 further staff will be needed for quality control etc. This increase in staff would normally mean a significant increase in traffic movements, but the applicants suggest that the majority of staff will car share or use the company minibus as they do at present and that trips will be outside of the usual peak traffic times. They anticipate that the number of daily deliveries will increase to about 24 movements in/out of the facility and that the overall increase in traffic movement will be about 32. The applicants envisage that on average the number of *additional* HGV's visiting the site daily following the development will be only 2-3. Such an increase would not be considered significantly harmful.

40. Given the nature of the lane and that it is a surface shared by walkers and cyclists as well as the HGV's mini bus and cars, officers are concerned that the development will cause more conflict with other highway users. Ideally road improvements are needed before any development that would lead to intensification is approved, but the lane is a Private road and there is no overall ownership of it. The applicant has been actively seeking ways to improve the roadway in the interests of all the residents and businesses accessed from it, including of course their own, but is unable to gain control over the length of the lane or land adjacent to it to be able to enter any legal agreement requiring improvements to take place. It is therefore in the hands of those who own and have rights of access over the road to negotiate any upgrading of the road.

41. The applicants have included their Framework Travel Plan as part of the application and adherence to a more detailed plan can be required by condition. This can require that a staff mini bus is operated and that full details of car sharing opportunities, and public transport options and cycling are available to all staff with incentives to avoid car trips.

42. The nature of the road and its current usage, mean that anyone utilising the road is aware of the safety issues and is already expecting HGV movements. The development is not introducing commercial traffic to an area that is unaccustomed to such movements. It is therefore considered that subject to suitable safeguards within a Travel Plan via conditions the development would not result in an increase in traffic so significant as to warrant refusal of the application.

Residential Amenity.

42. In terms of the impact on the amenity of neighbours the proposed development, the most immediate neighbours reside at Langridge Farm and its associated barns that lie to the west of the development. The nearest property is a converted farm building, part of which is used as a dwelling. The glasshouse itself would be about 80m from the rear of the dwelling and about 30metres from the boundary of that property. The raised bund and significant planting, providing a screen of some 25-30 metres in width, which is proposed along this along this boundary, will reduce the visual impact of the proposal. There will however be a significant change in view and given the height of the glasshouse, which is equivalent to the height of a two storey dwelling, there will clearly be an impact on outlook. The screening bund and planting will take a few years to become fully established. However there is no right to a view as such and given the distance involved neither the buildings nor the screening will be overbearing or cause loss of light to the property.

Further to the west is the listed farmhouse itself and a converted barn. Similarly there will be a significant change in outlook, but no direct harm from the built form of the development.

43. Of perhaps greater concern is the potential impact of any increase in traffic movement in Payne's Lane on the residential amenity of occupants of properties that front on to the lane. As explained above in the Highway section there are existing problems along Payne's Lane due to the narrowness of the road and the lack of pavement and passing places. Large vehicles utilising the lane no doubt cause noise, vibration and visual harm to the occupants of premises that front the road, some of which have front windows very close to the road edge. Whilst it is understood that local residents will be unhappy at the prospect of any increase in traffic on this road it must be remembered that the area is traditionally an area of nurseries and gravel workings, and there will have been large vehicles utilising the lane in connection with previous and existing agricultural use of the land. It is considered therefore that the predicted increase in vehicle movements will not have a significantly adverse impact on the residential amenity of neighbours as this is not currently a quiet rural backwater, but a moderately busy commercial/residential area.

Wildlife and Conservation

44. The site contains a recently created wildfowl lake, part of the restoration work by Le Farge following gravel extraction from the area, in addition it is adjacent to a Local Wildlife Site and within 2km of SSSI, RAMSAR and SPA sites. The area therefore has potential for significant wildlife and ecological value. As such a Phase 1 Habitat and ecological Scoping Report was submitted with the application and Natural England have been consulted.

45. The Lee Valley SPA that lies about a km from the site is classified for its wintering bird interest, Natural England has advised that they do not consider that the proposed development is directly connected with or necessary to the management of the site for nature conservation and would not directly impact on the European or RAMSAR Site. They are also satisfied that any issues relating to increased surface water run off resulting from the large glasshouse should be capable of being addressed by the provision of the proposed balancing pond. However the small lake at the site has been identified as being used by birds including Gadwall and Shoveler for which the Lee Valley SPA is classified and the Ramsar site is listed. Without mitigation the development would potentially have a significant effect on the

European Site and could adversely affect the integrity of the European Site. However the development proposes significant mitigation as part of the application and Natural England have concluded that these measures should be capable of providing an adequate extent and continuity of habitat in order to ensure that there would not be a detrimental impact. As a result Natural England has raised **no objection** to the proposed development subject to the imposition of conditions and the development being carried out in strict accordance with the details of the application. The RSPB have raised concern that inadequate information has been gathered regarding overwintering birds, but in the light of the response from Natural England who are the statutory consultee, it is not considered that there are grounds to delay the development to carry out further survey work.

46 As well as the species mentioned above the Habitat Survey suggested that the site may have the potential for Great Crested Newts, Reptiles, otter, water voles, bats and other water birds and that further survey work is needed. This work has largely been undertaken and again indicates that there will not be harm to species or habitats provided suitable mitigation is included. A further reptile survey is still required, that needs to be carried out in October but conditions requiring protection and mitigation should reptiles be found, can be included should permission be granted.

47. The proposals do include part of the glasshouse being lit to increase production, however automated internal blackout screens are included that would prevent light spillage and this can be conditioned, so there would be no adverse impact on wildlife or indeed residential or visual amenity from the proposed lighting.

48. As explained above the development includes significant mitigation in the form of habitat creation and is therefore considered acceptable in terms of its impact on wildlife.

Flooding.

49. The site is identified by the Environment Agency as Flood Zone 3, although in reality, since the land has been restored following mineral extraction this may not still be the case and further modelling would be required to establish this. At present however it is classified as Zone 3 that is having a high probability of flooding. There needs therefore to be a sequential test, that is, the applicants need to show that there is nowhere else at lesser risk of flooding, where the development could practically take place. As set out above the District has only a limited number of sites identified as suitable for glasshousing, and none of these appear to be capable of being developed for a scheme of this size. Additionally the development is clearly intended as an expansion of an existing established facility, and separation from the existing development is not logical. There is no other land in the District, at less risk of flooding and within an identified glasshouse area that could be developed in this way and as such Officers consider that the sequential test has therefore been met. The Environment Agency has accepted this evaluation.

50. At time of writing the Environment Agency still maintain objection to the proposals as they have technical issues with the submitted Flood Risk Assessment., and have objected on the following grounds:

Objection 1

We object to the proposed development as submitted because the information submitted with the application does not demonstrate that the risk of pollution to

controlled waters is acceptable. There are three strands to this objection. These are that:

We consider the level of risk posed by this proposal to be unacceptable.

The application fails to give adequate assurance that the risks of pollution are understood and that measures for dealing with them have been devised. The risk therefore remains unacceptable.

Therefore, under Planning Policy Statement 23, the application should not be determined until information is provided to the satisfaction of the Local Planning Authority that the risk to controlled waters has been fully understood and can be addressed through appropriate measures. This is not currently the case.

Reason *To prevent pollution to groundwater as contaminants has been identified. The site is an historic landfill and lies on Secondary aquifers in both the Alluvium and Lambeth Group.*

Resolution *The submitted 'Phase 2 Geo-Environmental Site Investigation Report' (HLE116639/001R) has not satisfactorily addressed the risk to groundwater from the proposed development. There is an insufficient coverage of sampling locations to fully characterise the extent of contamination in the land and groundwater (there is also no scale on the Exploratory Hole Location Plan). There is no hydrogeological assessment of the risk to groundwater caused by loading of the landfill material with material excavated from another part of the site. The samples taken have shown that there are elevated concentrations of nickel, ammonia, and chlorinated solvents in groundwater. There is no demonstration that the contamination identified in the groundwater within the landfill is not sourced from the site and reflects a regional aquifer concentration, as is stated in the report. As there are elevated concentrations of contaminants identified in the groundwater at the site the risk to groundwater should not be classified as low.*

Objection 2

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and recommend refusal on this basis for the following reasons: Reason The FRA submitted with this application does not comply with the requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25 (PPS 25). The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

Demonstrate that the development will not increase flood risk.

Quantify existing and proposed runoff rates.

Resolution

quantification of the existing total site runoff rate (including the existing glasshouse development that drains to the splash).

quantification of the proposed total site runoff rate once the drainage scheme has been reconfigured. At the moment the FRA states that there will be a reduction equivalent to three hectares but the rates have not been given.

demonstrate that no floodplain storage capacity will be lost at any level as a result of the works to reconfigure the splash. Drawing SK02 shows that the existing splash area is within the floodplain. The FRA needs to demonstrate that the work to alter this area to accommodate the development will ensure that the

same volumes of floodplain storage will be available at the same levels as exists now.

clarify how the pond inlet system shown in Drawing NK016844_0321 will work. Currently, there would have to be significant pressure for the water to be forced up the pipe and over into the pond. Our view is that a more appropriate solution would be to pass the pipe through the bund into the pond with a non-return flap on the end. With the current design there is a risk the system will back up before the storage in the pond is utilised. We would appreciate clarification on this system to address this point.

Objection 3

We object to the proposed development which involves culverting works and recommend that planning permission be refused for the following reasons.

Reason *Our policy includes a general opposition to culverting except for access purposes. Planning Policy Statement 9 (Key Principles and paragraph 12) establishes the value of such corridors and requires the planning system to avoid damage to biodiversity. We are opposed to the unnecessary culverting of watercourses, because it can increase the risk of flooding and the maintenance requirements for a watercourse. It can also destroy wildlife habitats, damage a natural amenity and interrupt the continuity of the linear habitat of a watercourse. In this application, the proposed culverting of the ditch is unacceptable because:*
the culvert would cause a restriction of flow in the watercourse
the culvert would increase the risk of blockage of the watercourse
damaging impact on nature conservation

Resolution

We would not accept any culverting of watercourse (due to biodiversity and flood risk reasons) this is also inline with River Basin Management Plan. The ditch should remain as it is or it may be possible for the applicant to divert the watercourse in open channel around the development. The applicant would need to provide sufficient information that this option is technically feasible and would not have flood risk implications.

51. Although these are major objections that need to be addressed the applicant has already submitted further information and analysis to the EA to resolve these issues and are clearly working towards meeting the requirements. The EA's response is expected before the Committee Meeting and will be reported verbally. Should these issues not be resolved at that point then they would amount to a reason for refusal, or deferral as the development would be contrary to the Flooding policies within the adopted Local Plan.

Public Rights of Way and public access.

52. As has been mentioned there is a Public Right of Way that currently crosses the site that would need to be diverted should the development go ahead. The applicants have addressed this issue in their submission and shown a possible route for diversion which is a logical alternative. Should planning permission be granted, the applicants would still need to make a formal application for diversion of the footpath under other legislation. The suggested line would take the path from the south western corner of the site and out on to Payne's Lane between the two proposed lakes and to the south of the glasshouse within a landscaped area, and

although clearly the glasshouse will be a very prominent feature to anyone utilising the path, adequate space is available to ensure that using this pathway would be a pleasant experience. The application includes suggested provision of hides, timber boardwalks, pond dipping platforms, and wildlife information and interpretation boards to make public access to this part of the site more interesting. A small octagonal shelter building is also proposed for possible use as an outdoor classroom for school trips. The details of any such works can be tied up with conditions and legal agreement.

Other Issues

Disruption during construction

53 Residents of Lane have raised concern about the scale of the development in terms of factors such as noise, dust, disruption and congestion during the construction period of the development. Given the scale of the development this does need to be taken into account. The developers envisage 3 phases of development. Phase 1 Earthworks. The existing topography will be remodelled to create a level plateau, remodelling of the splash and creation of the new water storage pond. There will be no bulk exportation or importation of material since the development will utilise a cut and fill method. Earth moving equipment will be used. Phase 2. Service buildings and office. The buildings and associated hardstandings will be constructed, utilising "normal " building methods. Phase 3 Glasshouse. The glasshouse will be erected and will comprise the formation of a concrete ring beam around the perimeter and mini pile foundations. Specialist equipment will be used. Specialist lifting platforms and cranes will be used to erect the framework followed by the installation of the glass. The construction phase is expected to take place over a 12 month period and only during normal working hours. Conditions can be included regarding hours and methods of working to minimise disruption to residents, and as such it is not considered that the short term impacts of the development would be so great as to warrant refusal of the application

Archaeology

54 Although there are no known sites of finds recorded within the proposed site area a wider 1km study provided indications of general archaeological potential and in particular for potential farming settlements and or landscapes of prehistoric, Roman and/or medieval date due to the sites advantageous location adjacent to the River Lea floodplain and due to the existence of the adjacent medieval moated site of Langridge. The County archaeologists therefore advised no works of any kind should take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation. The applicants have liaised with the County Archaeology Team and a written scheme of investigation for trial trenching has been prepared and submitted.

Conclusion

55 In conclusion there are competing issues in the determination of this application which make the recommendation difficult. On the one hand this is a well thought out sustainable development in a traditional glasshouse area that will provide large scale production of peppers to supply the British market, reducing reliance on foreign producers and increasing job opportunities and economic growth. There is no site within the areas identified by current policy in which a development of this scale could reasonably be accommodated, therefore if refused on policy E13a grounds the

development could not be located in the District. Essentially we would be pushing the developer to locate outside the District possibly resulting in the relocation of the existing successful business, which could have knock on adverse environmental impacts in the locality and result in job losses and dereliction. The scheme, would not in officers views result in *excessive* harm to residential amenity, ecology or highway safety, and it will provide opportunities to enhance habitat provision and education within the Lee Valley Park..

56. On the other hand the development due to its sheer scale, no matter what extent of landscaping is proposed, can not be described as an enhancement of the rural environment. It will replace what is at present an open and attractive agricultural field with buildings in excess of 8m high and could be regarded as harmful to the character and appearance of the locality. The site is within the Lee valley Regional Park and would be, in the view of the Park Authority harmful to the recreational purpose of the park. The development is therefore clearly contrary not only to current Glasshouse policy E13A, but also to Policy RST24 which seeks to protect the park. The access road is narrow and not ideally suited to this level of development and there will be some increased conflict with existing users of the road and footpath. There will also be short term impacts during the construction period

57 Officers are of the view, on balance that, although there are policies that could be used to refuse this application, the potential benefits of the development in terms of economic development, and sustainability outweigh the limited harm to the character and amenity of the area that would result. It is unlikely that a more suitable location, with less visual impact and impact on wildlife, landscape and residential amenity could be found within the District. If the District is to continue to enable the growth of the Glasshouse industry that has been such an important part of its heritage and not push growers to find sites further afield then development of this nature which provides suitable landscaping, ecological mitigation and transport plans and can not be located within E13 areas should be considered favourably. It is acknowledged that this could set a precedent for other large horticultural development in the District, but such applications would also need to be considered on their individual merits.

58 Therefore particularly in the light of the emphasis in Governments latest Draft Planning Policy Framework that “significant weight should be placed on the need to support economic growth through the planning system” officers consider that the balance is in favour of the development. The application is therefore recommended for approval, provided the Environment Agency Comments that will be available by the Committee date and reported verbally, agree that the development will not result in any increased risk of flooding or contamination, and subject to the completion of the legal agreement that is attached as Appendix 1 and to the raft of conditions attached as Appendix 2.

59 However Members must be aware that the recommendation is contrary to the adopted Policies of the Local Plan and is contrary to the views of the Lea Valley Regional Park Authority. As a departure from the plan, should Members be minded to grant permission for the development, the matter would need to be referred to the Secretary of State. Referral is also required under Section 14 (8) of the Lee Valley Regional Park Act. This means that the matter is referred to the Secretary of State to consider whether the application should be called in to be determined by the Secretary of State following a Public Inquiry.

DRAFT

DATED

2011

SECTION 106 UNILATERAL UNDERTAKING

BY

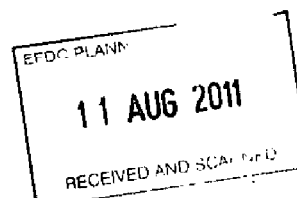
VALLEY GROWN NURSERIES LTD

TOWARDS

EPPING FOREST DISTRICT COUNCIL

REGARDING

NURSERY DEVELOPMENT / EXTENSION AT PAYNES LANE, LOWER NAZEING



Ref ASM/106unilateralundertaking

1

This Deed is dated [] and is given by:

(1) **VALLEY GROWN NURSERIES LTD** (Company No 03481811) whose registered office address is Nazelow Nursery, Sedge Green Road, Roydon, Harlow, Essex CM19 5JR ('the Owner')

towards

(2) **EPPING FOREST DISTRICT COUNCIL** whose registered office is at Civic Offices, High Street, Epping, Essex CM16 4BZ ('the District Council')

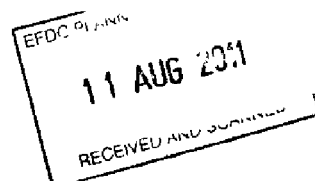
1. Background

- 1.1. The Owner is the registered proprietor under title number N12345 of the land at Paynes Lane Lower Nazeing shown for identification purposes only edged red on the Plan ('the Red Land')
- 1.2. The Red Land is wholly owned without charge by 'the owner'
- 1.3. Epping Forest District Council ('the Council') is the local planning authority
- 1.4. The Owner has by planning application number EPF/1811/11 applied to the Council for planning permission to develop the Red Land by the erection of a greenhouse and associated service buildings ("the Application")
- 1.5. The Owner is willing to give an undertaking to perform the obligations set out in this Deed in order to facilitate the grant of planning permission by ensuring that the District Council can regulate the Development by securing the benefits contained in this Deed

2. Interpretation

In this Deed

- 2.1. 'the Act' means the Town and Country Planning Act 1990
- 2.2. 'agreed' or 'approved' means agreed or approved in writing and given for the purpose of this Deed
- 2.3. 'the Application Site' means the Red Land
- 2.4. 'the Development' means the development of the Application Site proposed in the Application and permitted by the Permission
- 2.5. 'the Permission' means the planning permission reference EPF/1811/11 granted pursuant to the application



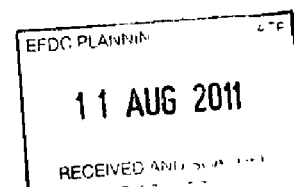
- 2.6. 'Ecology Mitigation Works Plan' means the plan to be agreed by the council which provides for the development of the lake and adjacent area as a wildlife habitat area and for its future maintenance
- 2.7. Words importing the masculine include the feminine and vice versa
- 2.8. Words importing the singular include the plural and vice versa
- 2.9. Words importing persons include companies and corporations and vice versa
- 2.10. Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually
- 2.11. Any reference to a clause or schedule or plan is to one in or attached to this Deed
- 2.12. In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument direction specification made or issued under the statute or deriving validity from it
- 2.13. References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the District Council the successors to its functions as local planning authority and local housing authority

3. Enabling provisions

- 3.1. This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers
- 3.2. The obligations contained in clause 5 of this Deed are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner and the Applicant with the intention that they bind the interest held by those persons in the Red Land and in respect of its successors and assigns.

4. Commencement and determination

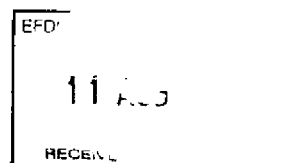
- 4.1. This Deed shall come into effect on the date of the grant of the planning permission granted pursuant to the Application but the obligations in clause 5 save 5.5 shall become effective only on the commencement of a material operation as defined in Section 56(4) of the Act ("Material Operation") but for the purposes of this Deed works involving soil investigations, archaeological investigations, demolition, site clearance, site preparation, the diversion and laying of services, the erection of fences and hoardings and the preparation of site access shall not constitute a Material Operation



4.2. If the planning permission granted pursuant to the Application shall expire before the commencement of a material operation or shall at any time be revoked then this Deed shall be determined and shall have no further effect

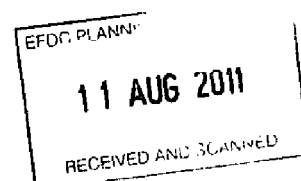
5. Planning Obligation

- 5.1. Not to divide or segment any of the Development whereby 3rd parties would own or operate all or part of the new greenhouse facility
- 5.2. to dismantle and remove from the Red Land any individual buildings forming part of the Development and erected pursuant to the Permission within 1 year of that building permanently ceasing production unless otherwise previously agreed in writing by the Council.
- 5.3. to reinstate the Red Land in accordance with the Specification which shall have been previously agreed with the Council to include the method of removal of any foundations to a condition suitable for agricultural use within 2 years of the Proposed Development permanently ceasing production unless otherwise previously agreed in writing by the Council.
- 5.4. The Owner covenants with the Council to create and maintain a long term wildlife habit area on the lake and adjacent area as detailed on the Red Line title by;
 - 5.4.1. Developing and agreeing a Ecology mitigation works plan before any development commences
 - 5.4.2. Creating the new landscape and wetlands area before any construction commences in the area directly adjacent to the lake
 - 5.4.3. Providing the features of the lake landscape as detailed in the Landscaping plan
 - 5.4.4. Constructing the additional hard landscape features as detailed in the Landscaping Plan
 - 5.4.5. Providing the 'Outdoor classroom' and information boards as detailed in the Landscaping Plan
 - 5.4.6. Working where appropriate with interested community and Ecology groups to complete the planting programme at the site
 - 5.4.7. Creating and agreeing an on-going site landscape management plan which will ensure the site retains its character and features
 - 5.4.8. Carrying out the required works to achieve 1.8m on an annual or ,where required, more frequent basis
- 5.5. To complete the development of the lake and adjacent area in 5.4 of this agreement before the greenhouse facility becomes operational [Plan identifying area to be included]



6. General

- 6.1. The Owner and the Applicant acknowledge and declare that:
- 6.2. the obligations contained in this Deed are planning obligations for the purpose of Section 106 of the Act and are enforceable by the District Council.
- 6.3. this Deed does not nor is intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999
- 6.4. no person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed after that person has parted with its interest in the Application Site or the part of it in respect of which the breach occurs but without prejudice to liability for any breach subsisting prior to parting with such interest
- 6.5. this Deed may be registered as a local land charge in the Register of Local Land Charges maintained by the Council
- 6.6. that the Owner has the sole proprietary interest in the Application Site and that there are no third party interests which would require any other party to enter this Deed
- 6.7. This Deed shall be determined and have no further effect if the Planning Permission granted pursuant to the Application expires before the commencement of any material operation on the Red Land or is varied or revoked other than at the request of the Applicant or is quashed by a successful legal challenge.
- 6.8. The Owner undertakes to pay the Council legal costs in the sum of £290.00 (no VAT) on the date hereof.



IN WITNESS etc

SIGNED as a deed by
VALLEY GROWN NURSERIES LTD
acting by a director and the secretary

Director

..... (Signature)

..... (Name in Block Capitals)

Secretary

..... (Signature)

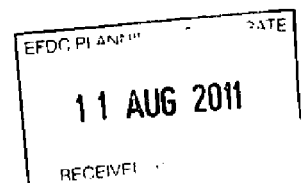
..... (Name in Block Capitals)

In the presence of

(Signature of Witness)

.....
(Name of witness - in block capitals)

.....
.....
(Address of witness)



VN VALLEY GROWN NURSERIES

PAYNES LANE, NAZEING, ESSEX. EN9 2EX
Telephone: (01992) 461093 Fax: (01992) 461816

9th August '11

Dear Neighbours,

Many thanks to those of you who have visited the nursery recently to see details of our proposed development. It has been good to have the opportunity to explain the project in more detail and get your thoughts and feedback on the scheme.

Some neighbours understandably expressed concern about whether the additional greenhouse will mean significant additional traffic to Paynes Lane. As we have explained in the briefings at the site, this will not be the case but we thought it would be useful to communicate this to everyone and to hopefully put your minds at ease.

Long term residents will have noticed that over the years there has been fewer and fewer lorry movements associated with the nursery. This has come about as we have changed the way we do business and the new greenhouse operation will be even more efficient. At maximum output during the summer we will be able to get all we produce onto just three lorries per day, In normal circumstances this will be just two and during the winter just one lorry can take everything we grow off site. We have prepared detailed calculations on this which have been submitted to the council.

Pick up and material deliveries will take place during normal working hours Monday to Friday and on Saturday mornings. Occasionally we may need to work Saturday afternoon and Sunday but this will be very rare.

We intend to keep the project presentation at the nursery open for several further weeks. If any of you would still like to visit or know more about any aspect of the development, please do give us a call.

With kind regards

Jimmy and Vince Russo



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Suggested Conditions for EPF/1181/11

Please Note that conditions related to Flood Risk mitigation and contamination will be reported verbally to committee following response from the environment Agency to additional information submitted 11/08/2011

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
2. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Planning Authority.
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 shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
5. No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
6. The access and parking area shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the access and parking of staff and visitors vehicles.
7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. The parking of vehicles of site operatives and visitors
 2. Loading and unloading of plant and materials
 3. Storage of plant and materials used in constructing the development
 4. The erection and maintenance of security hoardings
 5. Measures to control the emission of dust and dirt during construction

8. Before any preparatory demolition or construction works commence on site, full ecological surveys and a mitigation strategy for the site shall be submitted to the Local Planning Authority for agreement in writing with a working methodology for site clearance and construction work. These details shall include: no excavation, infilling or noisy construction works (ie those involving heavy machinery, or particularly noisy equipment such as angle-grinders, or hammering) are to take place within the southern half of the proposal site during the period from 1 October to 31 March inclusive in any year. The infilling of the northern part of the existing lake or „splash shall not commence until after the completion of the excavation works to extend this lake to the east. The lake and its margins shall be managed in such a way as to maintain the balance of habitats and features as detailed on drawing NK016844_SK035 Revision B. Development shall be undertaken only in accordance with the agreed strategy and methodology.
9. No development shall commence until a scheme to enhance and manage 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 and maintained thereafter in accordance with the agreed management scheme.
10. Prior to the first use of the development hereby approved a Full Travel Plan setting out key methods of minimising traffic movements in connection with the development shall be submitted and agreed in writing by the Local Planning Authority. All strategies set out in the agreed travel plan shall be implemented and maintained thereafter in accordance with the agreed timetable and details.
11. Artificial lighting within the glasshouse hereby approved shall only take place within the area identified on Drawing Number NK016844_111A and the lights shall only be operated when the full blackout blinds (details of which shall be submitted to and agreed in writing by the Local Planning Authority prior to installation), are in position and fully closed.
12. No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to 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.

13. A Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to commencement of the development.

14. No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]

15. Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]

16. Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the Local Planning

Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]

17. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report (referred to in PPS23 as a Validation Report) that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

18. In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.

19. The development shall be carried out strictly in accordance with drawing numbers:

NK016844_100 Location Plan
NK016844_101 Site layout Context
NK 016844_102A Existing Site layout
NK016844_103 Overall Layout
NK016844_104 Glasshouse Layout
NK016844_105 Warehouse Layout
NK016844_106 Section1-1
NK016844_107 Warehouse Building Elevations
NK016844_108 Building elevations
NK016844_109 Site Yard Layout tracking Design
NK016844_110 Site Yard Layout Levels
NK016844_111A Artificial Lighting
NK016844_SK015A Fundamental Finished Level Profile Principles
NK016844_SK017A Envisaged Site Levels for Cut and Fill Balance
NK016844_SK033 Areas of Site Where Bulk Earthworks are Not required
NK016844_SK034 Bulk earthworks in relation to Potential Archaeology

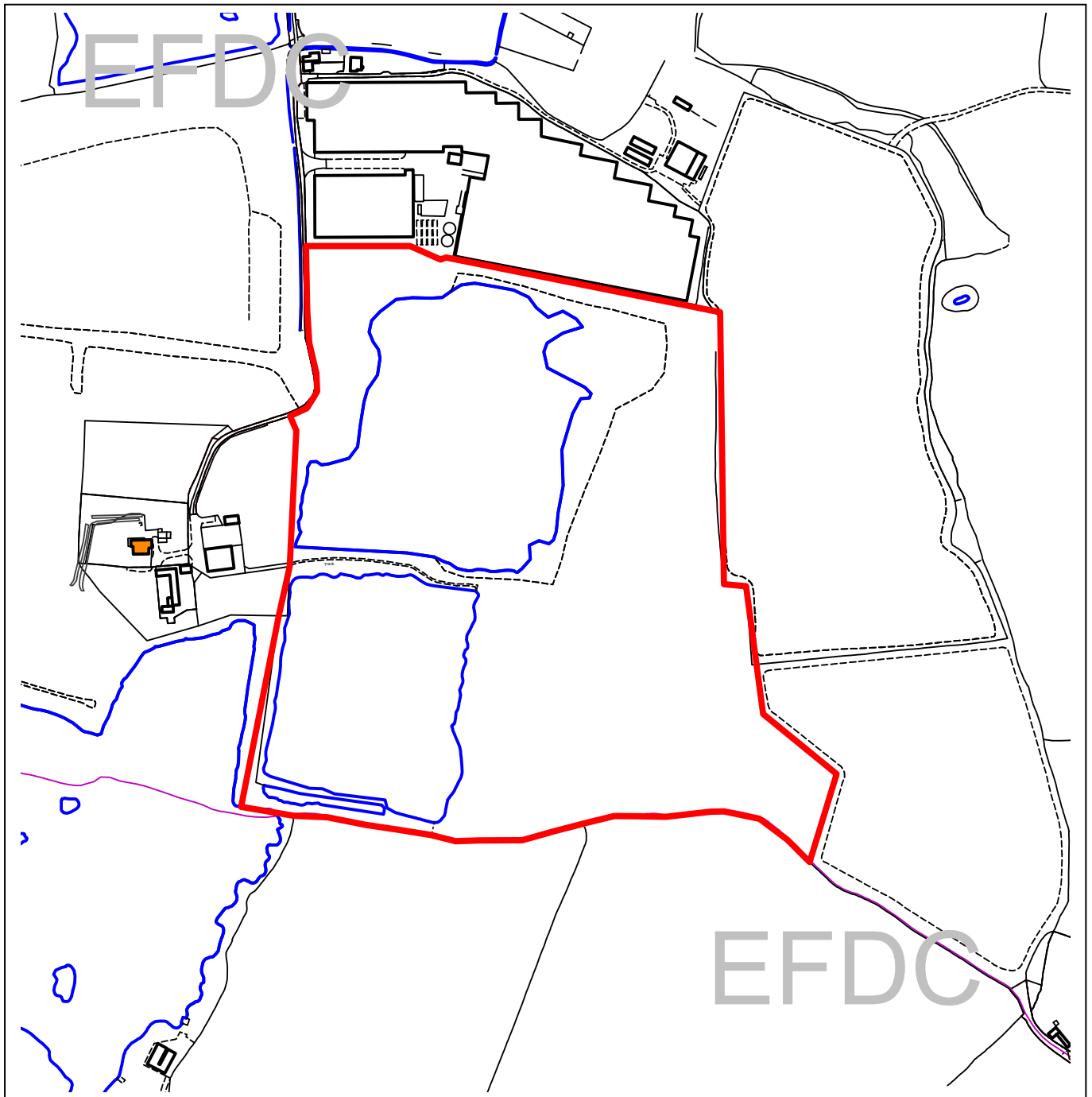
NK016844_SK035B Habitat Enhancement and Landscaping
NK016844_SK058 Section Through Landscape Bund

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Epping Forest District Council

District Development Control Committee



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Agenda Item Number:	
Application Number:	EPF/1181/11
Site Name:	Valley Grown Nurseries, Paynes Lane Nazeing, EN9 2EX
Scale of Plot:	1/5000

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