

**Report to District Development  
Management Committee**



**Epping Forest  
District Council**

**Report Reference: EPF/2712/19**  
**Date of meeting: 26 April 2021**

**Address: Nazeing Glass Works, Nazeing New Road, Nazeing, Broxbourne  
EN10 6SU.**

**Subject: Application for Outline Planning Permission for the demolition of all buildings & structures on the site & comprehensive mixed use development comprising up to 5,000sqm (GIA) floorspace for employment uses including retail (Class A1), office (Class B1a), light industrial (Class B1c), health care (Class D1), leisure (Class D2), a maximum of 230 residential (Class C3) units, the formation of new pedestrian, cycle & vehicular circulation routes & means of access, new private & public open space, play space, cycle & vehicular parking.**

**Responsible Officer: Sukhi Dhadwar (01992 564597)**

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

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*This application is before this Committee since it proposes a 'large scale' development as defined in Article 10 of the Constitution (Pursuant to Article 10 of The Constitution).*

**1. RECOMMENDATION**

1.1 That planning permission be **REFUSED** for the following reasons:

- 1) The majority of the site is located within land designated as an existing employment site and is also designated for employment in the Local Plan Submission Version. The purpose of this designation is to retain and enhance employment sites such as this one to enable their vital role in accommodating the level of employment growth required over the Local Plan period. The development would result in the unacceptable loss of employment floorspace within a designated employment site, which has also been identified as appropriate for employment intensification. The introduction of residential uses on

**the site fails to perform an enabling role to the renewal of the employment function of the site. The lesser level of employment re-provision proposed is further compromised by the lack of detail provided to satisfy the Council that a high quality and true employment-led mixed-use scheme will be delivered. The starting point for any employment-led mixed-use scheme on the site must be the re-provision of the existing quantum of employment floorspace for its existing uses, or for other activities within the B Use Class, or uses of an employment character which are Sui generis or within Use Class E. The proposed development is therefore inconsistent with the Council's approach to meeting the District's employment needs to support economic growth required. It is therefore contrary to the requirements of policies E1, E2, E4A of the Adopted Local Plan along with policies SP 2 and E 1 of the Local Plan Submission Version.**

- 2) The application does not provide sufficient information to satisfy the Council, as Competent Authority, that the development would not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM 2 and DM 22 of the Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.**
- 3) The submitted viability assessment was found to have insufficient information. It is for this reason that the Council is unable to fully and properly assess whether it would be financially unviable for the proposal to provide 40% of the onsite housing provision as affordable. The proposal therefore fails to meet a key housing need within the District and as such is contrary to the requirements of paragraph 62 of the National Planning Policy Framework, policy H5A of the Adopted Local Plan and policy H2A of the Local Plan Submission Version 2017.**
- 4) The application site is located outside of the areas of lowest flood risk and the type of development proposed is highly vulnerable if flooding does occur. Since the proposal fails to demonstrate that it would provide sufficient wider sustainability benefits to the public to outweigh the risks posed by the development, it does not meet the requirements of the Exception Test. The proposal is therefore**

**contrary to the requirements of paragraphs 160 and 161 of the NPPF and DM 15 of the Local Plan Submission Version Plan.**

- 5) A S106 Agreement has not been sought by the Council as the proposed development is in principle unsustainable. However, had the Council found the principle of the development to be acceptable, the Council would have sought planning obligations to deliver the necessary infrastructure needed to make the impact of the development on the Epping Forest SAC, education provision, health provision and sustainable travel acceptable. The offer made by the applicant falls short of the contributions required to make these impacts acceptable. The proposal is therefore contrary to policy D1 of the Local Plan Submission Version 2017 and the National Planning Policy Framework.**
  
- 6) The proposal would introduce a 5-storey block of flats which would be in close proximity to the Nazeing Meads South Lagoon and as a result would represent an incongruous and prominent visual intrusion to the detriment of the landscape character of the site. It would also result in significant adverse impact when viewed from the surrounding countryside to the detriment of the character of the Lee Valley Regional Park and is therefore contrary to the requirements of the National Planning Policy Framework policies CP2, RST24, DBE1, LL2 of the Adopted Local Plan and Alterations along with SP 3 and DM 9 of the Local Plan Submission Version 2017.**
  
- 7) The public realm which would be provided by the development would be dominated by hard surfacing and its layout would give the impression of prioritising vehicular traffic over pedestrians. Consequently, it would not result in the kind of user-friendly multi-purpose public domain sought by the National Planning Policy Framework, policies DBE3 and DBE5 of the adopted Local Plan and policy DM9 of the Local Plan Submission Version and which would be necessary to make such a highly intensive development successful.**
  
- 8) The southern section of the site falls within land designated as Green Belt. The creation of an access road and car parking spaces along with the removal of trees in this section of the site falls outside of the list of exceptions to inappropriate development contained within**

**paragraphs 145 and 146 of the NPPF. These works are therefore inappropriate development in the Green Belt and by definition harmful. No very special circumstances or other considerations have been advanced that would outweigh the harm caused by the inappropriateness and the other harm identified. The development would therefore conflict with requirements of chapter 13 of the NPPF and policies LL2, GB2A and GB7A of the adopted Local Plan and Alterations along DM 4 of the of the Local Plan Submission Version 2017.**

## **2. SITE AND SURROUNDINGS**

- 2.1 The application site has an area of 2.9 hectares; its topography is relatively flat, and it is accessed from Nazeing New Road. Approximately half of the Site falls within land that is designated as being part of an existing Employment Area known as the 'Nazeing Glassworks Estate.' All existing buildings on the site fall within this area. The largest single building is operated by the Nazeing Glassworks Company and has an area of approximately 2,958 sqm. This business comprises industrial manufacture, retail and associated activities. Other uses within the Employment Area of the site include, fenestration manufacture, furniture manufacture, metal pressing and forming, car spraying and car sales, office accommodation, education and training services, veterinary activities, computer services, design services and warehousing.
- 2.2 The buildings within this area range between one and two storeys and are mainly constructed of brick and galvanised steel.
- 2.3 Located centrally within the site on a green verge north east of the central access road which runs parallel to Nazeing New Road is a Silver Lime Tree which is protected by a Tree Preservation Order (TPO T7). The south western boundary of this road marks the western boundary of the designated Employment Area.
- 2.4 Further south west from the central access road is an open area of grass land known as Nazeing Mead. Trees line the western boundary of the site adjacent to the existing residential properties at The Mead. This grassed area whilst open, has no land use designation on it.
- 2.5 To the south of this grassed area, is a more densely vegetated and wooded area which is included within land designated as Green Belt.
- 2.6 The whole site falls within the Lee Valley Regional Park Area.

- 2.7 The whole site falls within the Environment Agency's Flood zones 2 and 3. The Adopted Local Plan's proposals map also identifies it as an area at risk from flooding.
- 2.8 Adjoining the site to the north are 2 industrial buildings; a caravan park, beyond which is the Public Right of Way number 64; Meadgate Road and the River Lee Navigation Canal. To the south is woodland and the south western section of the Nazeing Meads South Lagoon Lake which falls within land designated as the Lee Valley Central Local Wildlife Site. To the east is a caravan park; recreational land and beyond that the Nazeing Meads South Lagoon Lake. To the west are residential properties fronting Nazeing New Road, and beyond that woodland.

### **3. PROPOSED DEVELOPMENT**

- 3.1 Outline Planning Permission is being sought for the demolition of all buildings and structures on the site (8494 sqm) and the replacement with a mixed use development comprising up to 5,000sqm (GIA) floorspace for employment uses including 960 sqm of office (Class B1a), 3,025sqm (GIA) of light industrial (Class B1c) and 1,015sqm (GIA) of flexible retail, health and leisure (Class A1, D1 and D2).
- 3.2 Matters for which approval is sought include access, landscaping, layout and scale. The only matter which is to be reserved is appearance.
- 3.3 The flexible A1/D1/D2 floorspace will be restricted to the following maximum levels:
- Up to 450sqm (GIA) of retail uses, up to 310sqm (GIA) of health uses and 280 sqm of leisure.
  - A maximum of 230 residential (Class C3) units made up of 86, one-bedroom apartments which have an internal size of 50 sqm and 144, two-bedroom apartments which have an internal size of 70 sqm. 20% of the units will be affordable.
- 3.4 7 buildings are proposed which range between 3 and 5 storeys in height.
- 3.5 The western arm of Block B, the eastern arm of Block D, the eastern sections of E and F and Block G are proposed to be three storeys, with a maximum height of 14.45m (39.0 AOD).
- 3.6 Block A, the eastern arm of Block B and western sections of Block E and F are proposed to be four storeys, with a maximum height of 16.45m (41.0 AOD).

- 3.7 The western section of Block D and Block C are proposed to be 5 storeys, with a maximum height of 19.45m (44.0 AOD).
- 3.8 The tallest buildings will be located within the centre of the site, the buildings closest to residential properties at Nazeing New Road are 4 storeys, those closest to the caravan park are three storeys.
- 3.9 A basement car park is proposed beneath the location proposed for Blocks C – G and communal gardens area.
- 3.10 Whilst the appearance of the proposal is a reserved matter, the supporting documents indicate that materials will include grey and white timber cladding, red brickwork for the walls along with red clay tiles and blue/grey slates for the roof. The illustrative masterplan indicates that there will be four 'green roofs.' Permeable block paving, woodchip, bound gravel, artificial lawn and concrete steps and kerbs are proposed for the hardscaping.
- 3.11 The formation of new pedestrian, cycle & vehicular circulation routes & means of access, new private & public open space, play space, cycle & vehicular parking is proposed.
- 3.12 A total of 324 parking spaces will be provided, of which 230 spaces will be for residents, 50 staff parking, and 44 visitor spaces.
- 3.13 A total of 350 cycle parking spaces are proposed which will be allocated as follows:
- 88 cycle parking spaces allocated to the employment component. 230 cycle parking spaces allocated to the residential component. 32 cycle parking spaces allocated to visitors to the site with these being located within the public realm areas.
- 3.14 Amenity space provision includes; -
- 6,715sqm communal (semi-private) podium garden; 3,850sqm publicly accessible open space including 'pocket parks', play areas and landscaped public realm; and 3,490sqm of private amenity space. This is a total of 11,375 sq.m.

#### **4. RELEVANT PLANNING HISTORY**

EPR/0028/53 - Store building – approved/conditions

EPR/0152/54 - Extension to factory building – approved/conditions

EPO/0154/55 - Store – approved/conditions

EPO/0119/56 - Glass cutting building – approved/conditions

EPO/0141/56 - Double-span workshop – approved/conditions

EPO/0410/57 - Stores building – approved/conditions

EPO/0062/62 - Extension to factory File C – approved

EPO/0017/64 - Details of storage building at No. 2 Factory File D – approved

EPO/0031/64 - Extension to offices – approved

EPO/0017/66 - Warehousing and industrial buildings – approved/conditions

EPO/0081/66 - Details of extension to No. 1 factory – approved/conditions

EPO/0147/67 - Details of extension to warehouse and storage – approved/conditions

EPO/0303/70 - Details of extension to main factory area – approved/conditions

EPO/0569/71 - Revised details of warehouse extension – approved/conditions

EPO/0677/71 - Convert storage accommodation to office accommodation – approved/conditions

EPO/0253/72 - Details of warehouse extension – approved/conditions

EPO/0866/73 - Details of office extension – approved/conditions

EPF/0885/75 - Details of canteen and locker room extension to existing factory – approved

EPF/0592/78 - Proposed erection of store building – approved/conditions  
10/07/78

EPF/0896/78 - Industrial exhibition building and car parking facilities – refused

EPF/0926/79 - Change of use of existing warehouse to light industrial use – approved

EPF/1021/80 - Extension to Block D (toilets lobby and reception on ground floor with office space on first floor) and construction of car park – refused

EPF/1277/82 - Change of use from warehousing to light industrial – approved/conditions

EPF/0599/83 - Change of use of part block C from light industrial (Class III) to general industrial (Class IV) – approved/conditions

EPF/1255/87 - Outline application for the erection of 8 light industrial units – approved/conditions

EPF/0682/91 - Renewal of Outline Planning Application EPF/1255/87 (erection of 8 industrial units) – approved/conditions

EPF/0837/92 - Change of use from industrial to educational – approved/conditions  
EPF/1025/92 - Change of use of industrial unit to kitchen/office for catering service and elevational alterations – approved/conditions

EPF/0738/93 - Continued use of industrial unit for educational purposes – approved/conditions

EPF/0717/94 - Renewal of outline permission EPF/682/91 for 8 light industrial units – approved/conditions

EPF/0783/95 - Revised application for a portacabin and two storage containers – approved

EPF/0881/95 - Revised application (EPF/1074/94) for plant shed, alteration of rear door, bricking up of vehicle door and inclusion of pedestrian escape door – approved

EPF/0700/98 - Portakabin for use as a staff rest room – approved/conditions  
EPF/1307/99 - Outline application for 10 light industrial (class B1) units, improvements to site access, and details of phase 1 car park layout – withdrawn

EPF/1517/99 - Stationing of security portacabin at rear entrance – approved  
12/11/99

EPF/1743/02 - Parts reception enclosure to rear – approved/conditions  
07/10/02

EPF/2151/02 - Proposed provision of 3 no. vehicle inspection bays and plant housing – approved/conditions

EPF/1760/09 - Change of use of part of main factory (B2) to Gymnasium (D2).  
Granted



EPF/1622/10- Construction of additional car park on vacant land. Granted

EPF/2624/13 - Erection of 2.46m high dark green plastic-coated fencing to enclose car park adjacent to New Road for security reasons. Granted

## **5. CONSULTATION AND REPRESENTATIONS**

Number of neighbours Consulted: 43  
62 responses received  
Site notice posted: Yes

### Town/Parish Council

- 5.1 Resolved to SUPPORT the application providing that the Council has some input into the next phase of the application.
- 5.2 Rt. Hon. Robert Halfon MP SUPPORTS the application: I understand that this application will bring forward a number of community benefits which may not be forthcoming should the application be refused and then an amended application submitted.

### Neighbours

- 5.3 OBJECTIONS RAISED BY: -

AYSBROOK MIDDLE STREET, 6 BATTLE COURT, GLEBE HOUSE BETTS LANE, 3 OWEN DRIVE, CASTELLAR MIDDLE STREET, 63 HYDE MEAD, WHEELERS MIDDLE STREET, 23 HYDE MEAD, ALOHA, CLYDE ROAD, 19 SHOOTERS DRIVE, NETHER BOWERS PERRY HILL, 8 MAYFLOWER CLOSE, ST LEONARDS ROAD, SOUTH COTTAGE NAZEING PARK, 65 HYDE MEADE, 18 NAZEINGBURY PARADE NAZEING ROAD, POND HOUSE BACK LANE, 15 SPRINGFIELD ROAD, 14A POUND CLOSE, UNIT 1 MERIDAN BUILDING, WESTERN ROAD, 9 CROWNFIELD BROXBORNE, 35 PALMERS GROVE, MARRIOT INTERIORS NAZEING GLASSWORKS ESTATE, 9 THE MEAD NAZEING NEW ROAD, SHADBROOK MIDDLE STREET, 2 THE MEAD NAZEING NEW ROAD, AYSBROOK MIDDLE STREET, CHIMES NURSERY, 27 HOE LANE, 42 GRAHAM AVENUE, 124 OLD NAZEING ROAD, 12 NAZEINGBURY PARADE, 3 ELIZABETH CLOSE, 56 HIGHLAND ROAD, MAPLEDENE TATSFIELD AVE, 86 WESTERN ROAD, BARNES LANE, CALA FORNELLS, KEYSERS ROAD, NAZEING ROAD, 8 emails. with no address. The issues raised include: -

- Only 20% affordable
- Increase in traffic
- Out of character with Lee Valley
- Cycle routes are poorly lit narrow and potholed
- Harmful to existing businesses on the site. Currently excellent facilities with affordable rents.
- Overdevelopment
- No consideration of local wildlife and protected species
- Lack of infrastructure
- Congested road inadequate to support the development
- This is a high-risk flood area.
- No family or starter homes.
- Not in the Local Plan
- The proposed number of car spaces is too small for a development this size and more cars are unacceptable.
- The visual impact is too much. The height of the proposal would be a terrible eyesore and out of character for the area.
- This runs the risk of opening a corridor of development through Green Belt land and damage to the Green belt creating an urban feel on the boundary. Nazeing will no longer be a village but will appear to be part of Hoddesdon and Broxbourne.
- No mention of designing out crime.
- Will overcrowd Nazeing
- Too much competition
- Mixed uses not compatible with each other

#### 5.4 LETTERS OF SUPPORT

5.5 FAIRLAWN RIVERSIDE AVE, AVER HOUSE NURSERY ROAD, NAZEING NEW ROAD POLLOCK HILL GLASS INVESTMENTS LTD, 41 OSPREY COURT, OSPREY ROAD, LOUGHTON SEEDBED CENTRE LANGSTON ROAD, 2 MERLIN CLOSE, VETS AND PETS, 93 BLENHEIM SQUARE N. WEALD, ROSARIO HIGH ROAD THORNWOOD, 6 BATTLE COURT ONGAR, 10 COOPERSALE STREET, BEECHCROFT RIVERSIDE AVENUE, and 2 emails. The issues raised include: -

- Good for flood plains
- Current tenant would like to take up new lease after redevelopment
- Site is already built on.
- Provides housing, retail and employment
- Provides affordable housing
- Provides more homes

#### 5.6 LETTERS OF COMMENT:

2 FARM COTTAGES, 1 Email:

A good project for the area. As long as the local roads are improved to take the extra movements to and from the site. This needs to be done before construction.

#### Statutory consultees

5.7 **Environment Agency:** No objection subject to conditions.

5.8 **Essex County Council Sustainable Urban Drainage:** No objection subject to conditions.

5.9 **Essex County Council Economic Growth:** No objections subject to conditions and S106 contributions towards local employment training to mitigate against the loss of employment floorspace. The Pan Essex model suggests the following contributions: -

- the pan - Essex model could generate for Epping residents:

- 2 supported employments (6 months paid each) for hard to reach or furthest away from job market
- 4 new construction apprentices, 6 school and college engagements, 8 work experiences lasting a week.
- A total estimated contribution of £100,962 which will be spent on skills priorities for the Epping Forest area, supporting the hard to reach and furthest away from job market to access employment opportunities.
- Breakdown of the Development:
  - 230 units (1- 2 beds). For modelling purposes, it has been assumed a 50- 50 split.
  - £25,530 Financial Contribution towards skills
  - 4 new construction apprentices
  - 6 school/college construction engagements
  - 8 construction work placements lasting at least 1 week
  - 5,000 SQM of commercial development
  - 450SQM Retail (based on 19 SQM per FTE) a contribution of £10,366 towards skills
  - 960SQm General office (based on 10 SQM per FTE) a contribution of £35,013 towards skills.
  - 3,025 Sqm Light Industrial (based on 47 SQM per FTE) a contribution of £28,169 towards skills
  - 280SQM Leisure (based on 65 SQM per FTE) a contribution of £1,885 towards skills
  - 2 Supported employment opportunities.

5.10 **Essex County Council Education:** No objection subject to contributions towards preschool, education and school transport provision in accordance with the demand generated by the proposal.

- A developer contribution of £112,895 index linked to April 2019, is sought to mitigate its impact on Early Years and Childcare provision (equates to £17,422 per place).

- A developer contribution of £330,070, index linked to April 2019, is sought to mitigate its impact on local primary school provision. This equates to £15,281 per place.
- A developer contribution of £334, 282 index linked to April 2019, is sought to mitigate its impact on local secondary school provision. This equates to £13,214 per place.
- A secondary school transport contribution is required because the site is located in excess of 3 miles from the nearest secondary school. The cost of providing this is £72,504 Index linked to April 2019.

5.11 **Essex County Council Highways:** No objection subject to conditions and legal agreement for bus service.

5.12 **Lee Valley Regional Park:** No objection subject to conditions and S106 agreement to secure contributions towards habitat enhancements within the adjoining areas of the Regional Park and pedestrian access improvements to connect with the Lee Valley Walk and the Lee Valley Pathway totalling £331,000.

Proposal	Indicative costs
– contribution towards access, landscape and habitat works identified as per the 2017 landscape design	£250k
Access improvements to link Nazeing Meads through to Nursery Road: <input type="checkbox"/> 400 m path section (2m wide spay chip) @ £45 per linear metre <input type="checkbox"/> 800m of stock fencing and associated infrastructure (e.g. gates).  Note this would need to be sited away from the edge of the lagoon in all cases and may include a section located within the application site along its southern boundary.	£18K £6.5k
Works to Nazeing ditch to remove some trees to open up the light and increase marginal vegetation to improve habitat for Water Voles which have been recorded here. <input type="checkbox"/> 150m of ditch enhancements	£3.5K
Habitat improvements to the lake edges on Nazeing Meads	£10K
Grassland restoration on Nursery Lane Farm Fields <input type="checkbox"/> Fencing (including preparatory clearing of the fence line) and water supply	£10k £25k

<input type="checkbox"/> External grazier (for a 5-year period)	
Installation of a Common Tern nest raft on Nazeing North Lagoon	£8k
<b>Total</b>	<b>£331K</b>

5.13 **Crime Prevention Officer:** No objection subject to further consultation.

5.14 **Broxbourne Borough Council:** No response received.

5.15 **Hertfordshire County Council:** No response received.

Internal consultees

5.16 **Planning Policy and Implementation:** OBJECTION:

5.17 **Housing:** OBJECTION.

5.18 **Urban Design Officer:** OBJECTION:

5.19 **Strategic Infrastructure and Planning Obligations Officer:** The infrastructure requirements as identified in the Infrastructure Delivery Plan and associated documents are as follows: -

Table of contributions

**Education**

See Essex County Council Education Comments

**Healthcare**

<b>Primary Health Care from West Essex CCG -</b>	£3907 per dwelling
The development will give rise to a need for additional Primary health care provision to mitigate impacts arising from the development.	

**Community Facilities**

Additional facilities to meet needs of new residents as identified in the IDP.	£1611 per dwelling
<u>Source – Epping Forest District Council, Infrastructure Delivery Plan.</u>	

**Sport and Leisure Facilities**

The Development will be expected to contribute to infrastructure	TBC
Project(s) included in the IDP against the allocated sites in each settlement.	

Source – Epping Forest District Council, Infrastructure Delivery Plan.

### **Employment & Skills**

In order to address local construction skills challenges, developers will be expected to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. However, if the developer or landowner can demonstrate to the satisfaction of the Council that there are circumstances specific to the scheme such that either direct provision is not operationally feasible, or that an alternative means of delivery would result in a more effective outcome because of the particular circumstances of the scheme, then payment of a financial contribution will be required. TBC

Source- Employment & Skills Strategy

Source – Essex County Council, Developer Contributions Guide

### **Air Quality Impact**

As regards atmospheric pollution, currently there is no such agreed approach; however, the Council and other partner organisations continue to work together to devise an air quality mitigation strategy ("AQMS") that is acceptable to NE, taking account of the Local Plan Inspector's advice. In the absence of an approved AQMS, all proposals that result in net additional residential and / or employment development anywhere within the District must be subject to an Appropriate Assessment under the Habitats Regulations. TBC

Source - currently there is no agreed approach.

### **Open Space**

Additional provision of public parks and gardens in line with Fields in Trust Standards £8018 per dwelling

Additional provision of amenity greenspace in line with Fields in Trust Standards £2573 per dwelling

Source – Epping Forest District Council, Infrastructure Delivery Plan.

## **Stewardship/ Open Space Maintenance**

Details and arrangements of the Management company will be required. TBC

Source - currently there is no agreed approach

## **Habitat Protection and Biodiversity**

Biodiversity Action Plan to mitigate the harmful effects of the development on site or a contribution to an offsite habitat Restoration Project to achieve a net biodiversity gain of 10% as recommended by DEFRA. TBC

Source – DEFRA Biodiversity Offsetting

### 1. Monitoring Fee

- five percent (5%) of the cost value of the financial planning obligations included in the agreement (up to a maximum of £50,000).
- a flat rate of £500 per each non-financial obligation.

### 2. Essex County Council Monitoring Fee

- £550 per obligation.

5.20 **Environmental Protection and Drainage:** - No objection subject to Conditions

5.21 **Contingency Planning and Corporate Safety Officer:** OBJECTION: this site is in a flood risk area and surrounded by large areas of water. The local road network in a flood scenario would most likely inhibit the ability for emergency evacuation and rescue and this would have an impact on vulnerable persons. It would be dangerous to expect persons to evacuate on foot and vehicle movements would most likely be impossible.

Emergency services who would have to facilitate rescue would have no suitable ingress and egress to the site if flooded and this would also have an impact on their ability to carry out efficient and timely rescue if required.

There are no suitable venues for emergency shelter that would be close enough or have capacity for the potential population numbers of the site.

5.22 **Land Contamination:** No objection subject to Conditions.

5.23 **Place Services Ecology:** No objection subject to suggested conditions.



## 6. DEVELOPMENT PLAN

- 6.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations.
- 6.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.3 The Development Plan currently comprises the saved policies of the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006) ("the Adopted Local Plan"). The following Adopted Local Plan policies are relevant to the determination of this application:

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the Quality of the Rural and Built Environment
CP3	New Development
CP5	Sustainable Building
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality
CP9	Sustainable Transport
E1	Employment Areas
E2	Redevelopment / Extension of Premises for Business and General Industrial Uses
E4A	Protection of Employment Sites
E4B	Alternative Uses for Employment Sites
GB2A	Development in the Green Belt
GB10	Development in the Lee Valley Regional Park
RST24	Design and location of development in the Lee Valley Regional Park
RP4	Contaminated land
H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE2	Effect on Neighbouring Properties
DBE3	Design in Urban Areas
DBE4	Design in the Green Belt
DBE5	Design and Layout of New Development
DBE6	Car Parking in New Development
DBE7	Public Open Space
DBE8	Private Amenity Space
DBE9	Loss of Amenity

LL3	Edge of Settlement
LL9	Felling of Preserved Trees
LL10	Adequacy of Provision for Landscape Retention
LL11	Landscaping schemes
ST1	Location of development
ST4	Road Safety
ST6	Vehicle Parking
NC1	SPAs, SACs and SSSIs
NC3	Replacement of Lost Habitat
NC4	Protection of established Habitat

## 7. NATIONAL PLANNING POLICY FRAMEWORK

7.1 The current version of the National Planning Policy Framework ("the Framework" or "NPPF") was published in February 2019. It provides the framework for producing Local Plans for housing and other development, which in turn provide the policies against which applications for planning permission are decided.

7.2 Reflecting the proper approach identified in the previous section of this Report, the NPPF explains (at paragraph 2) that:

"2. *Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.*"<sup>2</sup>

7.3 Paragraph 11 of the NPPF concerns the presumption in favour of sustainable development and states (so far as relevant):

*"Plans and decisions should apply a presumption in favour of sustainable development.*

*For **decision-taking** this means:*

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

d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole."*

7.4 Paragraph 11 d) ii. is often referred to as the 'tilted balance'.

7.5 In summary, the effect of footnote 7 is that where a local planning authority is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 73 of the NPPF, or where the Housing Delivery Test indicates that the delivery of housing was substantially below (that is less than 75% of) the housing requirement over the previous three years, *"the policies which are most important for determining the application"* are deemed to be *"out-of-date"*, so that the presumption in favour of sustainable development applies and planning permission should be granted unless either sub-paragraph (i) or (ii) is satisfied.

7.6 For the purposes of sub-paragraph (i) of paragraph 11, footnote 6 lists the policies in Framework (rather than those in development plans) that protect areas or assets of particular importance including: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, or Local Green Space; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63 of the NPPF); and areas at risk of flooding.

7.7 The presumption in favour of sustainable development does not, however, change the statutory status of the development plan as the starting point for decision making. In accordance with paragraph 213 of the NPPF and subject to paragraph 11 d) and footnote 7 referred to above, policies in the development plan should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Rather, due weight should be given to such policies according to their degree of consistency with the NPPF; in other words, the closer the policies in the development plan to the policies in the NPPF, the greater the weight that may be given to them.

7.8 In addition to paragraph 11, the following policies in the NPPF are relevant to this application:

Paragraph 54-57  
Paragraph 59

Paragraph	62
Paragraph	82
Paragraph	91
Paragraph	108 - 110
Paragraph	117
Paragraph	122
Paragraph	124
Paragraph	127
Paragraph	130
Paragraph	131
Paragraph	133
Paragraph	143 – 145
Paragraph	154-163
Paragraph	165
Paragraph	170
Paragraph	174-180

## **8. EMERGING LOCAL PLAN**

- 8.1 On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.
- 8.2 The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination hearings between 12 February and 11 June 2019. As part of the examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.
- 8.3 During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.
- 8.4 Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with

paragraph 48 of the Framework, the LPAs "may give weight to relevant policies in emerging plans according to:

- a) *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- b) *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) *The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).<sup>22</sup>"*

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

8.6 As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework. The following table lists the LPSV policies relevant to the determination of this application and officers' recommendation regarding the weight to be accorded to each policy.

<b>Policy</b>	<b>Weight afforded</b>
SP2 Spatial Development Strategy 2011-2033	Significant
SP3 Place Shaping	Significant
SP7 - The Natural Environment, Landscape Character and Green and Blue Infrastructure	Significant
H1 Housing Mix and Accommodation Types	Significant
T1 Sustainable Transport Choices	Significant
H2 - Affordable Housing	Significant
E1 - Employment Sites	Significant
DM1 - Habitat Protection and Improving Biodiversity	Significant
DM2 Epping Forest SAC and the Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM4 Green Belt	Significant
DM5 Green and Blue Infrastructure	Significant

DM9 High Quality Design	Significant
DM10 Housing Design and Quality	Significant
DM11 Waste Recycling Facilities on New Development	Significant
DM15 Managing and Reducing Flood Risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM17 Protecting and Enhancing Watercourses and Flood Defences	Significant
DM18 On Site Management of Wastewater and Water Supply	Significant
DM19 Sustainable Water Use	Significant
DM21 Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 Air Quality	Significant

## 9. **PLANNING CONSIDERATIONS**

9.1 The main issues for consideration in this case are:

- a) The principle of development;
- b) Loss of employment floorspace;
- c) Impact on the Epping Forest Special Area of Conservation;
- d) Impact on Flood Risk;
- e) Impact on the provision of affordable housing and Infrastructure delivery;
- f) Impact on the Green Belt;
- g) Impact on Place shaping;
- h) Sustainable Travel, Highway safety and parking provision;
- i) Impact on ecology;
- j) Impact on the living conditions of neighbouring residential properties;
- k) Creation of a basement;
- l) Impact on the quality of resulting residential accommodation for future occupiers; and
- m) Housing Supply and Delivery.

### **Background /Pre-Application Advice**

9.2 The Applicant engaged with the Council in pre-application discussions under reference EF\2018\ENQ\00219 for redevelopment of the site to provide 250 homes along with 5000 sqm of commercial and leisure floorspace.

9.3 The Council provided written Pre-application advice in December 2018, and again in August 2019 following a revised scheme and the submission of additional information. As a summary, the pre-application outlined the following significant concerns:

#### **Employment:**

- 9.4 The response stated that the current proposal raised the following concerns: -
- 9.5 LPSV Policy E 1. The Council considers that the starting point for the redevelopment must be the re-provision of all the existing uses/space to comply with Policy E 1. What is presented to the Council is therefore a mixed-use scheme which does not deliver the quantum of employment floorspace that the Council is content with.
- 9.6 Loss of Employment Floorspace: The proposed schedule of uses submitted at pre-app stage outlines a maximum Class B Use floorspace of 3,600 sqm. This compares to the current Class B Uses on the site totalling 5,662 sqm and represents a significant loss of floorspace (a decrease of 36%).
- 9.7 Commercial uses: There are concerns about the loss of existing 'B' uses and the introduction of significant other uses such as D1/D2.
- 9.8 Viability: The preliminary viability appraisal at the pre-app stage suggested that the scheme at that time would be able to provide just 15% affordable housing to be viable. Whilst there would be some benefit in the provision of additional housing on the site this would not be enough to outweigh the loss of employment floorspace.
- 9.9 Planning Officers supported the principle of an employment-led mixed-use development on the site, however, have consistently stressed that the key driver of any scheme must be the provision or replacement of the existing quantum of employment space.

### **Quality Review Panel**

- 9.10 The proposed scheme at Nazeing Glassworks was taken to the Council's Quality Review Panel (QRP) during the pre-app stage in August 2018. This is in line with the requirement in the LPSV. While the QRP acknowledged the scale of the opportunity at the site, it considered that the aspirations to create a high-quality, genuinely mixed-use scheme would not be realised by the proposed scheme. In summary, the QRP's principal concerns and recommendations were as follows:
- The Scheme needs to develop a strategy for employment space that considers the specific needs, role and function of a range of employment and other non-residential, together with in-depth thinking on the type of tenants who will occupy the spaces.

- The Panel is not currently convinced about the quality of streetscapes and open spaces proposed and has concerns about the impact of the multi-storey car park and
- Concerns over the multi-storey car park and seeking a clear vision for a genuinely sustainable development and best use of sustainable modes of transport.

### **Screening Opinion**

9.11 In accordance with Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, a Screening Opinion is required to determine whether an Environmental Impact Assessment would be required since the proposal is for an Urban development project which seeks permission for more than 150 residential units. In 2018 a request was submitted to the Council based upon the pre-application submissions for the application site as follows:

- Between 250 and 300 residential dwellings, including ground floor non-residential uses and parking;
- Approximately 5,000 sqm (GEA) of non-residential uses and parking;
- Associated car parking;
- A combined Heat and Power (CHP) Energy Centre, and
- Associated landscaped provision of play space and amenity space and public realm.

9.12 After reviewing the supporting documents provided with the request, the Council was satisfied that an Environmental Impact Assessment would not be required, and a screening opinion adopted accordingly.

9.13 Given that the scheme proposes a similar quantum and form of development and there is no change in legislation and policy in this regard, no change to this decision has been made.

### **Principle of Development**

9.14 The National Planning Policy Framework states that a Local Plan must allocate enough land in appropriate locations to ensure supply for the Plan period.

9.15 Criteria E of Policy SP 2 of the LPSV requires that within the period 2011-2033 the Local Plan will provide for employment needs by: (i) retaining and



enhancing existing employment sites and premises where appropriate. Part of the site falls within designated existing employment site NAZE.E3 (Nazeing Bridge Works / Glassworks, Nazeing New Road).

- 9.16 LPSV Policy P 10 Nazeing sets out where proposals for both employment and residential uses will be allocated. Excluding the Nazeing Mead area within the west of the site and the Green Belt area to the south east, the remainder of the site has been designated as an existing site under reference NAZE.E3.
- 9.17 Policy SP 2 of the LPSV stipulates that Nazeing has a housing need of 122 homes within the Plan period. The sites allocated for residential use within policy P 10 will cumulatively provide for the desired growth in the settlement of approximately 122 homes. Furthermore the work undertaken by the Policy team through the Site Selection Process for the District as a whole found that there are other more suitable and deliverable sites, in line with the sequential approach in Policy SP 2, therefore, the proposed development is not required to meet the development needs of the area nor for the District as a whole.
- 9.18 The Policy Team advise that the site was considered in the Site Selection process in 2016 for potential residential use. However, since it performed poorly in terms of flood risk categorisation and its location being detached from the settlement of Nazeing, it was considered that the site promoted unsustainable patterns. In terms of flood risk, it is important to note that the site allocation is based upon a sequential approach which includes proposing land in Flood Zone 2 and 3 only where need cannot be met in Flood Zone 1. As a consequence, the site failed to meet the sequential approach to housing allocation laid out in policy SP 2 of the LPSV. The proposed development is therefore not required to meet the development needs of the area nor for the District as a whole.

#### **Loss of Employment Floorspace**

- 9.19 The site is located within an existing Employment Area under policy E1 of the current adopted Local Plan.
- 9.20 This policy states that: -
- “The Council will grant planning permission for the redevelopment or extension of existing premises for business, general industrial and warehouse uses. The redevelopment of existing sites or premises or their change of uses other than business, general industry or warehousing will not be permitted.”*
- 9.21 The proposal conflicts with this allocation as it proposes to reduce the existing employment floorspace on the site by 3494 sqm (including the complete

removal of the 2958 sqm of B2 General Industrial use) and to replace that lost floorspace with housing. Information submitted at the pre-application stage indicates that the vacancy rate for the site stands at only 1.3%. It is clear therefore that there is demand for existing employment units on the site.

- 9.22 Policy SP 2 E of the LPSV refers to the retention and enhancement of existing employment sites, such as Nazeing Glassworks, recognising their vital role in meeting the employment growth required over the Local Plan period. Policy E 1 of the LPSV also seeks to protect and enhance existing B Class use employment sites. The site is designated as an existing employment site in the LPSV under reference NAZE.E3 Nazeing Bridge Works /Glassworks Nazeing New Road.
- 9.23 Both adopted and emerging policy therefore require the re-provision of, at least, the existing quantum of principally B Use Class floorspace and complimentary employment uses. The current proposal to remove 8,494 m<sup>2</sup> of employment space and replace this with up to 5,000m<sup>2</sup> of employment space, of which less than 4,000m<sup>2</sup> is proposed for Class B Use floorspace, is therefore contrary to adopted Local Plan policies E1, E2 and the Proposal Map designation as well as Policy E 1 of the LPSV.

#### **Loss of B Use Class uses**

- 9.24 Nazeing is an important employment centre containing c. 9.5% of the District's total Class B Use employment stock and the expectation would have been for additional floorspace to be provided, rather than a net reduction. The Council's approach to employment within the Local Plan policies is to protect and enhance existing employment sites (including through intensification), together with the allocation of new sites. The Employment Land Supply Assessment (Dec 2017), identified that there is scope to not only retain the site for employment use, but there is the potential to expand the site by an additional 7,500 sqm (4,000sqm B1a/b floorspace and 3,000sqm B1c/B2 floorspace). The current proposal, therefore, represents a significant loss of employment land.
- 9.25 There are concerns about the loss of existing B Use Class uses and the introduction of significant other uses such as D1/D2. The case put forward for a reduction in employment floorspace was that the re-development would offer a greater level of employment. However, it is not clear how this can be achieved without a firmer idea of the future occupants or how the employment would be managed. The application's proposed schedule of uses outlines a maximum Class B Use floorspace of 3,985 sqm. This compares to the current B Use Class uses on the site totalling 5,662 sqm and represents a significant loss of Class B floorspace (a decrease of 30%). The Council is concerned that the scope of

the Commercial Report has been constrained given the reference on page 5 of the report to the “emerging proposals for the site” and reference to “approximately 5,000 sqm of employment floor space”.

- 9.26 Main Modifications were proposed to the Inspector at the Examination of the Local Plan in relation to Policy E 1 and its supporting text. These provide clarification that the primary role of Policy E1 is to provide for B Use Class use employment sites to meet identified needs up to 2033. The proposed scheme instead introduces a mix of 1,015 sqm of flexible retail, health and leisure (Class A1, D1 and D2). While providing some useful services to the employees on site who would have otherwise make use of the offer on nearby High Road Broxbourne, the uses are more likely to support the residents of the new homes proposed in the scheme. While this would ordinarily be encouraged, this is at odds with Policy E 1 where uses within the B Class along with office and light industrial uses (which were at the time of publishing the LPSV, within the B use class but have now been moved to the E class within the Town and Country planning (Use Classes) Order) should be prioritised.
- 9.27 The Nazeing Glassworks site appears to be sustaining an office provision of 1,106 sqm. The Council would anticipate that the regeneration of such a site to improve the built fabric, introduce support facilities for employees and enhance the wider physical environment etc would at least maintain, if not increase, the opportunity for office provision and higher value employment. Instead however, the Employment Land and Economic Benefits Statement 2019 submitted with the application sets out a maximum floorspace of 960sqm for office and flexible workspace, which represents a loss of provision.
- 9.28 The submitted Commercial Report states that Nazeing is not an established office location but that any scheme would be speculative. Adding that it would be likely to cater for smaller start-up businesses with units in the region of 14 sqm upwards within a building of c.467 sqm. The report continues that this could be anything up to 20-25 suites including an allowance for circulation, break out areas, toilets etc. The previous version of this committee report requested, (and as set out in its pre-app response,) that further commercial evidence is supplied which articulates the scale and critical mass that is required to make a viable serviced office facility at this location, as well as proof of operator interest.
- 9.29 The submission of letters from CK Assessment and Training Limited (dated 23 November 2021) confirms that there is demand and need for commercial space on the site. Questions are therefore raised as to whether a policy compliant alternative scheme could also be achievable on the site.

- 9.30 The letter from Supanova Holdings Limited (Freeholders of the site) dated 16 November 2020 indicates that the Glasswork factory is nearing the end of its useful life. It states that as a result of the planning application, the company is only offering 1-year leases to its tenants. This has led some tenants to leave and others advising of their intention to do so.
- 9.31 However, the letter does not advise which tenants have left. It should be noted that when the Pre-application request was submitted there was only a 1% vacancy, therefore it raises the question whether it is the belief by tenants that the planning application will be granted and therefore the need to find alternative accommodation in good time or whether it is in fact that the accommodation is no longer required.
- 9.32 An appraisal undertaken by Lambert Smith Hampton was submitted to the Council in January which found that there are currently 48 units on the site providing 8,734 sq.m of gross internal floor space. (240 sqm more than indicated on the application form). The letter advises that due to the age and condition of the glassworks factory results in it being obsolete for future users and concludes that

*“The built accommodation extends in total to 8,734 sq.m (94,013 sq. ft), meaning that 46.8% of the existing floor space is obsolete in terms of finding new occupiers in the event of the buildings falling vacant. With regard the remaining 53.2% of existing floor space, this remains suitable for the existing use albeit providing a relatively basic standard of accommodation. In the short term (3-5 years), as maintenance in the form of capital expenditure is required to these buildings, the obsolescence factor will increase. In the medium term*

*(5-10 years), the units will become less suitable for letting in the market without upgrading and at that point, redevelopment will be the only option.”*

- 9.33 The findings of this report are not disputed by officers; however, insufficient information has been provided on the cost of demolition and rebuilding the current factory to bring it up to current standards and information on why this would not be viable? It is unclear whether the price paid for the site by the Applicant was the existing use value of the site or whether the price paid included a ‘premium to reflect value of the land if it were developed for housing.’ This is discussed further in the section on Viability. It is for these reasons that the additional information submitted does not alter the original recommendation made.

## **New Use Class E**

- 9.34 Recent amendments to the Town and Country planning (Use Classes) Order 1987 introduced from 1 September 2020 have resulted in Use Classes, A1/2/3 (retail/service and cafes) & B1 (office and light industrial uses which do not have an adverse effect on neighbouring residential amenity), Health uses (D1), day centres/nurseries (D1 ) and indoor gyms (D2) to now all fall within the new Use Class category 'E'.
- 9.35 However, this legislation requires that for applications submitted before 1 September 2020, the Use Classes in effect when the application was submitted are required to be used to determine the application. This means that the Council has to assess this application on the basis of the previous Use Class Order. Furthermore, if Members felt it necessary, they could also impose planning conditions which restricted the scope of uses permissible under any approval.
- 9.36 No changes have been made to B2 (Industrial) Use Class, therefore had a planning application been submitted post the introduction of this legislation, permission would still be required for the change of use from this use to other uses.
- 9.37 Furthermore, given the current high occupancy rate within the B use classes and the fact that any deemed consent for retail, education, health and leisure uses would still provide employment, It is the Council's view that this new legislation does not materially change the Council's stance on this issue.

## **Mixed use and job creation**

- 9.38 Whilst it is recognised that the meaningful co-location of uses can be successful when carefully considered there are clear challenges in achieving this. It requires clarity on the requirements of the different uses being proposed, their location, and their interactions, which the current proposal lacks in the detail. Planning Officers supported at pre-app stage the principle of an employment-led mixed-use development on the site. However, the key driver of the site must be the provision/replacement of employment space in accordance with its designation and LPSV policy E 1.
- 9.39 Policy E 1 also states that the change of use of existing employment sites of premises will not normally be permitted unless the Applicant can demonstrate through evidence, including marketing of the site, that there is no longer a reasonable prospect of the site being used for the existing authorised employment use or alternative B Use Class or Sui generis uses of an employment nature. Evidence has not been provided which would justify this

loss on the grounds of market conditions. The site is positively occupied, and it is considered that the Commercial Report as well as the Council's own evidence base support that there is local market demand.

- 9.40 Whilst the Council is supportive of an holistic area based approach to the site, if a scheme cannot be formulated to meet the need to retain sufficient employment floorspace then alternative options will need to be appraised such as redevelopment of the Nazeing Glassworks element of the site alone, potential to access external funding support to assist in the delivery of employment space (i.e. the emerging Shared Prosperity Fund), or expansion/intensification of the application site for commercial use. None of these options appear to have been considered by the Applicant. Instead the starting point has been the provision of homes with employment uses seeming somewhat ancillary.
- 9.41 Additionally, the submitted Commercial Report states that within the existing site only 115 sqm (just over 1%) of the floorspace is currently vacant, which suggests to the Council that there is little evidence that the reduction in floorspace is justified due to a significant lack of demand or marketability. It is noted the letter from the freeholder indicates that tenants have left since this report was published, but as outlined above, it is not clear how many tenants have left and the reason for their departure.
- 9.42 The Applicant argues that while a reduction in the amount of commercial floorspace re-provided on the site is proposed, the redevelopment would increase the number of jobs provided. There appears to be some discrepancy however, with the Commercial Report stating that there are 134 employees at the site compared to the Employment Land and Economic Benefits Statement saying that the proposed development will support 170 jobs which is a 26.87% increase on those currently supported on site. The Employment Land and Economic Benefits Statement submitted with the application acknowledges that the proposals would result in a net loss of employment floorspace compared with the existing floorspace, however argue that it would enhance the level of employment opportunities provided and economic contribution of the site. The report states that it would significantly improve the quality of both employment floorspace and quality of jobs supported by the site with a clearly net positive economic benefit.
- 9.43 Notwithstanding this, a level of flexibility is being proposed on the site, which seems to be for the sole purpose of optimising its commercial appeal. The Council requires confidence that the site will function primarily as an employment site and will fulfil the vision identified in the Local Plan. Whilst the Council is always looking for ways to support the employment opportunities for

our residents, this should not be at the expense of the permanent loss of employment land in the District. Employment land will be protected to ensure the sustainability of the District's economy and it is within this context that the Plan seeks opportunities for the renewal and intensification of existing employment sites.

- 9.44 As noted in the pre-application response, designing for co-location of uses is generally challenging and is much more difficult when there is ambiguity over the intended commercial uses. Furthermore, this flexibility undermines the arguments that this development would result in increased job creation since this cannot be accurately ascertained without having a firm idea of what specific uses would be provided on site. It should be made clear that the Council will not permit the improvement in employment areas at the expense of the loss of substantial employment floorspace.

### **Marketability**

- 9.45 The Applicant has submitted a Commercial Report as part of the planning application. The Report looks at the commercial opportunities of the site. It considers demand and sets out a strategy for non-residential uses. It has been prepared to provide an indication of the potential to secure commercial occupiers for the site in response to pre-application comments.
- 9.46 The Planning Statement and Commercial Report outline the decline of the Glass Works and assessed the site as of poor quality and not meeting modern business needs. The Council's Employment Land Supply Assessment (Dec 2017. EB602) includes an appraisal of the site and assessed that the significant majority of the premises were in fair condition. Local Plan policy E 1 provides the positive policy framework to effectively address the redevelopment, renewal, intensification or extension of employment areas to meet the employment and economic needs of the District. Whilst the Council would not disagree that the site is unsuitable for large scale Class B2 Use, and that B2 provision of significant scale is better located within settlements such as Harlow, which has stronger access to major road networks, this does not in itself prove that there would be no B2 demand at a suitable scale going forward. The demise of the Glass Works itself is not justification for loss of such a quantum of employment floorspace.
- 9.47 In respect of what it terms 'Small/ Light Industrial/Workshop Units', the commercial report (p.17) dated October 2019 comments as follows:

*"Demand for smaller stock, freehold or leasehold, across the general area remained strong through 2018 and has continued through 2019 to the date of*

*this report. Until recently there was a significant lack of smaller units of circa 139 - 465 sq. m. (1,500 - 5,000 sq. ft.) available. This has however now changed. This is demonstrated clearly by comparison to Hillgrove Business Park. This park comprises approximately 85 units ranging from 158 - 1,143 sq. m. (1,700 - 12,300 sq. ft.). Vacancy rates on the estate have increased over the past 12 months and is now running at approximately 62% occupancy”.*

- 9.48 Within the previous iteration of the report submitted during pre-app discussions seven months earlier (in March 2019), it was said that demand for such employment stock remained strong and Hillgrove Business Park was noted as having a more buoyant occupancy rate of 87%. It is necessary to understand how this position has changed in the intervening period and the significant reduction in occupancy at Hillgrove. This has not been evidenced or reasoned within the Commercial Report. There may be a feasible explanation however, as referenced, Nazeing Seedbed Centre is fully occupied, and the Nazeing Glass Works site has only c.1% vacancy. This would make it difficult to contend that there is a lack of market demand locally. It is considered that robust evidence is required to demonstrate why the level of light industrial is as proposed and why a larger quantum within the development mix is not feasible.
- 9.49 Section 8 of the report sets out proposed uses to be considered at the site. However, it has assumed a maximum of a 5000sqm floorspace limits for all employment uses, of which 3,985 sqm (GIA) are designated for Use Class B. It does not explore opportunities for further extensions of the Use Class B employment on the site in line with Policy E 1, as was identified as a possibility in the Employment Land Supply Assessment (Dec 2017).
- 9.50 The benefits of the agglomeration of similar business sectors are well versed. Business benefits include from economies of scale and network effects, and from the concentration of outputs such as good supply networks and supply of trained workers. The intensification of Nazeing Glass Works is therefore likely to encourage the relocation or start-up of businesses to the site.
- 9.51 In summary, the application site has positive occupancy and insufficient information has been submitted to demonstrate that it would not be viable to build a replacement building for other industrial businesses (B2 use class). It is the Council's view that there is a market demand for such employment space. This is supported by the Council's informal soundings on market demand for commercial space in the area. This is also evidenced by the objections received.



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

- 9.52 Biodiversity features within, or associated with, a Special Area of Conservation (SAC) are subject to a high level of protection under UK law and national planning policy in England. The provisions of the EU Habitats Directive were given effect in UK law by the Conservation of Habitats and Species Regulations 2017, as amended ("the Habitats Regulations") and this level of protection has not changed as a result of the UK having left the European Union.
- 9.53 Large parts of Epping Forest within the District are classified as a Special Area of Conservation and therefore development proposals need to be considered within the context of the Habitats Regulations. This means that any plans and projects (including applications for planning permission) that have the potential, either alone or in combination with other plans or projects (including from development proposed within the emerging Local Plan), to have a likely significant effect on the Epping Forest SAC (EFSAC) must be subject to an assessment, known as an Appropriate Assessment ("AA"). The purpose of an AA is to ascertain whether any development plan or proposal, either alone or in combination, would have an adverse effect on the integrity of the European Site.
- 9.54 The Council has a legal duty as a 'Competent Authority' under the Habitats Regulations to ensure that the EFSAC is protected from the effects of development. Two specific issues, known as 'Pathways of Impact', have been identified whereby new development has the potential to have a likely significant effect on the integrity of the EFSAC. These 'Pathways of Impact' have been identified through the Habitats Regulations Assessments undertaken to support the development of the Council's emerging Local Plan and have been agreed with Natural England. The first is an Urbanisation 'Pathway of Impact' with a particular focus on increased levels of visitors using the EFSAC for recreation purposes arising from new development (referred to as "recreational pressure"). The second is an Air Pollution 'Pathway of Impact'. This relates to damage to the health of specifically identified habitats and species within the EFSAC arising from air pollution generated by a number of sources but, primarily, from the level and type of vehicles using roads close to the EFSAC (referred to as "atmospheric pollution").
- 9.55 Policies DM 2 and DM 22 of the emerging Local Plan provide the policy context for dealing with the likely significant effect of development on the integrity of the EFSAC outlined above. The Habitat Regulations make clear that a Competent Authority must satisfy itself beyond reasonable scientific doubt that any project, either alone or in combination with other plans and projects, would not result in

an adverse effect on the integrity of the EFSAC. It is within this context that the following assessment is made.

### **Recreational pressure**

- 9.56 On 18th October 2018 the Council adopted an 'Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation' ("the Interim Approach") as a material planning consideration in the determination of applications. The Interim Approach was developed in conjunction with Natural England, the Conservators of Epping Forest and neighbouring local authorities.
- 9.57 This Interim Approach identifies that any additional residential development located within a 6.2km Zone of Influence of the EFSAC would have a likely significant effect on it. Any such developments are therefore required to mitigate the impact of this recreational pressure.
- 9.58 The Interim Approach identifies that this is most appropriately and equitably achieved by the payment of financial contributions from all developments resulting in a net increase in dwellings within 3km of the EFSAC to secure the implementation of Site Management and Monitoring Measures ("SAMMs"). The cost of the implementation of the Interim Approach has been apportioned across a number of local authority areas where new development falls within the 3km 'charging area'. As well as Epping Forest District this also includes the London Boroughs of Redbridge and Waltham Forest. For relevant residential developments within the Epping Forest District area, the contribution is currently set at £352 per net additional dwelling.
- 9.59 Since this proposed development falls entirely outside of both the 6.2km Zone of Influence and the 3km 'charging area', it would not result in a likely significant effect on the EFSAC in relation to recreational pressure and therefore can be screened out. In other words, there is no requirement to undertake an 'Appropriate Assessment' or secure mitigation measures in relation to the recreational pressure 'Pathway of Impact'.

### **Atmospheric pollution**

- 9.60 New development within the District, regardless of its use, has the potential to increase the amount of Average Annual Daily Traffic (AADT) using roads in close proximity to the EFSAC. Traffic is a key contributor to atmospheric pollution.
- 9.61 The Council has agreed with Natural England that there is a need to develop a strategic solution for measuring and mitigating the effects of air pollution on the EFSAC recognising that a number of the measures needed are not capable of

being implemented by individual developments in isolation and that it would reduce some of the burden of evidence for individual Applicants. To achieve this, the Interim Air Pollution Mitigation Strategy (APMS) was adopted on 8 February 2021. This document seeks to provide the necessary mitigation to reduce the air quality impact from development growth generated by the LPSV.

- 9.62 This document requires that all proposed developments which differ in land use and quantum from that which the application site was allocated for within the LPSV, must undertake an assessment of the proposal site against the modelling used to inform the Habitats Regulations Assessment in order to establish whether there are additional adverse effects over and above those addressed through the APMS.
- 9.63 Within this context if an applicant, through the submission of a planning application, is able to demonstrate to the satisfaction of the Council as Competent Authority that there would be no net increase in AADT, then it can be screened out as having no likely significant effect on the integrity of the EFSAC. However, this analysis must be based on empirical and robust evidence which stands up to critical scrutiny.
- 9.64 In this case the Applicant is unwilling to undertake to pay for an appraisal of the existing and proposed AADT forecasts against that modelled for within the District wide Habitats Regulations Assessment.
- 9.65 The Applicant has provided the Council with a Transport Assessment (TA) and an Air Quality Assessment which seeks to demonstrate that the proposal would not have an adverse effect the integrity of the EFSAC. The application site comprises the Nazeing Glassworks factory (which is within the B2 Use Class), its associated shop and a number of other commercial units which have a wide range of economic uses. The information provided as part of the planning application sets out that the existing buildings have a total floor area of 8,494sqm, 2,958sqm (36%) of which is the glass factory itself.
- 9.66 The TA states that the Glass Works has been an important and significant employer throughout its history and at its peak provided employment for approximately 300 people. However, in recent years activity has declined and now only 25 people are employed. The information provided by the Applicant makes it clear that the factory operators do not intend to expand activities but rather are looking to bring their commercial activities to a close in the near future. Only very limited information has been provided regarding the specific uses, levels of employment, intensity or operating hours of the other business units on the site.

- 9.67 The TA has estimated that the total number of existing employees across the whole site totals 134 (including the 25 from the Glass Works itself). However, it is not clear on what basis this figure has been arrived at.
- 9.68 The proposal comprises a mixed-use development for employment and residential floorspace.
- 9.69 The new employment development would comprise:
- 960sqm (GIA) of office (Class E).
  - 3,025sqm (GIA) of light industrial (Class E).
  - 1,015sqm (GIA) of flexible retail, health and leisure (Class A1, D1 and D2).
- 9.70 The information submitted by the Applicant estimates that the minimum number of jobs that would be created by the new development would be 170. Based on the existing level of employment estimated by the Applicant (noting the uncertainty of how this figure has been arrived at), this would result in a minimum increase of 36 jobs on the site.
- 9.71 The TA identifies that there are approximately 150 existing formal parking spaces together with an unquantified number of other, informal parking areas in the local area. The proposed development proposes 324 new parking spaces, which would be used by both the business and residential uses. This represents an increase of 116% over and above the existing car parking provision on the site.
- 9.72 The application proposes a total of 230 residential dwellings on the site as a mix of 1- and 2-bedroom apartments. The TA states that each of the new dwellings would be allocated a minimum of 1 parking space. In addition, 44 visitor parking spaces and the other spaces would be available for the employment uses as part of a permit system. It is clear from the analysis that the proposed development is likely to generate a significantly greater demand for parking than the existing uses on the site.
- 9.73 The TA seeks to make a meaningful comparison between the traffic movements associated with the existing site and those predicted to occur as a result of the proposed development. The TA uses AM and PM peak hours in order to make this comparison (08:30 – 09:30, 16:45 – 17:45 for the residential and 08:00 – 09:00 and 17:00 – 18:00 for the employment). The TA does not provide any assessment of the AADT generated by either the existing site, or the proposed development. However, paragraph 7.6 of the TA states that:

*“Based upon the distributions calculated by NOTIS, there was limited traffic passing through the Epping Forest given that it is some 11km away from the site. As a robust analysis over a 24-hour period, there could be an additional 16 vehicles on the Epping Forest network associated with the proposed development scheme. This is imperceptible to drivers and is well within the daily fluctuation levels of traffic in this area.”*

- 9.74 The TA does not make it clear which ‘Epping Forest network’ is being referred to. However, the Council has assumed that this is the network of roads in close proximity to the EFSAC. It is not clear how the 16 AADT figure has been arrived at in the analysis bearing in mind no AADT information has been provided. Whilst, based on this statement, the proposal would result in an increase in AADT on roads in close proximity to the EFSAC there is insufficient certainty that this predicted increase properly assesses that potential increase and could be an underestimate. Consequently, the figure itself cannot be afforded significant weight, particularly in the context of the need for the Competent Authority to be certain that no reasonable scientific doubt remains that the development will not have an adverse effect on the integrity of the EFSAC, either alone or in combination with other projects.
- 9.75 The TA acknowledges that the Glass Works factory, which makes up 36% of the existing floor space on the site is in decline and does not have a substantial number of existing peak hour traffic movements. The TA provides an analysis of the Glass works on what ‘could be’ undertaken on site, rather than ‘what is’ being undertaken on site. This has been undertaken on the premise that as the Glass Works is a B2 use, it could lawfully be used more intensively, or for a different activity within the B2 use class which may have more vehicle trip generation. This is termed a ‘fall-back’ position and is a matter that is accepted in law. In undertaking this assessment, the existing trips used in the analysis of the TA for the Glass Works has been doubled from the ‘actual’ peak traffic movements.
- 9.76 Whilst the Glass Works is a lawful use which falls under the B2 use class, whether an intensification of its existing use, or a change to another within B2 is introduced, it is a matter of fact and degree as to whether any alterations to facilitate these changes would need planning permission to implement. If the works are demonstrably shown to require planning permission, then the notion of a fall back, as has been established through case law, falls away. No information has been provided which demonstrates that there is a realistic fall-back position particularly having regard to the stated poor condition of the existing building. As such officers cannot be satisfied that such an approach can be considered and has not done so as part of the assessment for EFSAC purposes.

- 9.77 Taking the non-adjusted traffic movements for the existing site, the TA estimates that there are 105 two-way trips in the AM peak and 102 two-way trips in the PM peak.
- 9.78 In terms of the projected traffic movements as a result of the development, the TA identifies that there will be 137 two-way trips in the AM peak and 125 two-way trips in the PM peak arising from the residential element of the scheme. These figures are then adjusted based on the 2011 census data for how people travel to places in the local area. This is a reasonable methodology and is based on the best available information in relation to the site's close proximity to Broxbourne, including to Broxbourne Station as well as shops and other services. This results in an adjusted trip generation of 100 two-way trips in the AM peak and 91 two-way trips in the PM peak.
- 9.79 It is clear that the proposed development would represent a significant intensification of the existing site and the 2011 census data identifies that 79% of people living within the same area as the application site are reliant on car usage during the AM and PM peaks, despite the proximity of Broxbourne Station. The level of parking that would be provided for the residential element would be substantial (230 spaces + 44 visitor spaces), far in excess of the existing site. In addition, the TA identifies that visitors to the residential part of the development would be able to park in the employment parking spaces outside of core business hours. Traffic movements such as this, as well as other traffic movements from both the employment and residential uses, which are outside of peak hours would not be identified by solely relying on the AM and PM peak hour analysis used in the TA.
- 9.80 Turning to the proposed employment uses, the TA indicates that it would generate 170 two-way traffic movements in the AM peak and 162 two-way traffic movements in the PM peak. This is then adjusted using 2011 Census data to inform the provision of the limited employment parking to be provided on site (50 spaces). As a result, the employment uses are predicted to generate 40 two-way trips in the AM peak and 38 two-way trips in the PM peak.
- 9.81 In total, the TA predicts that the new development as a whole would result in 140 two way trips in the AM peak and 129 two way trips in the PM peak, compared to 105 two way trips in the AM peak and 102 two way trips in the PM peak for the existing site (these existing figures represent the actual traffic movements, rather than the 'adjusted' movements). This comparison results in an additional 35 two-way trips in the AM peak and an additional 27 two-way trips in the PM peak.

- 9.82 As previously identified, undertaking a comparison of the existing and proposed AM and PM peak traffic movement is not a robust or appropriate methodology of assessing potential harm to the EFSAC caused by increased air pollution. Rather, the appropriate approach is to provide a comparison of the AADT of the existing use of the site, against the predicted AADT of the proposed use and that this should be undertaken using empirical evidence such as through the use of the industry standard TRICS data in order to understand the daily level of traffic activity.
- 9.83 Notwithstanding the above, the Applicant's own results demonstrate that there will be a material increase in the number of AM and PM peak hour traffic movements as a result of the proposed development. In addition, whilst it is not clear how the quantum has been arrived at, the TA indicates that some of that traffic would use roads in close proximity to the EFSAC. The significantly more intensive use of the site would therefore result in an increase in the number of traffic movements over and above that of the existing authorised use of the site such that there would be an increased level of air pollution on roads in close proximity to the EFSAC arising from the proposed development.
- 9.84 The increase in vehicle trips generated by the proposal and the Applicant's unwillingness to undertake to cover the cost of the Council's review of the application's impact on atmospheric pollution around the EFSAC in combination with other planning permissions and allocated development within the LPSV, (i.e. the provision of an Appropriate Assessment to demonstrate nil harm) has resulted in there being insufficient evidence for the Council, as Competent Authority, to be able to conclude that, no reasonable scientific doubt remains that the development would not have an adverse effect on the integrity of the EFSAC either alone or in combination with other plans and projects.
- 9.85 As such the development is contrary to policy NC1 of the Adopted Local plan and Alterations (2008) with policies DM 2 and DM 22 of the LPSV (2017) and with the requirements of the Habitat Regulations 2017. The proposal, which does not accord with the Development Plan, would increase traffic generation to and from the site and it is concluded that the development proposal, both alone and in combination with other plans and proposals, would have an adverse effect on the integrity of the SAC, through the intensification of nitrogen deposition in the protected area by additional traffic generated. The circumstances envisaged in Circular 06/05 - such as development overriding the public interest - that could lead to the grant of planning permission are not applicable in this case. This is demonstrated within the conclusion section of this report.

## **Flood Risk**

- 9.86 The Environment Agency has designated the site as falling within Flood Zone 2 and 3. This means that there is a medium and high probability of flooding from the nearby River Lee. This river does have existing flood defence structures installed within it.

## **Sequential Test**

- 9.87 Given that the site falls within Flood Zone 2 and 3, Paragraph 158 of the NPPF requires that a Sequential Test be carried out in order to: -

*“Steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.”*

- 9.88 The Sequential Test carried out by Westwood (v1.4 November 2019) on behalf of the Applicant found a total of 710 alternative sites within the whole Epping Forest District Council area. 488 sites were not considered to be deliverable based on the strategic priorities for development and use of land in accordance with the Council’s Development Plan documents as required by footnote 11 of the NPPF. These sites included those currently in Green Belt or those close to the EFSAC. An additional 214 sites were discounted because they were either too large or too small to reasonably accommodate the proposed development. The 8 remaining alternative sites were shown to be sequentially preferable on flood risk grounds to the application site. However, 3 sites were shown to be unavailable, 3 sites were identified as not being suitable for development and the remaining 2 sites could not be expected to accommodate the proposed development.
- 9.89 Since there was no other individual site within the District which were available to provide 230 units on Previously Developed Land and outside of the Green Belt, Officers were satisfied that there were no reasonably available alternative sites with a lower risk of flooding and therefore the requirements of Sequential Test have been met.

## **Exception Test**

- 9.90 Paragraph 159 of the NPPF requires that “If it is not possible for development to be located in zones with a lower risk of flooding taking into account wider



sustainable development objectives, the exception test may have to be applied.”

- 9.91 It is required in this case because the site is located within land designated as being within Zone 3a Flood zone and the proposed 230 residential units are deemed to be a ‘More Vulnerable’ use classification. In order for the application to demonstrate that it passes the Exception Test, Paragraph 160 of the NPPF requires that: -
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 9.92 The Flood Risk Assessment and Drainage Strategy (including additional information submitted) carried out by Ardent demonstrates that it will be safe subject to further conditions, and therefore no objections have been raised from the Environment Agency, Essex County Council or the Council’s Land Drainage team.
- 9.93 The submitted flood risk assessment indicates that occupiers of the commercial properties will have safe access and egress from New Nazeing Road. If there is “insufficient time to evacuate the site, safe refuge will be provided at higher levels.” Occupiers of the residential units will be required to “form safe havens above the flood level.” It is proposed that the finished floor levels of the residential properties will be set a minimum 0.3m above the 100 year + 35% fluvial flood level, should a flood event occur which had a greater height than that predicted, the ground floor properties within blocks D, E, F and G would be flooded. Whilst it is acknowledged that the likelihood of this event is very small, but should it occur the burden would fall on the Council to provide temporary homes or shelter for the affected residents.
- 9.94 The Council’s Emergency Planner has raised objections to the proposal on the grounds that this site is “in a flood risk area and surrounded by large areas of water. The local road network in a flood scenario would most likely inhibit the ability for emergency evacuation and rescue and this would have an impact on vulnerable persons. It would be dangerous to expect persons to evacuate on foot and vehicle movements would most likely be impossible.
- 9.95 Emergency services who would have to facilitate rescue would have no suitable ingress and egress to the site if flooded and this would also have an impact on their ability to carry out efficient and timely rescue if required.

- 9.96 There are no suitable venues for emergency shelter that would be close enough or have capacity for the potential population numbers of the site.”
- 9.97 Since the proposal will result in the net loss of existing employment floorspace; fails to demonstrate that there will not be an increase in the probability of atmospheric pollution around the Epping Forest Special Area of Conservation; will provide less than policy compliant affordable housing and infrastructure provision; along with the harm to the Green Belt and harm to visual amenity; it cannot be deemed to provide wider sustainability benefits to the community that would outweigh the flood risk. In accordance with paragraph 161 of the NPPF, since both elements of the exception test have not been satisfied, national policy requires that this proposal be restricted.

### **Contributions for affordable housing and Infrastructure delivery/ Viability**

- 9.98 Paragraph 54 of the NPPF requires that “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition”.
- 9.99 Regulation 122 of The Community Infrastructure Levy Regulations 2010, (as amended) requires that planning obligations may only constitute a reason for granting planning permission for the development if the obligation is -
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.
- 9.100 Paragraph 57 of the NPPF advises “Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the Applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available”.

- 9.101 Policy H 2 in the LPSV requires that on development sites which provide for 11 or more homes, or residential floor space of more than 1000m<sup>2</sup> (combined gross internal area), the Council will require 40% of those homes to be for affordable housing provided on site. The type, design and mix of housing should also reflect that classified as market housing. This proposal must therefore provide 92 units as affordable, of which at least 69 must be for affordable rent and 23 must be in shared ownership.
- 9.102 Policy D 1 of the LPSV provides that new development must be served and supported by appropriate on and off-site infrastructure.
- 9.103 Both policies H 2 and D 1 of the LPSV require that proposals that do not accord with these policies must be accompanied by a financial and viability appraisal (with supporting evidence), which is transparent and complies with relevant national or local guidance applicable at the time.
- 9.104 Policy T 1 (F) of the LPSV requires that Development will be permitted where it:
- (i) does not result in cumulative severe impact on the operation and safety of, or accessibility to, the local or strategic highway networks;
  - (ii) mitigates impacts on the local or strategic highway networks and London Underground station infrastructure within the District, arising from the development itself or the cumulative effects of development, through the provision of, or contributions towards, necessary transport improvements, including those secured by legal agreement, subject to viability considerations.

### **Review of the Viability Assessment**

- 9.105 Viability evidence submitted in support the application states that a full re-provision of existing employment at the site is not viable and that an enabling residential element is required. The proposed development is therefore seeking outline permission for 230 residential units of which only 20% of the units will be affordable. This is a 50% reduction in comparison with requirement of policy H 2 of the LPSV.
- 9.106 The Council commissioned an independent review of the viability evidence submitted by the Applicant in the context of the 2019 NPPF and updated PPG, in particular paragraphs 10-007 and 10-008. The independent review concluded that the Applicant has not followed the 2019 NPPF, the updated PPG nor the RICS Guidance. The fact that the Applicant has not followed this guidance is a concern, even if the resulting conclusion reached would have

been the same, and on this basis the Council is exercising caution about giving the assessment significant weight.

- 9.107 The RICS professional standards and guidance, England, Financial viability in planning: conduct and reporting (1st edition, May 2019) requires the following:
- 9.108 RICS members must also consider whether the advice they are giving represents the most effective and efficient way to deliver a reasonable development performance proportionate to the scheme being tested. This is sometimes referred to as 'value engineering' and involves quantity surveyors, agents and other professionals. LPAs and their advisers need to be confident that the Financial Viability Assessment (FVA) fully reflects the way the development would actually be carried out. If this is not the case, it should be stated and explained.
- 9.109 RICS members must include a statement that these matters have been given full consideration in the FVA. Corresponding statements must, where appropriate, be included in other professional and specialist inputs to the FVA.
- 9.110 The Applicant has not submitted any information demonstrating compliance with this part of this guidance – for example modelling the site without the very expensive undercroft parking.
- 9.111 It is mandatory for all chartered surveyors to follow RICS professional standards and guidance, England, Financial viability in planning: conduct and reporting (1st edition, May 2019). The Viability Assessor has not seen any reason for not following this guidance.
- 9.112 The National Planning Practice Guidance on Viability states that the market value is not a relevant factor.
- 9.113 Since the starting point in terms of assessing the viability of the scheme must be that the scheme is policy compliant in all other respects excluding the level of affordable housing provision and other contributions to meet the needs of the development then if the Council were to believe that this scheme, as designed, was the best possible scheme for the site and one that was policy compliant then a viability case could be made.
- 9.114 It is inappropriate to follow the Red Book (which sets out the rules of valuation for surveyors). The appropriate guidance is RICS professional standards and guidance, England, Financial viability in planning: conduct and reporting (1st edition, May 2019). A Redbook Valuation may include elements of hope value and planning potential. Paragraph 10-015-20190509 of the PPG is clear that the starting point is the Existing Use Value.

- 9.115 Existing use value (EUV) is the first component of calculating benchmark land value. EUV is the value of the land in its existing use. Existing use value is not the price paid and should disregard hope value. Existing use values will vary depending on the type of site and development types. EUV can be established in collaboration between plan makers, developers and landowners by assessing the value of the specific site or type of site using published sources of information such as agricultural or industrial land values, or if appropriate capitalised rental levels at an appropriate yield (excluding any hope value for development).
- 9.116 Sources of data can include (but are not limited to): land registry records of transactions; real estate licensed software packages; real estate market reports; real estate research; estate agent websites; property auction results; valuation office agency data; public sector estate/property teams' locally held evidence.
- 9.117 The Applicant argues that the scheme as designed could not bear a policy compliant scheme. But the scheme includes undercroft parking which is not a requirement of policy. The independent reviewer believes that this is particularly important due to the very high cost of the basement parking (£4,790,454).
- 9.118 Furthermore, the whole concept of the scheme is not policy compliant as the site is designated for employment use and the scheme does not provide as a minimum the replacement of this space. This concern is consistent with the pre-application advice given to the Applicant.
- 9.119 In summary the Applicant has failed to demonstrate that the submitted viability appraisal was carried out in accordance with national planning policy guidance. It would appear that the Applicant's proposed scheme has been assessed, and no regard has been given to whether or not a more valuable (and viable) scheme could be formulated. Its findings therefore cannot be given any weight. It is for this reason that the Council is unable to fully and properly assess whether it would be financially unviable for the proposal to provide 40% of the onsite housing provision.
- 9.120 It is for this reason that the argument that the under provision of affordable housing is required to enable the redevelopment of the employment floorspace has not been adequately made. As such the proposal would be non-compliant with both policies E 1 and H 2. Whilst there would be some benefit in the provision of additional housing on the site, the Council considers this would not be enough to outweigh the loss of employment floorspace.

9.121 The proposal therefore fails to meet a key housing need within the District and as such is contrary to the requirements of paragraph 62 of the National Planning Policy Framework, policy H5A of the Adopted Local Plan and policy H2A of the LPSV.

### **Infrastructure Contributions**

9.122 The proposal triggers the requirement for the following contributions to make the development acceptable. (These contributions are in addition to the requirement that 40% (92 units) of the total housing provision be affordable): -

- A developer contribution of up to £77,050 to implement the Air Pollution mitigation Strategy (£335 pounds per dwelling) (subject to an appropriate assessment being carried to confirm that the proposal would not have an adverse impact on the integrity of the EFSAC).
- A developer contribution of up to £3,849,751 index linked to April 2019, to mitigate its impact on local education and school transport provision.
- A developer contribution of up to £898,610 to mitigate its impact on local primary health care provision.
- A developer contribution of £55,000 to Epping Forest Community Transport to enable them to provide an additional C392 bus to run within the peak times.

E.g. 07:00-09.30 bus every half hour;

09.30-15.00 every hour;

15:00 -18:30 bus every half hour;

Additional Saturday morning services to and from Harlow to Hoddesdon.

9.123 This is a total requirement of £4,880,411 or £21,219.18 per dwelling. The Infrastructure Delivery Plan indicates that these contributions are essential to mitigate the impact of the development and support the new community created by it. These contributions are the minimum necessary to make the development acceptable in planning terms; are directly related to the development and are fairly and reasonably related in scale to and kind to the development. These contributions therefore comply with the requirements of Regulation 122 of the CIL regulations.

9.124 The heads of terms submitted by Arebray Development Consultancy dated 20th August 2020 indicates that the Applicant is willing to provide £1,536,000 or £6,678 per dwelling. The following table sets out the Applicant's 'offer':

Table 1

<b>Item</b>	<b>Stakeholder</b>	<b>Description</b>	<b>Cost</b>	<b>£ per dwelling</b>
<b>Affordable housing</b>	<b>EFDC</b>	<b>20% affordable housing provision</b>	<b>TBC</b>	<b>TBC</b>
<b>Blended s106 Contribution</b>	<b>EFDC</b>	<b>Amalgamated costs to be apportioned as appropriate. Derived from Arebray assumptions per dwelling</b>	<b>£1,150,000</b>	<b>£5000</b>
<b>Improvements to Lee Valley Regional Park</b>	<b>LVRPA</b>	<b>Towards various projects identified by LVRP</b>	<b>£331,000</b>	<b>£1,439</b>
<b>Public Transport upgrade</b>	<b>Epping Forest Community Transport</b>	<b>Towards enhancing the local C392 bus service.</b>	<b>£55,000</b>	<b>£239</b>
<b>Total</b>			<b>£1,536,000</b>	<b>£6,678</b>

9.125 The applicant offer provides only one quarter ( this figure rises to one third if the contributions to the Lee Valley Regional Park improvements are included) of the absolute minimum contribution required to make the development acceptable.

9.126 The Applicant asserts that the original plan-wide viability assessment indicated that contributions of £3000 per dwelling for S106 would be sufficient to meet the needs of new development and therefore that figure is what they are

benchmarking their contributions against and on that basis the contributions offered are in excess of what is required. However, the Applicant has not taken into consideration, that the infrastructure costs presented in the IDP have been updated, which has resulted in the change in the developer contribution allowance per unit being applied since the Applicant entered into pre-application meetings and submitted the planning application. In the plan-wide viability assessment, an allowance is now made for £22,000/unit of S106 costs. Not the original £3000 per unit originally required by plan-wide viability assessment.

- 9.127 The IDP also requires a developer contribution of £1,844,140 to provide additional public parks and gardens; £370,530 to provide additional community facilities to meet the needs of the new residents and £591,790 index linked to April 2019 to provide additional amenity green areas. However, whilst these requirements and the offer of £331,000 for improvements to the Lee Valley Regional Park would make a positive contribution to improving social and physical wellbeing of future occupiers of the site, they fail to meet the tests laid out in paragraph 9.99 and therefore have not been requested.
- 9.128 In any case the contribution requirements listed in paragraph 9.122 are the minimum necessary for the development to be acceptable. The offer made is more than three quarters short of the contributions needed to meet the needs of the development. (The offer of £331,000 for improvements to the Lee Valley Regional Park for the reason stated in paragraph 9.127 has been excluded from this calculation). The lack of an agreement to provide the full contribution necessary to meet the needs of the development would put on an additional burden on existing infrastructure provision within this part of the District. It is for this reason that the proposal is contrary to requirements of policy D 1 of the LPSV.

### **Green Belt**

- 9.129 Paragraph 133 of the NPPF identifies that the Government attaches great importance to Green Belts. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Policy GB2A of the Adopted Local Plan presumes against the construction of new buildings, unless they are appropriate. Policy GB7A seeks to resist conspicuous forms of development within the Green Belt, which would have an excessive impact on its openness. Policy DM 4 of the LPSV reflects paragraphs 145 and 146 of the NPPF.



9.130 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should be refused planning permission unless very special circumstances can be demonstrated which clearly outweigh this harm.

9.131 Paragraphs 145 and 146 of the NPPF allow for some exceptions to inappropriate development, the relevant one in this case is:

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

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

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

9.132 The south eastern section of the site falls within Green Belt. This section of the site is outside of both adopted and emerging allocation as Employment Land. This is an area of approximately 970 sqm. Whilst the majority of this land is proposed as open space, it does also include approximately 315 sqm to be covered in hardstanding and provides the access into the site. This area is currently densely covered in vegetated habitat of scrub and trees. The north eastern section of this area includes an area of woodland containing a number of English Oak trees which will be removed to facilitate the development. The loss of these trees along with the creation of hardstanding will cause substantial harm to the natural openness of this Green Belt section of the site. It will therefore have a greater impact on the openness of the Green Belt than the existing development and as such is inappropriate development by definition.

9.133 In this situation, this application can only be approved in very special circumstances. Paragraph 144 of the NPPF defines this circumstance as being where ‘the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.’ It is the Council’s view that that the harm to the Green Belt is not clearly outweighed by other considerations. The conclusion within section 10 of this report of this report assesses how much weight should be given to the other considerations.

## **Place shaping / Design**

- 9.134 Section 39 of the Planning and Compulsory Purchase Act 2004 requires that the Local Authority must seek to achieve 'good design'. Policies contained within the National Planning Policy Framework (NPPF) deal with good design.
- 9.135 Paragraph 124 of the NPPF requires "The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process."
- 9.136 Paragraph 130 of the NPPF requires "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents."
- 9.137 Matters for which approval is sought include access, landscaping, layout and scale. The only reserved matter is the appearance of the scheme. This means that with the exception of appearance, all other design matters usually assessed as a part of a full application need to be considered as part of the assessment of this application.
- 9.138 Since the starting point is that the site is designated as falling within the Lee Valley Regional Park area which has a sensitive landscape; is located within the Environment Agency's Flood zones 2 and 3; and the density of development which at 79 dwellings per hectare (plus employment uses) is significantly greater than the density of development within the surrounding area; it therefore falls on the Applicant to demonstrate why, despite these constraints the application should be supported.
- 9.139 The proposal was reviewed by the Urban Design Officer, who found that the submission of an outline application with the supporting documents being illustrative only, fails to provide the amount of detail required to ensure that the final development for this mixed-use scheme, proposing collocation of light industrial, amenity and residential uses, in a sensitive landscape setting, can be considered successful and high quality. This stance is consistent with the pre-application advice given. However, refusal only on the type of application submitted cannot be justified as a reason for refusal. Instead concern can only

be raised at the principle of the development in terms of layout, access, landscape and scale. These matters are addressed below.

### **Layout and Access**

- 9.140 Policy SP 3 of the LPSV notes that development must provide homes which combine the very best of urban and rural living to promote healthy and active lifestyles and vibrant communities. Policy DM 9 notes that proposals must maximise connectivity and integrate landscape into the development as a whole.
- 9.141 The NPPF (2019) paragraph 127 notes that developments must create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, which function well and add to the overall quality of the area.
- 9.142 Policy T 1 of the LPSV notes 'reduced car parking, including car free, development in sustainable locations will be supported.'
- 9.143 As noted during the pre-application stage, the illustrated scheme remains car-dominated, despite the claimed sustainable location of the site. It is frequently noted in the DAS and other material that walking and cycling routes and facilities are included in the proposal, to ensure active and sustainable travel is enabled and encouraged. However, the proposed amount, location and design of car parking, walking and cycle routes, and facilities means that the proposal that is shown does not match up with the aspirations in the DAS.
- 9.144 There are 324 car parking spaces proposed, including car parking as the first impression at all entrances to the site (including from the PROW). The provision such a large amount of parking needed to service the proposal has resulted in the area of hardstanding on the site increasing by 0.24 hectares and the main amenity space being primarily hard landscaped with artificial grass.
- 9.145 There are almost no areas of the site which are not accessible to vehicles, including refuse trucks along the eastern boundary of the site – the ecological corridor. The 'As Prop Public Realm Plan' submitted for approval encompasses three parking lots as well as parking on 'The Avenue'. A parking space does not equate towards public realm. The primary LEAP play space sits alongside the access road and opposite a parking lot. 'Pocket parks' are sites alongside more parking and the primary vehicular access route. Vehicles would dominate the development as depicted in the Illustrated Masterplan.
- 9.146 The quantum of parking directly worsens the quality and design of the proposal. This quantum has been included due to the number of dwellings proposed on

the site. It results in the Applicants having to squeeze in car parking across the breadth of the site, and would result in a sense of place and outlook for residents and employment users that is car focused, particularly in Blocks A, B, and D. The proposed residents undercroft car park also appears to be an unsustainable and 'squeezed in' design move, particularly in flood zone 3. The requirements of an underground car park also result in the raising of the residential amenity space. This results in anyone who is not able to use steps (older people, those with buggies, or those less able) to use a more convoluted route to reach the main area of amenity (needing to walk through the northern car park to do so). This is not considered to be inclusive design.

- 9.147 The proposals do not enable safe, inclusive access and active travel routes, despite this being a key aspiration by the Applicants. The most direct pedestrian and cycle route to key amenities and onwards travel (Broxbourne Station) is via the 'Commercial Access' entrance. A visualisation of this is provided – 'As Prop Illustrative Sketch 5' and appears to show a shared surface access where commercial and service vehicles would come into conflict with anyone walking and cycling. PROW connectivity within the site and access to green spaces via ramps requires crossing car parks. There appears to be no sheltered secure cycle parking for commercial/ employment uses (Sheffield bike stands only). There is also no commitment, or space indicated, for shower and locker facilities in employment buildings, key for encouraging active commuting.
- 9.148 Whilst space standards are proposed for residential dwellings, it is unclear what layout or design measures have been considered for the different employment uses. User-needs and design requirements of light industrial, retail/ café, health care, leisure and residential (all of which are proposed) are all unique. Spaces which are designed solely with the purpose of being 'flexible' can risk being generic, and therefore potentially unsuitable, for the reality of employment uses. The design differences of these various spaces include their sizing, interaction with external and public space, servicing, views into and out of the buildings, security and entrances, outdoor yard requirements etc.
- 9.149 Understanding how these different uses will be co-located and their requirements is crucial to determining layout of site, street types, open spaces, and public and private ownership. This process/ work does not appear to have been undertaken, and there is no indication in the supporting material that the design team have undertaken a project previously which co-locates these various uses, which could be used as precedent or assurance that this design thinking has been undertaken. Therefore, it is not possible to assess whether the layout of the employment space is acceptable, and it seems to have been designed to offer maximum flexibility, with little consideration of functionality.

9.150 It is for these reasons that the Council believe that public realm proposed would be dominated by hard surfacing and its layout would give the impression of prioritising vehicular traffic over pedestrians. Consequently, it would not result in the kind of user-friendly multi-purpose public domain sought by adopted local plan policies DBE3 and DBE5 of the adopted Local Plan along with SP3 and DM 9 of the LPSV and which would be necessary to make such a highly intensive development successful.

### **Character and Landscape**

9.151 Policy DM9 of the LPSV, notes that development proposals must relate positively to their context, and make a positive contribution to place. The NPPF (2019) paragraph 127 notes that developments must establish a strong sense of place.

9.152 Policy DM9 also requires developments to 'relate positively to their context; make a positive contribution to place;' and policy SP3 notes that new developments should 'enhance the distinctive character and identity of the area'.

9.153 NPPF paragraph 127 notes that developments should be 'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'.

9.154 The Vision set out on p.30 of the DAS is welcomed, with commitments to sustainability, inclusive design, modern workspaces, adaptability, and community.

9.155 The wider landscape vision indicates tying the site and proposals into the Lee Valley – which is certainly welcomed as a vision objective. However, to do this it would seem that the landscape design should be much more ecologically and naturally driven. Proposals which are shown on p.83 of the DAS, which relate to the wider vision, connectivity and boundaries, are not shown in any documents or drawings to be approved. It is therefore recommended that these matters be addressed through the attachment of conditions to any permission.

9.156 The setting of the proposal offers immense opportunity, as noted by the QRP and during pre-application discussions, in relation to character and place shaping. The Lee Valley Regional Park setting could lead to a proposal which sits within the landscape and offers excellent green and natural outlook and amenity for workers and residents. However, the landscape proposals themselves are lacking, with a lack of detail around the character and design of these green spaces, and with nothing submitted for approval for these, the main

green amenity space proposed appears to be predominantly hard landscaping, car parking vents and artificial grass. This is very much a missed opportunity in terms of place shaping.

- 9.157 The proposed play areas do not appear to have good natural surveillance or safety, being located alongside the main access road, and opposite a parking lot. There is also no detail on the quality of these spaces, how they are designed, what age groups they cater for, or what equipment will be provided. Since the play areas are separated from the residential elements of the scheme and are publicly accessible, they provide inadequate natural surveillance and security and as a result they risk being underused and neglected play areas. Insufficient information has been provided in regard to the natural SUDs strategy and how it will be incorporated into the landscape design and play strategy. The Design and Access Statement indicates that swales proposed along the edge of the play area. Concern is raised about how will these features be managed and maintained? Will the swale cause severance to the play areas?
- 9.158 The architectural design, in terms of appearance and material choice is more successful in its nod to the industrial heritage of the site and in creating a sense of place. However, these elements relate to the reserved matters and therefore are not being considered at this stage.

### **Scale**

- 9.159 Policy DM9 of the LPSV notes that 'development proposals must relate positively to their locality, having regards to (i) building heights (ii) the form, scale, and massing prevailing around the site, (iv) the rhythm of any neighbouring or local regular plot widths, and, where appropriate, following existing building lines'.
- 9.160 The NPPF (2019) paragraph 127 notes that developments must be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, establish a strong sense of place, and be sympathetic to local character and history while not preventing or discouraging appropriate innovation or change.
- 9.161 The scale and form of the proposal has improved from pre-application discussions, to better sit within the landscape and reflect the history of the site, e.g. the saw tooth industrial roof forms and divided massing. However, it is not yet clear that the form of the buildings reflects the functions of the different uses. Furthermore, the proposed form of the building, even if acceptable in

appearance, has a depth that results in an abundance of single aspect homes, which does not indicate high quality user-centred design.

- 9.162 A Heritage, Townscape and Visual Impact Assessment is provided. In a number of the longer views provided, the massing and appearance of the scheme do appear appropriate to its setting, with a semi-industrial appearance and form, colour scheme and material pallet.
- 9.163 However, in the Visual Impact Assessment, in view 'Central South of the Boating Lake' (p.44-45) – the tallest part of Block C is particularly visible, noticeably breaking the tree horizon line, and with a lighter material palette on the façade which contrasts with the darker natural vegetation. It is not considered that the height at this point is acceptable or that it can be suitably mitigated through material or form. It negatively harms the landscape setting and should be tested against this setting and reduced. Similarly, in the view on p.46-47 the height of Block C distracts and negatively impacts the naturalistic view. The height of block C is therefore contrary to the requirements of policies LL2 and DBE1 of the Local Plan and DM9 of the LPSV.

### **Sustainability**

- 9.164 The Council's policies DM 9, DM 18-21 of the LPSV set out expectations around sustainability measures and information to ensure that development incorporates sustainable design and construction principles and clear approaches to climate change. The National Design Guide (2019) sets out that well-designed places and buildings follow the energy hierarchy, and conserve natural resources including land, water, energy and materials (paras 135-138).
- 9.165 The proposal is for residential uses in Flood Zone 3 and therefore ranks lower in the land preference hierarchy compared to other more sustainable sites in the LPSV, precisely because of the risk it brings with flooding of residences – this is particularly important given the changing and more extreme climate that we are seeing due to the Climate Emergency.
- 9.166 In terms of climate resilience, whilst the proposed Green roofs/ sedum roofs on Blocks A and B are however, welcomed in providing ecological, cooling, greening and visual benefits, these benefits are insufficient to overcome the fact that the site is located flood zone 3.
- 9.167 The Design Officer has also raised concerns regarding how the ventilation strategy, overheating assessment and strategy and heating strategy will be successfully integrated into the design. Full height glazing as shown on southern elevations needs to be tested to ensure that overheating will not occur. A communal heat network using air source heat pumps is proposed, however

this needs to be designed into the scheme and layout, as without integration, servicing/ plants and pumps can have a very negative impact on the character and place shaping. However, since this application is at the outline stage, and there is commitment to deal with these matters within the submitted Sustainability and Energy Statement by Blue Sky Unlimited on behalf of the Applicant it is considered that concerns raised could be resolved at the reserved matters stage.

### **Sustainable Travel, Highway Safety and Parking Provision**

- 9.168 The site is located 900m away from Broxbourne Railway Station. There is also a bus stop within 150m walk of the site served by the route C392 and SB01. The service runs on an hourly frequency in each direction between 7am and 6pm weekdays, and a single bus on a Saturday. SB01 route from Dobbs Weir to Hoddesdon via Broxbourne, operates a single bus on a Wednesday in each direction. The nearest town centre is within Broxbourne and is 1.2km away. Therefore, whilst connections to London and Cambridge are good, the provision of local bus services is poor, in this location as there is no evening service and only 1 bus service on Saturday mornings.
- 9.169 Policy T 1 (B) of the LPSV requires that car parking provision on the site should be reduced, making best use of the location and to promote sustainable transport options instead.
- 9.170 The provision of an additional bus to serve the C392 route for a 5-year period is welcomed. It is considered that the minimum necessary to increase the likelihood of sustainable travel patterns being achieved.
- 9.171 The Policy Team have raised an objection in regard to the provision of 324 car parking spaces within a sustainable location being excessive, as it will reduce the likely take up of more sustainable modes of transport. However, since this level of parking will result in 1 car parking space per dwelling which is below the standards set out in the Essex Parking Standards Guidelines 2009 and the site is more than 400m away from the station, the level of parking provided is on balance considered acceptable given the quantum of development proposed.
- 9.172 An additional access is proposed on the south eastern side of Nazeing New Road. The Highways Authority is satisfied that the impact of the development will be acceptable in highway safety terms and therefore complies with the requirements of policies ST4 of the adopted Local Plan.

### **Ecology**



9.173 Policies DM 1 and DM 2 of the LPSV require that new development avoids harm to existing trees, green infrastructure, precious habitat and species; strengthens the biodiversity assets of the District; addresses the impacts of development on landscape character and geodiversity; responds to the key assets of Lee Valley Regional Park; and provides for open spaces for people and other species to thrive.

9.174 An ecological assessment, including an extended phase 1 habitat survey, has been carried out by ETHOS Environmental Planning found that habitats on the site were common and widespread with key features being the scrub to the south and boundary hedgerows. However, the surrounding habitat was assessed as good for bats with extensive riparian (adjacent to river) habitat woodland and scrub. Offsite riparian habitat was also identified as providing potential habitat for Water Voles and Otter with the scrub and woodland area suitable for Hedgehogs and breeding birds.

9.175 This report recommends a range of mitigation, compensation and enhancement measures including: -

- Incorporation of species rich grassland planting scheme and the creation of rough grassland section in the south of the site to compensate for the loss of scrub habitat lost as result of the new access road, car parking areas and play area;
- Planting a new hedgerow along the north east boundary to screen the development from the caravan park and to prevent light spill onto the riverside habitats and planting up gaps in the existing hedgerows;
- The green roofs proposed as part of the development to be planted as wildlife species rich roofs;
- Installation of bird and bat boxes;
- Inclusion of bee bricks and an insect hotel within the podium garden;
- Planting of native shrubs and trees;
- Provision of a lighting plan to be agreed by the Council which demonstrates that no excessive external lighting above current ambient levels along the boundary hedgerows;
- Provision of noticeboards to raise awareness about the potential impacts of dogs owned by the new residents on the Local Wildlife Sites and adjacent areas in order to decrease disturbance to local wildlife.

These details were reviewed by the Place Services Ecology team who found the provision subject to further conditions to be acceptable. The proposal therefore complies with the requirements of policies NC3 and NC4 of the adopted Local Plan and DM 1 of the Local Plan Submission Version.

### **Living Conditions of Neighbours**

9.176 The nearest residential properties adjoin the western boundary and front Nazeing New Road. This row of 12 properties are known as The Mead and are a minimum of 28m away from Block B which is three storeys high and 34m away from the four-storey block A.

9.177 The Daylight and Sunlight Study (Neighbouring Properties) carried out by Right to Light Consulting submitted on behalf of the Applicant concludes that

*“The proposed development will have a low impact on the light receivable by its neighbouring properties. In our opinion, the proposed development sufficiently safeguards the daylight and sunlight amenity of the neighbouring properties.*

9.178 Therefore, the impact on light, outlook and privacy will not be so excessive as to justify refusal. Loss of a private view is not a material planning consideration. The proposal therefore complies with the requirements of policy DBE9 of the Local Plan.

### **The Creation of a Basement**

9.179 Policy DM 12 of the LPSV requires that basement development is carried out in a way that does not harm the amenity of neighbours, compromise the structural stability of adjoining properties, increase flood risk or damage the character of the area or natural environments in line with national planning policy.

9.180 A desktop basement appraisal was carried out by Green Earth Management Co Ltd (1645 r1 Issue 1) which looked at proposed basement and its impact on the existing geology, geotechnics, hydrogeology, hydrology, radon, archaeology, unexploded ordnance, contamination, arboriculture, public highway boundaries and the stability of neighbouring properties. The appraisal has identified areas for consideration and further works and analysis in order to progress to the detailed design of the development. Since the geotechnical parameters have not been established, the exact level of risk/harm to the environment or the function and amenity of the surrounding area is not fully known at this stage, it is therefore recommended that further pre-

commencement conditions be imposed on any permission to provide that needed clarity.

### **Quality of Resulting Residential Accommodation for Future Occupiers**

- 9.181 The scheme notes that the Nationally Described Space Standards are met for each home, which is welcomed. The Design Officer has raised concerns that no plans of the buildings have not been provided, it is not possible to confirm this. Illustrative plans for a 1 bed/ 2person and 2bed/4-person home is shown on p.53 of the Design and Access Statement. (DAS) Whilst these show two internal layouts which nominally meet Nationally Prescribed Space Standards, both homes shown are single-aspect, and the furniture drawn does not always appear to give enough space in rooms (see desk in Bedroom 2 of 2b/4p). Based on the plan shown on p.52 of the DAS, it appears that 48% of the homes proposed would be single aspect. This is not good residential design as it will result in a development which fails to provide good outlook, and could also create potential daylighting and sunlight issues, impacting wellbeing for future residents. However, since the proposal is for outline permission only, this issue would therefore need to be resolved at the reserved matters stage.
- 9.182 The agent has confirmed that notwithstanding the statement made within the Sustainability and Energy Statement by Blue Sky Unlimited on behalf of the Applicant that all new homes will be built to the Building Regulations Part M Category 2: Accessible and Adaptable Homes standards. It is therefore recommended that this requirement be attached as a condition on any permission. The proposal on this basis meets the requirements Policy H 1 A (v).
- 9.183 The proposal will provide on average around 31.9 sqm of private and semi-private amenity space per unit. This provision meets the size requirements laid out in policy DM 10 of the LPSV.
- 9.184 Objections raised by the Policy Team with regard to a lack of an appropriate mix of units within this 230-unit scheme are noted, however, since the latest SMHAA evidence on what the local housing need is still in the process of being published, it is considered that it would be premature to refuse the application on these grounds.

### **Housing Supply and Delivery**

- 9.185 Whilst the allocated sites within the LPSV will provide a suitable five-year housing land supply once the EFDLP is adopted, at present the Council cannot demonstrate a five-year housing land supply in accordance with current the national planning policy and practice guidance.
- 9.186 In addition, the 2018 Housing Delivery Test results indicate that the Council has been able to demonstrate a 49% delivery rate over the past three years. This is substantially below the housing requirement (being less than 75% of that requirement). This requires that where relevant policies are out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of importance provide at least 1 clear reason for refusal.
- 9.187 The proposal is in an area at risk of flooding and fails the Exception Test, in addition the development would be harmful to the Epping Forest SAC. In this circumstance, para 11(d) (i) require that the tilted balance towards the presumption in favour of sustainable development does not apply and instead this development is required by national policy to be restricted.

### **Other Considerations**

- 9.188 The agent for the application has stated within a letter dated 4 August 2020 (ref: KH/NG/EC – 18/026) that they could carry out residential development of 230 homes under new permitted development rights. Case law exists on the fallback position of permitted development. The weight the Council is required to give to such a fallback position as a material consideration will depend on whether what could be built using extant unimplemented permissions or permitted development rights, on having a broadly similar or worse impact to that is proposed; and the reasonable likelihood or possibility that, if permission were refused, permitted development proposals would realistically be built.
- 9.189 The Court of Appeal decision made in Mansell v Tonbridge and Malling BC 2017 ruled that there must be a real prospect of a fallback position actually being exercised in the event of a refusal. There are serious doubts as to whether the scheme as proposed within this letter would fall within the limitations of this legislation. The reasons for this assertion are laid out below.
- 9.190 The agent indicates that the relevant classes applicable to the site would be classes AB and ZA of Part 20 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- 9.191 Class AB protects the ground floor commercial uses and allows for new flats on terraced or semi-detached buildings that are commercial to a maximum of an additional two storeys.

9.192 A large proportion of the buildings are single storey and therefore would only be able to extend to an additional floor. All buildings built prior to July 1948 would not benefit from this legislation.

9.193 Class ZA allows for the demolition of buildings within the B1 use class & construction of new flats or a house. The new class allows for the demolition and construction of the new building. The old building must have been vacant for a period of at least 6 months immediately prior to the date of the application for prior approval. The footprint of the existing building must not exceed 1,000m<sup>2</sup>, a developer cannot demolish part of a building or more than one building. The building also must have been constructed on or before 31st December 1989.

9.194 Since the vacancy rate within site is low, any proposal would not fall within the limitations of this legislation.

9.195 Furthermore, as part of the prior approval process, the Council would also be required assess the impacts related to

- transport & highways;
- contamination; flood risk;
- external appearance;
- natural light in all habitable rooms;
- impacts of noise from any commercial premises on the intended occupiers of the new flats;
- impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area; and
- the impact upon amenity space of the existing building and neighbouring ones, (overlooking/privacy/loss of light).

9.196 These constraints will therefore severely limit the type of development that could be achieved by this legislation in this location.

9.197 This legislation came into force in September 2020, since that time no prior approval application has been submitted. It is for these reasons that this suggested 'fallback' position has not been demonstrated as being a genuine

possibility and as such it carries limited weight in the determination of this application.

9.198 The objection raised in regard to the increased competition created to existing businesses as a result of the new retail offer is noted, however, increased competition from a new business is not a valid planning consideration and therefore cannot be considered in the determination of this application.

## **10. PLANNING BALANCE & CONCLUSION**

10.1 The general effect of paragraph 11 of the NPPF is that, in the absence of relevant or up-to-date development plan policies, the balance is tilted in favour of the grant of permission, except where the policies within the NPPF that protect areas or assets of particular importance provides a "clear reason for refusing the development proposed" or where the benefits of the proposed development are "significantly and demonstrably" outweighed by the adverse impacts when assessed against the policies in the NPPF taken as a whole.

10.2 The proposal would provide benefits arising through the provision of

- up to 230 new homes, of which up to 46 will be affordable;
- construction work; new customers for the nearest services and facilities; a general improvement in the site's appearance;
- and a contribution of £55,000 to Epping Forest Community Transport to provide an additional bus that will allow a local bus service to be increased from a one-hour service to a half hour service during the peak hours only for a period of 5 years; and
- Contributions for pedestrian access improvements to connect with the Lee Valley Walk and the Lee Valley Pathway totalling £331, 000.

These benefits would together provide positive planning benefit which weigh in favour of the proposal.

10.3 These benefits are weighed against the adverse impacts of the development, which are as follows:

10.4 The development would result in the loss of designated employment floorspace for which there is a strong market demand. Furthermore, the level of provision proposed is compromised by the lack of detail provided to satisfy the Council that a high quality and true mixed-use scheme will be delivered, that will successfully co-locate office, light industrial, amenity and residential uses, in a

sensitive landscape setting. The proposal therefore fails to meet a key need for employment within the District.

- 10.5 The proposal will result in an increase in annual average daily traffic compared to the existing uses on the site. It is also above the amount and type of development proposed for allocation within the emerging Local Plan. The application therefore needs to go through a site-specific HRA assessment process in relation to the effects of development on atmospheric pollution in order to meet the requirements of the Habitats Regulations. The Applicant is unwilling to undertake to pay the Council to review the submitted Transport Statement and Air Quality Statement. The Council is therefore unable to assess the traffic generating characteristics of the site in further detail and assess if there are any potential adverse effects on the EFSAC over and above that accounted for in the Council's adopted District wide Habitats Regulations Assessment. The Council as Competent Authority is therefore unable to be satisfied that the proposal both alone in combination with other plans and projects will not have an adverse impact on the integrity of the Epping Forest SAC and as such the Council cannot grant planning permission.
- 10.6 The viability assessment submitted with the application has not followed the criteria laid out in the 2019 NPPF, the updated PPG nor the RICS Guidance and therefore the evidence within it cannot be relied upon. It has not been demonstrated to the Council that a 50% reduction in affordable housing is required to enable the replacement, and reduction, of employment space viable. It is for this reason that the proposal fails to provide sufficient affordable housing to meet the policy requirements of H 2 (A) or provide the necessary infrastructure to meet the needs of the development.
- 10.7 The proposed development fails to deliver the necessary infrastructure to make the development acceptable.
- 10.8 The application site is located outside of the areas of lowest flood risk and the type of development proposed is highly vulnerable if flooding does occur. Since the proposal fails to demonstrate that it would provide sufficient wider sustainability benefits to the public to outweigh the risks posed by the development, it does not meet the requirements of the Exception Test and as such national policy requires that it be restricted.
- 10.9 The proposal would introduce a 5-storey block of flats which would be in close proximity to the Nazeing Meads South Lagoon and as a result would represent an incongruous and prominent visual intrusion to the detriment of the landscape character of the site. It would also result in significant adverse impact when

viewed from the surrounding countryside to the detriment of the character and appearance of the Lee Valley Regional Park.

- 10.10 The public realm which would be provided by the development would be dominated by hard surfacing and its layout would give the impression of prioritising vehicular traffic over pedestrians. Consequently, it would not result in the kind of user-friendly multi-purpose public domain which would be necessary to make such a highly intensive development successful.
- 10.11 Finally, the southern section of the site falls within land designated as Green Belt. The proposed development is inappropriate development in the Green Belt and is therefore by definition harmful. The operational works proposed in this section of the site will result in a reduction in the openness and would be detrimental to the visual appearance of the Green Belt and purposes of containing land within it. No very special circumstances or other considerations have been advanced that would outweigh the harm caused by the inappropriateness and the other harm identified above.
- 10.12 When weighing up the benefits of scheme, much of which could also be achieved with a more policy compliant scheme against the harms, (i.e. loss of employment space; the serious environmental harms resulting from the development and the proposal failing to provide policy compliant affordable housing or the minimum level of infrastructure contributions needed to facilitate the development) which will result in a development which fails to meet the economic, social and environmental goals of sustainable development as laid out in both national and local policy, it is therefore considered that the benefits of the scheme are insufficient to overcome the harm likely to arise as a result of this scheme.
- 10.13 It is for the reasons set out above, having regard to all the matters raised, it is recommended that planning permission be refused for the reasons laid out in section 1 of this report.

**Following the previous Committee Report on 30th November 2020 a number of correspondences have been received by the applicants regarding this site. Below is a summary of these and the relevant response to the matters raised.**

**Letter from Mr Ellerbeck, dated 20.11.20**

- 1, Employment site is not fit for purpose. This is demonstrated by letter from Supanova.
2. Only internal consultees objecting.



3. Lack of engagement.

### **Response**

1. See paragraph 9.30.
2. Objections raised by the Council are based on material planning grounds.
3. The Officers acted in accordance with the Development Management Charter Oct-2020 which requires: -

Planning Officers are unable to provide progress updates during the course of an application. We are unable to advise applicants of the likely outcome of the application during the course of the application. Revised plans and additional information will not usually be accepted, unless specifically requested by the Case Officer. We are unlikely to enter into ad-hoc correspondence during the course of an application.

Since the monies given at the Pre-application stage PPA had been spent on services already rendered (and officers engaged with the developers over and above that required in the agreement). The applicant was also given the opportunity to enter into a Planning Performance Agreement to allow negotiations to be appropriately resourced at the planning application stage.

The Development Management Service Charter encourages the take up of this service to for large-scale major developments because it better allows for a bespoke service to be offered that provides specialist support and expertise relevant to the proposal.

The Development Management Service Charter advises that whilst it is not necessary to enter into a PPA for large scale major applications, if no PPA has been agreed then any major planning application is likely to be considered on the information submitted, and it is unlikely that there will be an opportunity for amending the proposal, or to meet with the case officer to discuss the merits of the application. We are unlikely to accept revised plans or additional information unless specifically requested by the case officer.

For clarity, there is not the requirement to respond to individual questions or the matters raised but instead Officers will deal with all relevant material planning considerations as part of our overall assessment and final report.

At the pre-application stage the applicant was made aware that” the starting point for the redevelopment of the site should be the re-provision of all the existing employment to comply with LPSV Policy E 1. It is still considered that there has not been sufficient evidence/ justification with regards to this matter and therefore the current proposals would be contrary to policy and would be viewed as unacceptable.

Since Officers did provide detailed advice at the pre-application stage and the current proposal is in principle not policy compliant, it is not considered to be sustainable and development and therefore the requirements of paragraph 38 of the NPPF are not engaged.

**Email dated 24/11/20**

1. Officers be instructed to advise Members on the recently submitted letters of consultation from Supanova Holdings, the Freehold owners of the site and CK Training Ltd who are the biggest current occupiers and employers at the site. In addition, what impact do these responses have on the viability appraisal and the projected existing employment numbers for the site should this development not receive approval.
  
2. Officers be instructed to advise Members on the new Use Classes Order and Permitted Development rules that would apply to the site should this Application not receive approval. The Committee Report should be revised/update

**Response**

1. See paragraphs 9.29 -9.30 and 9.105 -9.119.
  
2. See paragraphs 9.34 -9.37.

**Letter from Icenl dated 30.11.20**

Concerns raised in relation to the reasons for refusal and lack of engagement.

**Response**

Detailed concerns are responded to within the body this report. In light of the concerns raised and the additional information submitted, the number of reasons for refusal have been reduced from 14 to 8 reasons.

**Email dated 27.01.21**

- (1) Non-compliance with paragraph 38 of the NPPF.
- (2) Requests pursuant to freedom of information request.
- (3) Judicial Review of EFDC's direction concerning engagement with Viability Consultant

- (4) Letter from Arebray Development Consultancy
- (5) Letter from Lambert Smith Hampton

**Response**

- (1) Addressed above in point 3 of letter dated 20.11.20.
- (2) Responded to, by the Freedom of Information Officer.
- (3) This is a matter for the applicant.
- (4) See paragraph 9.105 to 9.119
- (5) See paragraph 9.32.

**Email dated 10 February 2021**

The facts appertaining to the Epping Forest College application also mirror-images the application for Nazeing Glassworks in respect to the viability appraisal and deliberate non-engagement to delay the proper consideration of the planning application.

**Response**

The facts are not the same. The Viability Review was only undertaken by HDH Planning and Development LTD. Kift have had no involvement with this application. At the time of writing this report, the applicant had not paid for the initial viability review. The engagement with the applicant has been carried out in accordance with Development Management Charter. The applicant is aware of his right to appeal against non-determination of the application if he considers that the delay to the determination of the application is unreasonable.