

# Committee Agenda



## Epping Forest District Council

### **Area Planning Subcommittee East Wednesday, 22nd May, 2013**

You are invited to attend the next meeting of **Area Planning Subcommittee East**, which will be held at:

**Council Chamber, Civic Offices, High Street, Epping  
on Wednesday, 22nd May, 2013  
at 7.30 pm .**

**Glen Chipp  
Chief Executive**

**Democratic Services  
Officer**

Adrian Hendry - The Office of the Chief Executive  
Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk) Tel:  
01992 564246

#### **Members:**

Councillors A Boyce (Chairman), Mrs S Jones (Vice-Chairman), K Avey, Mrs H Brady, W Breare-Hall, T Church, P Gode, Mrs A Grigg, D Jacobs, P Keska, Mrs M McEwen, R Morgan, J Philip, B Rolfe, D Stallan, G Waller, C Whitbread, Mrs J H Whitehouse and J M Whitehouse

**A BRIEFING FOR THE CHAIRMAN, VICE-CHAIRMAN AND APPOINTED SPOKESPERSONS WILL BE HELD AT 6.30 P.M. IN COMMITTEE ROOM 1 ON THE DAY OF THE SUB-COMMITTEE.**

#### **WEBCASTING NOTICE**

**Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.**

**You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy and copies made available to those that request it.**

**Therefore by entering the Chamber and using the lower public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for web casting and/or training purposes. If members of the public do not wish to have their image captured they should sit in the upper council chamber public gallery area**

**If you have any queries regarding this, please contact the Senior Democratic Services Officer on 01992 564249.**

**1. WEBCASTING INTRODUCTION**

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

2. The Chairman will read the following announcement:

“I would like to remind everyone present that this meeting will be broadcast live to the Internet and will be capable of repeated viewing and copies of the recording could be made available for those that request it.

If you are seated in the lower public seating area it is likely that the recording cameras will capture your image and this will result in the possibility that your image will become part of the broadcast.

This may infringe your human and data protection rights and if you wish to avoid this you should move to the upper public gallery”

**2. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING SUB-COMMITTEES (Pages 5 - 8)**

General advice to people attending the meeting is attached.

**3. MINUTES (Pages 9 - 26)**

(1) To confirm the minutes of the last meeting of the Sub-Committee, held on 17 April 2013 (attached).

(2) To consider an addition to minute item 83 (Development Control) for the meeting held on 20 March 2013, to record that Councillor Rolfe made a personal statement regarding the application at North Farm, New Farm Drive, Abridge (EPF/1558/09) and left the meeting for the consideration of that item and the voting thereon.

**4. APOLOGIES FOR ABSENCE**

**5. DECLARATIONS OF INTEREST**

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

**6. ANY OTHER BUSINESS**

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) 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.

**7. DEVELOPMENT CONTROL (Pages 27 - 84)**

(Director of Planning and Economic Development) To consider planning applications as set out in the attached schedule

Background Papers:

(i) Applications for determination – applications listed on the schedule, letters of representation received regarding the applications which are summarised on the schedule.

(ii) Enforcement of Planning Control – the reports of officers inspecting the properties listed on the schedule in respect of which consideration is to be given to the enforcement of planning control.

**8. PLANNING PROTOCOL - SITE VISITS (Pages 85 - 90)**

To consider the attached report.

**9. PROBITY IN PLANNING - APPEAL DECISIONS, OCTOBER 2012 TO MARCH 2013 (Pages 91 - 140)**

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

**10. DELEGATED DECISIONS**

(Director of Planning & Economic Development) Schedules of planning applications determined by the Head of Planning & Economic Development under delegated powers since the last meeting of the Sub-Committee could be inspected in the Members' Room or on the Planning & Economic Development Information Desk at the Civic Offices in Epping.

**11. 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):

<b>Agenda Item No</b>	<b>Subject</b>	<b>Exempt Information Paragraph Number</b>
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 Subcommittee 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](http://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'

Area Planning Subcommittee East 2012-13  
Members of the Committee:



Cllr Boyce	Cllr Avey	Cllr Brady	Cllr Breare-Hall	Cllr Church
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Cllr Gode	Cllr Grigg	Cllr Jacobs	Cllr Jones	Cllr Keska
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Cllr McEwen	Cllr Morgan	Cllr Philip	Cllr Rolfe	Cllr Stellan
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Cllr Waller	Cllr Whitbread	Cllr Janet Whitehouse	Cllr Jon Whitehouse
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## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Area Planning Subcommittee East    **Date:** 17 April 2013

**Place:** Council Chamber, Civic Offices, High Street, Epping    **Time:** 7.30 - 9.11 pm

**Members Present:** A Boyce (Chairman), Mrs S Jones (Vice-Chairman), K Avey, Mrs H Brady, Mrs A Grigg, D Jacobs, P Keska, Mrs M McEwen, R Morgan, J Philip, B Rolfe, D Stallan, G Waller, C Whitbread, Mrs J H Whitehouse and J M Whitehouse

**Other Councillors:**

**Apologies:** W Breare-Hall, T Church and P Gode

**Officers Present:** J Shingler (Principal Planning Officer), R Gardiner (Environment and Neighbourhood Manager), M Jenkins (Democratic Services Assistant) and J Leither (Democratic Services Assistant)

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### 86. WEBCASTING INTRODUCTION

The Chairman made a short address to remind all present that the meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings. The Sub-Committee noted the Council's Protocol for Webcasting of Council and Other Meetings.

### 87. WELCOME AND INTRODUCTION

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements adopted by the Council to enable persons to address the Sub-Committee, in relation to the determination of applications for planning permission. The Sub-Committee noted the advice provided for the public and speakers in attendance at Council Planning Sub-Committee meetings.

### 88. MINUTES

**RESOLVED:**

That the minutes of the meeting held on 20 March 2013 be taken as read and signed by the Chairman as a correct record.

### 89. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor Mrs A Grigg declared a non pecuniary interest in the following item of the agenda by virtue of attending the church adjacent to the site in question. The Councillor had determined that she would remain in the meeting for the consideration of the application and voting thereon:

- EPF/0403/13 59 – 61 High Road, Epping

(b) Pursuant to the Council's Code of Member Conduct, Councillor J Philip declared a non pecuniary interest in the following item of the agenda by virtue of knowing the neighbour to the application site in question. The Councillor had determined that he would remain in the meeting for the consideration of the application and voting thereon:

- EPF/2452/12 The Old School House, Coppice Row, Theydon Bois CM16 7DL

(c) Pursuant to the Council's Code of Member Conduct, Councillor K Avey declared a non pecuniary interest in the following items of the agenda. The Councillor had determined that he would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1558/09 North Barn, New Farm Drive, Abridge RM4 1BU;
- EPF/2451/12 32 Piercing Hill, Theydon Bois CM16 7JW; and
- EPF/0403/13 59 – 61 High Road, North Weald

(d) Pursuant to the Council's Code of Member Conduct, Councillor Mrs J Whitehouse declared a non pecuniary interest in the following item of the agenda by virtue of being a member of Theydon Bois and District Rural Preservation Society. The Councillor had determined that she would remain in the meeting for the consideration of the application and voting thereon:

- EPF/2452/12 The Old School House, Coppice Row, Theydon Bois CM16 7DL

(e) Pursuant to the Council's Code of Member Conduct, Councillor B Rolfe indicated that he would make a non pecuniary interest in the following item of the agenda, he also requested that the interest should be declared under Item 7 Development Control, Report Item 1.

Councillor B Rolfe had made a similar declaration at the last meeting of this sub-committee on 20 March 2013 regarding this planning application. He advised that he had decided not to take part in the discussion and voting on the North Barn planning application and would withdraw from the meeting. He had decided to do this on advice and because he had recognised that any involvement by himself could be misinterpreted by the applicants and could be used to undermine the Council's position in any potential planning appeal or other challenge. He said that he remained clear in his own mind that he had done nothing wrong but recognised that his higher duty was to avoid any undue risk to the Council.

- EPF/1558/09 North Barn, New Farm Drive, Abridge, Essex RM4 1BU he made a statement under this agenda item:

## **90. ANY OTHER BUSINESS**

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

## **91. DEVELOPMENT CONTROL**

**RESOLVED:**

That the planning applications numbered 1 - 5 be determined as set out in the schedule attached to these minutes.

**92. DELEGATED DECISIONS**

The Sub-Committee noted that schedules of planning applications determined by the Head of Planning and Economic Development under delegated authority since the last meeting had been circulated and could be inspected at the Civic Offices.

**CHAIRMAN**

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**Report Item No: 1**

<b>APPLICATION No:</b>	EPF/1558/09
<b>SITE ADDRESS:</b>	North Barn New Farm Drive Abridge Essex RM4 1BU
<b>PARISH:</b>	Lambourne
<b>WARD:</b>	Lambourne
<b>DESCRIPTION OF PROPOSAL:</b>	Conversion of agricultural barn to a single dwelling with associated external alterations principally to create window and door openings (Resubmitted application)
<b>DECISION:</b>	Refused Permission

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=503931](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=503931)

**REASON FOR REFUSAL**

- 1 Due to the proximity of the proposed use to active kennel and farming uses, future occupants are likely to be subject to unacceptable levels of noise and disturbance and potential odour nuisance. The proposal is therefore contrary to policy RP5A of the Adopted Local Plan and Alterations.

Richard Gardiner, Environment and Technical Manager, presented a report regarding noise and health issues which is reproduced here:

**North Barn, New Farm Drive, Abridge, Essex, RM4 1BU  
EPF/1558/09**

1. My name is Richard Gardiner. I have been employed by Epping Forest District Council (EFDC) since May 1993 as an Environmental Health Technical Officer, Technical Team Co-ordinator and my current role as the Environment & Neighbourhood Manager within the Council's Environment & Street Scene (ESS) Directorate. As part of my duties, throughout my time at EFDC, I have been involved in the investigation of complaints of nuisance and have provided advice to my colleagues in Planning Services on noise and other environmental issues. I have a BSc (Hons.) degree in Science and the Environment, a post-graduate diploma in Environmental Protection Control and Monitoring and the Institute of Acoustics Diploma in Noise Control. I believe I am well qualified to provide advice on loss of amenity and statutory nuisance.

2. I was recently contacted by the owner of Oakfield House, Chalet Kennels, New Farm Drive, Abridge regarding a planning application for a residential conversion near to his property at North Barn, New Farm Drive, Abridge. The owner of Oakfield House explained that he runs a pig farming business and boarding kennels and that he was concerned what impact the proposed residential use may have on his business if the Council received complaints of nuisance from new occupants of the barn. I was subsequently contacted by my colleagues in Planning Services and asked to attend the Planning Committee to provide advice on the potential environmental impact of the dogs and pigs at Oakfield House, Chalet Kennels, on any future residents of the barn and

whether or not there have been any complaints of noise or odours in the last 5 years. I have also met the applicant Mrs Hart, who provided me with some background information.

### **Previous complaints**

3. I checked the Environment & Street Scene Directorate's database of previous complaints and found no complaints in relation to noise or odour from Oakfield House, Chalet Kennels.

### **Licensing**

4. I established that Chalet Kennels & Cattery, New Farm Drive, Abridge, Romford, Essex RM4 1BU is licensed by the Council to keep up to 35 dogs and 30 cats (Ref LN/210002626 2013).

### **Potential environmental impact of Chalet Kennels & Cattery on the proposed residential use of North Barn**

#### **Dog barking**

5. I visited the site unannounced on 16 April 2013 at approximately 4pm. I met the owner of Oakfield House, Chalet Kennels on site who showed me around his property adjacent to North Barn, the kennels and outside areas where he told me that the dogs are exercised.

6. Due to the close proximity of the outside exercise area to the boundary with North Barn, which has a clear line of sight to the proposed residential property, it is very likely that dog barking in the exercise area will be audible and reduce the amenity of the proposed residential use at North Barn, particularly in outside areas.

7. The exercise area is secure, but the existing fence provides no barrier to noise. It is difficult to predict the actual impact because this will vary depending on how often the outside areas are used and variability in the amount of barking different dogs produce. From experience it is likely that the dog barking will range from very little impact to significant, certainly with potential to cause complaint and reduce the amenity to the average person at North Barn. I understand that the outside exercise areas are only used in the daytime normally.

8. The kennels themselves are well enclosed in a building and the building structure appears to be capable of containing most of the barking at night when the dogs are securely contained. However, if the main door of the building containing the kennels is kept open for ventilation or skylights left open, noise from dogs barking in the kennels may also be audible at night and cause loss of amenity. Kennels need ventilation, so with the current design it is likely that noise from the kennels will at times be audible at night at North Barn and cause some loss of amenity, for example on a hot evening when the occupiers of North Barn may have their windows open at the same time that the Kennels need maximum ventilation. I experienced this on site standing by the front gate of North Barn. I could hear dog barking coming from the kennels. I found that the front door of the kennels was open.

#### **Other noise**

9. The front of the proposed dwelling faces onto a piggery and what appears to be a working farm. On that basis it appears likely that any residents of North Barn will experience noise that is normally inherent with animals and work associated with that use, which can start early in the morning and continue into the evening for some parts of the year.

## **Odour**

10. The piggery and other animals will inevitably produce waste, which at times will inevitably produce odours that are detectable at North Barn and cause some loss of amenity. However, managed correctly odour levels should not be excessive and cause statutory nuisance. At the time of my visit there was very little odour detectable.

## **Pest control**

11. Residents living close to working farms can experience problems with an increase in the population of rats and flies that may occur as an inevitable consequence of the farming operation. These issues can be brought under control, but at peak populations before control takes effect, there may be a reduction in amenity that some residents find unacceptable.

## **Potential impact of proposed change of use on Oakfield House, Chalet Kennels**

12. The Council is duty bound to investigate complaints of statutory nuisance in relation to the Environmental Protection Act 1990. Whilst one would hope that anybody who moved into North Barn would do so with a realistic view on the likely impact of the existing uses of the neighbouring property and any potential lawful expansion may have on their amenity, it is true to say that the Environment & Street Scene (ESS) Directorate receive a number of complaints each year from residents who appear to have moved close to an existing operation that causes some loss of amenity or disturbance that could have reasonably been foreseen.

13. It is no defence in law to argue that a resident has moved to a nuisance (although one would pay due regard to the existing character of the area when assessing the case). The ESS Directorate would be duty bound to investigate complaints and if a statutory nuisance established that cannot be resolved informally, pursue formal action and serve an abatement notice. However, business premises have a defence against any nuisance action if they can demonstrate that they applied the Best Practicable Means (BPM) to prevent or counteract the effects of nuisance.

14. Best Practicable Means (BPM) is interpreted by reference to the following as given in Environmental Protection Act 1990, Section 79(9):

*'79(9) (a) "practicable" means reasonably practicable having regard amongst other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.*

*(b) the means to be employed include the design, of plant and machinery, and the design, construction and maintenance of building and structures.'*

15. If North Barn is converted to a residential property, bringing residents closer to the business uses at Oakfield House, Chalet Kennels, there is clearly an increased potential for complaints to be received. The Council would be duty bound to investigate and typically, consider in detail whether the BPM are being applied. For example, in this case, if a statutory nuisance was established due to dog barking, it would be necessary to consider whether installing an acoustic fence/barrier would constitute the BPM. With regard to any odour or pest complaints, a similar process would be followed to establish if the owner of the farm could reasonably be required to pursue any further action to manage the waste or pests, in line with applying the BPM.

16. Due to the relatively isolated current location, absence of complaint and therefore any intervention by the Council, the existing use can continue without too much regard to the use of the BPM i.e. nobody appears to be impacted to any significant degree by the current use. If the North Barn is converted to a residential property, the use of BPM to minimise any impact from disturbance inherent with the operation may become more important.

17. Although the level of disturbance can be controlled through existing legislation, it should be understood that the application of BPM does not necessarily mean that the site will be free of disturbance, as the owner of the farm/kennels can only be required to take reasonable steps that are financially viable. Even with the BPM in place, it is likely that the occupiers of North Barn will have some loss of residential amenity due to the location of the property close to a working farm and kennels.

## **Conclusion**

18. The proposed new residential use of the property at North Barn will have reduced amenity due to the existing uses on the neighbouring property. In my view the level of disturbance is unlikely to reach levels where health is significantly affected, but may cause annoyance and complaints. Existing legislation can be used to assess for statutory nuisance and may require the existing business to reduce the impact from their activities by applying the best practicable means i.e. taking reasonable steps to minimise disturbance as far as possible. This may have some financial impact on the neighbouring business.

## **Noise conditions**

19. In order to mitigate the potential impact of noise from the kennels on the outside amenity areas of North Barn, the applicant could be required by condition to install a good quality close boarded wooden fence along the perimeter with Oakfield House, Chalet Kennels (and retain this in the future). Noise barriers are most effective if they are close to the source of the noise or recipient, so a wooden fence along the boundary of North Barn would only be of limited benefit for part of the outside amenity area and ground floor of the property, but would provide some protection.

e.g.

*A suitable noise barrier should be erected on the boundary between North Barn and Oakfield Nursery, Chalet Kennels. The design and specification of the barrier should be agreed in writing with the Local Planning Authority before being installed. The barrier should be maintained and retained in place.*

Reason: To protect the amenity of the occupiers of North Barn.

20. In order to mitigate the potential impact of noise in the bedrooms of North Barn a condition could be imposed to require sufficient double glazing and additional ventilation that allows the windows to be kept closed, but still receive adequate ventilation.

*e.g. The bedrooms of North Barn shall be provided with sufficient double glazing and acoustically treated trickle ventilators, or other means of ventilation that will provide adequate ventilation with the windows closed, to ensure that the occupiers are provided with reasonable resting/sleeping conditions with reference to British Standard BS8233: 1999 - Sound insulation and noise reduction for buildings – Code of practice.*

*Details of the proposed double glazing and acoustically treated trickle ventilators, or other means of ventilation, shall be submitted to and agreed in writing by the Local Planning Authority and installed before any of the proposed residential development is occupied.*

Reason: To protect occupiers of the premises from noise whilst sleeping.

**Declaration of Interest** - Councillor B Rolfe made the following declaration regarding Development Control Item 5 EPF/1558/09 North Barn, New Farm Drive, Abridge, he made a statement under this agenda item:



Councillor B Rolfe had made a similar declaration at the last meeting of this sub-committee on 20 March 2013 regarding this planning application. He advised that he had decided not to take part in the discussion and voting on the North Barn planning application and would withdraw from the meeting. He had decided to do this on advice and because he had recognised that any involvement by himself could be misinterpreted by the applicants and could be used to undermine the Council's position in any potential planning appeal or other challenge. He said that he remained clear in his own mind that he had done nothing wrong but recognised that his higher duty was to avoid any undue risk to the Council.

**Report Item No: 2**

<b>APPLICATION No:</b>	EPF/2451/12
<b>SITE ADDRESS:</b>	32 Piercing Hill Theydon Bois Epping Essex CM16 7JW
<b>PARISH:</b>	Theydon Bois
<b>WARD:</b>	Theydon Bois
<b>DESCRIPTION OF PROPOSAL:</b>	Proposed replacement dwelling.
<b>DECISION:</b>	Refused Permission

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=544381](http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=544381)

**REASON FOR REFUSAL**

- 1 The house to be demolished has been recommended for inclusion in the Council's local list of buildings of special architectural interest and the locality has been recommended for inclusion in a new conservation area within Theydon Bois. The house forms part of an important group known as Manor Villas. The design of the proposed replacement dwelling does not fit well within this group and will have an adverse impact on the street scene and the locally important, non-designated heritage asset. The proposal is therefore contrary to policies CP2, CP7 and DBE4 of the adopted Local Plan and Alterations, and to the National Planning Policy Framework.

**Report Item No: 3**

<b>APPLICATION No:</b>	EPF/2452/12
<b>SITE ADDRESS:</b>	The Old School House Coppice Row Theydon Bois Epping Essex CM16 7DL
<b>PARISH:</b>	Theydon Bois
<b>WARD:</b>	Theydon Bois
<b>DESCRIPTION OF PROPOSAL:</b>	Conversion of existing building into 2 houses (1 x 4 bed, 1 x 3 bed) including a single storey side extension, loft conversion and alterations to elevations, together with provision of second vehicular access and 2 car spaces per dwelling
<b>DECISION:</b>	Granted Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=544382](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=544382)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 No development shall take place until samples of the types and colours of the external finishes, including windows, doors, and surface materials on hardstandings, 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. For the purposes of this condition, the samples shall only be made available for inspection by the Local Planning Authority at the planning application site itself.
- 3 Roof lights to be inserted in the roof slope shall be those of a Conservation style ie flush with the roof plane.
- 4 Further details of the provision of a first floor and its relationship with existing high widows in the front elevation of the building shall be submitted to and approved by the local planning authority before any work commences on site. Once approved these details shall be implemented in full.
- 5 No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.

- 6 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 and pay particular attention to the boundary with the war memorial site. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 7 Prior to first occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.
- 8 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
- 9 Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
- 10 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1223/04E; 1223/05F; 1223/03a; 1463.2.
- 11 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 and E shall be undertaken without the prior written permission of the Local Planning Authority.

**Report Item No: 4**

<b>APPLICATION No:</b>	EPF/2470/12
<b>SITE ADDRESS:</b>	65 Forest Drive Theydon Bois Essex CM16 7HB
<b>PARISH:</b>	Theydon Bois
<b>WARD:</b>	Theydon Bois
<b>DESCRIPTION OF PROPOSAL:</b>	Two and one storey side and rear extensions to house.
<b>DECISION:</b>	Granted Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=544461](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=544461)

The Officer reported that there was 1 additional comment received from No. 67 Forest Drive, raising no objection but asking that light to their patio and garden be taken into consideration.

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development, shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.

**Report Item No: 5**

<b>APPLICATION No:</b>	EPF/0403/13
<b>SITE ADDRESS:</b>	59 - 61 High Road North Weald Epping Essex
<b>PARISH:</b>	North Weald Bassett
<b>WARD:</b>	North Weald Bassett
<b>DESCRIPTION OF PROPOSAL:</b>	Erection of three dwellings in place of existing printworks building.
<b>DECISION:</b>	Granted Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=546453](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=546453)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1291/01, 1291/02, 1291/05g, 1291/11a, 12391/15a
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details.
- 4 Prior to first occupation of the development hereby approved, the proposed window opening in the first floor northern flank elevation shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 5 No development shall take place until details of surface water disposal, including means of preventing surface water draining onto the public highway, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 6 The parking areas 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 parking of residents and visitors vehicles.
- 7 A flood risk assessment and management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage, shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be

carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.

- 8 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 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]
  
- 9 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 in writing 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]
  
- 10 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 in writing 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]

- 11 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval in writing. The approved monitoring and maintenance programme shall be implemented.
- 12 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.
- 13 Prior to first occupation of the development, the new vehicle access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.
- 14 Prior to occupation of the proposed development, a Residential Travel Information Pack for sustainable transport, as approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator, shall be provided to each new household.
- 15 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary of the site.
- 16 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08.00 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 17 No development shall take place until details of levels have been submitted to and approved in writing by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
- 18 Prior to the commencement of development, details of hedging to be provided along the boundary of the site with the adjacent church site shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in accordance with the agreed details. The details 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 plant, that plant or any replacement is removed, uprooted or destroyed or dies or become seriously damaged or defective another plant of the same species and size as that originally planted shall be planted in the same space, unless the Local Planning Authority gives its written consent to any variation.





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## AREA PLANS SUB-COMMITTEE 'EAST'

Date 22 May 2013

### INDEX OF PLANNING APPLICATIONS/ENFORCEMENT CASES

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**Report Item No: 1**

<b>APPLICATION No:</b>	EPF/2460/11
<b>SITE ADDRESS:</b>	Red Cottage New Farm Drive Abridge Essex RM4 1BU
<b>PARISH:</b>	Lambourne
<b>WARD:</b>	Lambourne
<b>APPLICANT:</b>	Mr Simon Gilbert
<b>DESCRIPTION OF PROPOSAL:</b>	Erection of building for agricultural storage and for keeping of animals for the purpose of agriculture.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=533311](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=533311)

**CONDITIONS**

- 1 The development hereby permitted will be completed strictly in accordance with the approved drawings no: RC/OUT/P/11/001 A
- 2 All the dormer windows in the roof of the building hereby approved shall be removed within 6 months of the date of this permission.
- 3 The building hereby approved shall only be used for the purpose of agriculture. If within a period of 10 years from the date of this permission the building ceases to be used for the purposes of agriculture it shall be completely demolished and all associated demolition waste removed from the identified land, unless otherwise agreed in writing by the Local Planning Authority.

*This application is before this Committee since it is an application that is considered by the Director of Planning and Economic Development as appropriate to be presented for a Committee decision (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(k))*

**Description of Site:**

The application site is situated on land off the west side of New Farm Drive, Abridge and is within the Metropolitan Green Belt. It comprises an area of land upon which a former domestic outbuilding (originally constructed as a stable for keeping horses ancillary to the use of Red Cottage, now called Oakfield House, as a dwelling house) now used for agricultural storage stands and a small apron area to the rear. To the east, adjacent to the carriageway of New Farm Drive, is the domestic property of Oakfield House and to the west agricultural land within the same ownership.

The Applicant's ownership also extends onto land beyond the residential property on the other side of New Farm Drive, The Applicant advises that such land is used for a mix of agricultural and equine uses. Land owned by the Applicant to the south of the residential property is in commercial use, as a kennels business. To the north of the Applicant's land is a residential property (North Lodge) and to the south a barn (North Barn).

### **Description of Proposal:**

This application seeks planning permission for the retention of the existing domestic outbuilding for agricultural use. The proposal would involve the change of use of the land upon which the building is situated for agricultural purposes – although such use of land does not constitute development and accordingly no planning permission is required for this element of the proposal.

The outbuilding was constructed in 2003. It has an 'L' shaped plan and its design (which includes an asymmetric dual pitched roof) resembles a stable building. The building has a height to eaves of 2.2 metres and a ridge height of 4.3 metres.

This application is presented to the Committee for consideration for the reason that the building has previously been the subject of a dismissed planning enforcement appeal.

### **Relevant History:**

#### **Planning Applications:**

EPF/1981/00 Change of use of dog run and raised garden to formal garden for dwellinghouse at Chalet Kennels. Approved 22/01/2001 subject to conditions including the removal of permitted development rights for the erection of outbuildings (condition no. 2)

EPF/0399/06 Erection of agricultural storage barn. Refused 12/04/2006 for the following reason:

- 1. The site is within the Metropolitan Green Belt. Policy GB2 of the adopted Local Plan and Policy C2 of the adopted replacement structure plan for Essex and Southend on Sea state that within the Green Belt permission will not be given, except in very special circumstances for the construction of new building or for the change of use or extension to existing buildings except for the purposes of agriculture, mineral extraction or forestry, small scale facilities for outdoor participatory sport and recreation, cemeteries, or similar uses which are open in character. This application for a new agricultural building has failed to supply sufficient information to allow the Local Planning Authority to properly assess this proposal as to whether it is demonstrably necessary for the purposes of agriculture, contrary to Policy GB11.*
- 2. The proposed building would be an incongruous addition to the area, due to its size, height, siting and bulk, and would have an adverse effect on the open character and appearance of the Green Belt in this area, contrary to policies DBE1 and 4.*

EPF/0603/09 Replacement open top pig pens. Approved 03/06/2009.

EPF/1631/09 Retention of replacement dwelling (Red Cottage). Approved 02/12/2009.

EPF/1901/09 Retention of three outbuildings. Application withdrawn.

EPF/1162/10 Retention of two outbuildings. Approved 25/08/2010.

EPF/0478/12 Retention of existing natural gravel hardstand and proposed agricultural store. The application relates to land on the east side of New Farm Drive adjacent to the carriageway that is in the applicant's ownership. Pending consideration and reported elsewhere on this agenda.

**Planning Enforcement Investigations:**

ENF/0294/09. Enforcement Notice issued in respect of the outbuilding this application relates to. The Notice was issued on the basis that it breached a condition removing permitted development rights on planning permission EPF/1981/00 (condition no. 2) and the cumulative impact of the building, together with adjacent buildings is harmful to openness and the visual amenities of the Green Belt. Subsequent appeal dismissed on 29 September 2011. Enforcement Notice is effective and the compliance period expired. Further action suspended pending the decision on this application.

ENF/0066/13 Alleged change of use of land from agriculture to horse keeping. Found the land was used for grazing horses rather than keeping them and consequently no material change of use has taken place. Investigation therefore closed on the grounds that no breach of planning control occurred.

**Policies Applied:**

**Adopted Local Plan and Alterations**

CP2 – Protecting the Quality of the Rural and Built Environment

CP3 – New Development

GB2A – Development in the Green Belt

GB7A – Conspicuous Development

GB11 – Agricultural Buildings

DBE1 – Design of New Buildings

DBE2 – Impact of New Buildings

Also relevant are the policies and planning principles contained within the National Planning Policy Framework ('The Framework').

**Summary of Representations:**

Notification of this application was sent to Lambourne Parish Council and to 2 neighbouring properties.

The following representation has been received:

NORTH BARN, NEW FARM DRIVE. The Applicant claims that the stable block has and is still being used for agricultural purposes. Despite some items including sheep being moved into the stables before the second appeal visit to the site the Inspector stated it was unlikely that the building was built for agricultural use, but likely that it had been used for stabling. Changing the use of the land from residential to agricultural does not reduce the harm caused to the openness of the green belt. The change of use of the garden to agricultural land should be considered in relation to the size of the house in proportion to the remaining area of curtilage, given that the proprietors already own approx. 15 acres of agricultural land. Planning conditions attached to any permission will not be compiled with.

### **Issues and Considerations:**

The change of use of this relatively small part of the Applicant's land holding for agricultural purposes would not require planning permission (as the use of land for the purposes of agriculture does not constitute development, as defined within Section 55 of the Town and Country Planning Act). Accordingly, the loss of this part of the residential curtilage is not a material planning consideration.

The main issues for consideration are the need for the building for the purposes of agriculture within the unit and also the impact of the building on the openness of the Green Belt.

### **Agricultural Need for the Building**

Since the submission of the planning application, the area of land within the agricultural holding has increased, following the Applicant's purchase of additional land. Following this additional land purchase, the Applicant advises that the breakdown of land within their ownership is as follows:

<b>Use</b>	<b>Approx. land area (h/a)</b>
Agriculture	9.52
Residential	.017
Equine	1.92
Kennels	0.23

The Applicant has submitted an Agricultural Appraisal, which considers the need for both the retention of the existing stable building for the purposes of agriculture within the unit and also covering the need for a new barn building, to be situated on land on the other side of New Farm Drive (the subject of current planning application EPF/0478/12). The agricultural appraiser refers to a holding of 12.1 hectares – which appears to group the agricultural, equine, commercial and residential uses of land within the Applicant's ownership.

The Appraiser advises that the retention of the building (which is split into 3 main sections) is required for the purposes of tool shed/workshop/storage and the two loose boxes for the purposes of housing sick or expectant livestock – the Appraiser notes that the building is particularly suitable for this purpose because of its electricity supply. This is considered to be a reasonable conclusion for the Appraiser to draw.

It is less clear why the high level dormer windows are required within the building. Accordingly the Applicant has been requested to alter the building to delete these elements. The Applicant has agreed and advises that such works may reasonably be undertaken within a period of 6 months.

### **Impact on the Green Belt**

The building is situated within a cluster of existing buildings and screened by vegetation. As such its impact upon open views across the Green Belt is limited.

When originally constructed the visual impact of the building on openness of the Green Belt, together with neighbouring buildings, was found by a Planning Inspector to be harmful. However, the Planning Inspector considered the building as a breach of a planning condition removing permitted development rights for the erection of outbuildings within the curtilage of a dwellinghouse rather than as a building reasonably required for agriculture on an agricultural holding. In coming to his decision to dismiss the appeal the Inspector therefore gave particular weight to the fact that the building was, at the time he considered it, part of the curtilage of a dwellinghouse, that it was harmful to the open appearance of the curtilage and, should planning permission be given in those circumstances it would amount to the removal of a condition



removing permitted development rights for the erection of outbuildings in the curtilage. The Inspector consequently found that should the condition be removed it would be possible for further outbuildings to be constructed as permitted development, which would be particularly harmful to openness.

Since the Inspector's decision there has been a material change of circumstances in that the land has been removed from the curtilage of the dwellinghouse and used for agriculture (not development requiring planning permission). As a consequence, a grant of planning permission would not amount to the removal of a condition removing permitted development rights for outbuildings at the nearby dwellinghouse. As such, a grant of permission would not create the possibility of further outbuildings being erected in the curtilage as permitted development, which would cause harm to its openness. Moreover, as set out above, the agricultural case for the development has been assessed by an agricultural appraiser and found to be reasonably necessary for the purpose of agriculture on the land. Both Council and National planning policy make clear that such buildings are not inappropriate development in the Green Belt. Accordingly, the retention of the building in the present set of circumstances is now acceptable in terms of its impact on the Green Belt.

Having regard to the planning history of the site, the representations of neighbours and the fact of an extant enforcement notice, it is necessary and reasonable for any planning permission given to include an appropriate condition to ensure the building is only retained for the purpose of agriculture. Such a condition would require the building to be removed from the land if, within a period of ten years from the date of the permission, the building is no longer used for the primary purpose of agriculture.

**Conclusion:**

In light of the above appraisal, it is considered that the retention of the building without the dormers within the roof slope has been demonstrated as being necessary for the purposes of agriculture within the holding owned by the Applicant. Furthermore, the retention of the building for this use would not be inappropriate within the Green Belt and due to its scale and situation in close proximity to other buildings would not adversely impact upon the openness of the Green Belt.

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

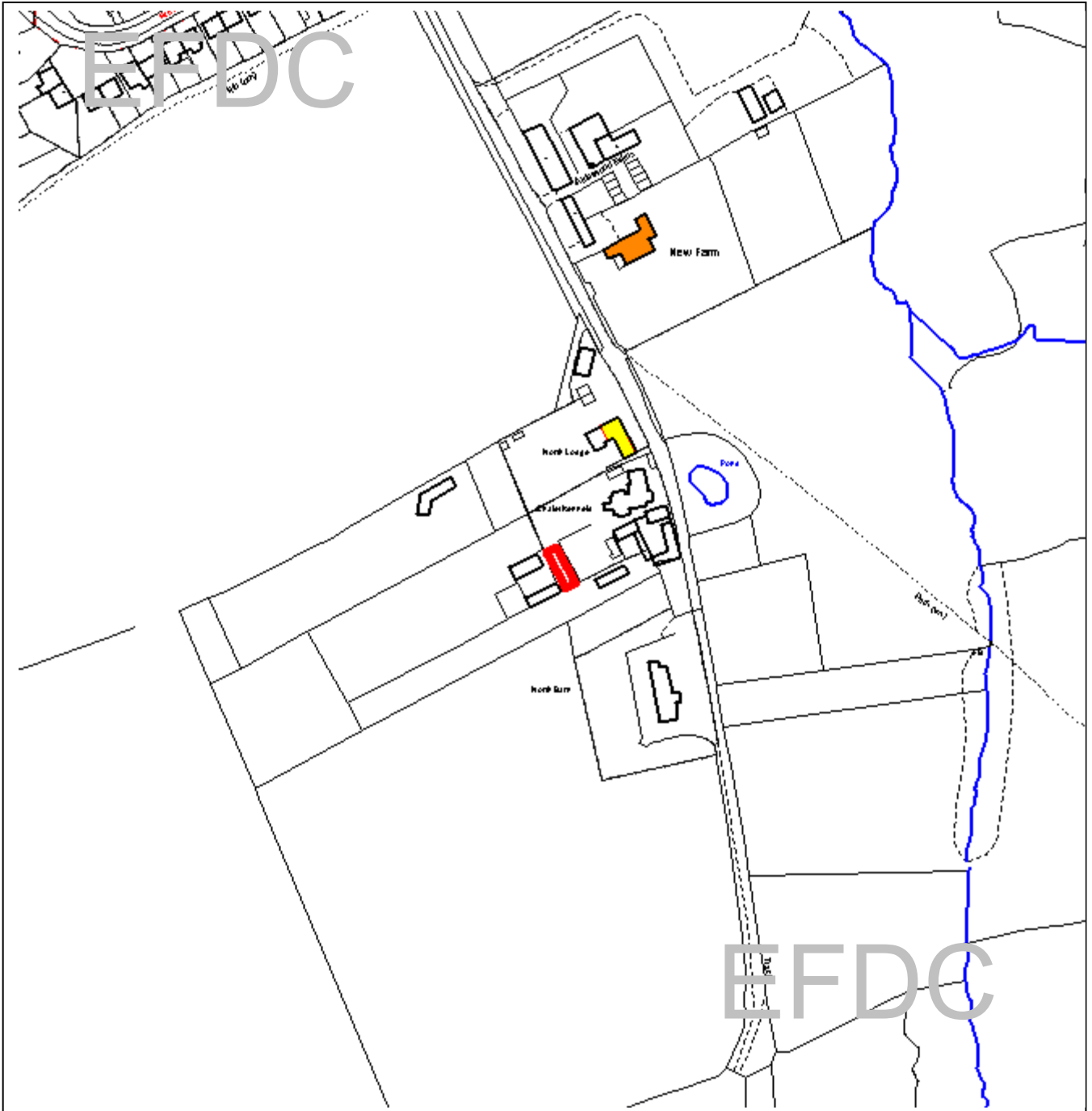
***Planning Application Case Officer: Stephan Solon  
Direct Line Telephone Number: (01992) 564018***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	1
Application Number:	EPF/2460/11
Site Name:	Red Cottage, New Farm Drive Abridge, RM4 1BU
Scale of Plot:	1/2500

**Report Item No: 2**

<b>APPLICATION No:</b>	EPF/0478/12
<b>SITE ADDRESS:</b>	Red Cottage New Farm Drive Abridge Essex RM4 1BU
<b>PARISH:</b>	Lambourne
<b>WARD:</b>	Lambourne
<b>APPLICANT:</b>	Mr Simon Gilbert
<b>DESCRIPTION OF PROPOSAL:</b>	Formation of hardstand and erection of agricultural store.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=535759](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=535759)

**CONDITIONS**

- 1 Works to erect the agricultural store building hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: RC/OUT/P/12/001 and RC/OUT/P/12/002.
- 3 All shipping containers, storage containers and movable buildings, including any caravan, stationed on the application site that exceed a height of 2.5 metres above ground level shall be permanently removed from the site within 28 days of the substantial completion of the agricultural store building hereby approved and shall not be stationed on the land outlined in blue on drawing number RC/OUT/P/12/001.
- 4 No open storage in excess of a height of 2.5 meters above ground level shall take place on the application site.
- 5 The agricultural store building hereby approved shall only be used for the purpose of agriculture. If within a period of 10 years from the date of this permission the building ceases to be used for the purposes of agriculture it shall be completely demolished and all associated demolition waste removed from the identified land, unless otherwise agreed in writing by the Local Planning Authority.
- 6 Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995 as amended (or any other Order revoking, further amending or re-enacting that Order) no building or extension to a building generally permitted by virtue of Class A of Part 6, Schedule 2 to the Order shall be erected on the application site or the land outlined in blue as indicated on drawing number RC/OUT/P/12/001 without the express consent of the Local Planning Authority.

- 7 No shipping container, storage container or movable building, including a caravan, shall be stationed on the application site or on the land outlined in blue on drawing number RC/OUT/P/12/001 without the express consent of the Local Planning Authority.

*This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than two objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(f).)*

### **Description of Site:**

The application site is situated on land off the east side of New Farm Drive, Abridge and is within the Metropolitan Green Belt. The application site abuts the carriageway and otherwise is surrounded by land in use for agriculture that is owned by the applicant. It comprises an area of hardstanding on which 3 shipping containers used for agricultural storage are stationed. Immediately north of the site on land of similar size are pig pens.

The Applicant's ownership extends onto land beyond the site, including agricultural, commercial and residential property on the other side of New Farm Drive. The Applicant advises that their land is used for a mix of agricultural and equine uses.

### **Description of Proposal:**

This application seeks planning permission for the retention of the hard standing (25 x 9m), along with the erection of an agricultural barn which would have a footprint of 5.8 x 8.8 metres. It would be steel framed and clad in green and brown aluminium profiled sheet metal. It would have a dual pitched roof with a height to eaves of 2.5 metres and a maximum height of 3.5 metres – which would exceed by 0.5m the height of a building that could otherwise be erected as a permitted development, due to the location of the site within 3km of Stapleford Abbots Airfield. The hardstanding does not, in this case, require planning permission from the District Council since it is Permitted Development.

An Agricultural Appraisal submitted with the application states that the holding is stocked with 6 in-pig sows, 1 boar, 12 store pigs, 17 horses/ponies. 28 pygmy goat nannies, 15 kids, 1 Billy goat, 6 ewes and approx 100 head of poultry.

### **Relevant History:**

#### **Planning Applications:**

EPF/0399/06. Erection of agricultural storage barn. The proposal also related to land on the east side of New Farm Drive, the site situated some 100m north of the current application site opposite the kennels between North Barn and Red Cottage (now Oakfield House). Refused 12/04/2006 for the following reason:

- 3. The site is within the Metropolitan Green Belt. Policy GB2 of the adopted Local Plan and Policy C2 of the adopted replacement structure plan for Essex and Southend on Sea state that within the Green Belt permission will not be given, except in very special circumstances for the construction of new building or for the change of use or extension to existing buildings except for the purposes of agriculture, mineral extraction or forestry, small scale facilities for outdoor participatory sport and recreation, cemeteries, or similar uses which are open in character. This application for a new agricultural building has failed*

*to supply sufficient information to allow the Local Planning Authority to properly assess this proposal as to whether it is demonstrably necessary for the purposes of agriculture, contrary to Policy GB11.*

- 4. The proposed building would be an incongruous addition to the area, due to its size, height, siting and bulk, and would have an adverse effect on the open character and appearance of the Green Belt in this area, contrary to policies DBE1 and 4.*

EPF/0603/09 Replacement open top pig pens. Approved 03/06/2009.

EPF/0137/11 Application for a certificate of lawful development for existing hardstanding and use of hardstanding for storage. The application related to the same site as the current application. Found Not Lawful.

EPF/0786/11 Application for a certificate of lawful development for existing hardstanding and use of hardstanding for storage. The application related to the same site as the current application. Withdrawn.

EPF/2460/11 Erection of building for agricultural storage and for keeping of animals for the purpose of agriculture. The application relates to land rear of buildings on the west side of New Farm Drive that is within the applicant's ownership. Pending consideration and reported elsewhere on this agenda.

#### Planning Enforcement Investigations:

ENF/0066/13 Alleged change of use of land from agriculture to horse keeping. Found the land was used for grazing horses rather than keeping them and consequently no material change of use has taken place. Investigation therefore closed on the grounds that no breach of planning control occurred.

#### Policies Applied:

##### Adopted Local Plan and Alterations

CP2 – Protecting the Quality of the Rural and Built Environment

CP3 – New Development

GB2A – Development in the Green Belt

GB7A – Conspicuous Development

GB11 – Agricultural Buildings

DBE1 – Design of New Buildings

DBE2 – Impact of New Buildings

Also relevant are the policies and planning principles contained within the National Planning Policy Framework ('The Framework').

#### Summary of Representations:

Notification of this application was sent to Lambourne Parish Council and to 2 neighbouring properties.

Representations have been received from the owner/occupiers of the following properties and are set out in summary.

NORTH BARN, NEW FARM DRIVE: This application is for an "agricultural store" to replace the unlawfully stationed containers on part of the unlawfully constructed hardstand. This

unlawfully existing development has been used for business purposes by New Farm Equine Services and is not deemed necessary for agricultural purposes. Other Buildings have been constructed at the rear of Red Cottage, on agricultural land, without prior consent and, one must therefore presume, that these were also constructed for agricultural use/storage. Taking into consideration the small area of the applicant's holding actually used for the purpose of agriculture, the existing buildings classed as agricultural on this holding must be considered more than adequate to store the equipment etc. needed for said purpose. This proposal is yet another retrospective application for a building in a most unsuitable location, fully visible from a much used footpath. Were this proposed development to be given permission, further sporadic intrusion into the open countryside would follow and this pasture would forever be "lost". The road is too narrow to enable vehicles to enter and leave the site without encroaching/ trespassing over our land on the opposite site and the numerous gates now opening from the pasture into our road/property have been causing further problems. Due to this development vans and cars are frequently parked on our land and the road regularly blocked. The agricultural Appraiser who examined the need for the proposal has been misled by the applicant.

**NORTH LODGE, NEW FARM DRIVE:** Over time the applicant has extensively commercialised the locality generating considerable traffic on the private road serving it. The application site is an eyesore and its condition together with the adjacent pig pens is harmful to visual amenity, and enjoyment of an adjacent footpath. Weight should be given to the applicant's previous breaches of planning control on other land he owns.

**THE SADDLERY, 3 ALDERWOOD BARN, NEW FARM DRIVE:** Weight should be given to the applicant's previous breaches of planning control on other land he owns. The applicant's activities over time have generated considerable commercial traffic causing damage to the road surface and amenities of neighbours

**Issues and Considerations:**

The main issues for consideration are the need for the proposed building for the purposes of agriculture within the unit and also the impact of the proposed building on the openness of the Green Belt. Having regard to the comments of the objector it should be made clear that the building proposed has not been constructed. The only development that has taken place is the construction of a hardstanding. In this case the hardstanding is Permitted Development and consequently does not need planning permission from the District Council. This assessment therefore focuses on the component of the proposal that actually requires planning permission: the proposed barn.

**Agricultural Need for the Building**

Since the submission of the planning application, the area of land within the agricultural holding has increased, following the Applicant's purchase of additional land. Following this additional land purchase, the Applicant advises that the breakdown of land within their ownership is as follows:

<b>Use</b>	<b>Approx. land area (h/a)</b>
Agriculture	9.52
Residential	.017
Equine	1.92
Kennels	0.23

The Applicant has submitted an Agricultural Appraisal, which considers the need for the hardstanding and proposed barn building for the purposes of agriculture within the unit and also the retention of an existing former stable building for agricultural purposes (the subject of current planning application EPF/2460/11). The agricultural appraiser refers to a holding of 12.1 hectares

– which appears to group the agricultural, equine, commercial and residential uses of land within the Applicant's ownership.

The Appraiser advises that the barn is needed to replace the existing storage containers which are currently used for the storage of hay and straw with the hard stand required for the storage of machinery and fencing in addition to providing access to the barn. The Appraiser's opinion is that the proposed building is reasonably necessary for the purposes of agriculture within the unit as it would provide essential dry storage facilities for hay/straw and feed stuffs which are essential for the welfare of livestock kept on the holding (following the removal of the existing storage containers).

### Impact on the Green Belt

Having regard to the demonstrated agricultural need for the proposed building it is found to not be inappropriate development in the Green Belt.

The proposed building would appear prominent in this part of the Green Belt due to its siting adjacent to the carriageway of New Farm Drive. Of itself, however, the building would be limited in size and only 0.5m higher than a building that could be constructed as permitted development. The height of the building proposed is presumably related to the operational requirements of the holding but it is not clear that a building not exceeding a height of 3m would not also meet its requirements. Weight is therefore given to the applicant's fall back position of constructing a building of the same ground area that would be little different in height and it is found there would be very limited material difference between the proposal and the fall back position on the openness of the Green Belt.

The proposal would also have the benefit of securing the removal of 3 shipping containers stationed on the land. Should consent be granted it is necessary and reasonable to require they be permanently removed from the application site in the interests of safeguarding the openness of the Green Belt and character of the locality.

The holding the application site is part of does include a number of small buildings on the west side of New Farm Drive and, while the proposed building is not visually related to them, there is the possibility that the applicant could take advantage of Permitted Development rights to erect further low agricultural buildings. Such Permitted Development is only capable of being exercised following an application for a determination as to whether prior approval of the Local Planning Authority is required in respect of the siting, design and external appearance of the proposed building. There is, therefore, some safeguard to limit the cumulative impact of buildings on openness. Nonetheless, in the case of this holding together with adjacent land in the applicant's ownership, there is a history of incremental development that has a cumulative impact on the openness of the Green Belt and the character of the locality. In the circumstances it is necessary and reasonable, in the interests of safeguarding that openness and character, for the Local Planning Authority to have full control over the erection of further buildings required for agriculture. Accordingly, should planning permission be granted such consent should be subject to a condition removing permitted development rights for the erection of agricultural buildings on the holding. Similarly, it is appropriate to impose a condition prohibiting the stationing of caravans or movable buildings and shipping containers on the land which may otherwise not require planning permission on the basis that they are an ancillary use of the land. Such conditions would in effect require the developer to always seek planning permission for such development or ancillary buildings when the agricultural case for the development can be properly considered.

The visual impact of the area of hardstanding is a consequence of its enclosure and the material stored on it. Since this part of New Farm Drive is a private way rather than a highway any fence wall or other means of enclosure up to 2m high would be permitted development. The inclusion of the hardstanding in the application does give an opportunity to control the height of material stored

on it by an appropriate planning condition. A limitation to 2.5m would be related to the height of the building and would be both reasonable and necessary in the circumstances of this particular site to safeguard the openness of the Green Belt and character of the locality.

#### Other Matters

Concern is raised about traffic generated by the applicant's overall activity in the locality and it is alleged the existing use of the land is not for agriculture. This application is for a specific development – a small barn for agricultural storage. It must be assessed on its own merits and given its size it is not likely to generate any additional traffic to the locality above that which would be generated by the holding in any event.

The visual impact and consequence for the enjoyment of an adjacent foot path is recognised but, as discussed above, would not cause materially greater harm than a building constructed as permitted development in the same location adjacent to existing pig pens. There is a demonstrated agricultural need for the building and it is not uncommon for small agricultural buildings to be erected on agricultural holdings. In the circumstances the proposal is not so harmful to the visual amenities of the locality that the harm caused would outweigh the agricultural need for the building.

It has been suggested that a better location would be amongst existing buildings west of Red Cottage/Oakfield House. While there may be advantages to such a location in some respects, the building would be far more accessible adjacent to the road and consequently better serve the agricultural needs of the holding.

#### Conclusion:

In light of the above appraisal, it is considered that the proposed building is demonstrably necessary for agriculture on the holding owned by the Applicant and that it would not be inappropriate development in the Green Belt. It would cause no materially greater harm to openness than a building of the same ground area which could be constructed as Permitted Development. On that basis the proposed building is acceptable but should consent be given it is necessary and reasonable in this particular case to remove Permitted Development rights to erect further agricultural buildings and prohibit the stationing of caravans and movable storage buildings and shipping containers.

The hard standing and any enclosure up to 2m high is Permitted Development, however, it is part of the overall proposal and it is necessary and reasonable to restrict the height of any open storage that takes place on it. It is also necessary to require the removal of the shipping containers presently stationed on the land.

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

***Planning Application Case Officer: Stephan Solon***

***Direct Line Telephone Number: (01992) 564018***

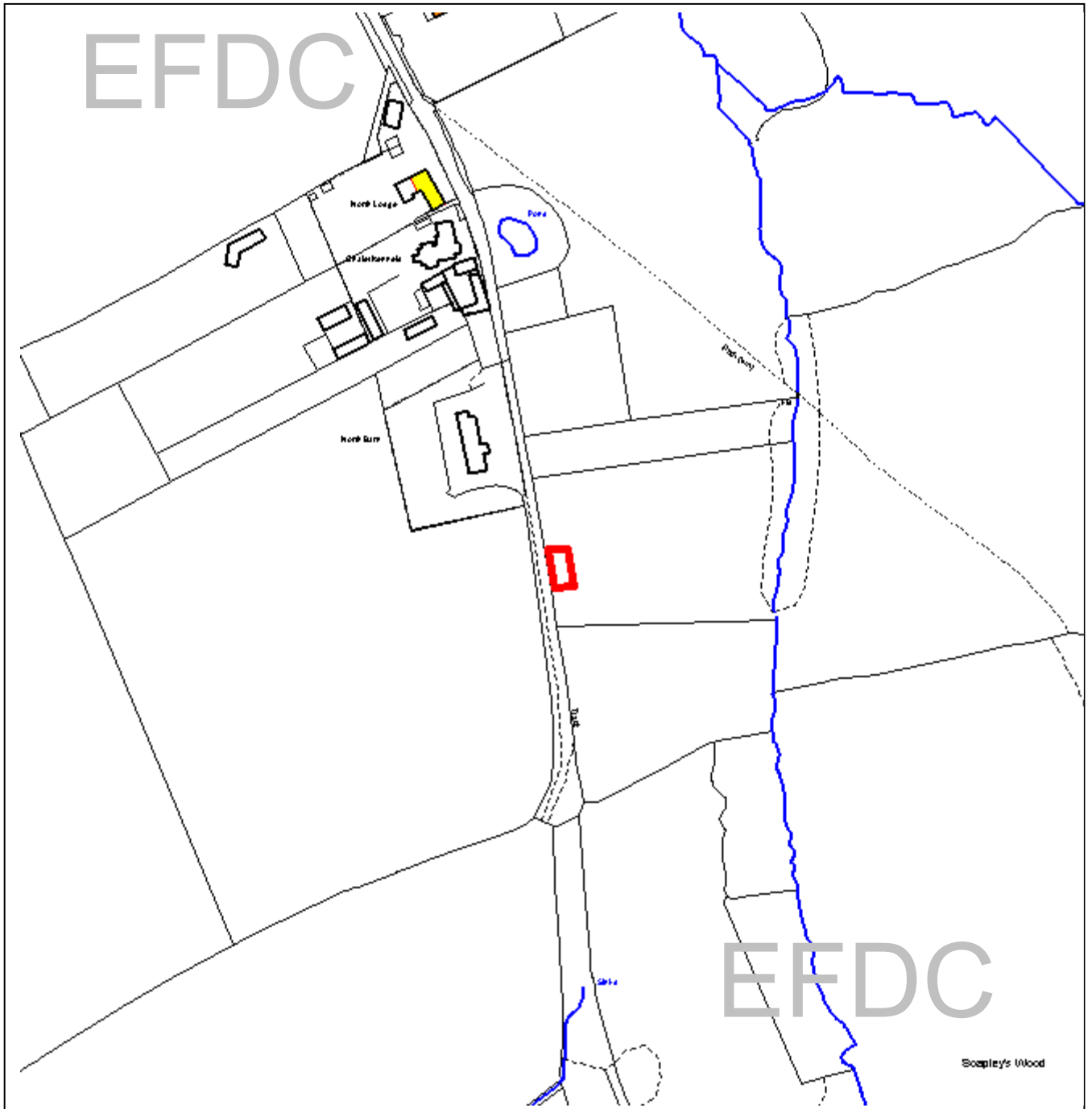
***or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***





# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	2
Application Number:	EPF/0478/12
Site Name:	Red Cottage, New Farm Drive Abridge, RM4 1BUU
Scale of Plot:	1/2500

**Report Item No: 3**

<b>APPLICATION No:</b>	EPF/2190/12
<b>SITE ADDRESS:</b>	26 Fyfield Road Ongar Essex CM5 0AJ
<b>PARISH:</b>	Ongar
<b>WARD:</b>	Shelley
<b>APPLICANT:</b>	Mr Kevin Gibbon
<b>DESCRIPTION OF PROPOSAL:</b>	Change of use from A1 to A3 and A5 with extension flue and changes to shop front.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=543285](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=543285)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The use hereby permitted shall not be open to customers outside the hours of 09.00 to 22.00 Monday to Saturday and 11.00 to 21.00 Sundays and Public/Bank Holidays.
- 3 The use hereby approved shall not commence until a scheme providing for the adequate storage of refuse from the use has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out as approved and maintained as long as the use continues unless otherwise agreed in writing by the Local Planning Authority.
- 4 Details of foul and surface water disposal shall be submitted to and approved by the Local Planning Authority prior to the unit being brought into use and the development shall be implemented in accordance with such agreed details.
- 5 Equipment shall be installed to suppress and disperse cooking/food preparation fumes and smell to a minimum. The equipment shall be effectively operated and maintained for as long as the use continues. Details of the equipment shall be submitted to, and approved, by the Local Planning Authority prior to the commencement of the use.
- 6 The rating level of noise (as defined by BS4142: 1997) emitted from the extraction system agreed pursuant to Condition 5 shall not exceed 5dB (A) above the prevailing background noise level. The measurement position and assessment shall be made according to BS4142: 1997.

*This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(g)) and since it is for a type of development that cannot be determined by Officers if more than four objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.*

### **Description of Site:**

No 26 Fyfield Road forms one of a pair of properties in retail use with residential flats above. The application property is currently vacant but was last used as an undertakers/shop selling grave monuments (Use Class A1). The adjacent property is currently occupied by a convenience store. The immediate area is largely residential in nature but the adjacent site is occupied by an electrical sub-station and is seemingly also used for private parking. There is a small forecourt to the front of the unit and a yard area to the rear.

### **Description of Proposal:**

Consent is sought to change the use of the premises from a purpose within Use Class A1 (Shops) to a mixed use within Classes A3 (Restaurants) and A5 (Hot food takeaways).

### **Relevant History**

EPF/1341/05 - Change of use from shop (A1) to takeaway (A5). Refuse Permission - 19/09/2005.

### **Policies Applied:**

TC1 – Town Centre Hierarchy  
TC6 – Local Centres and Village Shops  
DBE9 – Loss of Amenity  
RP5A – Adverse Environmental Impacts  
ST4 – Road Safety  
ST6 – Vehicle Parking  
CP2 – Protecting the Quality of the Rural and Built Environment

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

### **Summary of Representations:**

20 neighbours consulted – 9 replies received.

8 HERON COURT: Objection. No need for this facility in the locality. Lack of parking nearby. Litter, noise and general nuisance. The flue system would be unsightly.

9 HERON COURT: Objection. Within 100 yards there is an existing chip shop on the Moreton Road, and it is very unusual to see 2 chip shops so close together and particularly in a rural setting. There is insufficient parking outside the combined premises, with just parking for “Nisa” customers, so with the possible additional volume of parked traffic it could mean a potential road traffic issue as people will park on the highway and obstruct the Zebra crossing near the premises. The external flue that is proposed will be unsightly and cooking smells could attract vermin.

Equally smells (particularly fish) from the preparation area at the rear will emanate which won't be covered by the flue. Litter, noise and general nuisance. This use will attract vermin.

1 CLARE MEWS: Objection. Concern about parking and smells emanating from the unit.

2 CLARE MEWS: Objection. Concern about parking/road safety and rubbish gathering in connection with the use. Concern about young people congregating.

3 CLARE MEWS: Objection. These current outlets generate a number of parking problems in a small area - at certain times of the day, and the use of 26 Fyfield Road as any sort of food Takeaway would only add to these problems. My submission really is that another Ready Food outlet would increase traffic activity in this small "parking problem" area in two particular time zones - "lunch time" approximately 12 noon to 3 pm and "evening food" approximately 5.00 pm to 8.30 pm, whereas most other retail uses would spread customer activity throughout the working day.

41 FYFIELD ROAD: Objection. Concern about parking in the vicinity and rubbish outside the shop which is often a result of such a use.

43 FYFIELD ROAD: Objection. There is currently a very good fish and chip shop at the top of Moreton Road, some 50 yards away, and another in Ongar town, where there are also a variety of other takeaway food shops/restaurants. Smith's Fish restaurant also stands at the top of Moreton Road. We do not consider another fish and chip takeaway to be necessary. The traffic along Fyfield Road is very busy with people visiting the Nisa store and this use will exacerbate an already bad situation. Concern about rubbish/litter that this use would generate. Concern that this would increase an issue of youths congregating outside these premises.

33 SLADE ROAD: Objection. Concern about road safety and parking in the area. Issues with litter will be inevitable. Issues with youths congregating and smells emitting from the premises. The flue will appear unsightly.

3 MORETON ROAD: Objection. We are an existing fish and chip shop trading nearby and we feel this will restrict our livelihood.

ONGAR TOWN COUNCIL: Objection. Ongar Town Council objects to this application on the basis that there is limited parking facilities available which would have an adverse affect parking issues in this sensitive area and also that cooking smells would be offensive to nearby residential properties.

### **Issues and Considerations:**

The main issues to consider relate to policy constraints for such uses, amenity, parking and extraction.

### **Local Centres**

These units on Fyfield Road would be classed as a "local centre" and as such the relevant policy with regards to changing the use of the unit is Policy TC6. This policy is intended to ensure that a network of local shopping facilities remain available to residents in the vicinity, particularly the old and infirm. The obvious use which it is hoped to retain is units providing everyday provisions, such as convenience stores. Although the type of goods on sale cannot be controlled some level of control exists over changes of use out of a particular use class. In this regard the policy requires that before granting a change of use the Local Planning Authority must be satisfied that;

- (i) There is no market demand for a retail use.

- (ii) The service provided is to be continued in another location in the locality.
- (iii) The new use would meet an identified community need.

A similar proposal was considered in 2005 (EPF/1341/05) and was refused for the following reasons;

1 The proposed change of use would result in a loss of local service provision. The proposal is therefore contrary to Policy STC10 of the Epping Forest Local Plan and Policy TC6 of the Epping Forest District Local Plan Re-deposit July 2005.

2 The proposed use, particularly as a result of the late night disturbance would likely generate detrimental impact onto the nearby occupiers of residential properties contrary to policy DBE9 of the adopted Local Plan.

This decision is a material planning consideration and provides a useful starting point for this analysis. The Officer's report from the time recorded a concern that, notwithstanding the fact that the unit was at the time vacant, the loss of its A1 status would impact on the vitality and viability of the area. It was assessed that the occupation by another A1 use could complement the adjacent unit, which appeared to be performing well in terms of customers visiting the shop. This is still currently the case with the adjacent unit which appears to be a useful local facility providing everyday goods. The last use as a shop selling grave monuments did little in the way of contributing to the vitality and viability of the immediate vicinity. Its current vacant state does even less. However it is also the case that ideally another A1 use would fill this unit and would ensure that the premises remained a key local facility. That is not to say that the proposed use could not become a useful local facility. However the area is already served by a hot food takeaway nearby. The issue is whether the Local Planning Authority would think it appropriate to lose this unit's A1 status, perhaps in perpetuity, or whether a case has been made to agree a change of use to A3/A5.

Points two and three of Policy TC6 can be discounted as undertakers are not considered an everyday local shop use which one would expect within a local parade. Therefore from a policy perspective this proposal turns on whether there is no market demand for a retail use. In such cases it is always useful for applicants to provide evidence of marketing of the premises to support their case. No evidence, other than a statement that the shop unit has been vacant for some time, has been provided. Therefore there is no evidence of marketing and it is not known that if a robust marketing exercise was undertaken it would not result in the unit being occupied by an A1 use. Therefore from a policy viewpoint the lack of marketing could warrant a refusal. However, having regard to the characteristics of the immediate area, the adjoining shop obviously provides a key local facility and it appears to operate very effectively. The view could be taken that another A1 use would complement this use and add to local vibrancy. However the converse view could also be taken that the success of the adjoining unit allows scope for alternative uses to A1. The last use demonstrates perfectly how even a true A1 use can offer little in the way of day to day business and footfall and yet an A3/A5 use can contribute positively to a local community, adding to the vitality and viability of a local centre. It is therefore considered that although evidence of marketing has not been provided there is no obvious demand or need for an A1 unit at the site. The history of sporadic use confirms this. Subject to other planning considerations there are no clear grounds to refuse this change of use and it is not considered that the proposed use would have a detrimental impact on service provision in the area whilst bringing an empty unit back into use. Ideally every area should have one shop providing essential local needs and this would still be the case at this part of Fyfield Road. Such a view conforms to Central Government aims to promote growth and to ensure that local resources are fully utilised as enshrined in the recently adopted NPPF. Paragraph 28 of the NPPF promotes the retention of local services and community facilities in rural villages and it is not considered that this aim is offended by this proposal having regard to the immediate characteristics of the area and the adjacent A1 shop. The NPPF's core aim is to encourage sustainable development and this development would be socially, economically and

environmentally sustainable and it is considered that refusal is likely to result in the unit remaining empty which would be harmful to the locality and clearly unsustainable.

### Amenity

A number of neighbours have raised concern about potential issues with regards to litter, noise and disturbance, and the potential for vermin to be attracted by such a use. Concerns about litter and vermin are common for residents when such a proposal is put forward, but the Local Planning Authority must take the view that the unit will be well operated, that bins will be provided, and that adequate care will be taken to guard against this likelihood. These issues are largely covered by other legislation.

A number of flats are located above the application site and there are dwellings in the immediate vicinity. The applicant has responded to this concern by agreeing to reduced opening hours. As such revised times as to when the unit will be in operation have been submitted. These indicate opening times of:

Monday – Saturday, 11:30 – 14: 00 and 17:00 – 21:00  
Closed on bank holidays and Sundays.

The hours originally applied for were 08:00 – 23:00 Everyday

These revised hours of use seem more than reasonable, such as to guard against congregation or anti-social behaviour outside into the early hours of the morning. Local Planning Authorities have a duty to ensure that conditions meet the tests contained in Circular 11/95 in terms of reasonableness and necessity. It is Officer's opinion that reasonable opening hours would be:

Monday – Saturday, 09:00 – 22:00  
Sundays and bank holidays, 12:00 – 21:00

It is considered that the condition should not be so overly restrictive as to impact on the prospective businesses ability to trade well. It is important to try and strike a balance between safeguarding the amenity of residents and not effectively nullifying the benefit of planning permission. The suggested opening hours of Officers achieve a balance between commercial and residential interests. However Members may feel it is reasonable to restrict the use to the hours applied for. It is worth noting that a condition does not become reasonable because an applicant suggests it, as such permissions run with the land and may not be suitable to a future tenant. If amenity is considered such an issue as to require what is an unduly restrictive condition then permission should be withheld. As highlighted in the preceding text, Officers are of the view that conditions appropriately deal with this issue.

An extraction system is shown on the submitted plans with no further details provided. The indicative position of the extraction system seems reasonable and retains a distance to windows of habitable rooms. Notwithstanding the flat above, it is envisaged that this issue could be dealt with sufficiently. A suitable extraction system could be agreed by condition ensuring that impact on neighbours from fumes is kept to a minimum. This could be agreed prior to the first use of the site. It is not considered that cooking smells would be a major issue for occupants of dwellings near the shop.

### Parking/Road Safety

Some of the local neighbours and the Town Council have expressed concern about parking and road safety near the site. Essex County Council have previously had no issue with a change of use and it is not considered that road safety would be a serious concern. There is limited parking outside the unit and there is also the potential to park in some neighbouring streets where no

parking restrictions apply. Generally issues of parking and road safety do not warrant a refusal of this proposal.

#### Other Matters

Issues with regards to a nearby A5 unit are not necessarily relevant as the planning system does not exist to protect the private interests of one member of the public over another. Concern that the proposed extraction system will appear unsightly is noted, but it is not considered that such an extraction system would seriously detract from the appearance of the area.

#### Conclusion

The proposed change of use would have no significant impact on the vitality and viability of the area and the immediate locale would remain well served by a useful A1 unit. Impact on amenity would not be to an excessive level, and there are no serious concerns with regards to extraction equipment or parking. It is therefore considered this change of use is suitable subject to conditions.

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

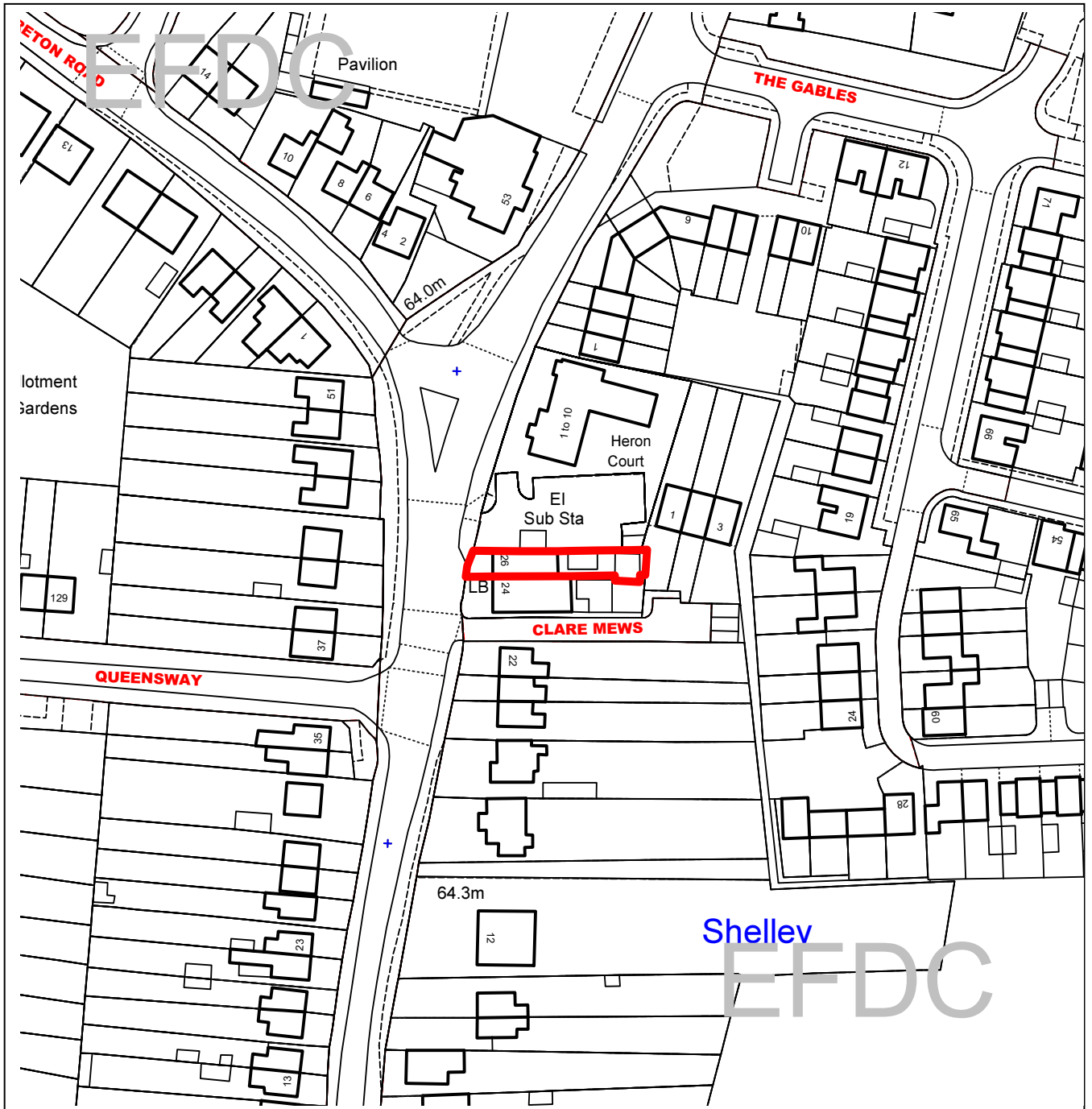
***Planning Application Case Officer: Mr Dominic Duffin  
Direct Line Telephone Number: (01992) 564336***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	<b>3</b>
Application Number:	EPF/2190/12
Site Name:	26 Fyfield Road, Ongar CM5 0AJ
Scale of Plot:	1/1250



**Report Item No: 4**

<b>APPLICATION No:</b>	EPF/0366/13
<b>SITE ADDRESS:</b>	11 Woodland Way Theydon Bois Essex CM16 7DY
<b>PARISH:</b>	Theydon Bois
<b>WARD:</b>	Theydon Bois
<b>APPLICANT:</b>	Mr & Mrs Carter
<b>DESCRIPTION OF PROPOSAL:</b>	Single storey rear and side extensions.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=546230](http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=546230)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development, shall match those as outlined in the submitted planning application form, unless otherwise agreed in writing by the Local Planning Authority.
- 3 Prior to first occupation of the development hereby approved, the proposed window openings in the ground floor flank elevation shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 4 No development, including works of demolition or site clearance, shall take place until fencing has been installed to protect the oak in the rear garden which is protected by a Tree Preservation Order. This shall consist of 'heras' fencing panels secured across the garden at a distance of 15m from the rear boundary. Prior to building works commencing on site this shall be inspected by the Local Planning Authority. The fencing shall be retained in place until such time as the development is completed.

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

### **Description of Site:**

11 Woodland Way is a two storey semi-detached property located on the north side of Woodland Way within the built up area of Theydon Bois, within a row of semi-detached properties. The property backs onto Theydon Golf Course and there is a protected oak tree at the end of the rear garden. The property has an attractive rounded, porch detailing as does its attached neighbour, although the properties are not symmetrical as the neighbour has a gable roof whereas the application property has a hipped roof. The property is not within the Metropolitan Green Belt or a Conservation Area.

### **Description of Proposal:**

The proposal seeks consent for a single storey side and rear extension. The side extension measures 1.7m in width and wraps round the building forming the rear extension with a depth of 4m. The side extension will have a lean-to roof with the rear extension a flat roof with large glazed lantern. The roof height will be a maximum of 4m at the top of the lean-to pitch.

### **Relevant History:**

No previous history

### **Policies Applied:**

#### Epping Forest District Local Plan and Alterations

CP2 – Protecting the Quality of the Rural and Built Environment

DBE9 – Loss of amenity

DBE10 – Residential extensions

LL10 – Provision for Landscape Retention

### **Summary of Representations:**

THEYDON BOIS PARISH COUNCIL – Objection – due too the fact we feel that the flank wall of the proposed side element is too close to the boundary of the neighbouring property. Our understanding is that the guidelines refer to a minimum gap of one metre.

#### NEIGHBOURS

2 neighbours were consulted and the following response was received:

7 WOODLAND WAY – Objection – negative impact on the amenity of No. 13 and may set a precedent, cramped appearance to the side

### **Issues and Considerations:**

The main issues that arise with this application are considered to be the following:

- Design Issues
- Impact on Neighbouring Amenity
- Impact on the Protected Tree

#### Design Issues

The proposed design is considered to complement the existing property and careful design consideration is deemed to have been given to the detailing of the extension including the addition of the diamond window to the front elevation of the side extension and the substantial set back of

some 2m from the main front wall of the property creates a subservient and well designed extension.

The Parish Council and neighbour have raised concerns with regards to the proximity to the side boundary, however a set in of 0.7m has been retained and this is considered more than adequate, particularly as this is only a ground floor extension. Where 2 storey extensions are proposed to the side it is normal practice to require a 1m set in from the side boundary at first floor to avoid a visual terracing effect, but there is no such restriction on ground floor additions.

In addition the side extension alone could be built under 'permitted development' right up to the side boundary without the need for planning permission provided the width was not greater than half the width of the house which could easily be applied in this case. Notwithstanding this strong fallback position, the proposal is considered a well designed addition to the property.

#### Amenity

The rear extension extends 1m beyond the rear of the existing conservatory at the attached neighbour and this is not considered to result in any significant detrimental impact on this property in terms of loss of light, outlook or privacy.

With regards to the amenity of the unattached neighbour at No. 13, concern has been raised by the occupiers of No. 7 that the proposal will result in a loss of amenity to this property as the front door to No. 13 is located on the side opposite the proposed extension. This is not considered to result in any significant loss of amenity to No. 13 particularly due to the separation to the neighbour of some 3.5m. Notwithstanding this, as stated above, the side extension could be completed in isolation within the scope of 'permitted development'.

Side facing ground floor windows are proposed and although normally ground floor windows are acceptable on the flank elevation, given that the neighbouring front door is located on the side it seems likely that there may be an increased perception of loss of privacy from these windows therefore a condition ensuring that these windows are obscured glazed is considered reasonable.

#### Protected Tree

The Tree and Landscape Officer has no objection to the proposal as although there is a protected tree within the rear garden the works should not impact on it. To be sure the tree is protected during construction, a tree protection condition is suggested and this is considered reasonable.

#### Conclusion:

The proposal is considered an acceptable design, with no significant impact on amenity and no significant impact on the protected tree and approval is therefore recommended.

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

***Planning Application Case Officer: Marie-Claire Tovey  
Direct Line Telephone Number: 01992 564371***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	<b>4</b>
Application Number:	EPF/0366/13
Site Name:	11 Woodland Way, Theydon Bois CM16 7DY
Scale of Plot:	1/1250

**Report Item No: 5**

<b>APPLICATION No:</b>	EPF/0382/13
<b>SITE ADDRESS:</b>	24 Bower Vale Epping Essex CM16 7AS
<b>PARISH:</b>	Epping
<b>WARD:</b>	Epping Hemnall
<b>APPLICANT:</b>	Mr Paul Robbens
<b>DESCRIPTION OF PROPOSAL:</b>	Construction of 1 no. two bedroom house.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=546330](http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=546330)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 730-01A.
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details.
- 4 No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 5 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, Class A and B shall be undertaken without the prior written permission of the Local Planning Authority.
- 6 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08.00 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

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

### **Description of Site:**

The application site comprises an area of land to the west of 24 Bower Vale on the north side of the road. The land to the west of the site contains tracks for the London Underground Central Line network and Epping Station is within a short walk of the application site. The application site is accessed via a shared footpath between No's. 18-24 (inclusive) which faces a shared area to the front of the properties. No's 18-24 are a terrace of properties. The site has been cleared of vegetation and hardstanding laid.

### **Description of Proposal:**

The applicant seeks consent to construct a detached dwelling on the site. The house would be double bay with a frontage of 7.8m and a depth of 7.4m. The proposed house would also however have a two storey rear return which would project 4.0m beyond the main rear wall. The ridge level would be 7.5m high and the eaves level 5.2m from the ground. The dwelling would have a hipped roof. The existing curtilage would be divided to create two separate private garden areas.

### **Relevant History:**

EPF/2304/07 - Outline application for a three bedroom detached house – refused 18/02/08.  
EPF/1300/08 - Outline application for a two bedroom detached house. (Revised application).  
Refuse Permission (committee decision) – 21/08/08. Allowed on appeal – 04/02/09.  
EPF/2200/11 - Construction of two bedroom house. Withdrawn by the applicant – 05/12/11.  
EPF/2508/11 – Extension of time limit application for a two bedroom detached house following outline consent EPF/1300/08. Withdrawn by the applicant: 22/02/12.  
EPF/2589/11 - Reserved matters application for a two bedroom detached house following outline consent EPF/1300/08 allowed on appeal. Grant Permission (With Conditions) – 08/02/12.

### **Policies Applied:**

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  
DBE1 – Design of New Buildings  
DBE2 – Effect on Neighbouring Properties  
DBE3 - Design in Urban Areas  
DBE6 – Parking in New Developments  
DBE8 – Private Amenity Space  
DBE9 – Excessive Loss of Amenity to Neighbouring Properties  
ST1 – Location of Development  
ST2 – Accessibility of Development  
ST4 – Road Safety  
ST6 – Vehicle Parking  
H2A – Previously Developed Land  
H4A – Dwelling Mix

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 214 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

### **Summary of Representations:**

5 neighbours consulted and a site notice displayed – 1 reply received.

EPPING SOCIETY: Objection. The site is too small for a dwelling necessitating it to be built up to both boundaries. There is no road up to the property and therefore no access for emergency vehicles or residents.

TOWN COUNCIL: Objection. Committee considered this an overdevelopment of the site. It should be noted that the previous house granted on appeal was much smaller and more in keeping with two bedroom properties. The inclusion of a “study” renders this a three bedroom dwelling. Committee were also concerned that the lack of parking would exacerbate existing issues of access to the highway.

### **Issues and Considerations:**

The main issues that arise with this application relate to design, layout, amenity and parking. The comments of consultees will also be considered.

The principle of developing this site has already been agreed through the appeal decision on application EPF/1300/08. Therefore although a full analysis of all issues pertinent to this proposal will be undertaken, essentially the main issue is whether the increase in the size of the dwelling amounts to an overdevelopment of the site or whether its increase in size raises new concerns. It is noted that the applicant describes the proposal as being for a two bedroom house when in fact the study could easily be used as another bedroom. Although the description has not been altered decision makers should be mindful of this fact.

### **Design/Layout**

There has been some recent history of proposals to develop this site and as the history records an extant permission exists to provide a smaller dwelling. This would have a frontage of 5.6m. This house would therefore be approximately 2.2m wider. Notwithstanding this fact both houses would be similar in appearance. An application for a similar dwelling to this proposal was made in outline form in 2007 (EPF/2304/07) and this was refused consent for the following reason;

*“The design and size of the proposed dwelling are such that it would represent a poor, cramped form of development which fails to respect its setting and harms the character and quality of the street scene and townscape more widely, contrary to policies CP2, CP3 and DBE1 of the Adopted Local Plan and Alterations”.*

This proposed a frontage of 6.0m – 6.6m and the footprint of the building was shown 3.0m forward of the adjacent dwelling. It is readily apparent that the proposed dwelling is bulkier than the adjacent terrace properties, being some 3.5m wider. However this application differs from the refused scheme in that the front elevation would be flush with that of the host dwelling. Given there is no roadway to the front, or neighbouring properties opposite, this would significantly reduce its impact in the streetscene. From the roadway, some 20.0m from the site, the new dwelling would appear as an extension to the existing terrace. The eaves and ridge level would be the same as the existing terrace and this would aid this perception. It is therefore assessed that the proposal would not appear over dominant in the streetscene nor appear out of place.

Concern has also been expressed previously, and in representations received for this proposal, that this would be an overdevelopment of the site. The frontage of the property does retain a gap of over 1.0m to both boundaries which would not suggest a cramped development. The one concern is that for a dwelling of this size local policy would require private amenity space of 120 sq m (20sq m per habitable room) and the provision of 65 sq m useable, rear amenity space falls some way under this. This can point towards an overdevelopment in terms of built form relative to useable amenity space. However, local policy recognises a reduction as being potentially suitable in urban areas and the garden size is comparable to that of other properties in the area. National guidance has long been that the amount of garden should largely be a matter for the developer. In this dense urban location it is considered that the small garden is not out of keeping and is sufficient, subject to the removal of permitted development rights.

The proposed design is similar to the row of terrace houses, albeit double fronted. Subject to the use of suitable materials it is deemed acceptable. Generally this dwelling from a design and layout viewpoint is acceptable. The proposal also conforms to a number of core planning principles with regards to the more efficient use of land and sustainable development.

### Amenity

The proposed house would have a side facing window on the western flank at first floor but this would not overlook residential properties. The adjacent dwelling has a lean to conservatory but this would not suffer any serious loss of light or outlook. There would be some loss of outlook to a side facing window at ground floor level but as this is not the only window serving a lounge/living room this would not be excessive. Rear facing windows would be generally unaffected by the development.

### Parking

The site has no vehicular access and no parking provision, this was a concern with previous applications. The Planning Inspector in the appeal dismissed this as a detrimental characteristic by citing the highly sustainable location of the plot and the national desire to reduce dependency on the car. Since 2008 however, we have moved from maximum parking standards to minimum parking standards and usually we would be seeking at least 1 space for a new detached house, even in an urban location. However, in this instance there is already consent for a 2 bed dwelling on the site that could be implemented. The parking standard for 3 bed is the same as for a 2 bed dwelling and whilst it is recognised that a larger dwelling could increase the demand for parking on what is a heavily parked road, given the history it is not considered sufficient to warrant refusal of the application.

### London Underground Comments

The site is bordered on its western flank by the track leading to Epping Tube Station located a short distance away. London Underground has been consulted and has raised some concerns with the development. The majority of the points made relate to concerns about security at the station or engineering issues during the construction phase. It is not considered that the position of a first floor bathroom window represents a serious security risk and in any case this is not a reasonable reason to withhold consent. Concerns regarding the development phase and potential impact on London Underground infrastructure are essentially a matter for the applicant to be aware of in order to avoid potential civil litigation.



**Conclusion:**

The proposed development of this site is deemed reasonable in planning terms. Subject to appropriate conditions this is a suitable use of this site, seeking to make best use of urban land within a sustainable location. It is well designed and fits well within the character of the area. It is therefore recommended that the application is approved with conditions.

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

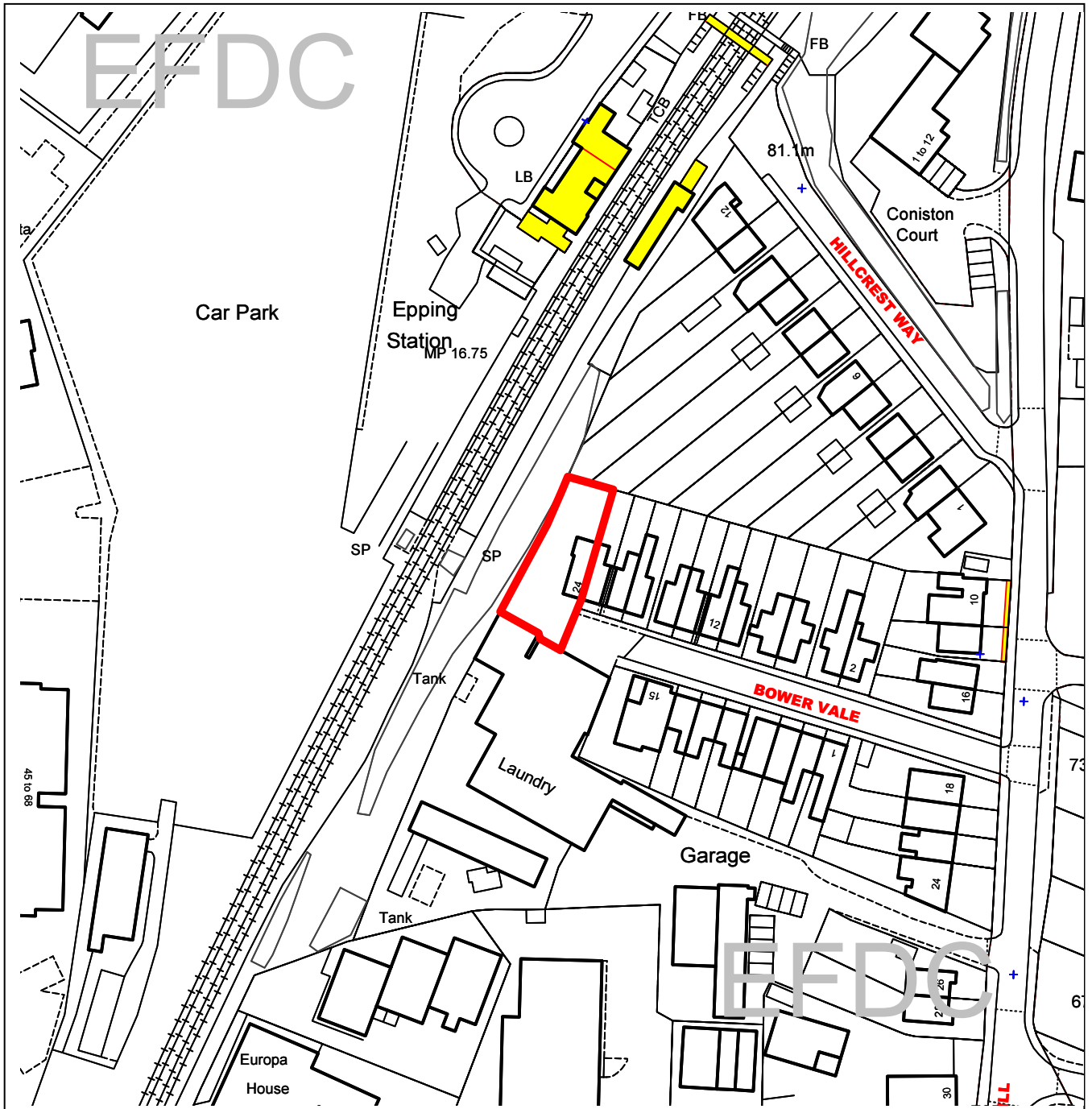
***Planning Application Case Officer: Mr Dominic Duffin  
Direct Line Telephone Number: (01992) 564336***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	<b>5</b>
Application Number:	EPF/0382/13
Site Name:	24 Bower Vale, Epping CM16 7AS
Scale of Plot:	1/1250

**Report Item No: 6**

<b>APPLICATION No:</b>	EPF/0461/13
<b>SITE ADDRESS:</b>	Bansons Yard High Street Ongar Essex CM5 9AA
<b>PARISH:</b>	Ongar
<b>WARD:</b>	Chipping Ongar, Greensted and Marden Ash
<b>APPLICANT:</b>	Bloor Homes Eastern and Elizabeth Gould, Sally Hearne and Susan Fenwich-Clennell
<b>DESCRIPTION OF PROPOSAL:</b>	Redevelopment of hand car wash site including demolition of existing structures and hard standing and erection of 14 no. dwellings, including garages, parking, roadway, drainage and all ancillary works.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=546793](http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=546793)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: S240-/Sk205 Rev A, SU-0011-12-MAS.04, S240-01 Rev D, 2415-GMP-01 Rev B, Topographical Survey, SU-0011-12-Gar.01, SU-0011-12-Gar.02, SU-0011-12-Gar.03, SU-0011-12-Will.01 Rev A, SU-0011-12-Will.02, SU-0011-12-350/352.01 Rev A, SU-0011-12-350/352.02 Rev B, SU-0011-12-350/352.03 Rev B, SU-0011-12-350/352.04 Rev A, SU-0011-12-350/352.05 Rev B, SU-0011-12MAS.COL.01 Rev F, SU-0011-12-MAS.01 Rev F, SU-0011-12-MAS.02 Rev B, SU-0011-12-MAS.03 Rev C, SU-0011-12-Pres.01 Rev C and PA518/Sk05 Rev A
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details.
- 4 The development shall be carried out in accordance with the Flood Risk Assessment and Drainage Strategy submitted with the application unless otherwise agreed in writing with the Local Planning Authority.

- 5 No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.
- 6 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.
- 7 Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council.
- 8 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. Suitable access arrangements to the application site in connection with the demolition/construction operations to include a one way system to prevent vehicles conflicting at the access points onto the High Street
  2. Wheel washing facilities for the duration of the development to prevent the deposition of mud and debris onto the public highway
  3. Turning and off loading facilities for delivery/construction vehicles within the limits of the application site together with an adequate parking area for those employed in developing the site.
  4. Storage of plant and materials used in constructing the development within the site.
  5. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  6. Measures to control the emission of dust and dirt during construction.

7. A scheme for recycling/disposing of waste resulting from demolition and construction works.
8. A routing agreement detailing proposed routes of vehicles making deliveries to the site.
9. Details for the method of constructing the biodiversity lagoon and means of protecting the Protected Horse Chestnut Tree on the adjacent land.
- 9 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08.00 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 10 No development or preliminary groundwork's of any kind 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.
- 11 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 porches at all, no extensions/enlargements to the houses hereby approved that are more than 4m high and no outbuildings within their curtilage, generally permitted by virtue of Classes A, B, D, E of Part 1, Schedule 2 to the Order and installation of microgeneration equipment generally permitted by Classes A, B, H and I of Part 40, Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.
- 12 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 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]
- 13 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 in writing 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]

- 14 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 in writing 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]
- 15 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval in writing. The approved monitoring and maintenance programme shall be implemented.
- 16 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.
- 17 No development shall take place, including any works of demolition, until a lighting scheme for all outside lighting for the development is submitted to, and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with such agreed details.
- 18 Before any preparatory, demolition or construction works commence on site a full survey and mitigation strategy for the whole site shall be carried out and submitted to the Local Planning Authority, with a working methodology for site clearance and construction work to minimise impact to any protected species. Development shall be undertaken only in accordance with the agreed methodology and strategy.

- 19 Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 (or of any equivalent provision in any Statutory Instrument revoking or re-enacting that Order), the garages hereby approved shall be retained so that they are capable of allowing the parking of cars together with any ancillary storage in connection with the residential use of the site, and shall at no time be converted into a room or used for any other purpose.
- 20 No development shall take place, including any works of demolition, until additional details of the proposed crib wall together with details of landscaping and its implementation within 3m of the wall are submitted to, and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with such agreed details.
- 21 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.
- 22 No development hereby approved shall take place until measures to enable the provision of education improvements to the local area, necessitated by this development, are secured.

*This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than two objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(f).)*

*This application is before this Committee since it is an application for residential development consisting of 5 dwellings or more (unless approval of reserved matters only) and is recommended for approval (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(d))*

**Description of Site:**

The application site is a roughly rectangular site located to the rear of the properties fronting the High Street, accessed from the High Street by two narrow un-adopted accesses and is approximately 0.5ha in size. The site is currently used as carwash/car sales and there are single storey buildings located on the site, surrounded by metal palisade fencing and construction fencing. The application site is located just outside of the Ongar Conservation Area and partly within the Ongar Town Centre boundary. Central House, the property to the east is Grade II listed. The site itself is relatively level, though it is down a slope from the High Street and falls away at the western edge of the site and from here there is a slope down towards Cripsey Brook. The site is partly within the Green Belt, with the Green Belt boundary protruding into the site around the neighbouring buildings which are outside of the Green Belt boundary. The area to the west is within the ownership of the Applicants but outside of the application site. This area is an overgrown area, informally used for recreational purposes and is partly within Flood Zone 3. There are business/industrial units to the south of the site, a mix of residential and business to the east and a sheltered housing block to the north of the site.

**Description of proposal:**

Consent is being sought for the redevelopment of the hand car wash site including the demolition of existing structure and hard standing and erection of 14 no. dwellings, including garages, parking, roadway, drainage and all ancillary works. The proposal is for a roughly linear row of terraced and semi-detached properties with one detached property. The proposed houses will have steeply pitched roofs, with rooms within the roof slopes, and will be a mix of 4 and 5 bedroom properties. One of the properties has been designed to Lifetime Homes standard. The proposal includes 2 parking spaces in garage/carports with 3 additional visitor parking spaces. A road is to be created along the western edge of the site with the houses fronting this road overlooking the Cripsey Brook, and the road is to be gated with a brick wall fronting the business units opposite. A balancing lagoon is also proposed as part of the development which will be located on the land between the proposed housing and Cripsey Brook and this forms part of the application site.

The application when first submitted also included a proposal for the transfer of the sloping land to the western side of the site to the Town Council, but no landscape proposals or management schemes were proposed as part of the application.

Through communication during the application process, with the Town Council and the Applicant it became clear that although the offer was genuine, the Town Council are not currently in a position to confirm the end intentions for this piece of land. Subsequent to this communication process, the offer of the transfer of the land has been removed from the application as it is considered that the transfer can be dealt with as a private agreement between the Town Council and the Applicants separate to this application. No planning justification was given by the Applicants for this offer to transfer the land and therefore it is not considered that the removal of the offer has any significant bearing on the determination of this application.

### **Relevant History:**

None relevant to this residential scheme, but the most recent applications include:  
EPF/0763/12 - County matters application for retrospective planning application for the importation and deposit of inert waste – No objection

### **Representations Received:**

ONGAR TOWN COUNCIL: No objection but concerned about the effect of construction parking during the build period on or adjacent to the High Street and would ask that consideration be given to limited disruption by way of an appropriate condition applying only for the period of construction which may, in view of the nature of the development, be for a considerable period.

86 Neighbours have been consulted and site notices erected close to the site: During the consultation period the Council was made aware of additional businesses operating in the units at Basons Yard, which may not have been consulted within the initial consultation period. An additional site notice was erected on the fence to the site, and the original site notice (erected close to the vehicular access from the High Road) was replaced as on the second visit it had been removed and this provided a further consultation period.

The following comments have been received:

UNIT 2, BANSONS YARD – Concern with regards to construction traffic due to single lane of road

UNIT 4A BANSONS YARD – Concern with regards to access during construction period, concern with regards to condition of un-adopted road



1 FRANK BRETTON HOUSE, BANSONS WAY – Objection – housing for families is inappropriate neighbour to complex for the elderly, additional traffic on High Street, loss of view, noise during construction period, and from families and cars, loss of light, loss of privacy

**Policies Applied:**

**National Planning Policy:**

*National Planning Policy Framework (NPPF)*

**Local Planning Policies of the Adopted Local Plan and Alterations in conformity to the NPPF**

- CP2 – Protecting the Quality of the Rural and Built Environment
- DBE1 - New buildings
- DBE2 - Neighbouring Amenity
- DBE3 – Design in Urban Areas
- DBE4 – Design in the Green Belt
- DBE6 - Car Parking
- DBE7 – Public Open Space
- DBE8 - Private Amenity space
- H2A – Previously Developed Land
- H3A – Housing Density
- H4A - Dwelling Mix
- H5A – Provision for Affordable Housing
- H6A – Site Thresholds for Affordable Housing
- ST1 – Location of development
- ST4 - Parking
- ST6 – Highway Safety
- LL10 – Adequacy of provision for landscape retention
- LL11 – Landscaping Schemes
- NC4 – Protection of Established Habitat
- GB2A – Development within the Green Belt
- GB7A – Conspicuous Development within the Green Belt
- HC6 – Character, Appearance and Setting of Conservation Areas

**Issues and Considerations:**

The main issues that arise with this application are considered to be the following:

- Principle of the Development
- Character and Appearance
- Impact on the Green Belt
- Impact on Neighbouring Amenity
- Highway and Parking Issues
- Landscaping
- Ecology

**Principle of the Development**

The application site is located on the edge of the built up area of Ongar, close to the High Street with the shops, services, facilities and transport links the High Street offers within walking distance of the site. The site is in a sustainable location in terms of the location of new development within the District.

The site is also (partly) previously developed land and redevelopment of such sites is promoted by Local and National policies. The NPPF contains the presumption in favour of sustainable development. The redevelopment of the site to residential, removing the existing uses at the site is also more in keeping with the mixed residential/business nature of the surrounding area.

The proposal results in a net site density of 38 dwellings per hectare (dph) which accords with local policy H3A which suggests between 30-50 dph. In addition the proposal is for larger family homes within the town centre which is considered a welcome addition to the area. The proposal also includes parking (including visitor parking) private amenity areas and access down towards Cripsey Brook. Although the proposed private amenity area is slightly lower than policy DBE8 dictates, given this edge of urban location with easy access to the adjacent countryside, this is considered acceptable.

The proposed development falls below the thresholds for an affordable housing provision and this proposal therefore does not include any affordable housing provision.

Generally, notwithstanding the further discussion below, residential development on this site in principle is acceptable.

### Character and Appearance

Three different house types are proposed all with rooms within the roof facilitated by pitched roof dormers and/or gables. The properties have a good level of detailing with string courses; exposed rafter ends under the eaves; brick lintels above the windows and exposed beam detail in the gables. This all provides a good level of interest to the properties and provides cohesion across the row. The houses have a maximum height of 10.5m, with the attached properties a width of 5m and depth of 10m. The detached property has a width of 8.5m and a total depth of 9.5m including a front bay projection and single storey element to the rear.

8 of the properties have inset balconies within the front gables, which take advantage of the views across countryside to the west and no dormers are proposed to the rear relying on rooflights instead, which also reduces any potential overlooking issues to the rear.

The proposed development results in a linear development towards the western side of the site with the rear gardens behind closest to the High Street. There is one garage proposed on the opposite side of the new road and gateway which is considered to form an attractive 'gateway' to the development, almost appearing as a gatehouse to the development. The design of the proposed layout and actual design of the houses follows the principles of the Essex Design Guide. The steep roof pitch, prominent gables, well proportioned pitched roof dormers and parking located to the side/rear are very typical of the Essex Design Guide. Pushing the parking to the rear of the properties reduces the dominance of parking within the development, and where the parking area is to the rear for plots 5, 6, 7 and 10 the garages are well overlooked by the proposed properties to aid security.

The garage designs are relatively standard pyramid roof designs with up and over doors. The detached house garage, located adjacent to Frank Bretton House and the garage adjacent to the entrance gates have the addition of a cupola which again adds interest and diversity to the roofscape.

The site is adjacent to the Ongar Conservation Area and currently does not make any contribution to the character or appearance of the adjacent Conservation Area. The Council's Conservation Officer has no objection to the proposal, as it is not considered to have an adverse impact on the setting of the Conservation Area or of the adjacent Grade II listed Central House. The proposed houses, as outlined above, have been sensitively designed taking account of traditional forms and detailing.

The Conservation Officer has highlighted the proposed materials as the proposed pantiles, plain tiles and soft red bricks do reflect the vernacular. However, the proposed roof coverings are concrete and synthetic slate which will mimic the appearance of traditional materials but do not have the same characteristics or degree of visual interest. Equally the proposed uPVC windows will not uphold the level of visual detail and quality of traditional and historic properties with timber windows. Although the use of high quality traditional materials is always encouraged, given that the site is not within the conservation area and will, on the most part, only be viewed in relation to the rear of Central House which comprises predominantly of later additions, the proposed materials for this proposal, in this location are acceptable particularly given the overall design and detailing of the proposed properties.

### Green Belt

The western part of the site is within the Green Belt, with all bar plots 1-3 partly in the Green Belt, broadly the front parts of the houses will be within the Green Belt boundary. The Green Belt boundary is slightly unusual along the west side of Ongar as it kinks in at the application site but the business units to the south and Frank Bretton House to the north are excluded from the Green Belt although the proposal does not extend beyond these building lines of the neighbouring built form. Therefore although partly within the Green Belt the proposal will read as part of the Ongar Town Centre and is not considered to result in any significant detrimental harm to the character and openness of the Green Belt in this location particularly given the neighbouring built form.

The proposal will be viewed from the surrounding area against the context of the built up area of Ongar and although a far more prominent development than the existing low level buildings, the proposal is not considered to result in an overly conspicuous development when viewed from the surrounding Green Belt land.

The proposal also includes a retaining crib wall to the western boundary of the application site which, dependent on design (discussed in further detail below), will improve the wider appearance of the site once suitably landscaped.

The National Planning Policy Framework (NPPF) lists exceptions to inappropriate development within the Green Belt. This list includes '*limited infilling in villages,*' and '*limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use*'. This proposal can be classed as an infill development on previously developed land and is considered inline with National Green Belt policy.

### Neighbouring Amenity

The nearest residential units are within Frank Bretton House directly to the north of the site and Basons Court located on the High Street at the access to the development site. In general terms due to the distances to the nearest residential properties the proposal is not considered to result in any significant loss of light, outlook or privacy to any neighbouring property.

The proposal is directly adjacent to the south corner of Frank Bretton House with the garage for plot 14, 2m from the flank wall of the building. Although close to the side of Frank Bretton House the eaves height of this garage is 2.2m and there does not appear to be any immediately adjacent flank windows to this part of Frank Bretton House in any event. In addition, the dwelling for plot 14 is some 6.5m from the shared boundary and therefore reducing any potential impact on the amenity of the occupiers of Frank Bretton House.

Although it is appreciated the existing view for occupiers of Frank Bretton House will change, the appearance of the site is presently poor and the development will improve its appearance.

There may be some overlooking from Frank Bretton House over the new properties but this will be mitigated by the existing (and proposed to be retained) trees along the boundary of the site and in any event any over looking will be in the main to the rear garden areas of the properties and therefore is not considered to result in any significant impact on amenity.

With regards to the residents at Basons Court, the built form of the development is not considered to result in any impact to this property. Although the access is alongside these properties the proposal is likely to result in similar or less traffic movements than the existing use of the site and this may result in a better level of amenity for these residents.

In addition the removal of the current uses and buildings at the site are considered to result in an improvement to neighbouring amenity, particularly visual amenity as the site will be much improved visually.

### Highway Issues and Parking

The Essex County Council Highways Officer has raised no objection to this scheme. The site has two possible accesses that serve a mixture of uses including the application site. The proposed development, at worst will likely generate a comparable level of traffic to what the existing use could potentially generate which is minimal in capacity terms and imperceptible on the Highway network in this location. The accident history for this location has been investigated and there are no recorded accidents within the last 3 years associated with either access. Consequently the Highway Authority concludes that the proposal will not have a detrimental effect on highway safety, capacity or efficiency at this location.

Neighbouring businesses have raised concerns with regards to construction traffic and the potential issues that may arise, particularly given the presumably lengthy construction period. The Highways Officer has suggested a condition to ensure suitable access arrangements to the application site in connection with the demolition/construction operations, to include a one way system to prevent vehicles conflicting at the access points onto the High Street, wheel washing facilities for the duration of the development to prevent the deposition of mud and debris onto the public highway, turning and offloading facilities for delivery/construction vehicles provided for within the limits of the application site together with an adequate parking area for those employed in developing the site. This is considered acceptable given the location and specific circumstances of the site and given the concerns raised by the neighbouring businesses and this will mitigate against any potential disruption to the neighbouring businesses during the construction period.

2 parking spaces have been provided for each dwelling which meets the Essex County Council Parking Standards suggested minimum of 2 parking spaces per dwelling for any dwelling with 2 bedrooms or more. 3 visitor parking spaces have also been provided in a lay-by adjacent to the access road, which is 1 less than that suggested by the Parking Standards, but given this location close to the town centre it is not considered that this 1 space under provision is a significant issue.

### Landscape Issues

A tree survey has been submitted with this application which shows there are no trees on site. There are trees on adjacent land, but these can be adequately protected during any development activities so that they are retained. The Tree and Landscaping Officer has no objection to the development but has raised an issue with regards to the 'crib wall' which forms the boundary between the development and the grassland leading to the river. The reason for the concern is to assess the visual impact on this when viewed from the wider Metropolitan Green Belt area to the west, this is particularly important as public rights of way cross the adjacent fields. Further information has been requested from the Applicant with regards to the detail of the crib wall and

this can be conditioned to ensure that in terms of the impact of the crib wall on the wider area the proposal is acceptable.

The Tree and Landscape Officer raised initial concerns with regards to the insufficient information submitted regarding the area of open space which was to be transferred to the Town Council, however as stated above this element has now been removed from the application. There is a protected tree on this land and the Tree Officer has raised concerns with regards to the protection of this tree during development, particularly with regards to the balancing lagoon located on this land, but a construction method statement could be added as a condition to ensure that the protection of this tree is taken into account as part of the application.

Subject to the condition above and a tree protection, landscaping and details of the crib wall condition the proposal is considered acceptable in terms of the landscape issues.

### Ecology

An Ecological Assessment was submitted as part of the application which suggests that there is no significant biodiversity or conservation value either existing or the potential for this value. The Ecology report has not taken into account the area of the application site which includes the balancing lagoon and therefore additional information has been requested to cover this area with particular focus on slow worms which are known to populate the area to north and south of the site. In addition further information has been requested with regards to the trees lining the banks of the brook as, although outside of the application site it may be suitable for bats and this may inform a lighting scheme for the new development. Conditions can be added to any permission to ensure that appropriate mitigation takes place if necessary.

### Other Issues

#### - Education:

Due to the size of the scheme, Essex County Council Education has calculated that a contribution of £11,408 is required towards student transport given that the nearest secondary schools are over 3miles away and this can be covered by a condition to ensure this contribution is paid and the Applicants are aware of this request.

#### - Refuse

It is intended that the bins will be stored to the rear of the properties and a plan has been provided to show how occupiers will bring the bins to the front of the properties for collection which is considered acceptable.

#### - Flood Risk

The development is of a size where it is necessary to avoid generating additional runoff and the application was accompanied with a flood risk assessment and drainage strategy which the Council's Land Drainage team have found acceptable subject to a condition ensuring that the development is carried out in accordance with the submitted details.

### **Conclusion:**

In light of the above appraisal, it is considered that the principle of the proposed development is acceptable. The proposal is considered an acceptable design with no significant harm to the adjacent conservation area or listed building. The proposal is not considered to result in any significant harm to neighbouring amenity and the existing infrastructure can absorb a new development of this size although it is acknowledged that there is a justified need for an education contribution that represents the community benefit necessitated by this development. The proposal makes an efficient use of this site in a sustainable location that has both National and Local

planning policy support. It is therefore recommended for approval subject to the recommended conditions.

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

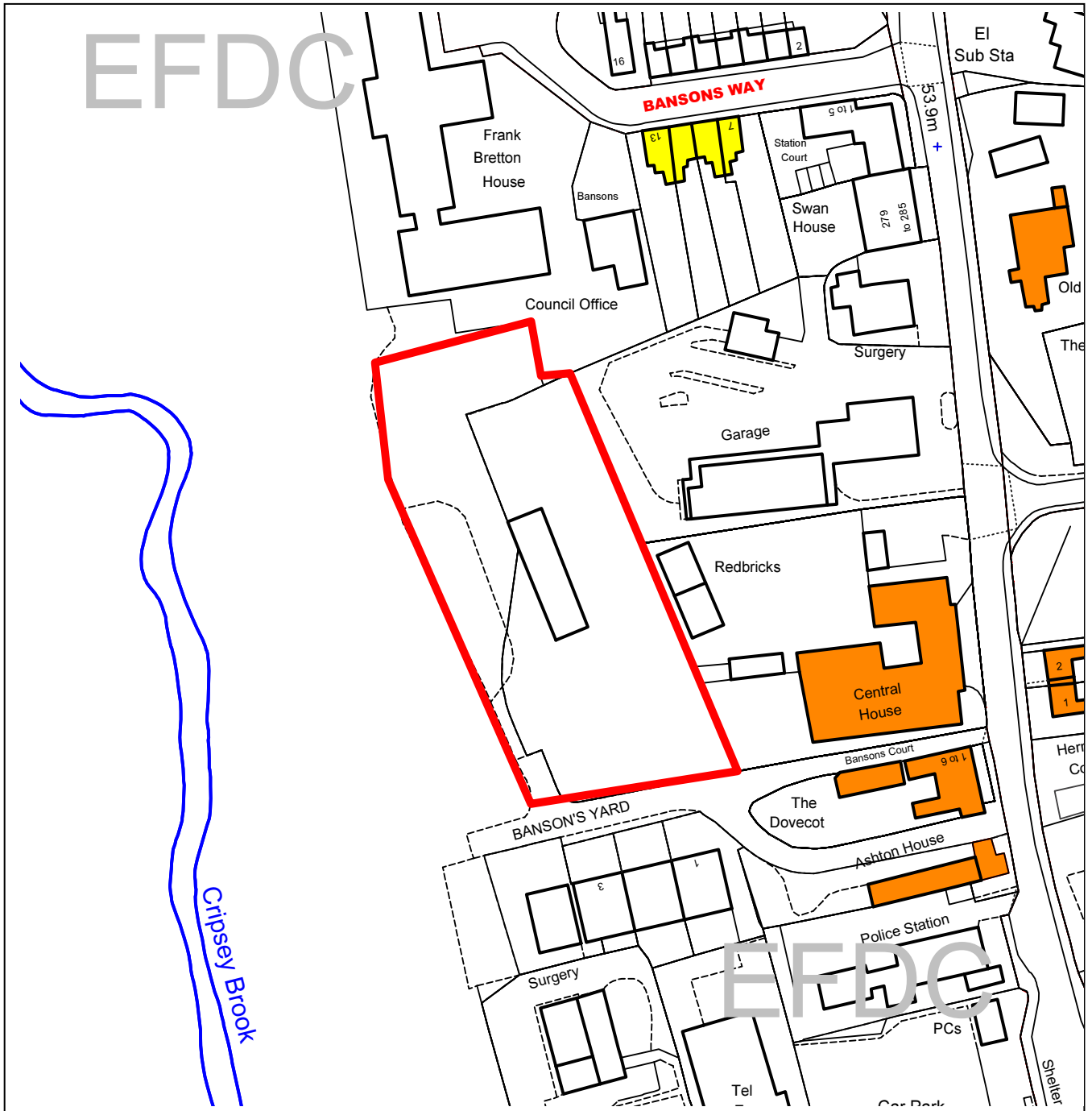
***Planning Application Case Officer: Marie-Claire Tovey  
Direct Line Telephone Number: 01992 564371***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	<b>6</b>
Application Number:	EPF/0461/13
Site Name:	Bansons Yard, High Street Ongar, CM5 9AA
Scale of Plot:	1/1250

**Report Item No: 7**

<b>APPLICATION No:</b>	EPF/0528/13
<b>SITE ADDRESS:</b>	Land adjacent to Horseshoes Farm London Road North Weald Essex CM17 9LH
<b>PARISH:</b>	North Weald Bassett
<b>WARD:</b>	Hastingwood, Matching and Sheering Village
<b>APPLICANT:</b>	Mr Ian Padfield
<b>DESCRIPTION OF PROPOSAL:</b>	Additional grain storage facilities and extension to existing area of hardstanding..
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=547070](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=547070)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings No's 208239SWG025 Rev A, 208239DWG026 Rev A.
- 3 Materials to be used for the external finishes of the proposed development, shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.
- 4 Prior to first use of the building the vehicular turning facility as shown on drawing no.208239DWG026 Rev A, shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
- 5 The premises approved shall be used solely for storage of grain in association with agriculture and not for any other use whatsoever at any time.
- 6 On the cessation of the agricultural use of the building hereby approved, the building shall be demolished and all resulting materials removed from the land.
- 7 The approved hard-surface shall not be used for open storage at any time, with the surface intended solely for use for vehicles turning and waiting, loading and unloading.



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

### **Description of Site:**

The application site is located on the eastern side of Thornwood Road, known as the B1393 which is a main route connecting Epping to the M11, Harlow and beyond. The red line application site is restricted to the area of the proposed structure and turning area only, although the accompanying statement with the application states that Horseshoes Farm forms part of a 507 hectare holding and this is indicated by a blue line. The proposed site is adjacent to Horseshoes Farm and backs and sides onto open fields.

There is an existing grain store on the site which has a footprint of some 440m<sup>2</sup>. This is a typical modern agricultural building, metal profiled sheeting, with a breeze block base and two large roller shutter doors. The maximum height of this existing unit is 9m.

The site is above the level of the roadside and screened partly from view by unmanaged vegetation along the road. Access to the site is shared with Horseshoes Farm and a number of commercial businesses from the B1393. The site is located within the Metropolitan Green Belt. Notwithstanding the built form close to the site the area is characterised by arable farmland with sparse development.

The existing grain store building on the site was built on the assumption that it was agricultural permitted development. It has subsequently been established that due to its proximity to North Weald Airfield, it was not in fact permitted development. However, as it has been built more than 4 years, it is lawful.

### **Description of Proposal:**

The application is a revised proposal following the refusal of consent of application EPF/2547/11 and the dismissal of a subsequent appeal (APP/J1535/A/12/2177254). This proposal was to extend the existing grain store to approximately 1300 sq m. The application was refused for the following reasons:

1 The proposed development, due to its size and position within the landscape on raised land, results in a conspicuous development with an unacceptable impact on the open character and visual amenity of the Green Belt, contrary to the aims and objectives of GB11 and GB7A of the adopted Local Plan and Alterations.

2. The applicant fails to demonstrate that the proposed development would not result in an increase in heavy vehicular traffic movements to and from the site from general agricultural use and is unwilling to accept a condition restricting the use to grain storage alone. As such the proposal is likely to result in increased noise and disturbance outside usual business hours to the residence adjacent to the access, contrary to the aims and objectives of policies DBE9 and GB11 of the Adopted Local Plan and Alterations.

The Planning Inspector agreed with the Local Planning Authority's assertion that the building would detract from the open character of the Green Belt. However he dismissed the second reason to refuse consent and awarded costs against the Council as in his view this reason could not be substantiated and that these concerns could be dealt with by appropriate conditions.

The applicant now seeks consent to extend the building on its eastern side. This would add a further 436 sq m of built form, effectively doubling the size of the existing building. The profile,

ridge height, eaves height and general finish would be to match the existing structure. An area of hardstanding to the front of the building would be increased to provide a vehicle turning area.

**Relevant History:**

EPF/0713/07 – Erection of agricultural storage building – Prior approval required and approved.  
EPF/0111/09 – New grain store incorporating extension to existing grain store at Horseshoe Farm – Refused and dismissed at appeal  
EPF/1201/09 – Agricultural grain storage building - Withdrawn by Applicant  
EPF/0718/10 – Agricultural determination for a grain store – Withdrawn by Council  
EPF/1313/10 – Extension to existing agricultural building - Refused  
EPF/2547/11 – Extension of existing agricultural building – Refused and dismissed at appeal

**Policies Applied:**

CP2 – Protecting the Quality of the Rural and Built Environment  
GB2A – Development in the Green Belt  
GB7A – Conspicuous Development  
GB11 – Agricultural Buildings  
DBE1 – Design of New Buildings  
DBE2 – Effect on Neighbouring Properties  
DBE4 – Design in the Green Belt  
LL1 – Rural Landscape  
LL4 – Agricultural/Forestry Related Development  
LL11 – Landscaping Schemes  
ST4 – Road Safety

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

**Summary of Representations:**

NORTH WEALD PARISH COUNCIL: Objection. It has not been proven that this application complies with the following policies under GB11 of the local plan:

- (i) Are demonstrably necessary for the purposes of agriculture within that unit.
- (ii) Would not be detrimental to the character or appearance of the locality or to the amenities of nearby residents
- (iii) Would have an unacceptable adverse effect on Highway Safety

7 neighbours consulted and site notice displayed – 2 replies received.

HORSESHOE FARM, LONDON ROAD – Strong objection. The present building is an eyesore and easily visible from the B1393 and M11 motorway. I do not believe that the intended use of this building is for grain storage but is a commercial enterprise, and before long the entire site will be developed as an industrial estate at this prime location. Concern about development at other sites owned by the applicant. The site was previously a green field and I feel planning regulations are being flouted disgracefully. The applicant has chosen to commercially let grain stores and these buildings should be returned to their said purpose. I urge you to reject this application so that previous lapse perpetrated will not be allowed to culminate in further harm to the Green Belt.

A.J PURKISS HAULAGE: Strong Objection. The proposed building would have a detrimental impact on the character of the Green Belt and surrounding landscape. The building does not include a ventilated floor and makes no provision for drying equipment making it unsuitable for

grain storage. The applicant has other buildings to let which must have at one time been built for agriculture. The tests of condition GB11 have not been met. Concern about impact on road safety. The existing building has had poor vermin control and this proposal will exacerbate the problem. We believe owing to previous planning errors on all sides this site should be judged as a “virgin” field and the ideals of the NPPF upheld. We cannot stress highly enough that buildings without drying facilities are not intended for long term storage use. The building seems to be used more for the storage of fertiliser and farm machinery than grain. We suggest that evidence points to buildings now being advertised commercially as being former grain stores or suitable for grain storage. Concern that movements to and from the site by often inexperienced drivers will be hazardous to road safety. Concern that vehicle movements long into the night will have a detrimental impact on neighbour amenity. We believe that the issue of vermin is a serious matter which the applicant is doing little to eradicate; this proposal would exacerbate this problem. If this application is approved is it suitable to include a condition that the building is only used for the storage of grain in connection with this holding?

### **Issues and Considerations:**

The main issues that arise with this application for consideration are the application history and the following issues which were assessed as part of the previous applications/appeals:

- Planning History
- Principle of Development and Green Belt/Landscape issues
- Impact on neighbouring amenity
- Highways and transportation matters

### **Application History**

There has been a recent history of planning applications at this site, including two appealed decisions. Members therefore have the benefit of a recent appealed decision as a starting point in this analysis. It is acknowledged that this was for a building which would have been double the size of the cumulative built form applied for here. However the Inspector addressed a number of issues which will be pertinent in this case, including a wide range of concerns put forward by neighbours. It is clear that the Inspector had issue, on balance it appears, with the impact from the proposed development on the open character of this part of the Green Belt. In his assessment the support that such development usually enjoys both nationally and locally was not sufficient to outweigh the harm to Green Belt character. As stated the applicant has reapplied with a much reduced extension to the existing building, one third of the size of the last application. The core issue therefore in the determination of this appeal is whether this reduction “strikes the balance” between providing a policy appropriate to an agricultural storage building whilst also complying with policies of Green Belt constraint.

### **Principle of Development and Green Belt/Landscaping Issues**

Both local policy and recently adopted national guidance recognise the construction of agricultural buildings as being not inappropriate in Green Belt locations. Therefore although some of the neighbours have commented on the fact that the original building was not technically agricultural permitted development because of proximity to the airfield at North Weald, this is not to say that the principle of an agricultural building at this location is wholly unacceptable. As things stand there is an existing agricultural building close to a holding of some 500 hectares and with a backdrop of other large commercial buildings and external parking in connection with a haulage business. This is not exactly the most visually sensitive part of the Green Belt. However it is accepted that such development will have an impact on openness and as such it is right that there is not a carte blanche attitude employed by Local Planning Authorities to such development. In this

regard there are clear stipulations contained in Policy GB11 which must be met. These are worth considering in turn.

#### *Necessary for the Purposes of Agriculture*

With regards to the appeal dismissed in connection with application EPF/0111/09 the Inspector had concern that this requirement had not been sufficiently met. The most recent planning application prior to this provided full details of need. Previous concerns were addressed and detailed in the Officer's Report to committee. At Appeal the Inspector formed the view on need that "the appellant has addressed these (previous concerns)....information has been given to justify an enlarged building.." As need has not constituted a reason to refuse a much larger building it would be unreasonable to refuse a smaller extension on need.

Objectors have made the point that there are other buildings in the applicant's ownership, some advertised for commercial use, which could meet this need. No real evidence, expert or otherwise, is provided to substantiate this claim. However the applicant has provided an explanation as to why existing buildings are not suitable. This includes the age and state of some of the buildings, concern about cross contamination and issues with long lease tenants. It is the case that many buildings built in the 1950's and 1960's are not suitable to accommodate the movement of modern machinery and are not fitted with grain walling. These issues were addressed in some detail in the previous report to committee and again it would appear unreasonable to refuse consent on an issue which was fully addressed with the last application and by the Appeal Inspector.

It is also pointed out that the building does not include ventilated flooring or drying equipment and that it is much more cost effective to use off site drying/storage facilities. There is obvious scepticism shown as to what this building will be used for. It is clear that the dimensions of the buildings eaves and ridge make it suitable for grain storage. The applicant has also previously indicated that the cost of using off site companies to handle the grain is becoming excessive. Although objectors question this assertion there is no clear evidence to the contrary. Officers have to accept, particularly with regard to previous Local Authority decisions that on site facilities are appropriate for this holding. It is the case that a lot of modern grain stores are constructed using ventilated flooring and static fan drying equipment. However an option exists to use mobile dryers and it is not considered absolutely necessary that ventilated flooring and static fan dryers are needed. The fact remains that the applicant has applied for a grain store and there is no clear evidence to dispute the authenticity of this proposed use.

This leads to the next issue brought up: that the true purpose of this application is to develop a strategically well positioned commercial unit. As alluded to by the Planning Inspector, decision makers cannot engage in a process of speculation about future outcomes and must judge a planning application as made. In this instance the assessment is that the case of necessity for this agricultural building has been made.

#### *Detrimental to the Character and Appearance of the Locality/Neighbour Amenities*

This is a crucial element of any assessment as this was the issue which the Inspector found the previous application had failed to meet. It is well acknowledged that agricultural buildings by their very nature will have an impact on the open character of the countryside. It is also accepted that they are part and parcel of the rural landscape and that their useful function keeps swathes of the Green Belt in open use. This application is a classic example with hundreds of acres being used for arable farming. Recent national guidance enshrined in the NPPF reiterates the potential appropriateness of agricultural storage buildings. Paragraph 28 promotes "the expansion of all types of rural business....through the conversion of existing buildings and well designed new buildings" Paragraph 89 recognises the construction of agricultural buildings as not inappropriate, and indeed, can be constructed as permitted development.

It is however acknowledged that this does not mean that an agricultural building is unquestionably acceptable. In this case the proposed building will appear more prominent within the landscape and will spread built form into a currently undeveloped area. Substantial weight should be attached to the impact on the Metropolitan Green Belt. However the points contained in the NPPF and recorded in the previous paragraph must also be given appropriate weight. There is an existing building on the site and a number of other buildings and commercial units nearby. This is a more suitable scenario than the creation of new development in open countryside. Aerial maps/photographs of the immediate area are characterised by hamlets and clusters of buildings set in open countryside. This is a traditional form of rural development and this proposal does not offend such an approach. A landscaping scheme which could be agreed by condition would further limit the impact of this extension.

It is recognised that there will be environmental consequences in terms of impact on openness, but this is the case with all agricultural development. Owing to site characteristics and the benefit of conditions this can be mitigated to an acceptable level. The Inspector in the last appeal formed the view that “the creation of such a large building, albeit one that would not be prominent, would cause harm to the character and appearance of the area”. It is Officer’s assessment that the reduction in size of the extension by two thirds is substantial and results in the reduction in built form “tipping the balance” in favour of the scheme.

#### Neighbour Amenity

The previous planning application was refused at committee level on grounds of impact on neighbour amenity through traffic movements to the site. The concern expressed at committee was that a non grain store use would lead to unacceptable movements. The Inspector formed the view that this concern could have been dealt with by an appropriate condition restricting the use of the building to grain storage. Therefore traffic movements to the site as a reason to withhold consent has been discredited, and a condition limiting the use to grain storage is deemed more appropriate. It is not considered that vehicle movements to and from the site would excessively impact on amenity, particularly as a haulage contractor operates from the adjacent site. Poor vermin control has been highlighted as a concern but as previously stated this is not a matter for planning consideration.

#### Highway Issues

Previously Essex County Council Highways Officers have had no objection to the proposal. The following was reported last time to committee:

*“The Highway Authority has raised no objection to the proposal as the increase in vehicle movements equates to 2 lorries a day in the harvest period with an insignificant amount throughout the rest of the year. All movements will be through an existing access that affords the appropriate visibility splays for the speed of the road and the appropriate geometry for HGV’s. Accident records for the last 3 years have been interrogated and there have been no recorded accidents associated with this access within this time period. Consequently the proposed development will not have any detrimental impact on safety, capacity or efficiency of the highway network at this location”. The Highway Authority has requested a condition ensuring the turning area is constructed prior to first use and maintained free from obstruction at all times thereafter.*

#### Hardstanding

The extension to the area of hardstanding would aid the movement of vehicles through the site and would have no serious impact on the open character of the Green Belt.

**Conclusion:**

Through a process of planning applications and appeals dating back to 2009 it has been determined that the outstanding issue of debate amounts to the impact of this building on the open character of this part of the Green Belt. The Inspector in the last appeal formed the view that the impact was to a level that justified withholding consent. Officers have formed a view that the reduction in size of the building and economic considerations which must be factored into any decision now render this scheme, on balance, acceptable. The concerns highlighted by local residents are noted however this scheme must be judged on its individual merits as opposed to speculating about future uses. There will be impact on open character but this can be mitigated to some degree by conditions. The economic function of the system, its role in promoting rural business growth and the traditional general acceptance of agricultural buildings when need is proven weigh heavily in favour of the proposal. It is therefore considered that the extension of this building is acceptable subject to conditions. This includes conditions limiting the use to grain storage and that upon cessation of the use applied for the removal of the building from site.

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

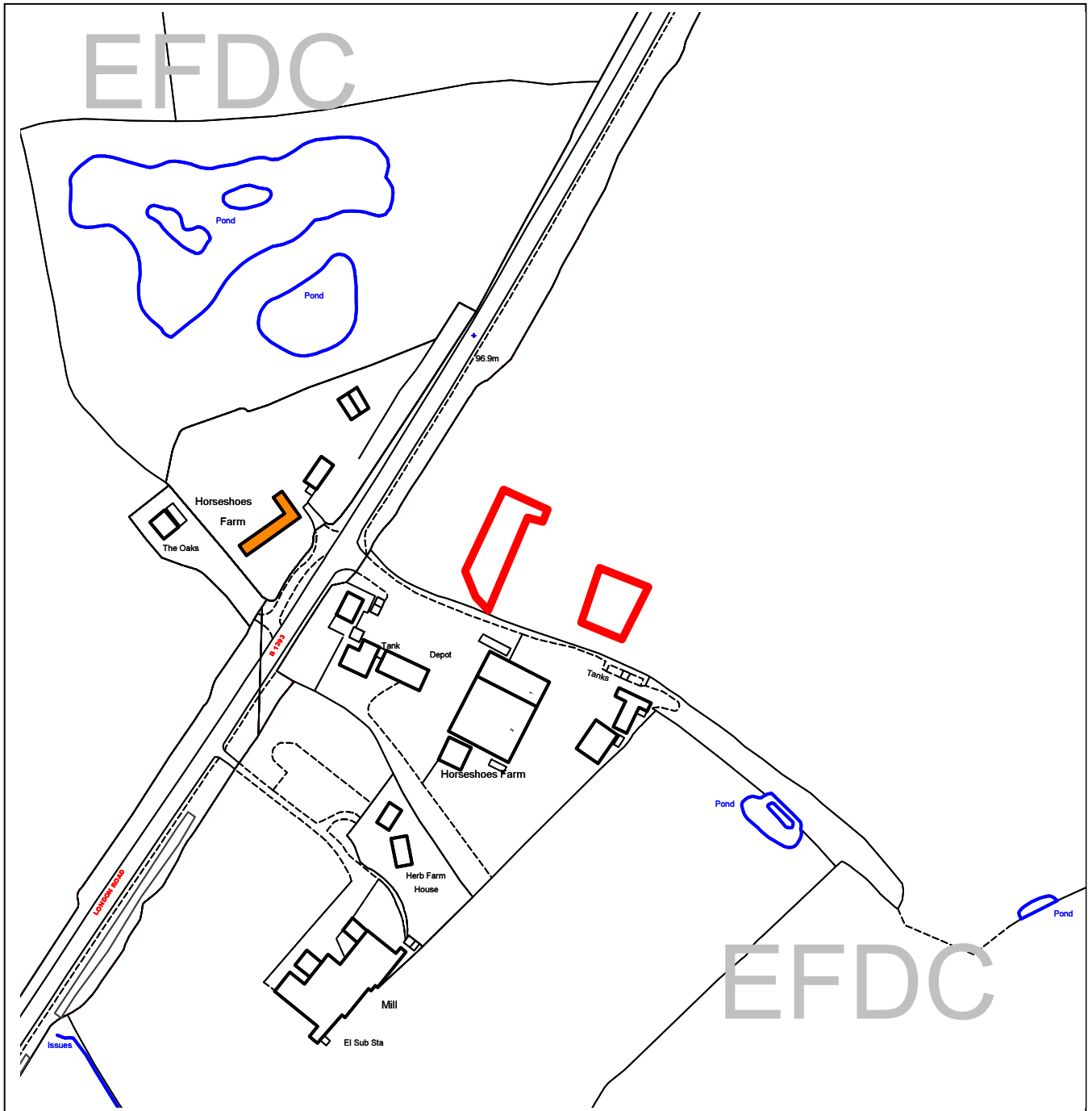
***Planning Application Case Officer: Mr Dominic Duffin  
Direct Line Telephone Number: (01992) 564336***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	7
Application Number:	EPF/0528/13
Site Name:	Land adjacent to Horseshoes Farm London Road, North Weald , CM17 9LH
Scale of Plot:	1/2500

**Report Item No: 8**

<b>APPLICATION No:</b>	EPF/0696/13
<b>SITE ADDRESS:</b>	Rear of 8 Margaret Road Epping Essex CM16 5BP
<b>PARISH:</b>	Epping
<b>WARD:</b>	Epping Lindsey and Thornwood Common
<b>APPLICANT:</b>	Theydon Trusts Ltd
<b>DESCRIPTION OF PROPOSAL:</b>	Erection of single storey affordable dwelling and ancillary works including vehicle access and crossing. (Resubmitted application)
<b>RECOMMENDED DECISION:</b>	Refuse Permission

**Click on the link below to view related plans and documents for this case:**

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=547831](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=547831)

**REASON FOR REFUSAL**

- 1 The proposed development, due to its location and scale, would constitute a cramped form of development out of character with the surrounding area and the street scene, contrary to the guidance contained within the National Planning Policy Framework and policies CP2, CP7 and DBE1 of the adopted Local Plan and Alterations.
- 2 The proposed development, due to its location within the site, would result in an excessive and detrimental effect on the amenities of the residents of No. 8 Margaret Road, contrary to policies DBE2 and DBE9 of the adopted Local Plan and Alterations.

*This application is before this Committee since it has been 'called in' by Councillor Whitbread (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(h))*

**Description of Site:**

The site previously formed the garden to No. 8 Margaret Road, however it has been fenced off from the parent property. The site is located on the western side of Margaret Road, which together with Margaret Close forms a small cul-de-sac containing single storey dwellings owned and operated by Theydon Trust Ltd. This cul-de-sac provides affordable/social housing for those who do not qualify for Local Authority housing. The proposed dwelling would add to this stock of affordable housing provided by Theydon Trust Ltd. The application site slopes downwards to the rear and is situated on land approximately 700mm lower than the neighbour at No. 17 Margaret Close.



### **Description of Proposal:**

A resubmitted application for the erection of a one-bed bungalow to the rear of the site with a private garden and off-street parking. The proposed bungalow would be a simple pitched roof dwelling measuring 4.9m in width and 7m in depth and would have a ridge height of 4m (4.4m at the rear due to the gradient of the land). The proposal would include the provision of three off-street parking spaces within the front/side garden of the site to serve both the new property and the existing dwelling.

### **Relevant History:**

EPF/2124/12 - Erection of single storey affordable dwelling and ancillary works including vehicle access and crossing – refused 20/12/12

### **Policies Applied:**

CP2 – Protecting the Quality of the Rural and Built Environment  
CP3 – New Development  
CP7 – Urban Form and Quality  
DBE1 – Design of New Buildings  
DBE2 – Effect on Neighbouring Properties  
DBE8 – Private Amenity Space  
DBE9 – Loss of Amenity  
ST1 – Location of development  
ST4 – Road Safety  
ST6 – Vehicle Parking

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

### **Consultation Carried Out and Summary of Representations Received:**

6 neighbouring properties were consulted. No Site Notice was required.

TOWN COUNCIL – No objection.

### **Issues and Considerations:**

The main issues in this application would be the suitability of the site for development, design, amenity considerations, and regarding parking and highway safety. The application was previously submitted and refused under delegated powers in December 2012 for the following reasons:

**The proposed development, due to its location and scale, would constitute a cramped form of development out of character with the surrounding area and the street scene, contrary to the guidance contained within the National Planning Policy Framework and policies CP2, CP7 and DBE1 of the adopted Local Plan and Alterations.**

**The proposed development, due to its location within the site, would result in an excessive and detrimental effect on the amenities of the residents of No. 8 Margaret Road, contrary to policies DBE2 and DBE9 of the adopted Local Plan and Alterations.**

This application is a resubmission of the previously refused scheme.

#### Suitability of site:

The proposed dwelling would be located within the built up urban town of Epping and would be well served by local amenities and sustainable transport means. Whilst the residential gardens of dwellings no longer constitute previously developed land, and as such there is no longer a presumption to develop these areas, this proposal would make better use of an existing, sustainable location.

Notwithstanding the above however, the dwellings within this cul-de-sac follow a fairly uniform pattern based around the central roundabout/turning area within Margaret Close and taking into account the change in levels between Margaret Road and Margaret Close. However the proposed new dwelling would be located to the rear of No. 8 Margaret Road, with its front wall being located some 1m behind the rear wall of No. 8 and overlapping this by approximately 1m, and would extend some 4m beyond the rear wall of No. 17 Margaret Close. This development would introduce a form of 'back-land' development that would be at odds with the built form and overall siting of the surrounding properties.

#### Design

As well as the above concerns regarding the siting of the new dwelling, the proposed development would have a smaller footprint, lower height, and significantly different appearance to the surrounding properties within this cul-de-sac. This, combined with the location of the dwelling, would result in this building appearing more akin to an ancillary outbuilding rather than a separate dwelling. Although the applicant has used this as part of their argument as they state that "*the proposed location and dimensions of the proposed building conform to the provisions of 'The Town & Country Planning (General Permitted Development) Order'*", Local Plan policy DBE1 states that new buildings must be "*of a size and position such that they adopt a significance in the streetscene which is appropriate to their use or function*". As such, it is considered that a new dwelling should be perceived as a new dwelling rather than an outbuilding. Furthermore, it should be noted that despite the applicants statement that "*a building could be built and used for ancillary living accommodation*", ancillary residential accommodation cannot be built under permitted development, and as such no weight is given to this matter.

Due to the above, along with the previously raised issue regarding the location of the dwelling, the proposed development is considered to be a cramped and poor form of development that would be detrimental to the overall character and appearance of the street scene and surrounding area.

#### Amenity Considerations

Whilst the proposed development would be single storey and both the new dwelling and existing property would benefit from an adequate level of private amenity space, the new dwelling would be located behind the rear wall of the parent property and would overlap the rear elevation by approximately 1m. Due to its location, this dwelling would clearly result in an undue loss of visual amenity to residents of No. 8 Margaret Road. Whilst it is appreciated that the current occupants are stated to not have any concerns about the proposed new dwelling, the presence of the new dwelling would be in existence long after these particular residents vacate the parent property, and would set a dangerous precedent for other similar backland developments elsewhere in this built up area.

Given the change in land levels and the angle of the properties, the proposed dwelling would not have an undue impact on the amenities of residents of No. 17 Margaret Close.

Due to the above, the proposed development is considered contrary to Local Plan policies DBE2 and DBE9 as it would have an excessive and detrimental effect on the amenities of the neighbouring residents at No. 8 Margaret Road.

#### Parking/Highways

The application proposes three parking spaces, plus an area of 'informal visitor' parking within the front garden of the site. This would exceed the off-street parking requirements as laid out within the Essex County Council Vehicle Parking Standards 2009.

#### Other matters

Whilst the applicants are Theydon Trust Ltd. who provide affordable/social housing within this cul-de-sac, and it has been emphasised that this new dwelling would also provide an affordable dwelling, there has been no legal agreement or draft heads of terms submitted to ensure this. Furthermore, it is not considered that the provision of one additional affordable property would outweigh the above identified harm.

#### **Conclusion:**

Due to the above, whilst it is appreciated that the proposed development would provide an additional small 'affordable' unit to Theydon Trust Ltd. (although if granted planning consent this would need to be controlled by way of a legal agreement), the proposal would constitute a cramped form of development out of character with the surrounding area and street scene. Furthermore, the location of the proposed dwelling would result in an excessive and detrimental effect to the amenities of the residents of No. 8 Margaret Road. As such this application fails to comply with the guidance contained within the NPPF and policies CP2, CP7, DBE1, DBE2 and DBE9 and is therefore recommended for refusal.

#### **Is There a Way Forward?:**

Discussions have been entered into with the applicant where the above concerns were raised. Whilst it is not considered that there is a way forward on this site, other alternative sites for additional housing within this cul-de-sac were discussed, which would likely be more acceptable than this scheme.

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

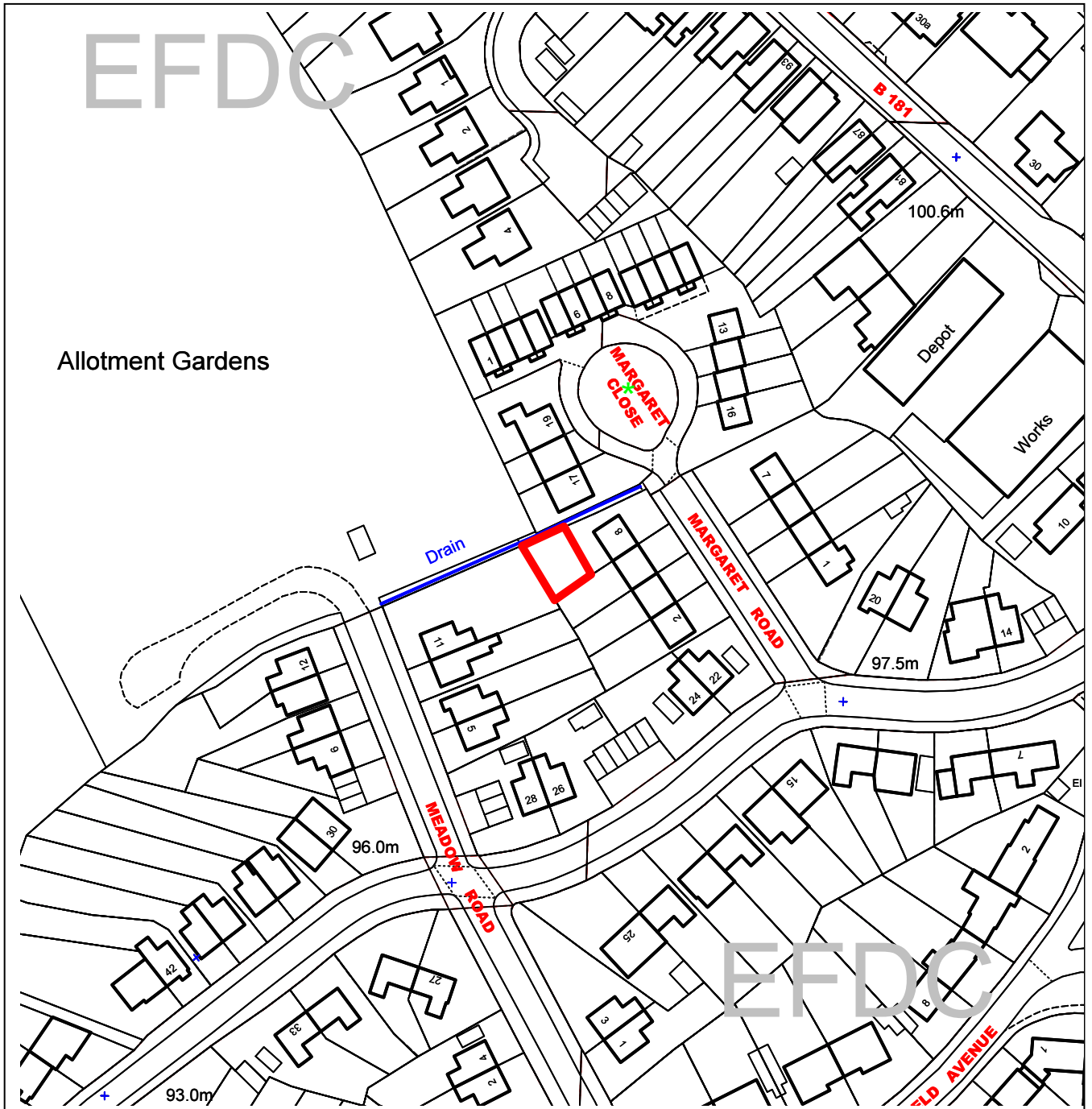
***Planning Application Case Officer: Graham Courtney  
Direct Line Telephone Number: 01992 564228***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	<b>8</b>
Application Number:	EPF/0696/13
Site Name:	Rear of 8 Margaret Road, Epping CM16 5BP
Scale of Plot:	1/1250

## ***Report to Area Plans Subcommittees East, West and South***

***Date of meeting(s): 22 May, 5 and 12 June  
2013***



**Epping Forest  
District Council**

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**Subject:** Planning Protocol – Site Visits

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

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### **Recommendation(s):**

- (1) To consider prepared guidance on undertaking planning site visits which forms supplementary information for the Council's Planning Protocol;
- (2) That the Planning Subcommittees be asked to note and follow this guidance in undertaking future site visits; and
- (3) To note that this guidance has been published on the Council's website and will be sent to members, applicants and objector (if known) when a site visit is organised

### **Report Detail**

1. At a meeting of the District Development Control Committee on 27 March 2013 consideration was given to further guidance for both members and public attending site visits to avoid the perception of pre-determination and to ensure that there is a consistent approach during each visit.
3. This guidance is attached as Appendices 1 and 2 to this report. It has been split into two documents, one aimed at members and the second at other interested parties. These documents form supplementary guidance to the Council's Planning Protocol. The guidance brings together information from the protocol.
4. It was agreed that an item be placed on each planning committee to reiterate the process for future visits. It will also be sent to members, applicants and objectors (if known) when a site visit is organised.
5. It was agreed by the Assistant Director of Planning and Economic Development that officers would also meet to ensure a consistent approach by officers. The subcommittee are asked to note the guidance and officers will attend the meeting to answer specific questions on the guidance.

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## **Epping Forest District Council**

### **Guidance for Members at Site Visits**

Formal site visits may be requested by any Planning Committee. These can be requested either before a planning meeting or resolved at the meeting concerned. However, these consume resources and delay determination of an application. It is good practice to consider site visits only where there is a substantial benefit to the decision-making process, e.g. when the impact of the proposed development is difficult to visualise from prior inspection from a public place, or from the plans and the supporting material; or it is particularly contentious.

It is recognised that Councillors are subject to lobbying on specific applications. In such cases, it is essential that care is taken to maintain the Council's and its members' integrity so as to protect the credibility of the planning process.

Councillors are asked to bear in mind the following guidance when undertaking planning site visits so as to avoid the perception of pre-determination.

- Site visits should be undertaken at an agreed predetermined time and conducted in a single group with a planning officer present at all times.
- Members of the committee concerned are encouraged to attend site visits.
- The site visit is managed by the Chairman, Vice-Chairman or planning officer present. The Chairman or Vice Chairman will remind Councillors of the guidance at the beginning of each visit. Members of the committee or subcommittee should not enter into discussions with interested parties, such as the applicant, the agent or neighbours during the visit.
- Councillors/Planning Officers should not allow interested parties to use the site visit as an opportunity of lobbying members of the committee. It is made clear to other parties at the outset that the purpose is to gather information and to view the site only.
- Any questions from Councillors should be limited to questions of fact and directed, in the first instance, to the planning officer present and not directly to interested parties present.
- In the interests of fairness to all parties, members as a single group should consider the desirability of viewing an application site from more than one property when the site visit is arranged.
- Councillors must ensure that the application is not determined at the site visit
- Councillors should avoid acceptance of any hospitality at a site visit which could be misinterpreted by third parties;

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## Planning Site Visits

### Guidance for Applicants, Agents and interested parties



**Epping Forest  
District Council**

Formal site visits may be requested by any Planning Committee. These can be requested either before a planning meeting or resolved at the meeting concerned. However, these consume resources and delay determination of an application. Site visits will only normally be considered where there is a substantial benefit to the decision-making process, e.g. when the impact of the proposed development is difficult to visualise from prior inspection from a public place, or from the plans and the supporting material; or it is particularly contentious.

It is recognised that Councillors are subject to lobbying on specific applications by Applicants, agents and other interested parties. Our Councillors follow guidance when undertaking planning site visits so as to avoid the perception of pre-determination.

- Site visits will be undertaken at an agreed predetermined time and conducted in a single group with a planning officer present at all times.
- You will not be allowed to use the site visit as an opportunity of lobbying Councillors who are members of the committee. It will be made clear to other parties at the outset that the purpose of the site visit is to gather information and to view the site only.
- The site visit is managed by the Chairman, Vice-Chairman or planning officer present. Councillors will not enter into discussions with interested parties during the visit.
- Councillors concerned are encouraged to attend site visits.
- Councillors may ask questions of fact which will be directed, in the first instance, to the planning officer present and not directly to interested parties present.
- In the interests of fairness to all parties, Councillors will consider the desirability of viewing an application site from more than one property when the site visit is arranged if this is appropriate.
- The planning application is not determined at the site visit.
- Councillors will not normally accept any hospitality at a site visit as these could be misinterpreted by third parties.

Further Information:

Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

Tel: 01992 564249 and ask for the Committee Officer for the relevant Subcommittee which is shown on the front sheet of the agenda.

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## **Report to Area Plans Sub-Committee**

**Date of meeting: East – 22 May 2013**



**Epping Forest  
District Council**

**Subject: Probity in Planning – Appeal Decisions, 1 October 2012 to 31 March 2013**

**Officer contact for further information: Nigel Richardson (01992 564110)**  
**Democratic Services Officer: Adrian Hendry (01992 564246)**

### **Recommendation:**

**That the Planning Appeal Decisions be noted.**

### **Report Detail:**

#### **Background**

1. (Director of Planning & Economic Development) In compliance with the recommendation of the District Auditor, this report advises the decision-making committees of the results of all successful appeals (i.e. those , particularly those refused by committee contrary to officer recommendation. The purpose is to inform the committee of the consequences of their decisions in this respect and, in cases where the refusal is found to be unsupportable on planning grounds, an award of costs may be made against the Council.
2. In recent years the Council performance has been 18% in 2003/04, 29% in 2004/05, 22% in 2005/06, 30% in 2006/07, 29% in 2007/08, 40.3% for 2008/09, 30.9% in 2009/10, 36.6% in 2010/11, 28.8% in 2011/12 and 27.7% in 2012/13.
3. Since 2011/12, there have been two local indicators, one of which measures all planning application type appeals as a result of committee reversals of officer recommendations (KPI 55) and the other which measures the performance of officer recommendations and delegated decisions (KPI 54).

#### **Performance**

4. Over the six-month period between October 2012 and March 2013, the Council received 43 decisions on appeals (40 of which were planning related appeals, the other 3 were enforcement related).
5. KPI 54 and 55 measure planning application decisions and in total, out of this 40, 15 were allowed (37.5%). Broken down further, KPI 54 performance was 6 out of 25 allowed (24%) and KPI 55 performance was 9 out of 15 (60%).

#### **Planning Appeals**

6. Out of the 15 planning appeals that arose from decisions of the committees to refuse contrary to the recommendation put to them by officers during the 6-month period, the Council was not successful in sustaining the committee's objection in the following 8 cases:

### Area Committee South

EPF/0131/12	Outline Planning Application for two semi detached two storey dwelling houses.	Land to rear of 74-78 Walnut Way, B Hill
EPF/0334/12	Demolish existing dwelling, pool building and detached garage and erect replacement two and a half storey detached dwelling and a detached single storey garage block.	Willow Park Farm Millers Lane, Chigwell
EPF/2371/11	Change of use of former tool shop (A1 retail shop) to A3 (restaurant/café) use - amended proposal now showing details of refuse store and extraction duct.	22 Forest Road Loughton
EPF/2103/11	Variation of condition 7 ' no windows other than any shown' of planning approval EPF/2003/10 (Minor material amendment on EPF/0485/09 (detached house), numerous alterations including addition of basement level)	Beagles Hut Retreat Way, Chigwell
EPF/1045/12	Two storey side and rear extension.	82 Princes Road, B Hill

### Area Committee East

EPF/0843/12	Extensions, alterations and change of use of commercial premises to four flats, including ancillary works. (Revised application)	Electron House 17A Hemnall Street, Epping
EPF/0369/12	Demolition of existing garage and store shed and construction of four storey side extension. (Revised application)	Treetops Care Home Station Road, Epping
EPF/0001/12	Change of use of premises from A1 (Retail) use to a shared use A3 (Restaurant and Cafe) and A5 (Hot Food Takeaway)	74-76 High Street, Epping
EPF/1153/12	Replacement of New House Cottages with a single dwelling house and provision of a new access. (Amended application to EPF//0988/10 to include an orangery to rear)	New House Cottages Little Laver Rd, Moreton

7. Therefore, the committees are urged to continue to heed the advice that if they are considering setting aside the officer's recommendation it should only be in cases where members are certain they are acting in the wider public interest and where the committee officer can give a good indication of some success at defending the decision. As this is now highlighted as a separate performance target (KPI 55) it therefore potentially comes under more scrutiny. Whilst 60% is the wrong side of the target for KPI55, Members may be more satisfied to know that for the year end, the target of 50% has been achieved.

8. Out of 3 enforcement notice appeals decided, 1 was allowed and 2 were dismissed. These are as follows:

**Allowed:**

ENF/0402/06	The material change of use of the land to a private travellers/gypsy site.	Holmsfield Nursery Meadgate Road, Nazeing
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**Dismissed**

ENF/0796/10	Erection of a boundary wall, gates and piers in excess of 1m high adjacent to a highway	Olivers Daws Hill Waltham Abbey
ENF/0408/11	Without planning permission the change of agricultural land to (D2) Assembly and Leisure use facilitated by the erection of a marquee in the position and laying of a hard standing surrounded by block paving.	Mulberry House Chelmsford Road High Ongar

**Costs**

9. During this period, there were 4 successful finalised award of costs made against the Council. Circular 03/2009 Costs Awarded in Appeals and Other Planning Proceedings advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Costs therefore are rarely awarded against the appellant. The costs were as follows:-

- *Beagles Hut, Retreat Way, Chigwell*: Appeal against a minor material amendment to a planning permission, concerning the insertion of a small stairway window and a variation of another approved window, which was refused at Area Plans Committee South. This was always going to be a difficult appeal to defend because the impact was so minimal, despite the officers best efforts to make a case. The Inspector concluded that the decision had been unreasonable and resulted in unnecessary cost to the appellant, which was settled at £7,912.
- *Land Adjacent Horseshoes Farm, London Road, North Weald*: Appeal against refusal of planning permission for an additional grain store. (The decision was reported in the previous April to September 2012 report – the cost claim was not finalised until afterwards). The Inspector considered the Council had been unreasonable in respect of the second reason for refusal regarding potential increase in traffic movements and resultant impact on neighbouring property from noise and disturbance. The inspector concluded that a restriction on the use of the grain store by condition would have overcome this concern. He therefore concluded a partial award of costs against the Council, which was settled at £4,340.
- *The Mulberries, Hamlet Hill, Roydon*: The appeal for cost was successful against the Council's withdrawal of an enforcement notice after it emerged that the notice did not cover all the unauthorised uses taking place on the site. The Inspector considered it was not therefore expedient for the Council to have issued it in the first place and awarded costs which amounted to £5,389.

- *74-76 High Street, Epping*: Change of use from A1 shop to shared use of A3 (restaurant and cafes) and A5 (hot food takeaways). Both reasons for refusal in respect of firstly, the impact on the proliferation of Class A3 and A5 uses on the health of the town centre and secondly, harm to residential amenity were not in the opinion of the Planning Inspector substantiated in the Council's defence and therefore judged to be unreasonable behaviour. The full award of costs against the Council amounted to £4,146.

10. Members attention is brought to the fact that the three planning application refusals that resulted in costs against the Council were, in this case, committee reversal decisions.

## Conclusions

11. Whilst performance in defending appeals has improved during the last couple of years, Members are reminded that in refusing planning permission there needs to be justified reasons that in each case must be relevant, necessary, but also sound and defensible so as to avoid paying costs. Whilst there is clearly pressure on Members to refuse in cases where there are objections from local residents, these views (and only when they are related to the planning issues of the case) are one of a number of the relevant issues to balance out in order to understand the merits of the particular development being applied for.

12. Finally, at previous request of the Planning Services Scrutiny Standing Panel, appended to this report are the 9 appeal decision letters that were allowed, despite Members reversing the planning officer's recommendation (and therefore refusing planning permission) at planning committees, along with their respective refusal decision notices.

13. A full list of appeal decisions over this six month period appears below.

## Appeal Decisions October 2012 to March 2013

### Allowed With Conditions

#### Buckhurst Hill

1	EPF/0950/12	Loft conversion including dormers to front, back and sides of property.	6 Fernside
2	EPF/1045/12	Two storey side and rear extension.	82 Princes Road
3	EPF/0131/12	Outline Planning Application for two semi detached two storey dwelling houses.	Land to rear of 74-78 Walnut Way

#### Chigwell

4	EPF/2103/11	Variation of condition 7 ' no windows other than any shown' of planning approval EPF/2003/10 (Minor material amendment on EPF/0485/09 (detached house), numerous alterations including addition of basement level)	Beagles Hut Retreat Way
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#### Epping

5	EPF/0843/12	Extensions, alterations and change of use of commercial premises to four flats, including ancillary works. (Revised application)	Electron House 17A Hemnall Street
6	EPF/0369/12	Demolition of existing garage and store shed and construction of four storey side extension. (Revised application)	Treetops Care Home Station Road
7	EPF/0001/12	Change of use of premises from A1 (Retail) use to a shared use A3 (Restaurant and Cafe) and A5 (Hot Food Takeaway)	74 - 76 High Street

### **Loughton**

8	EPF/1431/12	Loft conversion, including change of hipped roof to hipped gable and rear dormer.	61 Tycehurst Hill
9	EPF/0746/12	Two storey side extension, demolition and replacement of garage into habitable room. (Revised application)	50 York Hill
10	EPF/2371/11	Change of use of former tool shop (A1 retail shop) to A3 (restaurant/café) use - amended proposal now showing details of refuse store and extraction duct.	22 Forest Road

### **Moreton, Bobbingworth and the Lavers**

11	EPF/1153/12	Replacement of New House Cottages with a single dwelling house and provision of a new access. (Amended application to EPF//0988/10 to include an orangery to rear)	New House Cottages Little Laver Road
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### **Waltham Abbey**

12	EPF/1007/12	Change of use of land for the stationing of a mobile home (log cabin) for residential use in connection with existing stable use.	Horizon Oaks Church Road
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### **Allowed Without Conditions**

#### **Buckhurst Hill**

13	EPF/1512/12	Proposed two storey side and rear extension.	82 Princes Road
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#### **Chigwell**

14	EPF/0334/12	Demolish existing dwelling, pool building and detached garage and	Willow Park Farm Millers Lane
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erect replacement two and a half storey detached dwelling and a detached single storey garage block.

### **Theydon Bois**

15 EPF/1435/12 Erection of a garage. Beechwood Forest Side

### **Dismissed**

### **Buckhurst Hill**

16 EPF/1254/12 Loft conversion with front dormer window, together with permitted development rear dormer windows. 10 Russell Road

### **Chigwell**

17 EPF/0392/12 Continuation of use of buildings A, B, C, E, F & G and land within the application site for the purposes of storage with ancillary office (Use Class B8). Willow Park Farm Millers Lane

18 EPF/1120/12 Erection of single storey rear extension with swimming pool. (To house under construction) 36 Stradbroke Drive

### **Epping**

19 EPF/1679/12 Single storey side and rear extensions, roof alterations including raising the ridge level to allow for first floor accommodation with front and rear dormer windows. 51 Bower Hill

### **Loughton**

20 EPF/0485/12 Erection of two bedroom one and a half storey detached dwelling with one off street car parking space. (Revised Application) Land to rear of 92 and 94 Roding Road

21 EPF/1737/12 Addition of electric front gate across existing parking space, in connection with alterations to front area to create two more parking spaces. 17 Station Road

22 EPF/0919/12 Demolition of existing single storey rear extension and erection of two storey rear extension. (Previously approved in 1998) 91 York Hill

### **Nazeing**

23 EPF/2160/11 Variation of condition 3 on planning permission EPF/0849/10 to allow for hard standing to be installed on area of Holmsfield Nursery Meadgate Road



		land to overcome land contamination issues. (Retention of use of site for eight private gypsy plots to replace previous temporary consent.)	
24	EPF/0083/12	Demolition of existing glass houses and vehicle workshops and erection of a replacement building to provide modern vehicle workshops and storage units.	Burleigh Nursery Hoe Lane
25	EPF/0304/12	Certificate of lawful development for proposed side and rear extensions and alterations.	Dene Nursery Road
26	EPF/0186/12	Demolition of the existing bungalow and construction of a new dwelling with associated works.	26 Old Nazeing Road
<b>North Weald Bassett</b>			
27	EPF/2547/11	Extension to existing grain storage facilities.	Land adj Horseshoe Farm London Road
28	EPF/0729/12	Replacement of existing garage and replacement with a new two-storey residential two bed annex.	158 High Road
29	EPF/0999/12	Part ground floor and two storey rear extension and conservatory to rear.	Willow Cottage Hastingwood Road
<b>Roydon</b>			
30	EPF/0678/12	Subdivision of existing property into two.	Derwent Cottage Epping Road
31	EPF/2167/12	Loft conversion and associated works.	17 Barn Hill
<b>Sheering</b>			
32	EPF/2536/11	Retrospective Grade II listed building consent for alterations to lean-to on the western side of the coach house courtyard, to form a new lean-to structure.	Durrington House Sheering Lower Road
<b>Theydon Mount</b>			
33	EPF/2185/11	Change of use of land and the erection of stables on a concrete slab base.	Land Bordered by Mount End/ Mount Road
<b>Waltham Abbey</b>			
34	EPF/2416/11	Development of solar park together with inverter building and security fencing. (Resubmitted application)	Netherhouse Farm Sewardstone Road
35	EPF/1882/12	Extensions and alterations to provide granny annexe and family	152 Crooked Mile

		accommodation in the roof space. Raising the existing wall plate 1050mm above first floor level.	
36	EPF/1796/12	First floor side and two storey/single storey rear extensions	75 Honey Lane
37	EPF/0912/12	Rear first floor extension. (Revised application)	Oakdale 3 Woodgreen Road
38	EPF/2447/11	Outline application for the erection of a new block containing two retail units at ground floor with four flats at first and second floor, to the rear of no 54 Sun Street.	Land Rear of 54 Sun Street
39	EPF/1364/12	Formation of 3 building plots in garden of existing house and erection of 3 no. three bedroom houses.	214 Upshire Road
40	EPF/0246/12	Conversion and extension of redundant pub into a mixed use development comprising A1 retail at ground floor and 4 residential units above.	11 Sun Street

**Enforcement Appeals Allowed: With Conditions**

1	ENF/0402/06	The material change of use of the land to a private travellers/gypsy site.	Holmsfield Nursery Meadgate Road, Nazeing
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**Enforcement Appeals Dismissed**

2	ENF/0796/10	Erection of a boundary wall, gates and piers in excess of 1m high adjacent to a highway	Olivers Daws Hill Waltham Abbey
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**Enforcement Appeal: Dismissed, but Varied**

3	ENF/0408/11	Without planning permission the change of agricultural land to (D2) Assembly and Leisure use facilitated by the erection of a marquee in the position and laying of a hard standing surrounded by block paving.	Mulberry House Chelmsford Road High Ongar Ongar Essex
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## Appeal Decision

Site visit made on 14 January 2013

by **J L Cheesley BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 February 2013

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**Appeal Ref: APP/J1535/A/12/2182259**  
**17A Hemnall Street, Epping, Essex CM16 4LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ian A Croxford against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/0843/12, dated 30 April 2012, was refused by notice dated 4 July 2012.
  - The development proposed is change of use, extension and conversion of commercial premises to four flats including ancillary works.
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This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes that issued on the 16th January 2013.

### Decision

1. The appeal is allowed and planning permission granted for change of use, extension and conversion of commercial premises to four flats including ancillary works at 17A Hemnall Street, Epping, Essex CM16 4LS in accordance with the terms of the application, Ref PL/EPF/0843/12 and the plans submitted with it subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified on the planning application form.
    - 3) Before the first occupation of the building hereby permitted the window in the south western first floor flank elevation of the rear section of the building shall be fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor level of the room in which it is situated and shall be permanently retained in that condition.
    - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos 2873/1, 2873/2A, 2873a, 2873b and the Location Map.
    - 5) The parking area shall not be used for any purpose other than the parking of vehicles.
    - 6) No development shall take place until a site investigation of the nature and
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extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

### **Main Issues**

2. I consider there to be three main issues:

the effect of the proposal on the living conditions of future occupiers with particular reference to amenity space and refuse storage;

the effect of the proposal on highway safety and the free flow of traffic in the surrounding area; and

whether the proposal would constitute overdevelopment to the detriment of the character of the surrounding urban environment.

### **Reasons**

3. The proposal includes the extension and alteration of a commercial property into four flats. The appeal site lies close to the town centre within a row of primarily residential properties in an area of otherwise mixed development.
4. The proposed demolition of the existing side extension would provide little amenity space for future residents. It would not provide the level of amenity space required by Policy DBE8 in the Epping Forest Local Plan Alterations (2006). However, I note that the Council has accepted elsewhere that flats in similar urban locations can provide a low level of amenity space. From my observations, due to the proximity of public open space, the urban location of the site and the type of development proposed, I consider that the proposed small amount of outside space would be acceptable in this particular instance.
5. The proposal includes a refuse storage yard. This would be a small area, which may not be sufficiently large for all refuse storage needs on the site. Nevertheless, the limited outside space would allow for further outdoor storage if necessary and it would be reasonable to assume that refuse bins could be placed to the side of the parking area on collection days without encroaching onto the road. Thus, I consider that the proposed refuse storage arrangements would be satisfactory.
6. The appeal site lies on a one-way stretch of Hemnall Street where on-street parking is restricted. It is clear to me that being so close to the High Street, the appeal site lies within an area where there is likely to be pressure for

parking. I note that a number of residential properties in this area have off-street parking provision and further along Hemnall Street there is some on-street residents parking and restricted public parking.

7. The proposal includes retaining the existing three parking spaces at the front of the property. I note this would fall short of the nine spaces required under Local Plan Policy ST6 and the Vehicle Parking Standards (2009). The Council has accepted that a reduction in the parking standards may be considered in urban locations, but considers the proposed level to be too much of a reduction.
8. I consider that the location of the appeal site close to public transport provision and services and the nature of the development is such that the site characteristics are in accordance with the objectives of the Vehicle Parking Standards as regards an appropriate site for a lower level of off-street parking provision. In my opinion, the provision of just three car parking spaces would not be such as to have any noticeable effect on highway safety and the free flow of traffic.
9. For the above reasons, I have found that the proposal would not have an adverse effect on the living conditions of future occupiers or highway safety. Whilst the site is restricted, I consider that there would be satisfactory provision for parking, refuse storage and amenity space. Thus, I conclude that the proposal would not constitute overdevelopment to the detriment of the urban environment. Therefore, the proposal would be in accordance with Local Plan Policy CP7, which seeks to maintain the environmental quality of urban areas and prevent overdevelopment.
10. In reaching my conclusion, I have had regard to all other matters raised upon which I have not specifically commented including examples of other developments and Appeal Decisions.

#### *Conditions*

11. Apart from a standard time condition and a condition requiring conformity with the plans, the Council has suggested four conditions. In the interest of visual amenity, I consider it reasonable and necessary to impose a condition regarding conformity with the materials specified on the planning application form.
12. I consider it reasonable and necessary, in the interest of the amenity of neighbours, to impose a condition regarding restrictions to a first floor flank window.
13. I consider it reasonable and necessary to impose a condition regarding the retention of the parking area, in the interest of highway safety. I note that, due to its historic use, the site may be contaminated. Thus, I consider it reasonable and necessary to impose a condition regarding contamination remediation. I do not consider the proposed condition is enforceable. In the interest of precision and enforceability, I have amended the suggested conditions where appropriate to accord with the principles in Circular 11/95.

*J Cheesley*

INSPECTOR

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## Appeal Decision

Site visit made on 13 November 2012

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 December 2012

**Appeal Ref: APP/J1535/A/12/2179282**  
**22 Forest Road, Loughton, Essex, IG10 1DX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Eldar Properties Ltd against the decision of Epping Forest District Council.
- The application Ref PL/EPF/2371/11, dated 17 November 2011, was refused by notice dated 25 April 2012.
- The development proposed is a change of use of ground floor from A1 (retail shop) to A3 (restaurant/café).

### Decision

1. The appeal is allowed and planning permission is granted for a change of use of ground floor from A1 (retail shop) to A3 (restaurant/café) at 22 Forest Road, Loughton, Essex, IG10 1DX in accordance with the terms of the application, Ref PL/EPF/2371/11, dated 17 November 2011, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) Before the use hereby permitted begins a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the use begins. All equipment installed as part of the scheme shall be operated and maintained in accordance with the manufacturer's instructions.
  - 3) Before the use hereby permitted begins details of measures to suppress noise from mechanical equipment and of sound attenuation between the premises and the flat above shall be submitted to and approved in writing by the local planning authority. The approved measures to suppress noise from mechanical equipment shall be installed before it is first operated and shall thereafter be retained. The approved sound attenuation shall be installed before the use begins and shall thereafter be retained.
  - 4) Other than on the day of collection any refuse storage bins shall only be kept in the location shown on drawing no PAS/ELD/02A.
  - 5) The premises shall not be open for customers outside of 0700 to 2300 hours on Mondays to Fridays, 0900 to 2300 hours on Saturdays and 1200 to 2230 hours on Sundays and Public Holidays.



## **Main Issues**

2. The main issues are the effect of the proposal on the existing retail use of the premises and on the vitality and viability of Loughton High Road town centre and whether adequate arrangements would be made for the storage of refuse and the control of odours.

## **Reasons**

### ***Vitality and viability***

3. Loughton High Road is one of the principal town centres in the District according to Policy TC1 of the Epping Forest District Local Plan and Alterations. The appeal site is in a peripheral location outside of the defined key frontage so that Policy TC4 does not apply.
4. Paragraph 11.48a confirms that uses within Class A3 are appropriate in a town centre. As it falls within this category the proposal would contribute towards making the centre an attractive and useful place to shop, work and visit throughout the day and evening. Subject to other factors criterion (i) of Local Plan Policy TC3 indicates that such uses should be permitted. Given the already slightly fragmented nature of town centre uses along Forest Road and the nature of the proposal a stretch of 'dead' daytime frontage would not result. There would therefore be no conflict with criterion (iv).
5. Representations deplore the loss of a retail unit and comment that there are ample catering establishments in the near vicinity. However, the proposal would comply with relevant development plan policies aimed at protecting the function of the town centre. Indeed, it is acknowledged that food and drink outlets can add to the range of uses offered and are therefore complementary. Moreover, it is not the role of the planning system to set limits on the numbers of restaurants and cafes in any given locality.
6. After a period of vacancy the premises commenced trading as a hairdresser in May 2012. Relevant policies do not refer to whether or not there is a current Class A1 use and do not require a period of marketing. It is also difficult to see how granting permission for the proposal might, in itself, threaten the successful growth of the fledgling business. This is more likely to depend on other factors and would not be likely to alter the existing lease arrangements. It is not unusual for commercial buildings to have alternative uses and it is also understandable that owners would wish to have flexibility.
7. Even if Class A3 uses command higher rentals there is no policy objection to the loss of a retail use in this location. In the light of this whether or not any permission is taken up within the standard time limit is of little relevance in planning terms. Realistically the existence of permission for a different use of No 22 is unlikely to be the source of anxiety. In any case, the National Planning Policy Framework establishes that significant weight should be placed on the need to support economic growth.
8. The key point is that the proposed use would not harm the vitality and viability of Loughton High Road town centre and, in this context, the effect on the existing retail use of the premises would be insignificant. There would be no conflict with the development plan in this respect.



### **Refuse storage and odours**

9. Provision would be made for the storage of refuse at the rear of the site. As is general practice the bins would be taken out on the day of collection along a narrow alley between the appeal site and 24 Forest Road. Notwithstanding its width, the slight 'dog leg' and the protruding pipes and gutters it was demonstrated that it would be practical to move containers along this route. Indeed, this is what happens at the moment. Therefore it would be most unlikely for any operator to be compelled to leave black sacks on the pavement thereby reducing amenity and with the attendant risk of attracting vermin.
10. This path also provides a right of way for No 24 and an escape in the event of fire. However, by siting the bins at one end neither of these would be impeded. A condition could ensure that only this area was used for refuse storage. The appellant company indicates that the path is within its ownership but the adjoining owner believes that the bins would actually be sited on his property. Any such dispute is not a planning matter and there is no definitive evidence that satisfactory arrangements for refuse storage could not be made.
11. Food waste would be kept immediately at the end of the gardens of houses in Smarts Lane. It is not unusual for this to occur close to residential properties in or around town centre locations. No objections to this aspect of the proposal have been raised by the Environmental Health Officer. Whilst much might depend on the type of waste and the frequency of emptying there is nothing to indicate that the enjoyment of the adjoining areas would necessarily be spoilt by the smell that might arise.
12. The layout plans indicate that the kitchen would be at the rear and that a flue would protrude from the roof over 10m away from the first floor flat. The Council is critical of the height of the duct in relation to this accommodation but because the end user is unknown these details are illustrative. What they do show is that there would be scope for satisfactory extraction arrangements to be made and there is no technical objection on this ground. This matter could therefore be covered by condition.
13. Adequate arrangements would be made for the storage of refuse and the control of odours. There would be no conflict with Local Plan Policy DBE9 which requires that changes of use do not result in an excessive loss of amenity for neighbouring properties.

### **Other Matters**

14. Parking demand is high along Forest Road near to the appeal site and in the daytime the number of spaces available is restricted. However, any use of the premises would generate traffic and some requirement for parking. Compared to the current use and the earlier tool hire shop the proposal would be likely to bring about additional activity in the evening. That said, this is a town centre location where this is to be expected and there are public car parks nearby. As such, limited weight should be attached to these concerns.

### **Conditions**

15. In order to safeguard living conditions and ensure that the use operates properly conditions are required in relation to details of fume extraction equipment, attenuation of plant and sound insulation between the ground and first floors. As indicated the location of the refuse bins should be secured. A

condition requiring details of foul drainage from the kitchen including a grease separator is also sought. However, the suggested wording refers to the Building Regulations indicating that this is a duplication of other controls.

16. The Council also seeks to agree the opening times of the use. This is to prevent potential late night nuisance and to establish whether it can be open for part of the working day. Both of these are legitimate objectives but neither would be infringed by imposing the hours of operation broadly as set out in the original application. These have been altered slightly to provide a better balance between commercial and residential interests. This course of action also has the benefit of providing certainty to any potential occupier.

**Conclusions**

17. The proposed use would cause no harm in respect of the main issues identified and there are no other material considerations which outweigh this finding or the conformity with the development plan. Therefore, for the reasons given, the appeal should succeed.

*David Smith*

INSPECTOR



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## Appeal Decision

Site visit made on 13 November 2012

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 December 2012

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**Appeal Ref: APP/J1535/A/12/2179057**  
**74-76 High Street, Epping, Essex, CM16 4AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Willowcity Estates plc against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/0001/12, dated 19 December 2011, was refused by notice dated 7 March 2012.
  - The development proposed is a change of use of premises from A1 (shops) use to a shared use of A3 (restaurants and cafes) and A5 (hot food takeaways).
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use of premises from A1 (shops) use to a shared use of A3 (restaurants and cafes) and A5 (hot food takeaways) at 74-76 High Street, Epping, Essex, CM16 4AE in accordance with the terms of the application, Ref PL/EPF/0001/12, dated 19 December 2011, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The premises shall not be open for customers outside of 0900 to 2300 hours on Mondays to Saturdays and 1200 to 2230 hours on Sundays and Public Holidays.
  - 3) Before the use hereby permitted begins a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the use begins. All equipment installed as part of the scheme shall be operated and maintained in accordance with the manufacturer's instructions.
  - 4) Before the use hereby permitted begins details of measures to suppress noise from mechanical equipment shall be submitted to and approved in writing by the local planning authority. The approved measures shall be installed before any mechanical equipment is first operated and shall thereafter be retained.
  - 5) Before the use hereby permitted begins details of refuse storage shall be submitted to and approved in writing by the local planning authority. The approved storage shall be put in place before the use begins and shall thereafter be retained.

EPPING FOREST DISTRICT COUNCIL

05 DEC 2012

PLANNING SERVICES

### **Application for costs**

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

### **Main Issues**

3. The main issues are the effect of the proposal on the vitality and viability of Epping town centre and on the living conditions of surrounding residents with particular regard to noise and activity at night.

### **Reasons**

#### ***Vitality and viability***

4. For many years 74-76 High Street traded as a furniture shop but this has now closed. The building was occupied by a charity shop at the time of my visit. Epping town centre is one of the principal centres in the District according to Policy TC1 of the Epping Forest District Local Plan and Alterations. The appeal site is outside of the defined key frontage so that Policy TC4 does not apply.
5. Paragraph 11.48a confirms that uses within Classes A3 and A5 are appropriate in a town centre. As it falls within this category the proposal would contribute towards making the centre an attractive and useful place to shop, work and visit throughout the day and evening. Subject to other factors criterion i) of Local Plan Policy TC3 indicates that such uses should be permitted. Epping is also characterised as having a "buoyant evening economy" with an interesting mix of uses. The proposed use would enhance this function.
6. However, the Council is critical of the proliferation of similar uses clustered at the southern end of the High Street. The appellant lists a total of 13 premises within Use Classes A3 and A5 and there is also a night club. However, these are spread over quite a wide area. Their presence is also balanced by the Tesco store almost opposite the appeal site which is described as one of the 'anchors' of the town centre. Furthermore, planning policies set no percentage limits and paragraph 11.52a makes it plain that outside key frontages proposals should be assessed against other policies, including Policy TC3.
7. Criterion (iv) indicates that proposals should be refused if they would result in stretches of 'dead' daytime frontage. The appeal premises are flanked by retail uses so a continuous row of non-retail units would not occur. Indeed, this end of the town centre is not wholly commercial as there are breaks formed by residential properties. These 'gaps' do not appear to have affected its overall attractiveness as the area was busy in the middle of the day. In any case, the use might be open in the daytime rather than solely in the evening. Even if that were not the case the proposal in isolation would not be so 'lifeless' as to deter activity to the extent that permission should be withheld.
8. A planning obligation has been submitted which provides that the site will remain open between 1200 and 1500 hours on Mondays to Saturdays. This is partly in response to paragraph 11.44a of the Local Plan but it is difficult to compel any business to stay open at certain times. Moreover, the clause does not require the proposed catering use to be fully open to customers so that it might be complied with by making only a token effort to trade. All of that said, as indicated above, this provision is not necessary to make the development acceptable in planning terms.

9. Some representations comment that there are already too many food shops and that saturation point has been reached. However, the proposal would comply with planning policies aimed at protecting the function of the town centre. Indeed, it is acknowledged that food and drink outlets can add to the range of uses offered and are therefore complementary. Furthermore, it is not the role of the planning system to set limits on the numbers of restaurants, cafes or takeaways in any given locality.
10. To sum up, the proposal would not detract from the vitality and viability of Epping town centre. It would also accord with relevant development plan policies including Local Plan Policy TC3.

### **Living conditions**

11. As previously mentioned there is residential accommodation nearby although none above this single storey building. There is some evidence that the existing uses undertaken at this end of the High Street give rise to disturbance. The Council argues that the proposal would have an adverse cumulative impact. On the other hand, this is a town centre location where a degree of disruption is to be expected and the environment can be differentiated from quieter suburban or rural areas.
12. There may come a point at which more of the same would make living conditions intolerable for those in the vicinity. However, having regard to the size of the building, the hours proposed and the relationship with the closest housing the proposal would not cross that particular bridge. Indeed it seems likely that activities arising from the proposed use would be subsumed within the existing conditions that prevail. The appellant's survey on a Saturday found pedestrian activity associated with other evening uses and a considerable amount of passing traffic. In this context the effect of the proposal would be insignificant in terms of noise and activity at night.
13. Uses of this kind can give rise to odours but given the separation from neighbours and the nature of the unit there would be scope for this to be covered by condition. According to the Council the area is well served by litter bins and this is a matter covered by other legislation. As such, reservations about further debris do not amount to a compelling planning objection.
14. Consequently the proposal would not harm the living conditions of surrounding residents. There would be no conflict with Local Plan Policy DBE9 which requires that changes of use do not result in an excessive loss of amenity for neighbouring properties or with Policy RP5A which seeks to avoid adverse environmental impacts.

### **Other Matters**

15. The Council alludes to parking issues without being specific but local residents refer to high levels of existing parking demand for the limited spaces along the High Street. However, any use of the premises would potentially generate traffic and some requirement for parking. Compared to a retail use the proposal would be likely to bring about additional vehicle movements in the evening. That said, this is a town centre location where this is to be expected and where visitors would normally rely on public car parks. As such, limited weight should be attached to these concerns.

**Conditions**

16. In order to safeguard living conditions and ensure that the use operates properly conditions are required to secure details of fume extraction equipment, attenuation of plant and refuse storage. There is no clear indication that drainage details are required by means of a planning condition given other legislation. The hours of use should also be specified to tally with those applied for in order to provide a balance between commercial and residential interests. The wording adopted would not prevent staff being on the premises outside those times for the purposes of opening or clearing up.

**Conclusions**

17. The proposed use would cause no harm in respect of the main issues identified and there are no other material considerations which outweigh this finding or the conformity with the development plan. Therefore, for the reasons given, the appeal should succeed.

*David Smith*

INSPECTOR



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## Appeal Decision

Site visit made on 1 February 2013

by **Gary Deane BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 February 2013

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**Appeal Ref: APP/J1535/A/12/2184495**

**Land to the rear of 74, 76 and 78 Walnut Way, Buckhurst Hill, Essex  
IG9 6HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Ramsay against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/0131/12, dated 15 February 2012, was refused by notice dated 25 July 2012.
  - The development proposed is described on the application form as an outline planning application for two semi-detached 2-storey dwelling houses.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of two semi-detached 2-storey dwelling houses on land at the rear of 74, 76 and 78 Walnut Way, Buckhurst Hill, Essex IG9 6HX in accordance with the terms of the application Ref PL/EPF/0131/12, dated 15 February 2012, subject to the conditions set out in the schedule to this decision.

### Procedural matters

2. An application for costs was made by the appellants against the Council. This application is the subject of a separate decision.
3. Although the address of the site on the application form lodged with the Council is given as 74 Walnut Way, from my inspection of the plans I consider that the land lies to the rear of 74, 76 and 78 Walnut Way. I have therefore used the *revised address in the above header and in my decision.*
4. While the main parties have described the proposal as in the above header, I have referred to it in my decision as the erection of two semi-detached 2-storey dwelling houses, which includes the act of development.
5. The application was submitted in outline form with all matters reserved for subsequent approval. I have assessed the proposal on that basis.

### Main issues

6. The main issues are the effect of the proposed development on the character and appearance of the local area and on the living conditions of the occupiers of nearby residential properties with particular regard to privacy.

## Reasons

7. The site lies within an area of mixed character with 2-storey houses generally facing the road, a short parade of retail and commercial units with residential accommodation above, a railway station and frontage vehicle turning area, and a derelict electricity generating station, all nearby. From what I saw, no particular style, type or size of building appears to predominate in the local area with a linear pattern of housing generally facing the adjacent road.
8. The proposal is to erect a pair of semi-detached 2-storey houses on the rearmost part of the back gardens of 74, 76 and 78 Walnut Grove. In doing so, the appeal scheme would introduce a substantial built form into generally undeveloped garden space. The indicative Block Plan shows the new addition set back from Station Way with frontage parking and a garden mainly at the rear. Although layout is reserved for later approval, the width and depth of the plot would allow a new building of the size and type shown on the illustrative plan to be accommodated with sufficient space around it to maintain adequate visual separation with neighbouring properties. As such, the new addition would sit comfortably within a modest-sized plot and relate reasonably well to nearby buildings including those fronting Walnut Way. Although smaller than some nearby properties, the site would not be so restricted in size as to be uncharacteristic in the local area.
9. Some mature trees and vegetation within the site could be lost as a result of the proposal. If that is the case, replacement planting of sufficient quality, over time, could adequately compensate for any potential loss of vegetation. This matter could be considered under landscaping details yet to be submitted and approved with conditions imposed at this stage to cover additional planting, boundary treatment and surface materials. With those safeguards in place, an appropriate landscaped setting to the proposed dwellings and their relationship to the local street scene and existing houses could be secured.
10. The overall scale and height of the new addition could be considered and controlled at the reserved matters stage, as could its appearance. The appellants indicate that the broad design and scale of the proposal would be likely to reflect the general style and size of existing houses. The exact details could take account of, and ensure a complimentary relationship with, the nearby existing properties.
11. With regard to access, the Council raises no objection to the proposal on highways grounds. The appeal scheme would be likely to include on-site parking and there is no convincing evidence before me that the proposal would lead to unacceptable problems associated with on-street parking, traffic congestion or highway safety. With a condition in place to ensure pedestrian visibility at the entrance to the site, and relocation of the existing street lighting column on the Station Way frontage, if necessary, I share the Council's view that the site could be accessed safely with adequate visibility for highway users. On the information before me, and with means of access a reserved matter, I have no reason to depart from that view.
12. Taking into account all of the above points, I consider that with appropriate safeguards, the proposal could be accommodated on the site and be successfully integrated into the established pattern of development, including



the properties along Walnut Way. Subject to detailed design, the proposal would be in keeping with the character and appearance of the local area. Therefore, it would not conflict with Policies CP2 and CP7 of the Epping Forest District Local Plan and Alterations (LP). These policies seek to ensure that new buildings respect their setting and that development maintains, conserves and improves the environmental quality of the built environment.

*Living conditions*

13. As the proposal is in outline form with all matters reserved, the positioning of windows, and the scale and height of the new built form is for future consideration. If the new building is orientated broadly north south and, as the Council suggest, is 2-storey and includes first floor rear-facing habitable room windows then the proposal could lead to overlooking of the adjoining rear gardens of nearby properties, notably 70, 72 and 74 Walnut Way. It is not certain that this arrangement would come to pass. However, with limited layout and vehicle parking options available and an objection raised by a local resident to the loss of privacy, the possibility is one that needs to be taken into account at this stage.
14. In my experience, overlooking of this type is common characteristic of the relationship between houses positioned side-by-side in urban areas. Having viewed the site from the rears of Nos 74 and 78, there appears to be a considerable level of mutual overlooking of adjacent rear gardens from the rear-facing windows of Nos 70 and 72 and the appeal properties. In those circumstances, I am persuaded that the size and arrangement of the site would allow a pair of semi-detached houses to be set out in such a way that the additional overlooking possible would be unlikely to significantly impact on the living conditions of the occupiers of nearby houses.
15. There could be some loss of sunlight to the rear gardens of the appeal properties later in the day due to the overshadowing effect of the new built form. The extent and duration of overshadowing would be likely to be limited and so any loss of sunlight would not be appreciable. As a reasonably generous distance would be likely to separate the new addition from the back of Nos 70 and 72, the new building would be unlikely to cause any significant loss of light to the rear outdoor space and rear windows of these properties.
16. Therefore, I conclude that the proposal would not materially harm the living conditions of the occupiers of nearby properties. It accords with an underlying aim of LP Policies CP7 and DBE9, which is to safeguard residential amenity.

*Other matters*

17. There may be some disruption, albeit it temporary, during construction although this can be limited through an appropriate management plan and secured by condition. There is nothing before me to indicate that the proposal would lead to the loss of wildlife habitats or cause material harm to such interests, including birds.
18. The Council raises no objection to potential noise and general disturbance arising from the proposal and I, too, find the appeal scheme acceptable given its acceptable relationship to existing development. I have carefully considered the representations made by interested parties and recognise that the scheme

would result in some change within the local area. However none of the points made outweigh my conclusions under the main issues.

**Conditions**

19. In addition to the standard outline planning permission conditions, I have also attached a condition requiring that the development be carried out in accordance with the approved plan for the avoidance of doubt and in the interests of proper planning. In the interests of highway safety, conditions are imposed to require appropriate visibility splays be provided at the site's access and, if appropriate, relocation of the existing street lighting column on the Station Way frontage. Restrictions on the times in which construction may take place and to require wheel washing are necessary to protect the living conditions of local residents. Accordingly, conditions are imposed requiring that a Construction Method Statement be approved and to limit the times in which construction and associated deliveries may occur.
20. To ensure the satisfactory appearance of the development, conditions are imposed with regard to landscaping details. For the same reason, and to safeguard the health and longevity of trees and landscaping on and near to the site, a condition is necessary for an appropriate survey to be carried out before works start. Given the existence of a power station nearby and the presence of a fuel store, a condition requiring that a site investigation be carried out to establish the nature and extent of any contamination is necessary to safeguard the health and safety of those engaged in the construction of the approved development and its subsequent occupation.
21. The conditions largely reflect those suggested by the Council, which I have amended, where necessary, in the interests of clarity and to more closely reflect national guidance. In addition, I have imposed a further requirement that drainage details be agreed to ensure satisfactory arrangements for foul and surface water disposal.

**Conclusion**

22. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Gary Deane*

INSPECTOR

**Schedule of Conditions**

- 1) Details of the access, 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 approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: The drawing which shows the location of the site edged red.
- 5) No structure, erection or planting shall be placed in front of a line from a point 1.5 metres measured along the centre line of the access to serve the development hereby permitted from the nearer edge of the highway, to points measured 1.5 metres in each direction along the nearer edge of the highway from the centre line of that access.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme for the relocation of the existing street lighting column located on the highway frontage of the site. The approved scheme shall be completed before any of the dwellings hereby approved are occupied. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place, including any works of site clearance or other site preparatory work 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 the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing; wheel washing facilities; measures to control the emission of dust and dirt during construction; and a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 8) Construction hours and deliveries associated with the development hereby permitted shall be restricted to 0730 to 1830 hours on Monday to Friday, 0800 to 1300 hours on Saturday, with no working on Sundays, Bank and Public Holidays.
- 9) No development shall take place, including site clearance or other site preparatory work, until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. Where appropriate, the hard landscape works shall include: proposed finished levels or contours; means of enclosure; car parking layout; pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports). Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers and densities where appropriate; and an implementation programme.

- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any trees, shrubs, hedges or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 11) No ground clearance, demolition or construction work (including any tree felling, tree pruning, earthworks, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) shall commence until an Arboricultural Implication Assessment (AIA) and Tree Constraints Plan (TCP) has been submitted to and approved in writing by the local planning authority. The AIA and TCP shall be produced in accordance with British Standard BS5837: 2012, *Trees in Relation to Construction: Recommendations* and shall be submitted to the local planning authority concurrently with the detailed site layout. Development shall be carried out in accordance with the approved details.
- 12) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology, which has been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and, on completion, a verification statement shall be submitted in writing to the local planning authority. Development shall not begin until the verification statement has been approved in writing by the local planning authority.
- 13) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of the contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures. Development shall not recommence until a verification statement confirming that the site has been remediated in accordance with the approved measures has been approved in writing by the local planning authority.
- 14) No development shall take place until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the disposal of foul and surface water from the site, which includes sustainable drainage measures. The approved scheme shall be completed before any of the dwellings hereby approved are occupied. Development shall be carried out in accordance with the approved details.



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## Appeal Decision

Site visit made on 8 November 2012

by **C J Leigh BSC(HONS) MPHIL MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 November 2012

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**Appeal Ref: APP/J1535/D/12/2183635**

**82 Princes Road, BUCKHURST HILL, Essex, IG9 5DZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R Commerford against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/1045/12 was refused by notice dated 24 July 2012.
  - The development proposed is two storey side & rear extension.
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### Decision

1. The appeal is allowed and planning permission granted for a two storey side & rear extension at 82 Princes Road, BUCKHURST HILL, Essex, IG9 5DZ in accordance with the terms of the application, Ref PL/EPF/1045/12, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 3) Before the first occupation of the extension hereby permitted the 1.8m high privacy screen shown in drawings 3T and 4T shall be erected and fitted with obscured glass and shall thereafter be permanently retained in that condition.
  - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan LPB, SP1T, SP2T, 1T, 2T, 3T and 4T.

### Main issue

2. The main issue is the effect of the proposed development on the living conditions of adjoining occupiers, with particular reference to outlook and light.

### Reasons

3. The proposed extension to the property would bring the terrace of housing closer to the adjoining property of 80 Princes Road at ground and first floors. There would be a gap retained to the boundary at first floor, which would increase towards the rear of the appeal property. The existing large ground floor extension to No. 80 means the proposed first floor extension to No. 82 would be most appreciable only from the first floor rear windows to No. 80.

4. From having regard to the submitted drawings and observations at the site visit it is apparent that the step-in of the proposed extension at first floor would be sufficient to ensure the outlook of the adjoining property is not adversely affected. This would further mean that the depth of the extension at first floor would not impact upon the outlook from the neighbouring house. For similar reasons I consider that, on the basis of the information before me, there would not be any material effect on the levels of light received to the first floor windows of the adjoining house.
5. In coming to the above conclusions I have had regard to the rearward projection of the other property to the east of No. 80. I consider the outlook and levels of light to No. 80 would still be of sufficient quality even having regard to that projection. The fact that No. 80, and the rest of the adjoining housing, faces south assists in providing a good degree of outlook and natural light. I further note that no objection has been raised to the proposed extension by the occupiers of the neighbouring houses.
6. There is a difference in floor levels between the appeal property and No. 80, with the result that steps down to the garden are necessary from the proposed ground floor extension at the rear. This leads to a raised rear living area compared to the garden of No. 80. The submitted drawings show a privacy screen alongside these steps, which I judge sufficient to ensure there would not be an unreasonable degree of overlooking to the neighbour.
7. On the main issue it is considered that the submitted drawings and observations at the site visit lead to the conclusion that the design, scale and siting of the proposed extension would not be harmful to the living conditions of the adjoining occupiers. Thus, the proposal would comply with the requirements of Policy DBE9 of the adopted Epping Forest District Local Plan 1998, which requires new development to not result in excessive loss of amenity for neighbouring properties, and with the core planning principles of the National Planning Policy Framework.
8. The design and scale of the proposed extension would relate well to the host property and to the wider area, and so retain the character and appearance of the terrace and the street.

*Conclusion and conditions*

9. Planning permission is therefore granted. I have attached the Council's suggested condition requiring matching materials, to ensure a satisfactory appearance to the proposed extension. A condition is necessary to ensure provision and retention of the privacy screen shown on the drawings, to ensure no overlooking to the adjoining property. I have also attached a condition specifying the approved drawings since it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

*C Leigh*

INSPECTOR



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## Appeal Decision

Site visit made on 24 September 2012

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 November 2012

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### Appeal Ref: **APP/J1535/A/12/2177252**

### **The Beagles Hut (now known as no. 57), Retreat Way, Chigwell, IG7 6EL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Weston Homes (Housing) Ltd. against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/2103/11, dated 13 October 2011, was refused by notice dated 29 February 2012.
  - The application sought planning permission for minor material amendment on EPF/0485/09 (detached house) - numerous alterations including addition of basement level without complying with a condition attached to planning permission Ref PL/EPF/2003/10, dated 10 November 2010.
  - The condition in dispute is No 7 which states that: *Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995 (or of any equivalent provisions of and Statutory Instrument revoking or re-enacting the Order) no windows other than any shown on the approved plan shall be formed at any time in walls or roof slopes of the development hereby permitted without the prior written approval of the Local Planning Authority.*
  - The reason given for the condition is: *To safeguard the privacy of adjacent properties.*
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### Decision

1. The appeal is allowed and planning permission is granted for minor material amendment on EPF/0485/09 (detached house) - numerous alterations including addition of basement level at The Beagles Hut (*now known as no. 57*), Retreat Way, Chigwell, IG7 6EL in accordance with application Ref PL/EPF/2103/11, dated 13 October 2011, without compliance with condition number 7 previously imposed on planning permission PL/EPF/2003/10, dated 10 November 2010, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:
  - 1) Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995 (or of any equivalent provisions of and Statutory Instrument revoking or re-enacting the Order) no windows other than any shown on the approved plans (reference WH74b/10/25.01 Rev G and WH74b/10/30.01 Rev E) shall be formed at any time in walls or roof slopes of the development hereby permitted without the prior written approval of the Local Planning Authority.

### **Application for costs**

2. An application for costs was made by Weston Homes (Housing) Ltd against Epping Forest District Council. This application is the subject of a separate Decision.

### **Main Issue**

3. The effect that varying the disputed condition to allow changes to the approved fenestration would have on the living conditions of neighbours, having regard to the previously approved scheme.

### **Preliminary Matters**

4. The appeal application involves various changes to the approved fenestration at ground and first floor level. These changes were incorporated into the dwelling which was completed in March 2012 and is now occupied.
5. It is evident from the material submitted that the Council is not opposed to most of these changes. I agree with the Council's findings on these aspects of the scheme, given that they are either ground floor windows, obscure glazed or overlook woodland.
6. The Council, however, is concerned about the effect of the insertion of a new window over the stair-well and the enlargement of the window to Bedroom 3 at first floor level in the front elevation of the dwelling on the privacy of the occupiers of dwellings on Woolhampton Way.

### **Reasons**

7. The previously approved scheme allows for the insertion of two sizeable bedroom windows at first floor level in the front elevation of the appeal dwelling. From these windows it would have been possible to look out towards the rear of the properties on Woolhampton Way. Clearly a judgement was taken at the time the application was determined that such windows would not significantly affect the level of privacy enjoyed by those living on Woolhampton Way. Given the substantial distance between these two window and the Woolhampton Way properties I have no reason to disagree with this view.
8. I accept that the addition of several more first floor windows in the front elevation of the appeal property, or a large increase in the areas of glazing, may have given rise to justified concerns about overlooking or the perception of being overlooked. However the changes are not of this order. The window over the stairwell is small and views out are limited because of its high-level position, whilst the increase in the width of the Bedroom 3 window is relatively modest. Consequently I do not believe that these changes make a material difference to the levels of privacy that would have been enjoyed in and around the properties on Woolhampton Way if the previously approved scheme had been implemented.
9. I conclude, therefore, on the main issue that varying the disputed condition to allow various changes to the approved fenestration would not have an undue impact on the privacy of neighbours. Consequently the appeal scheme accords with the objectives of *Policies DBE2 and DBE9* of the *Epping Forest District Local Plan* which seek to protect the living conditions of those living nearby. These findings constitute compelling grounds for allowing the appeal. None of



the other matters raised outweigh the considerations that have led to my decision.

*Christopher Anstey*

Inspector

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## Appeal Decision

Site visit made on 5 February 2013

by **Mike Moore BA(Hons) MRTPI CMILT MCIHT**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 March 2013

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**Appeal Ref: APP/J1535/A/12/2185957**

**New House Cottages, Little Laver Road, Moreton, Ongar, CM5 0JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by The Clarkson Partnership against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/1153/12, dated 12 June 2012, was refused by notice dated 26 September 2012.
  - The development proposed is amendments to application PL/EPF/0988/10 for replacement of New House Cottages with a single dwelling house and provision of a new access and orangery.
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### Decision

1. The appeal is allowed and planning permission is granted for amendments to application PL/EPF/0988/10 for replacement of New House Cottages with a single dwelling house and provision of a new access and orangery at New House Cottages, Little Laver Road, Moreton, Ongar, CM5 0JE in accordance with the terms of the application, Ref PL/EPF/1153/12, dated 12 June 2012, and the plans submitted with it, subject to the following conditions:
  - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development falling within Schedule 2, Part 1, Classes A, B, C, D and E shall be carried out without the written approval of the local planning authority.
  - 2) The landscaping scheme for the site approved under Ref. EPF/2625/10 shall be fully implemented, including all tree and hedge planting shown, within 12 months of the date of this permission. If within a period of 5 years from the date of planting any tree, shrub or plant is removed, uprooted or destroyed or becomes seriously damaged or defective another tree, shrub or plant of a similar species and size as that originally planted shall be planted at the same place in the next planting season, unless the local planning authority gives written approval to any variation.
  - 3) Once established, the boundary hedging in the approved scheme of landscaping shall be maintained at a height of not less than 1.5m.

## Main Issues

### 2. The main issues are:

- Whether the proposal is inappropriate development in the Metropolitan Green Belt for the purposes of the National Planning Policy Framework ('the Framework') and development plan policy.
- The effect of the proposed development on the openness of the Green Belt; and
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

3. The appeal site was originally occupied by a pair of semi-detached cottages. Planning permission was granted in 2010 for their replacement by a single dwelling. A detached garage block was permitted separately in 2011. The cottages have been demolished and I saw on my visit that a replacement dwelling and garage block had been constructed. The dwelling incorporates a single storey rear orangery which was not included in the planning permission for the house. Permitted development rights for extensions were withdrawn by a condition of the 2010 permission and the appeal application is in effect seeking planning permission for a dwelling that includes the orangery. Some development had been carried out before the application was submitted and in the circumstances I have considered the proposal as retrospectively made.
4. The site is within the Metropolitan Green Belt where the Framework indicates that the construction of new buildings is inappropriate except where, amongst other matters, it involves the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces. In this case the residential use remains the same.
5. Policy GB2A of the Epping Forest District Local Plan Alterations (LP), adopted in 2006, indicates that planning permission will not be granted for new buildings in the Green Belt unless, amongst other things, it is a replacement dwelling that accords with LP Policy GB15A. The latter permits such a proposal where it would not be materially greater in volume than that which it replaced, it would not have a greater impact on the openness of the Green Belt than the original dwelling and it would not result in the size of the garden exceeding that which it replaced. On the last point, the development has not led to a larger garden.
6. The Council calculates that the permitted dwelling would result in an increase of about 10% in volume compared with the two semi-detached houses and an approved, unimplemented extension. Having regard also to the removal of existing outbuildings and the permitted development allowance for both original dwellings, the appellants estimate that the permitted building would result in a 2 cubic metre decrease. They also state that the orangery results in a 4% increase in floorspace of the permitted dwelling while the Council indicates that it would add 5% to the volume.
7. The LP is broadly consistent with the Framework in its approach but does not offer detailed guidance as to when an increase in volume would become material. The basis on which a replacement dwelling would be materially larger will therefore depend on the particular circumstances of the case. Whichever way it is calculated the orangery does not add significantly to the size of the building as permitted. I recognise that the Council consider that the permitted dwelling is the maximum

that is acceptable, but in my view the addition of the orangery is not so significant that a material increase in size over the original dwellings has occurred. As such, I conclude that the proposal is not inappropriate development in the Metropolitan Green Belt.

8. Openness is an essential characteristic of the Green Belt. The appeal site is in an isolated setting of generally flat open countryside with fields to the front and rear. It is close to a small hamlet of farm buildings and dwellings at Newhouse. The development has resulted in the removal of outbuildings that were more dispersed on the site than the new dwelling and garage.
9. The orangery has the appearance of a conservatory and is of limited size. The site is on a gentle bend in the road so that, although the orangery is at the rear of the dwelling and boundary vegetation may provide screening in due course, it can be seen from the road at the side of the property. The orangery does not extend any further rearwards than the 2-storey north wing of the building and is seen against the backdrop of that when viewed from the road. In this context, the addition of the orangery when considered with the permitted dwelling has not resulted in a material loss of openness. I therefore conclude that the openness of the Green Belt has not been harmed by the development.
10. As the development is not inappropriate and would not harm openness there is no need to balance any harm against other considerations in terms of the third main issue. Accordingly, the development accords with the aims of the Framework and LP Policies GB2A and GB15A.
11. There is concern at the loss of two smaller dwellings in this rural location. Nonetheless, the principle of a single, larger replacement dwelling was accepted by the earlier planning permission and the additional presence of the orangery does not materially alter this. The approved house is a substantial building and prominent as a result. However, the existing permission required a landscaping scheme by condition, which as it matures would change the visual impact of the development and ensure that it would not significantly harm the character and appearance of the countryside. Landscaping has taken place at the site but it is not clear that this is the scheme required by the Council. On a precautionary basis, therefore, conditions to secure the implementation of this as intended should be attached to a permission for the appeal scheme. I have varied the timescale suggested by the Council for implementation of the landscaping to include the next planting season. None of the other matters raised are of such significance that they would outweigh the considerations that have led to my conclusions on the main issues.
12. In addition to the landscaping conditions I have considered those suggested by the Council in the light of the advice in Circular 11/95. Conditions relating to the closure of the original access and the surface treatment of the new access are unnecessary as these aspects of the development have already taken place. Given the size of the dwelling in comparison with the previous structures on the site and the need to safeguard the openness of the Green Belt, a condition withdrawing some permitted development rights is both reasonable and necessary. As the development has already taken place, reference to tree protection and retention in a condition is unnecessary.
13. For the reasons given above I conclude that the appeal should be allowed.

*M J Moore*

INSPECTOR

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## Appeal Decision

Site visit made on 18 September 2012

by **Chris Frost BSc(Hons) DipLD FLI CBiol MSB MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 October 2012

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**Appeal Ref: APP/J1535/A/12/2177114**

**Treetops Care Home, 23-25 Station Road, Epping, Essex CM16 4HH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Treetops Care Home against the decision of Epping Forest District Council.
  - The application Ref: PL/EPF/0369/12, dated 21 February 2012, was refused by notice dated 9 May 2012.
  - The development proposed is the construction of a four storey extension following the demolition of an existing garage and store.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of a four storey extension, following the demolition of an existing garage and store, at Treetops Care Home, 23-25 Station Road, Epping, Essex CM16 4HH in accordance with the terms of the application Ref: PL/EPF/0369/12, dated 21 February 2012, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

### Main Issue

2. The main issue is the effect that proposed extension would have on the appearance, character and amenity of the area.

### Reasons

3. Station Road has a mixed residential character with detached, semi-detached and terraced houses along with apartments and, on the appeal site, a care home. The Treetops Care Home has evolved, by way of past extensions, from what appears to have been one or two residential units into what is now a single building. There is some architectural unity that has been achieved by providing a colour washed exterior with matching roof treatments. To the north-west there is a recently constructed apartment building and to the south-east a terrace of 3-storey properties known as Woodlands. Together, this group of buildings present a substantial built frontage along Station Road and this is set behind a number of protected mature trees.
4. The proposed extension would consolidate this built frontage by closing the gap between the Treetops Care Home and Woodlands from its existing width of about 11.5m to about 3.5m. The proposed extension would match the external appearance of the Treetops Care Home and would be set back slightly from the

main front elevation. The roof height would be lower than that of the parent building.

5. There is little doubt that the already substantial building at Treetops, which has a significant presence in the street scene, would become more substantial and significant if the proposed extension was to be built. However, this would be seen in the context of the very substantial building to the north-west and Woodlands to the south east, which also presents a substantial frontage to Station Road. In this context, the proposed addition, with its matching exterior and subservient position would not gain an inappropriate presence or appear out of place. Furthermore, the retention of a gap between the end of the extension and the site boundary would serve to preserve a feeling of separation from Woodlands. While existing Ginkgo trees to the rear of the extensions would become obscured, because of their position these trees are not prominent in the street scene. Accordingly, the shielding of these trees would not have a significant effect on the street scene.
6. Saved policy DBE1 of the Epping Forest District Adopted Local Plan sets out what is required to help make new development acceptable. DBE1(i) deals with matters of architectural design. There is little to suggest that existing features are not adequately respected, particularly as the extension reflects aspects of the parent building such as external appearance, window details and roof details. DBE1(ii) deals with significance in the street scene and as I have already acknowledged the significance of the care home would increase. However, the extension would reflect the appearance of the parent building and would appear appropriate to its setting. DBE1(iii) deals with materials and these would be acceptable as they would replicate those of the parent building.
7. Saved policy CP7 of the Epping Forest District Local Plan Alterations deals with urban form and quality. This has a number of aims including the protection and enhancement of urban areas and the avoidance of over-development and unsympathetic change. At CP7(iv) it also refers to the use of higher densities where compatible with the character of the areas concerned and urban design controls. Here a higher density of development would be achieved by extending an existing building in a way that reflects the form and character of the parent building. This would be in accord with CP7(iv). Otherwise, the changes proposed would be compatible with saved policy CP7 and while the care home, which is already a prominent feature of Station Road, would gain in prominence, there is good reason to find that the enlarged building would not appear out of context or otherwise excessive or unacceptable in terms of the appearance, character and amenity of the area.
8. The compliance of the scheme with the development plan suggests that planning permission should be granted and the development would also be compatible with the aim of encouraging sustainable growth that is set out in the Nation Planning Policy Framework. There are no other matters that are sufficient to indicate that planning permission should be withheld.
9. Various conditions are suggested. Other than time limits and compliance with plans, conditions are suggested in relation to:
  - a) window design on the flank elevation: this is necessary to protect privacy.
  - b) Matching materials: these are indicated on the plans so a separate condition is unnecessary.



- c) The protection of trees: this is necessary in the interests of visual amenity.
- d) Hours of construction; this is necessary in the interests of residential amenity.
- e) Wheel cleaning: this is necessary in the interests of highway amenity and safety.

*Chris Frost*

### **Inspector**

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 09-3319-05; 09-3319-06 A; 09-3319-09 C; 09-3319-10 B.
- 3) Prior to the first occupation of the development hereby approved, all window openings in the flank elevation shall be fitted with obscured glass and shall have fixed frames to a height of 1.7m above the floor of the room in which they are installed. Thereafter the windows shall be retained as constructed.
- 4) No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan and Arboricultural Method Statement for the whole site has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out only in accordance with the approved Tree Protection Plan and Arboricultural Method Statement, unless the local planning authority gives written consent to any variation.
- 5) No construction or demolition work and ancillary operations including vehicle movements on the site which are audible at the boundary of noise sensitive property shall take place outside the hours of: 08:00 to 18:30 Monday to Friday; 08:00 to 13:00 Saturday; and at no time during Sunday or Bank Holidays or Public Holidays, unless otherwise agreed in writing by the local planning authority.
- 6) No development shall take place until details of wheel washing and other cleaning facilities along with criteria for their use during construction have been submitted to and approved in writing by the local planning authority. Thereafter the approved cleaning facilities shall be installed prior to the commencement of development and used in accordance with the approved details, unless the local planning authority gives written consent to any variation.

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## Appeal Decisions

Hearing held on 9 January 2013

Site visit made on 9 January 2013

**by Roger Clews BA MSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 February 2013**

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### **Appeal A – Ref: APP/J1535/A/12/2181575**

#### **Willow Park Farm, Miller's Lane, Chigwell, Essex IG7 6DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Tariq Hussain against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/0334/12, dated 16 February 2012, was refused by notice dated 25 July 2012.
  - The development proposed is to demolish existing dwelling, pool building and detached garage and erect a replacement two-and-a-half-storey detached dwelling and a detached single-storey garage block.
- 

### **Appeal B – Ref: APP/J1535/A/12/2181576**

#### **Willow Park Farm, Miller's Lane, Chigwell, Essex IG7 6DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Tariq Hussain against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/0392/12, dated 27 February 2012, was refused by notice dated 25 July 2012.
  - The development proposed is continuation of use of buildings A, B, C, E, F & G and land within the application site for the purposes of storage with ancillary office (use class B8).
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## **Decisions**

### **Appeal A – Ref: APP/J1535/A/12/2181575**

1. The appeal is allowed and planning permission is granted to demolish existing dwelling, pool building and detached garage and erect a replacement two-and-a-half-storey detached dwelling and a detached single-storey garage block at Willow Park Farm, Miller's Lane, Chigwell, Essex IG7 6DG in accordance with the terms of the application Ref PL/EPF/0334/12, dated 16 February 2012, subject to the conditions in the schedule on pages 8 and 9 of this decision.

### **Appeal B – Ref: APP/J1535/A/12/2181576**

2. The appeal is dismissed.

## Reasons

### **Appeal A – Ref: APP/J1535/A/12/2181575**

#### *Main issues*

3. The main issues in Appeal A are:
  - (a) whether or not the proposed development is inappropriate development in the Green Belt or would harm the openness of the Green Belt; and
  - (b) whether or not the proposed development would respect its setting and the character and appearance of the surrounding area.

#### *Inappropriate development?*

4. At paragraph 89, the *National Planning Policy Framework* [NPPF] advises that the replacement of a building is not inappropriate development in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces. There are similar provisions in policies GB2A and GB15A(i) of the *Epping Forest District Local Plan*.
5. In this case, the existing house to be demolished has a footprint of about 265 square metres [sqm] and a volume of some 1,530 cubic metres [cum]. It would be replaced by a new house with corresponding measurements of some 367sqm and 2,749cum. While the two buildings would have the same use, there can be no dispute that the new house would be materially larger than the existing one.
6. However, there is a very large single-storey building about 3m away from the side of the existing house, containing a games room and lounge-bar area, a gymnasium and a swimming pool. There is also a double garage situated a similar distance away from the house. Because of the proximity of these buildings to the house, and the fact that they provide for domestic activities very closely related to the residential use of the house itself, I agree with the appellant that they should be considered as part of the building to be replaced for the purposes of the NPPF and Local Plan tests.
7. Considering the proposal on this basis, the total footprint to be replaced is about 625sqm and the total volume is some 3,043cum. The total footprint of the replacement development (house plus garage block) would be about 511sqm and its total volume about 3,081cum. Thus there would be a substantial reduction, of about 20%, in footprint and a marginal increase of 38cum in volume. But since the increase in volume would be only about 1.2%, the new building could not be said to be materially larger than the one it is to replace.
8. Criterion (ii) of policy GB15A requires that the replacement dwelling should not have a greater impact than the original on the openness of the Green Belt. The new house would be some 2m higher than the highest part of the existing dwelling on the site and it would have a longer roof ridge, which in combination with its increased volume would give it a significantly greater overall bulk. However, the harm which this would cause to the openness of the Green Belt would be balanced by the substantial reduction in the area of land covered by buildings. As a result, even after taking into account the substantially lower height of the pool and bar building compared with the new house, in my view the overall effect of the development on the openness of the Green Belt would

be neutral. Thus there would be no conflict with Local Plan policy GB15A(ii) or with that aspect of policy GB7A which also seeks to protect the Green Belt's openness.

9. On this basis, I conclude that the proposed development would not be inappropriate development in the Green Belt, and so would not conflict with NPPF policy 89 or with Local Plan policies GB2A and GB15A.

*Effect on character and appearance*

10. The house and the other buildings on the site date from the mid-1980s. While the house appears to have been designed in imitation of a rural vernacular style, overall the buildings have little architectural merit and the Council have raised no objection in principle to their replacement.
11. Miller's Lane contains buildings in a range of different styles, including traditional timber barns, simple rendered and gabled bungalows, a more formal single-storey dwelling probably dating from the 19<sup>th</sup> century, and, in and around Miller's Close, a group of two-storey houses of typical post-war appearance. At the former kennels site opposite Willow Park Farm, planning permission has recently been granted for a new dwelling in a style reminiscent of the Arts and Crafts movement.
12. In the wider rural area around Chigwell, there is a similar variety in the character of the buildings. Particularly noticeable is the presence of a significant number of large houses of fairly recent date, some standing in large grounds. These tend to espouse either an Arts and Crafts design idiom, like the new house permitted at the kennels site, or, more typically, a neo-Georgian style.
13. The proposed dwelling at Willow Park Farm would be a further example of the latter. The design is well-proportioned and the front and rear elevations would each present a pleasing symmetry, while the proposed materials (predominantly brick, stone and slate), would be similar to those found on other buildings in the area. The garage block would be built in a consistent style and would appear appropriately subordinate to the house.
14. Perhaps most importantly, it is proposed that the construction of the new dwelling would be accompanied by a re-modelling of the landscaping on the site<sup>1</sup>. The new house would be set further back into the site than the existing house and there would be a new, more formal pattern of hard and soft surfacing, together with new tree- and hedge-planting, in front of it. All this would provide a fitting setting for the formal architecture of the house itself.
15. The Council would prefer an architectural treatment that reflects the rural vernacular. However, I consider that the proposed design would fit in appropriately with the wide variety of building styles found in the surrounding area. While the new house would make a significant architectural statement, its site is sufficiently large that it would not appear overly ostentatious.
16. For these reasons I conclude that the development proposed under Appeal A would respect its setting and the character and appearance of the surrounding area, and would not conflict with Local Plan policies GB7A, DBE1 and DBE4. In

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<sup>1</sup> As illustrated in the Landscape Assessment by Open Spaces Consultants, dated 8 October 2012, which was submitted with the appeal.

summary, these policies, which are consistent with the NPPF, require that new development, in the Green Belt and elsewhere, respects its setting in terms of character, detailed design and external materials, is appropriately sited within the street scene and the wider landscape, and has no excessive adverse impact on rural character or visual amenity.

*Conditions*

17. The conditions in the schedule on pages 8 and 9 below are based on those suggested by the Council and discussed at the hearing. Condition 2 is needed for the avoidance of doubt and in the interests of proper planning. Condition 3 is necessary because the basis on which planning permission is being granted for the proposed buildings is as replacements for the existing buildings. Conditions 4 and 5 are needed to define the scope of the planning permission in accordance with the planning application, for the avoidance of doubt in future and to ensure that the residential use does not expand into the surrounding countryside.
18. Conditions 6 to 10 are necessary to ensure that the external appearance of the proposed development and the hard and soft landscaping are appropriate to its rural location in the Green Belt, and that there is no excess surface-water run-off from the driveway and vehicle turning area. Condition 11 is needed to ensure that adequate protection is given to any protected species that may be present on the site. Condition 12 is necessary in the interests of highway safety, condition 13 in order to safeguard the living conditions of neighbouring residents and condition 14 to ensure that adequate provision for car-parking is retained.
19. Finally, condition 15 is needed, notwithstanding the appellant's objections, in view of the fact that the site lies in the Green Belt and the proposed development is permitted on the basis that the replacement buildings would not be materially larger than those being replaced. Allowing extensions or outbuildings to be built as permitted development would undermine that justification. However, I see no need for the condition to prevent a hard surface being laid to the side of or behind the new house and so I have removed the reference to Class F from the Council's suggested condition.
20. The Council had also suggested a series of conditions requiring possible contamination of the site to be investigated and remediation measures to be carried out if contamination was found. But I see no reason to think that the site to be developed has been part of the working area of the farm, except perhaps in the distant past when harmful contamination is unlikely to have occurred. Consequently I consider those conditions to be unnecessary.

**Appeal B – Ref: APP/J1535/A/12/2181576**

*Main issue*

21. The main issue in Appeal B is the effect of the use for which planning permission is sought on the character and amenities of the surrounding area, which lies in the Green Belt.

*Effect on character and amenities of the area*

22. The buildings which are the subject of Appeal B include four large agricultural barns and two former stable blocks. They are currently used by Mr Hussain

and his son in connection with their property and development business. I saw during my site visit that the buildings contain a wide variety of vehicles, machinery and tools, building materials and accessories, domestic furniture and white goods. Parts of the stable buildings also appear to be used to provide office, kitchen and toilet facilities.

23. The access to the site is off Miller's Lane, some 200m south of its junction with Gravel Lane. While Gravel Lane is a fairly busy traffic route, I saw during my site visit that Miller's Lane is a quiet country lane, with infrequent traffic. It is subject to a weight restriction preventing its use by vehicles over 7.5 tonnes except for access to premises along it.
24. There is no evidence that the current use of the buildings involves large-scale activity or a large number of vehicle movements, and there is no record of any road accidents associated with it. I was told that Mr Hussain and his son typically leave the premises in the morning to travel to the sites where they are working, and return in the evening. There are occasional deliveries or collections of materials from the premises but these are infrequent. This account is supported by the absence of any complaints or objections from neighbours or the local highway authority in respect of the current use.
25. However, in reaching a decision on this appeal I have also to consider what could happen if Mr Hussain were to sell the property, or indeed if the nature of his business were to change. The number and sizes of the buildings involved mean that they could potentially accommodate quite a substantial storage and distribution business. TRICS figures provided to the Council by the local highway authority indicate that a comparable land-use of this size in an urban area could generate up to 80 vehicle movements a day.
26. While fewer movements would normally be expected at a rural site such as this, even half that number is likely to represent a considerable increase in the amount of traffic using Miller's Lane, on the evidence before me. Because of the nature of a B8 use it is also likely that a high proportion of the vehicles would be HGVs, which are normally prevented from using the lane. These two factors would, in my view, have a significant, harmful impact on the quiet, rural character of Miller's Lane. That impact could well be exacerbated by noise from vehicle movements and other activities within the site.
27. In reaching this view, I accept that if the buildings were to revert to agricultural use, this would also be likely to result in increased traffic movements to and from the premises and increased activity on the site. But the frequency of agricultural traffic and the intensity of agricultural activity tend to vary according to the seasons, whereas a B8 use would most likely generate constant traffic flows through the year. Moreover, unlike storage and distribution premises and their associated traffic, farming activities and agricultural vehicles are characteristic features of rural areas. For these reasons, a reversion to agricultural use would not have the harmful effects on the character and amenities of the area that a B8 use could cause.
28. If planning permission were to be granted, a condition could be imposed preventing the storage of materials outside the buildings on the site. But any resulting benefit to the openness of the Green Belt and the character and appearance of the area would, in my view, be outweighed by the harmful effects I have identified.

29. Mr Hussain submitted a Unilateral Undertaking after the hearing, the effect of which would be to prevent the buildings from being used except by a person resident at Willow Park Farm, or by a company controlled by such a person, in the event that planning permission were granted. However, this would not prevent a future increase in the intensity of the activity and frequency of vehicle movements associated with a B8 business on the site. Similarly, a personal permission preventing the use being carried out by anyone other than Mr Hussain and his son would not prevent such intensification of use from occurring in the future. In any event, on the evidence before me in this case I do not find the strong compassionate or other personal grounds which Circular 8/93 advises are needed to justify such a personal permission<sup>2</sup>.
30. For these reasons, I conclude that the use for which planning permission is sought under Appeal B has the potential to cause significant harm to the character and amenities of the surrounding area, which lies in the Green Belt. Although the current level of use does not have this harmful impact, no means of ensuring that the proposed B8 use would not do so in future has been demonstrated to exist. Consequently, granting planning permission would conflict with Local Plan policies GB8A(iii) and ST4(iv), which seek to ensure that any proposed use does not have a significant detrimental impact on the character and amenities of an area.
31. Whatever the outcome of Appeal B, there is no evidence that the Council are contemplating taking action against Mr Hussain's existing use of the site. Nonetheless, I am aware that section 3 of the NPPF supports the sustainable growth of business and enterprise in rural areas, including through conversion of existing buildings, an objective that would be met by the Appeal B proposal. On the other hand, the NPPF also advises that planning should take account of the different character of different areas, protecting the Green Belt and recognising the intrinsic character of the countryside. These objectives would be compromised by the proposed development and I consider that the resulting harm would clearly outweigh any benefits in terms of promoting the growth of business and enterprise. Hence the proposal would not represent sustainable development, for which the NPPF advises there is a presumption in favour.

### **Conclusions**

32. For the reasons given above, and having had regard to all other matters raised, I conclude that Appeal A should succeed, and planning permission should be granted subject to conditions, but that Appeal B should be dismissed.

*Roger Clews*

Inspector

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<sup>2</sup> See Circular 11/95: *The Use of Conditions in Planning Permissions*, paragraph 93.



**APPEARANCES**

**FOR THE APPELLANT:**

Mr I Coward BA(Hons) MA MRTPI	Collins and Coward Planning & Development Consultancy
Mr W Hussain	Appellant's son
Mr C Biss RIBA	BB Partnership Ltd
Mr K Law RIBA	BB Partnership Ltd

**FOR THE LOCAL PLANNING AUTHORITY:**

Mrs K Smith BA(Hons) MA MRTPI	Epping Forest District Council
Cllr John Knapman	Epping Forest District Council

**INTERESTED PERSON:**

Cllr Richard Alvin	Chigwell Parish Council
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**DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Copy of Council's letter of notification of the hearing arrangements, and list of persons notified.
- 2 Copy of decision notice, plans and committee report for application Ref EPF/1771/12 - Land adjoining Rest Harrow, The Kennels, Miller's Lane, Chigwell.
- 3 Unilateral Undertaking dated 30 December 2012 by Mrs Nasim Hussain and Svenska Handelsbraken AB Co UK to the Council [NB withdrawn and replaced by the Unilateral Undertaking referred to in paragraph 30 of this decision].
- 4 Land Registry register extract for title number EX221679: Willow Park Farm, Miller's Lane, Chigwell.
- 5 Copy of the local highway authority's response to consultation on application Ref EPF/0392/12, dated 14 June 2012.
- 6 Copy of an email from Mr M Lane, local highway authority development management officer, to Mrs Smith, dated 9 October 2012.

**PHOTOGRAPHS SUBMITTED AT THE HEARING**

- 1 Sheet containing two photographs of the former kennels site on the opposite side of Miller's Lane from the appeal sites.

**SCHEDULE OF CONDITIONS FOR THE DEVELOPMENT PERMITTED UNDER  
APPEAL A – Ref: APP/J1535/A/12/2181575**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Except as otherwise required by any of the following conditions, the development hereby permitted shall be carried out in accordance with the following approved plans: ESA-1000, ESA-201 Rev B, ESA-210 Rev B, ESA\_300 Rev D, ESA\_301 Rev C, ESA\_302 Rev C, ESA\_303 Rev D, ESA\_304 Rev A and ESA\_310 Rev B.
- 3) No later than six months after the date of substantial completion of the dwellinghouse hereby permitted, the existing house, the adjacent pool and bar building and the adjacent garage as shown on drawing No ESA-201 Rev B shall all be demolished in their entirety and all materials resulting from the demolition shall be removed from the site.
- 4) No residential use shall take place except within the area inside the red line identifying the application site on drawing No ESA\_300 Rev D.
- 5) The building identified as building D on drawing no. ESA-201 Rev B shall only be used as ancillary accommodation for the approved dwellinghouse and shall not be occupied as a separate residential unit.
- 6) No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of levels have been submitted to and approved in writing by the local planning authority. The submitted details shall show cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground-floor slabs of buildings, roadways and access-ways and landscaped areas. Development shall be carried out in accordance with the approved details.
- 8) No development or site clearance shall take place until a scheme of soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include a statement of the methods, including a timetable, for its implementation (linked to the development schedule) and indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
- 9) The soft landscaping scheme shall be carried out in accordance with the approved details and the agreed timetable. If any plant dies, becomes diseased or fails to thrive within a period of five years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the local planning authority agrees to a variation beforehand in writing.
- 10) No development shall take place until details of the extent of the driveway and vehicle turning area for the development, together with the proposed surfacing materials and the means of surface water drainage, have been submitted to and approved in writing by the local planning

authority. Development shall be carried out in accordance with the approved details, and the approved surface treatment and means of surface water drainage shall be completed prior to the first occupation of the development or within one year of the substantial completion of the development hereby approved, whichever occurs first.

- 11) No development shall take place until surveys have been undertaken to check for the presence of bats and Great Crested Newts on the site and the surveys have been submitted to and approved in writing by the local planning authority. If the surveys reveal that bats and/or Great Crested Newts are present on the site, no development shall take place until details of proposed mitigation works and a timetable for their implementation have been submitted to and approved in writing by the local planning authority. All the approved mitigation works shall be carried out in accordance with the approved details and timetable.
- 12) No development shall take place until wheel-washing facilities for vehicles leaving the site during construction works have been installed. The installed facilities shall be used to clean vehicles immediately before they leave the site.
- 13) No construction/demolition works or ancillary operations, including vehicle movements on site which are audible at the boundary of the appeal site, shall take place outside the hours of 0730 to 1830 on Mondays to Fridays and 0800 to 1300 hours on Saturdays and no such works or operations shall take place at any time on Sundays or on bank or public holidays unless otherwise agreed in writing beforehand by the local planning authority.
- 14) 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), the garages hereby approved shall be retained so that they are capable of allowing the parking of cars together with any ancillary storage in connection with the residential use of the site, and shall at no time be converted into a room or used for any other purpose.
- 15) 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 enlargement of the dwellinghouse permitted by virtue of Classes A and B of Part 1, Schedule 2 to the Order and no development permitted by Class E of Part 1, Schedule 2 to the Order shall be carried out.

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