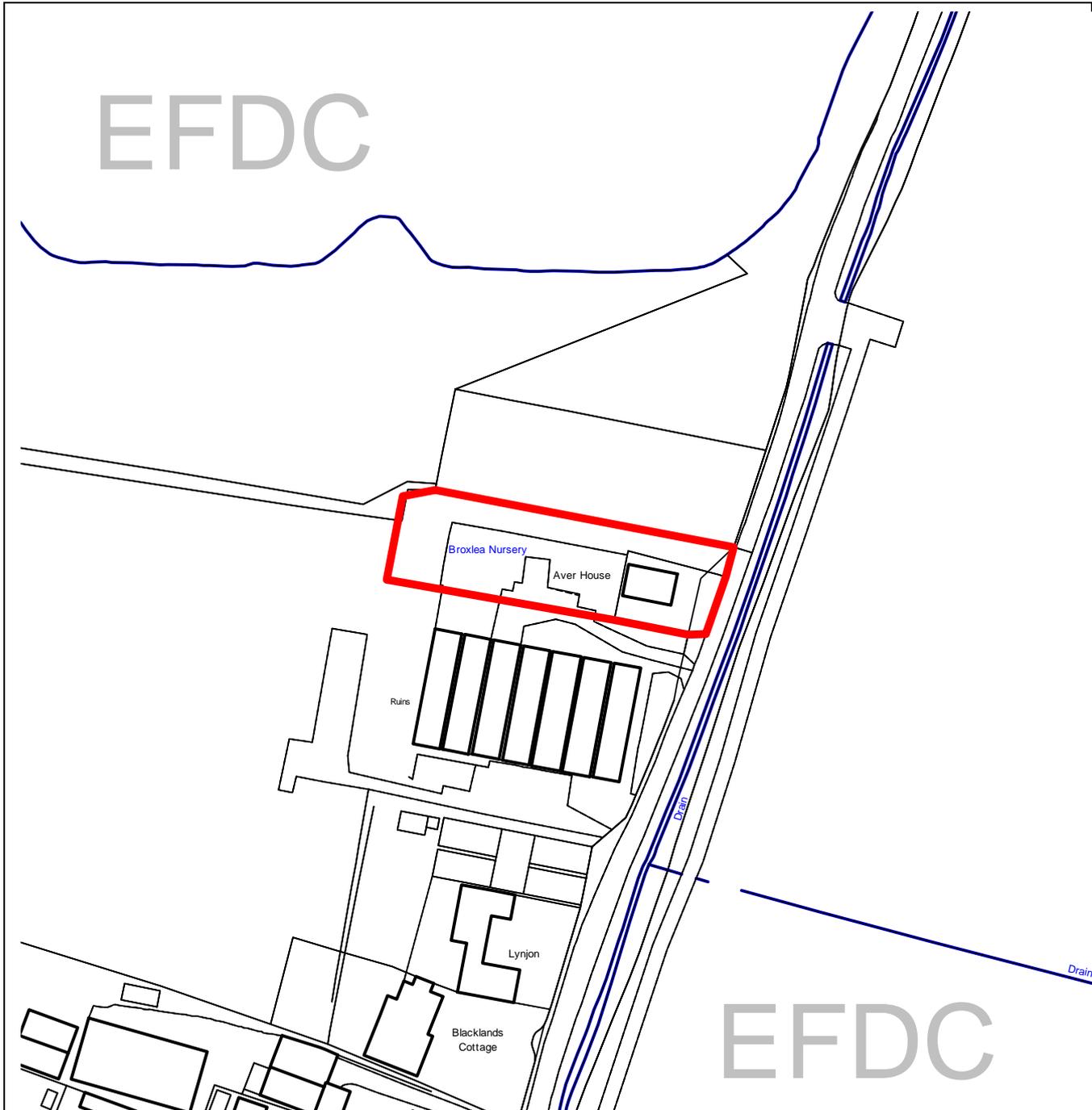




Epping Forest District Council



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Application Number:	EPF/1223/21
Site Name:	Aver House Nursery Road Nazeing EN9 2JE
Scale of Plot:	1:1250

Report Item No:

APPLICATION No:	EPF/1223/21
SITE ADDRESS:	Aver House Nursery Road Nazeing Waltham Abbey EN9 2JE
PARISH:	Nazeing
WARD:	Lower Nazeing
APPLICANT:	Kevin Ellerbeck
DESCRIPTION OF PROPOSAL:	Demolition of commercial building and replacement with single dwelling.
RECOMMENDED DECISION:	Refuse Permission

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

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=651913

REASON FOR REFUSAL

- 1 The proposal constitutes inappropriate development in the Green Belt, for which there are no very special circumstances. Moreover, by reason of its scale, height and siting, the proposal would result in a significant reduction in the openness of the Green Belt. Consequently, the development is contrary to policies GB2A and GB7A of the Adopted Local Plan and Alterations, policy DM4 of the Local Plan (Submission Version 2017) and the objectives of the National Planning Policy Framework.
- 2 In the absence of a S106 Agreement, the proposed development fails to deliver the necessary contributions towards monitoring the affects of air quality on the integrity of the Epping Forest Special Area for Conservation to make the development acceptable with regard to the impact on the Epping Forest SAC. 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.

This application is before this Committee since it has been 'called in' by Councillor Richard Bassett (Pursuant to The Constitution Part 3: Part Three: Scheme of Delegation to Officers from Full Council)).

Description of Site:

The application site is a roughly rectangular plot with a single storey building (last in use as a B8 Storage building) fronting onto Nursery Road within the rural area of Nazeing. Directly to the south of the site is a development site in the latter stages of construction for 4 detached dwellings that replaced mushroom farm buildings. To the south of this is a ribbon of detached properties all on the same side of the road as Aver House. Nursery Road is a private road, and has the appearance of a country lane with properties only on one side opposite a robust hedge/tree line

which reinforces the rural appearance. The site is within the Metropolitan Green Belt and flood zone 2.

Description of Proposal:

The application seeks consent for the demolition of the existing storage building and replacement with a 2 storey property with front and rear projections and attached double garage (this is exactly the same design as the four properties to the south). This application is in effect the same as the previously submitted application EPF/0196/19 which was refused with the only addition for this submission an Addendum Planning Statement, and EPF/0858/20 which was refused by DDMC and currently with the Planning Inspectorate as it has been appealed.

Relevant History:

EPF/1200/21 - Application for Prior Approval for the demolition of the existing buildings and erection of a new dwelling in their place (resubmission) – Not Lawful

EPF/2711/20 - Prior approval for the demolition of existing building and construction of one new dwelling in its place. (Resubmission) – Not Lawful currently with the Planning Inspectorate as has been appealed.

EPF/0858/20 - Demolition of a commercial building and replacement with a single dwelling – Refused at DDMC currently with the Planning Inspectorate as has been appealed.

EPF/0196/19 - Demolition of a commercial building and replacement with a single dwelling – Refused

EPF/1582/18 - Prior approval for proposed change of use from storage unit (Class B8) to residential dwelling (Class C3) – Prior approval granted

Policies Applied:

Local Plan (1998) and Alterations (2006)

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

The following policies within the current Development Plan are considered to be of relevance to this application:

CP2 – Protecting the quality of the Rural and Built Environment

DBE1 – Design of new buildings

DBE2 - Effect on neighbouring properties

DBE5 – Design and Layout of new development

DBE8 – Private amenity space

DBE9 – Loss of amenity

GB2A – Development in the Green Belt

GB7A – Conspicuous development in the Green Belt

ST01 – Location of Development

ST06 – Vehicle Parking

LL10 – Adequacy of provision for landscape retention

NPPF 2021:

The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the

NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

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

(b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; 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

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Paragraph 60
Paragraph 126
Paragraph 137 - 151

Epping Forest District Local Plan (Submission Version) 2017

Although the LPSV does not currently form part of the statutory development plan for the district, on 14 December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- 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
- 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).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2nd August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight afforded by your officers in this particular case indicated:

Policy		Weight
DM2	Epping Forest SAC and the Lee Valley SPA	Significant
DM3	Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM4	Green Belt	Significant
DM9	High Quality Design	Significant
DM10	Housing Design and Quality	Significant
DM22	Air Quality	Significant
T1	Sustainable Transport Choices	Significant

Consultation Carried Out and Summary of Representations Received

Number of neighbours consulted: 21 - No responses received

NAZEING PARISH COUNCIL: No objection and that the Council supports the application and requests that it should be considered by Area West Plan Sub-Committee and not dealt with by the officers under delegated powers. The Council supports the application because

- i) It replaces an existing building
- ii) The application is a small-scale development
- iii) The house is positioned at the end of the existing row of houses
- iv) The position of the proposed dwelling means that it does not affect the views of open countryside
- v) There have been no objections from the immediate neighbours of the proposed development.

In the event that the application is referred to Committee, the Council would wish to attend the meeting and make representations.

Main Issues and Considerations:

Green Belt

The site is wholly within the Metropolitan Green Belt, located some 600m+ outside of the defined village of Nazeing with no development connecting the two areas. As described above the site is within an area that is more rural and distinct in character than the built up area to the south east which is within the defined built up area of Nazeing.

The supporting information states that the development is an infill proposal within the Metropolitan Green Belt, however it is the Council's view that firstly the proposal is outside of the village enclave due to the separation of this small ribbon of development from the main built up and this small ribbon is not classed as a village in its own right. Secondly the application site is not considered an 'infill' site as it is at the end of a small row of properties, with development only on one side so therefore this does not meet the Councils definition of infill since it does not infill an 'otherwise continuous row of built development'.

The NPPF is clear that an exception to Green Belt policy is 'limited infilling in villages', however as outlined above it is not considered that this site is within a village or classed as limited infill.

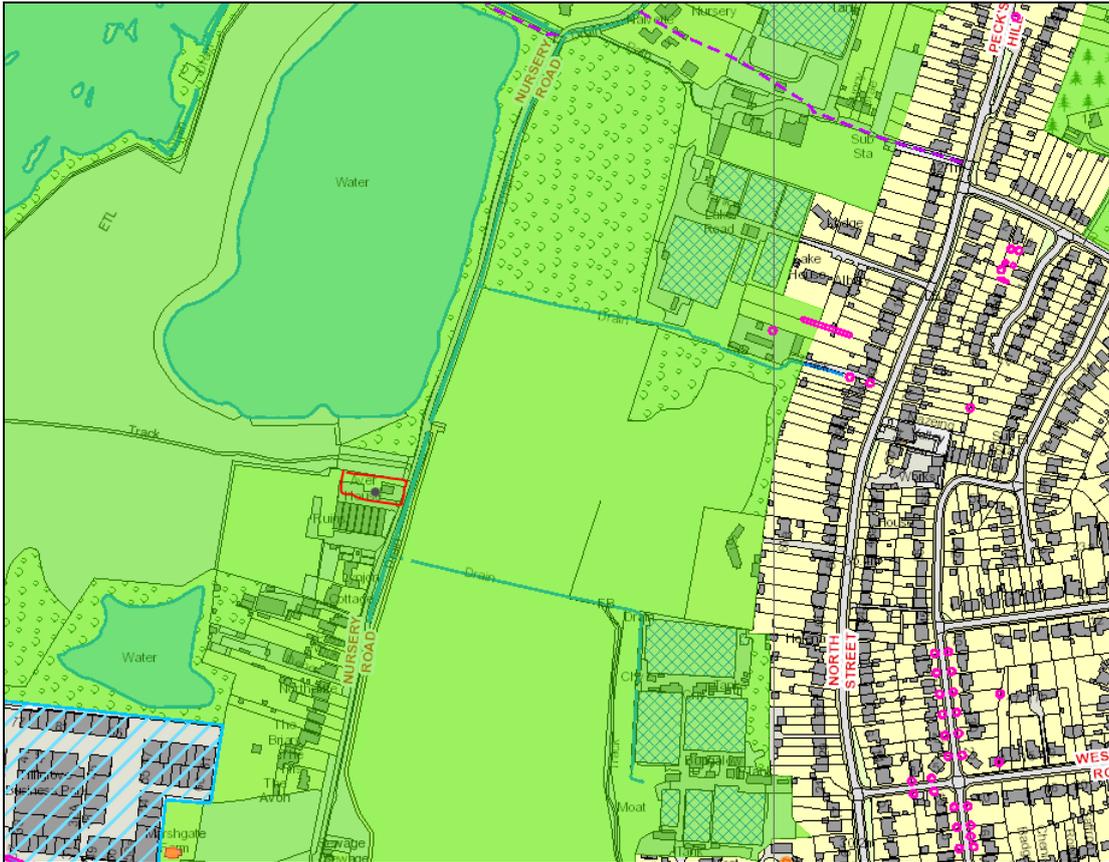


Fig.1 Showing site outlined in red within Green Belt (shaded green) in relation to village envelope (not shaded green)

Notwithstanding the above infill discussion, and although not used as an argument by the applicant, it is clear that the site would constitute previously developed land. Nonetheless it does not fall within the second exception of the NPPF:

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;’.

The proposed two storey dwelling scheme is far larger than the existing single storey building, extending up to the side boundaries, two storey in height and with a far greater depth and overall projection into the site and therefore the proposal will have a far greater impact on the openness of the Green Belt than the existing built form.

The adjacent site gained approval at Committee as it was considered an infill site between this current application site and the residential properties to the south, although Officers did not promote this given it is outside of the village envelope. The current application site cannot benefit from this same circumstance as there is no site to the north to make it an infill.

Updated information submitted with this application looks in detail at the previous reason for refusal.

Taking each additional point in turn; the applicant insists the site is an infill. As above this is not considered the case by Officers

The applicant insists the site is within a village. Again as stated above and shown within the map extract the site is not within a village. A ribbon of development within the Green Belt is not classed as a village.

At present there is no 'fallback' position for demolition and rebuilding a detached dwelling as no prior approval application has been approved.

The site is considered 'previously developed land' but as above the proposal would have a far greater impact on openness than the existing building.

The additional information also suggest that proposal should be approved due to the very special circumstances (VSC) that apply. These are outlined below as put forward by the applicant:

The provision of rear amenity space.
Housing Need as EFDC only have a 1.45 year supply
Substantial Fallback
The site is PDL

It is not considered that these circumstances either alone or combined justify 'VSC' on this site.

In addition to the updated information, the applicant has also submitted further documents during the course of the application with particular regards to the Housing Supply of the District.

The first of this information relates to an appeal decision outside of the District (a joint appeal at Welwyn Hatfield Borough and St Albans City and District Council) for 100 homes that was allowed at appeal and is located within the Green Belt. The Applicant for this current application is drawing comparisons as both Councils in this case fell short of their 5 year land supply as is this case within this District. However, although the Inspector for this case gave the shortage weight, he also gave weight to the provision of 45% of the homes being affordable and a further 10% of homes being self-builds and therefore it is not considered comparable to this current application. The Inspector for this appeal made it clear that *'These factors, when considered collectively demonstrate that very special circumstances do exist.'*

The Applicant has also drawn reference to an Appeal decision within the District at Borders Lane (Playing Field and College Sites). The Inspector granted planning permission for a total of 424 dwellings (not in the Green Belt). Again although the Inspector specifically credits the housing land shortage within his reasoning, he particularly stresses the numbers of market housing that this scheme will provide coupled with the policy compliant (at least for one of the sites) level of affordable housing that will be provided. In addition this site is not within the Green Belt and is an allocated site within the LPSV. Again it not considered comparable to this application for one additional dwelling.

Design

The design of the proposal is the same as those properties being built to the south. Although not rural in character, the proposal will not disrupt the streetscene as it will match the neighbouring properties.

Impact on Amenity

The proposed dwelling will be located within 1m of the shared boundary with the adjacent plot 4. Given the layouts will be similar and the sufficient separation, the proposal is not considered to raise any amenity concerns.

SAC and Air Quality

The site is not within the 3.2km buffer around the Epping Forest Special Area of Conservation (SAC) and therefore a contribution towards recreational mitigation is not required for any new dwelling.

Assessment under the Conservation of Habitats and Species Regulations 2017 (as amended)

A significant proportion of the Epping Forest Special Area of Conservation (the EFSAC) lies within the Epping Forest District Council administrative area. The Council has a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to assess whether the development would have an adverse effect on the integrity of the EFSAC. In doing so the assessment is required to be undertaken having considered the development proposal both alone and in combination with other Plans and Projects, including with development proposed within the Epping Forest Local Plan Submission Version (LPSV).

The Council published a Habitats Regulations Assessment in January 2019 (the HRA 2019) to support the examination of the LPSV. The screening stage of the HRA 2019 concludes that there are two Pathways of Impact whereby development within Epping Forest District is likely to result in significant effects on the EFSAC. The Pathways of Impact are effects of urbanisation with a particular focus on disturbance from recreational activities arising from new residents (residential development only) and atmospheric pollution as a result of increased traffic using roads through the EFSAC (all development). Whilst it is noted that the independent Inspector appointed to examine the LPSV, in her letter dated 2 August 2019, raised some concerns regarding the robustness of parts of the methodology underpinning the appropriate assessment HRA 2019, no issues were identified in relating to the screening of the LPSV or the Pathways of Impact identified. Consequently the Council, as Competent Authority under the Habitats Regulations, is satisfied that the Pathways of Impact to be assessed in relation to the likely significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

1. Recreation activities arising from new residents (recreational pressures); and
2. Atmospheric pollution as a result of increased traffic using roads through the EFSAC.

This application has been screened in relation to both the recreational pressures and atmospheric pollution Pathways of Impact and concludes as follows:

1. The site lies outside of the 6.2 km Zone of Influence as identified in the Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation' (the Interim Approach) adopted by the Council on 18 October 2018 as a material consideration in the determination of planning applications. Consequently the development will not result in a likely significant effect on the integrity of the EFSAC as a result of recreational pressures.
2. The development would not result in a net increase in traffic using roads through the EFSAC. Therefore the proposal will not result in a likely significant effect on the integrity of the EFSAC as a result of atmospheric pollution.

On this basis the Council is satisfied that the application proposal would not result in a likely significant effect on the integrity of the EFSAC. Having undertaken this first stage screening assessment and reached this conclusion there is no requirement to undertake an 'Appropriate Assessment' of the application proposal. Notwithstanding the above, a contribution is required of £352 (per a dwelling) towards the continued monitoring of effects on air quality within the EFSAC. In the absence of a S106 the proposal is currently contrary to policy.

Flood Risk

The Council's Land Drainage Engineer has no objection subject to conditions.

Conclusion:

Given the above discussion, it is recommended that planning permission is **refused**.

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

***Planning Application Case Officer: Marie-Claire Tovey
Direct Line Telephone Number: 01992 564414***

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

