

Report to District Development Management Committee



Report Reference: EPF/3059/18
Date of meeting: 07 July 2021

**Epping Forest
District Council**

Address: J & W Fencing Ltd, Pecks Hill, Nazeing, Essex, EN9 2NY

Subject: Outline application for demolition of all existing structures and complete site clearance followed by residential redevelopment with 25 dwellings; closure of existing access and creation of a new access point.

Responsible Officer: Sukhi Dhadwar (01992 564597)

Committee Secretary: Gary Woodhall (01992 564470)

Recommendation:

It is recommended that the Committee Members note the content of the report, and:

- Agree to the granting of planning permission for the development on the site as mentioned in the report, with the requirement to enter into an amended Legal Agreement to secure a financial contribution and other mitigation measures relating to the air quality within the Epping Forest Special Area of Conservation; and
- Agree to the granting of planning permission for the development on the site mentioned in the report, subject to the conditions and legal agreement previously agreed by Committee.

Report:

[Background to Epping Forest Special Area of Conservation and impact on the issuing of planning permissions](#)

The Council has legal obligations under the Conservation of Habitats and Species Regulations 2017 (As Amended) ("the Habitats Regulations"), specifically, its duties as the 'competent authority' under Regulation 63 concerning the assessment of the implications of plans and projects for the Epping Forest Special Area of Conservation ("EFSAC"). As local planning authority, before deciding to grant planning permission for a project involving development likely to have a significant effect on the EFSAC (either alone or in combination with other plans or projects), the Council must make an Appropriate Assessment of the implications of the development for the EFSAC in view of its conservation objectives as a European site. For the purposes of that Appropriate Assessment, the Council

must consult Natural England, as the appropriate nature conservation body, and have regard to any representations made by Natural England about the project within such reasonable time as the Council specifies.

Applying the precautionary principle and taking account of the conclusions of the Appropriate Assessment, the Council may grant planning permission for the proposed development only after having ascertained that it will not adversely affect the integrity of the EFSAC. When considering whether a proposal will adversely affect the integrity of the EFSAC, the Council must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which permission may be granted.

In respect of development management decision-making in the District, Natural England's current advice is that applications proposing new development anywhere within the District which involving an increase in vehicle movements on roads within 200m of the EFSAC are likely, in combination with other plans or projects, to have a significant effect on the EFSAC. As such, before granting planning permission, the Council must undertake an Appropriate Assessment of the project in accordance with its legal obligations under Regulation 63 of the Habitats Regulations.

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.

The application mentioned below was subject to a past decision to grant permission by the West Area Planning Sub-Committee, but subject to legal agreements requiring financial contributions and/or mitigation measures relating to the air quality of the EFSAC. This application is therefore being presented to this Committee to NOTE the result of the further assessment undertaken, resulting in a conclusion that the proposals can be screened out as having no likely significant effect on the EFSAC and AGREE to the the requirement to enter into a legal agreement relating to contributions or mitigation measures relating to air quality within the EFSAC in accordance with the Air Pollution Mitigation Strategy.

It is pointed out to Members that the planning merits of the applications are not being re-considered, but Members are in effect being asked to agree to the removal of the previously agreed requirement for air quality mitigation contributions for this application.

Application site and relevant Committee date

As part of the comprehensive review of planning applications being held in abeyance, the following application with a recommendation to GRANT planning permission and agreed by a Committee was identified:

- EPF/3059/18 (J & W Fencing Ltd, Pecks Hill, Nazeing, Essex, EN9 2NY): Outline application for demolition of all existing structures and complete site clearance followed by residential redevelopment with 25 dwellings; closure of existing access and creation of a new access point. (Area West Planning Committee dated 10/04/2019) Minutes for item from page 3 [link to minutes here](#);

Results of further assessment

The total number of vehicle trips generated throughout the day by the JW fencing site was a total of 128. Initially the Transport Statement indicated that there would be an increase in daily trips from 128 to 161. However, this was based on 33 dwellings (and related to scheme which was refused under reference EPF/1067/18) rather than the 25 proposed in this application. The pro-rata reduction for 25 units would result in 122 movements. This results in a marginal reduction being achieved. This is confirmed by the Technical Note dated 1 July 2019 by EAS (a firm of Independent Transport Planners), It is for this reason concluded that that the proposal would not result in a net increase in AADT and therefore can be screened out as having no Likely Significant Effect on the EFSAC in relation to the air pollution impact pathway.

Next steps

Policy DM 2 of the Local Plan Submission Version sets out the Council's expectations that all new residential development proposals assist in the conservation and enhancement of the biodiversity, character, appearance and landscape setting of the Epping Forest SAC. It contains specific reference to a number of Strategies, including the Air Pollution Mitigation Strategy, adopted by the Council in February 2021 as a material consideration in the determination of planning applications to ensure that any adverse effects on the integrity of the Epping Forest SAC are avoided.

The Air Pollution Mitigation Strategy requires the implementation of some measures which are strategic in nature rather than site specific. In addition, there is a cost associated with the undertaking the monitoring and comparative assessments. These elements will be delivered by the Council and its partners and will be funded through payment of financial contributions from residential development proposals which are proposed to be approved under the Town and Country Planning Acts. This approach has been developed in accordance with Regulation 122 of the Community Infrastructure Regulations based on the relative contribution made by the development proposed in the Council's emerging local plan (derived from Council's evidence base to support the development of the Air Pollution Mitigation Strategy).

A developer contribution of £8,375 (£335 per dwelling) will therefore be required to implement the Air Pollution Mitigation Strategy. This Strategy also requires additional conditions to be attached to any permission to ensure that all the new dwellings built have access to electric vehicle charging points and have the facilities in place to connect to a broadband service, prior to the first occupation of these dwellings.

The detailed wording of these two conditions is outlined below: -

- Electric Vehicle Charging Points (This condition is an amendment to existing condition 10)

Details and location of the parking spaces (including garages) equipped with active and/or passive EVCP must be submitted prior to works commencing on site, including details which shall demonstrate that the development will deliver active EVCPs from occupation. The details shall include:

- **Location of active and passive charging infrastructure;**
- **Specification of charging equipment; and**
- **Operation/management strategy.**

The council will expect that a management plan for the charging points is set out clearly. This will address:

- Which parking bays will have active and/or passive charging provision, including disabled parking bays;
- How charging point usage will be charged amongst users;
- The process and the triggers for identifying when additional passive charging points will become activated; and
- Electricity supply availability.

The electricity supply should be already confirmed by the Network Provider so that the supply does not need to be upgraded at a later date.

The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation.

- Broadband Provision

Prior to the commencement of development, a strategy to facilitate super-fast broadband for future occupants of the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the Local Planning Authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy unless otherwise agreed in writing by the Local Planning Authority.

Conclusion

Members previously agreed to grant permission subject to conditions (details of which can be [found here](#)) and subject to a S106 legal agreement to be signed and completed to secure (a) an appropriate financial contribution for the management and monitoring of air quality, (b) secure the financial education contribution of £39,200.00 towards early years and childcare provision, £114,607.00 towards Primary School provision, (c) Provision of onsite affordable housing comprising 11 units. 8 of these units will be for rent and the remaining 3 units will be for shared ownership.

Members are asked to note the content of the report, and to agree to the release of the planning permission mentioned in accordance, subject to additional planning conditions requiring the provision of electric vehicle charging points and the facilities to access broadband and an amendment to the wording of criterion (a) of the legal agreement previously endorsed by committee so that it requires a contribution of £8,375 towards the implementation of the District wide Air Pollution Mitigation Strategy. A five percent (5%) of the cost value of the financial planning obligations should also be included in the agreement (up to a maximum of £50,000) and/or a flat rate of £500 per each non-financial obligation.