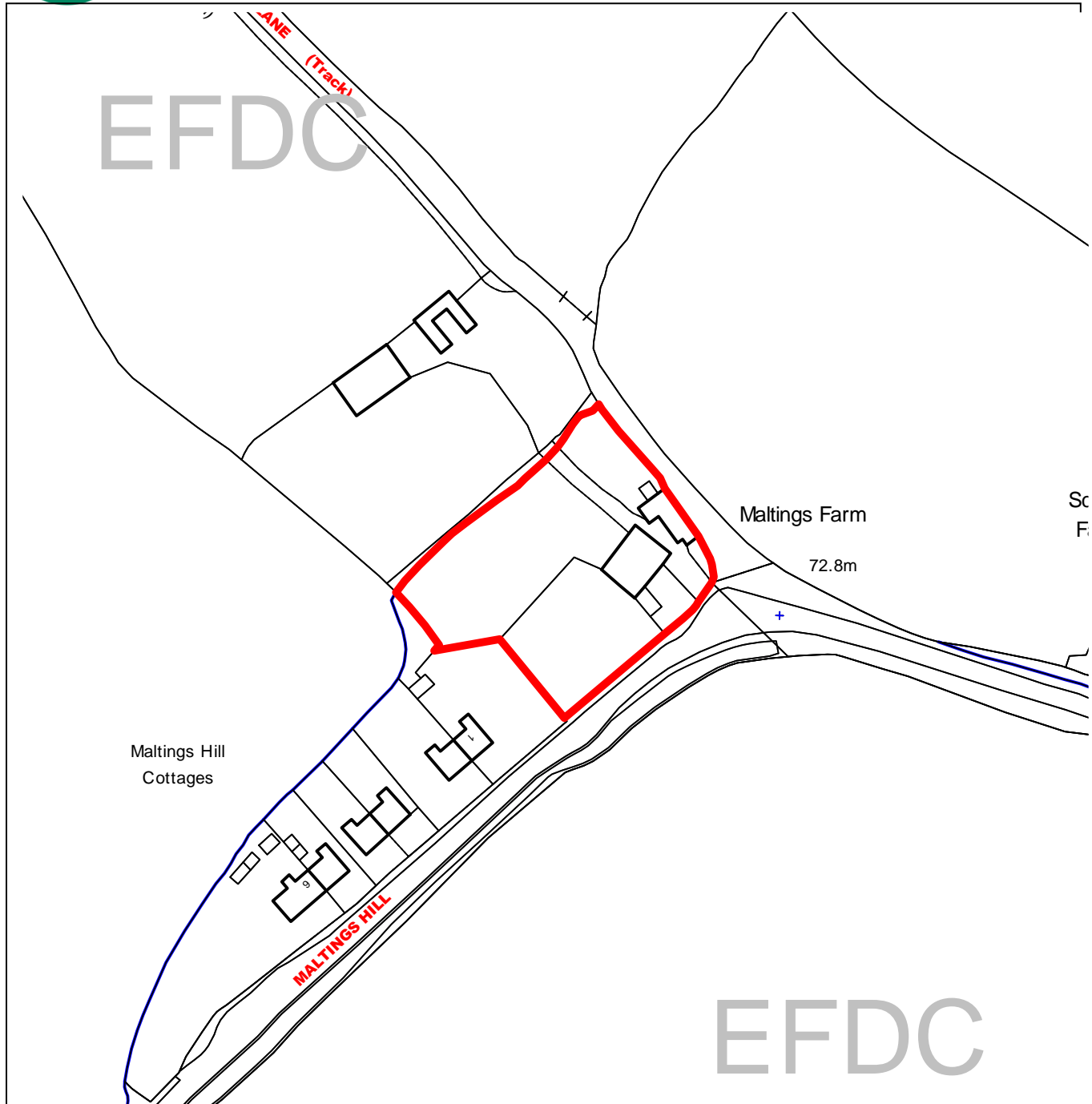




Epping Forest District Council



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Application Number:	EPF/1656/20
Site Name:	Maltings Farm Church Road Moreton Ongar CM5 0JY
Scale of Plot:	1:1250

Report Item No: 11

APPLICATION No:	EPF/1656/20
SITE ADDRESS:	Maltings Farm Church Road Moreton Ongar CM5 0JY
PARISH:	Moreton, Bobbingworth and the Lavers
WARD:	Moreton and Fyfield
APPLICANT:	Mr Ray Lewy
DESCRIPTION OF PROPOSAL:	Reserved matters application to EPF/0181/18 for removal of outbuildings and existing dwelling. Erection of three detached dwellings. Formation of new highway access and ancillary works.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=640139

CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: A1/664; 01/B, 02/B, 03/B, 04/B, RBL/MF/01, location plan, Arboricultural report, design and access statement, preliminary ecological assessment
- 3 No construction works above ground level shall take place until (documentary and photographic) details of the type and colours of the external finishes of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development permitted by virtue of Class A, B and E of Part 1 to schedule 2 shall be undertaken.
- 5 Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.
- 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 07.30 to 18.30 Monday to Friday and

08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

- 7 No preliminary ground works shall take place until a flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tools. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.
- 8 Prior to preliminary ground works taking place, details of foul and surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.
- 9 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 Phase 2 report, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 10 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 11 Hard and soft landscaping shall be implemented as shown on Richard Smallwood Associates Ltd 'existing and proposed site plan' drawing number A1/664/01B dated January 2020. and the accompanying planting schedule unless the Local Planning Authority gives its prior written approval to any alterations 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.
- 12 Prior to preliminary ground works taking place, including any works of demolition, a Construction Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 1. The parking of vehicles of site operatives and visitors
 2. Loading and unloading of plant and materials

3. Storage of plant and materials used in constructing the development
4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
5. A scheme for recycling/disposing of waste resulting from demolition and construction works.

- 13 Prior to first occupation of the development, a scheme for the monitoring and management of any ecological assets on the site, where present, shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
- 14 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and/or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the local planning authority prior to the recommencement of development works. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.
- 15 Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 16 Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point for each dwelling that has a garage or allocated parking space and 1 Electric Vehicle Charging Point for every 10 properties that share unallocated parking shall be installed and retained thereafter for use by the occupants of the site.
- 17 Prior to the first occupation of the development the access arrangements, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.
- 18 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

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, supported by 1 local resident (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)

Description of Site

Maltings Farm is a detached dwelling located within a small group of dwellings in Maltings Hill. The dwelling appears single storey from the front but was extended significantly with two storey wings at the rear at some point in the 1970's. To the right of the property are substantial outbuildings which may have originally had agricultural use, but have clearly been part of the residential curtilage for a considerable period. To the left of the property is a substantial and overgrown garden area, where according to the applicants submission, there were previously two cottages. To the rear of the houses is a plot of land that was last used as a commercial cattery, with a variety of buildings, some of which are not permanent and substantial.

Description of Proposal

Planning permission is sought for the approval of reserved matters in connection with the granting of an outline planning application for the removal of existing outbuildings and an existing dwelling to be replaced with 3 detached dwellings, including a new highway access and ancillary works. The outline application was allowed on appeal following the refusal of EPF/0181/18. The reserved matters that are being sought for approval are as follows:

Access
Appearance
Landscaping
Layout
Scale

Relevant Site History:

Various applications on the site however the below references are directly relevant to this application:

EPF/0018/20 - Reserved Matters Application ref: EPF/0181/18. (Outline planning application for removal of outbuildings & an existing dwelling. Erection of x3 no. detached dwellings. Formation of a new highway access & ancillary works). – Refuse Permission:

1. The development, by reason of its overall scale, would have a greater impact on the openness of the Green Belt than the existing development and as such would not meet any exceptions to inappropriate development. No very special circumstances exist that clearly outweigh the identified harm. Therefore the proposal constitutes inappropriate development harmful to the Green Belt, contrary to Policy GB2A of the Adopted Local Plan and Alterations (2006), Policy DM4 of the Epping Forest District Local Plan

EPF/2140/19 - Removal of existing dwelling and outbuildings. Erection of three new detached dwellings. Formation of new highway access and ancillary works. (Withdrawn)

EPF/0181/18 - Outline planning application for removal of outbuildings and existing dwelling. Erection of three detached dwellings. Formation of new highway access and ancillary works (06/04/2018) – Refuse Permission (allowed with conditions on appeal)

Policies Applied:

Adopted Local Plan and Alterations 2006:

CP1 – Protecting the quality of the rural and built environment
CP3 – New Development
CP6 – Sustainable Urban Development patterns

- GB2 – Development in the Green Belt
- GB7A – Conspicuous Development
- GB8A – Change of use or adaptation of buildings
- NC4 – Protection of Established Habitats
- NC5 – Promotion of nature conservation schemes
- RP4 – Contaminated Land
- H2A – Previously Developed Land
- H9A – Lifetime Homes
- U3B - Sustainable Drainage Systems
- DBE1 – Design of New Buildings
- DBE2 - Effect on Neighbouring Properties
- DBE4 – Design in the Green Belt
- DBE6 – Car Parking in new development
- DBE8 – Private amenity space
- DBE9 – Loss of Amenity
- LL1 – Rural Landscape
- LL7 – Planting protection and care of trees
- LL10 – Adequacy of provision of landscape retention
- LL11 – Landscaping Schemes
- ST1 – Location of Development
- ST2 – Accessibility of Development
- ST4 – Road Safety
- ST6 – Vehicle Parking
- I1A – Planning Obligations

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.

The Epping Forest District Local Plan (Submission Version) 2017 has been approved for publication and is the Plan the Council intend to submit for independent examination. The policies in the Plan are considered to be up to date and accord with national policy and therefore should be given substantial weight in the consideration of planning applications in accordance with the Council's decision on 14 December 2017 and paragraph 217 of the NPPF. The policies and the Plan are supported by up to date and robust evidence – the evidence should also be treated as a material consideration. The relevant policies in the context of the proposed development are:

- SP1 – Presumption in favour of sustainable development
- SP5 – Green Belt and District Open Land
- T1 – Sustainable Transport Choices
- DM1 - Habitat protection and Improving Biodiversity
- DM9 – High Quality Design
- DM10 – Housing Design and Quality
- DM15 – Managing and Reducing Flood Risk
- DM16 – Sustainable Drainage Systems
- DM19 – Sustainable Water Use
- DM21 – Local Environmental Impacts, Pollution and Land Contamination

Summary of Representations:

No. of neighbours consulted: 11 – 3 objections received

SCOTTS FARM – OBJECTION: Proposal is overdevelopment of the site, dwellings out of character with the area, detrimental impact on highway safety, Maltings Farm is a historic part of the village and should be retained. Development does not conform to the Neighbourhood Plan.

1 MALTING'S HILL – OBJECTION: Development does not conform to the Neighbourhood Plan, out of keeping with surrounding area, would be detrimental to highway safety, part of the development would cause harm in relation to loss of privacy. Unsustainable development.

PARISH COUNCIL – OBJECTION:

The Parish Council OBJECTS to this application on the following grounds:

It does not comply with Policy MBL.1.1 of the Moreton, Bobbingworth and the Lavers Neighbourhood Plan, which forms part of local planning policy, and states that “New Open Market housing developments should predominantly comprise one or two bedroom houses”.

The Parish Council has noted the reduction in the footprint size of the proposed dwellings in this revised application but nonetheless it is still for 3 x 3 large bedroomed homes.

The Parish Council is still in dispute with the EFDC's legal opinion regarding the Neighbourhood Plan. This has to date been the subject of a stage 1 and stage 2 complaint and has not been resolved to the satisfaction of the Parish Council.

The Parish Council would therefore reiterate that Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination must be made in accordance with the policies in the development plan as at the date of the reserved matters application and the argument that, because outline permission has been granted the neighbourhood plan is not valid or is outweighed conflicts with the wording of section 38(6).

It is not correct to describe the existence of the outline permission as an “exceptional circumstance” that justifies outweighing the relevant and more recent policies in the adopted Neighbourhood Plan. There is no legal basis for such an approach and, if uncorrected at the time of the decision by members, it will seriously mislead the members and the resultant decision to approve (if that is what transpires) may be tainted by illegality.

All the outline permission has done is approve the principle of the development, but it does not, and cannot as a matter of law, pre-determine issues that the applicant has chosen to leave undetermined until the reserved matters stage. Section 38(6) is clear, and it applies to any determination that is required to be made under the Town and Country Planning Act 1990 and which includes a determination on a reserved matters application.

In the circumstances it is inappropriate that a decision is taken which may be tarnished by illegality. The Parish Council requests that any discussion is deferred until the definitive legal position is accepted by all parties.

Main Issues and Considerations:

Procedural & Legal Matters

During the consideration of the previously refused Reserved Matters application (EPF/0018/20), by the District Development Management Committee, the legal status of the Moreton, Bobbingworth and The Lavers Neighbourhood Plan was assessed in relation to that application (for which the circumstances have not changed during the assessment of the current application). The reason for this was because Outline Planning Consent was granted on Appeal for the removal of outbuildings and the existing dwelling and the erection of three detached dwellings, along with formation of new

highway access and ancillary works in March 2019, which was before the adoption of the Moreton, Bobbingworth and The Lavers Neighbourhood Plan in October 2019. However, the current Reserved Matters application is being determined after the adoption of the Neighbourhood Plan.

The Council took legal advice on this matter and a legal advisor attended the DDMC meeting and gave advice on this matter to the Committee That advice is relevant to this application. Section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 provides that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts the determination must be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for these purposes means the relevant documents within the development plan as they stand, at the time of the making of the decision which, in this case, includes the Moreton, Bobbingworth and The Lavers Neighbourhood Plan. If there are conflicts between the Neighbourhood Plan and other documents within the development plan, the Neighbourhood Plan, being the most recent policy will prevail (S38(5) PCPA 2004).

Notwithstanding the above, the extant Outline Planning consent was (and is) a material planning consideration that was, and is, given significant weight in this application and it was, and is, considered that in considering all the circumstances in this particular case (including the unique cross over of the dates of the Neighbourhood Plan adoption and the planning appeal decision), this would constitute an material planning consideration which tips the balance in favour of a grant of permission having regard of the relevant policy in the adopted Neighbourhood Plan. Members of the DDMC agreed with this conclusion on the legal status of the matter on the previous application before them and officers have adopted this conclusion in this application. It is also noted that the adopted Neighbourhood Plan does not prohibit the erection of dwellings over 2 bedrooms, but looks for new dwellings to predominately be of 1 or 2 bedrooms. The Parish Councils position on the legal issues (as stated in their objection above) are noted but as explained above is not one that the Council agrees with.

It is important to note that as the outline application EPF/0181/18 was allowed on appeal, it is considered that the general principle of development in this location is acceptable. Therefore, this current application shall be assessed on the following criteria:

Access
Appearance
Landscaping
Layout
Scale

Access

There have been objections from neighbours that the proposal would result in an insufficient access detrimental to highway safety. There are two accesses proposed into the site; one that serves the left and central dwellings and another that serves the right dwelling. The left/central access measures at 9.1 metres at its widest and 6 metres at its narrowest. The right access measures 5.6 metres at its widest and 3 metres at its narrowest. Essex Highways have been consulted as part of the application and have recommended that the proposal is acceptable in relation to highway safety. This aspect of the Reserved Matters is acceptable and conforms with planning policy.

Appearance

The proposed three dwellings are similar in character and appear of a modest design. The gabled roof forms incorporate traditionally formed dormer windows to the front and rear elevations. The external walls would be finished in a light grey coloured render, with natural black slate roof tiles

utilised for the roof. The use of such materials would not be out of keeping with the surrounding area and would not be detrimental to the character of the street scene. The appearance of the proposal conforms with planning policy.

Landscaping

The proposal includes a mixture of hard and soft landscaping, with hard landscaping found predominately to the front in the form of permeable paving and soft landscaping to the rear. Soft boundary treatments in the form of hedging and trees behind are located to the front of the site. The Council's Tree and Landscaping team have been consulted on the application and had no concerns surrounding the application. The proposal would be in accordance with local policy.

Layout

The site's layout is linear in design and set back approximately 14 metres from the front boundary of the site. There is a 4 metre separation between the dwellings allowing views through the site. Each plot benefits from generous amenity space at the front and rear. The dwellings are located a sufficient distance away from neighbouring dwellings so as to not cause significant harm to neighbouring properties. It is considered that the layout of the site is acceptable in planning terms.

Scale

Several objections have been raised surrounding the scale of the development. The proposed dwelling houses shall be single storey with rooms in the roof, so a relatively low scale of development. The Moreton, Bobbingworth and The Lavers Neighbourhood Plan suggests that new build houses should **predominately** contain 1-2 bedrooms, rather than 3 bedrooms as this scheme puts forward in each dwelling. However, it should be noted that the Neighbourhood Plan **does not prohibit** dwellings with over 2 bedrooms from being erected in the Parish, and these cases should be judged on their merits and taking into consideration all material planning matters.

The outline consent previously granted was submitted with indicative plans similar in scale to this proposal. Whilst the previous plans were only indicative, the Planning Inspector made it clear within their appeal decision that *"a plan accompanying the application indicates the built form reflecting the description of development, although this is a possible rather than definitive layout and design. As the Council had regard to this indicative plan in determining the application, I have dealt with the appeal on the same basis"*.

The previous reserved matters application was refused for the following reason:

The development, by reason of its overall scale, would have a greater impact on the openness of the Green Belt than the existing development and as such would not meet any exceptions to inappropriate development. No very special circumstances exist that clearly outweigh the identified harm. Therefore the proposal constitutes inappropriate development harmful to the Green Belt, contrary to Policy GB2A of the Adopted Local Plan and Alterations (2006), Policy DM4 of the Epping Forest District Local Plan

The approximate volume of the existing buildings on site is approximately 964.63m³. The approximate total volume calculations for the Outline proposal was 1,309m³. The proposed volume for the current reserved matters application is 1,154m³. The scale of the proposed development would be less than the scale of the outline consent and it is considered the current reserved matters application overcomes the previous reason for refusal.

It is considered that the scale of the dwellings within the site is acceptable in planning terms and whilst the proposal appears contrary to the Neighbourhood Plan, the proposal meets the Nationally Prescribed Space Standards as outlined in Policy DM10 of the Epping Forest District Local Plan

(Submission Version) 2017 and the Neighbourhood Plan does not outweigh the need for housing across the District. Permitted Development Rights can be restricted to better manage the scale of any future development on the site. On balance, the proposal is compliant with planning policy.

Other matters

A preliminary ecological assessment has been submitted alongside this reserved matters application, concluding that the development would not cause adverse impacts upon legally protected/priority species and habitats. It is recommended within the report that a construction management plan is included within any planning conditions if the application is granted permission. This would be a reasonable condition to add alongside a condition focusing on the monitoring and management of any ecological assets where present prior to first occupation.

Conclusion:

The proposal is acceptable in terms of Access, Appearance, Landscaping, Layout and Scale. It is recommended that planning permission is granted 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: Alastair Prince
Direct Line Telephone Number: 01992 564462

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